

ESSAY

ELLA P. STEWART AND THE BENEFITS OF OWNING A NEIGHBORHOOD PHARMACY

RANDALL K. JOHNSON*

This Essay is the first to explain how and why Ella P. Stewart, who was among the first Black women to earn a doctoral degree in Pharmacy, used her status as a small business owner to protect the limited set of legal rights that were available to African-Americans in the twentieth century. It also describes how Stewart's early personal and professional experiences informed her subsequent public service career. Additionally, this Essay highlights the various ways that Stewart expanded the real freedoms that Black Americans enjoyed by guaranteeing they received a fair share of public goods or services. It concludes by recommending that contemporary pharmacists also work to eliminate unjustified disparities in public good or service provision, especially if they own small businesses that serve traditionally disadvantaged groups.

I. BACKGROUND	105
A. 1893–1922	105
B. 1922–1945	108
C. 1945–1987	112
D. 1987–Present	114

* Professor of Law, University of Missouri-Kansas City (UMKC), School of Law. Special thanks to Professor Lisa Bernstein, Professor Roderick Miller, Ms. Nancy Kunkel, Mr. Marcus Harrison, Mr. Nicholas Pavlik, Ms. Shannon Tisdale Carter, the Ella P. Stewart Academy for Girls and the late Dr. Robert A. Morrison (1918–2021), who worked at Stewart's Pharmacy in the 1940s. Additional thanks are due to the 2022 Legal Scholarship Workshop at the University of Chicago Law School, the 2022 Society for American Law Teachers' Annual Conference, the 2022 Central States Law Schools Association Conference and the 2022 Society for American Law Teachers' Annual Junior Faculty Development Workshop.

II. RECOMMENDATIONS	115
CONCLUSION	120

INTRODUCTION

This Essay answers several open questions about one of the first Black women to earn a doctorate in Pharmaceutical Chemistry, Ella P. Stewart.¹ For example, why did Stewart go beyond her narrow charge as a pharmacist to generate additional benefits for her mostly African-American customers?² And why did this pharmacist choose to do that specific work, which included providing on-site lodging, meals, and other support services, in a time and place that was hostile to Black folks?³ Especially when providing any such benefits came at a high cost in terms of Stewart’s time, money, and energy?⁴

Possible answers to these questions, which are informed by the historical record, include the fact that Stewart did this supplemental work for three primary reasons.⁵ The first reason is that Stewart believed that none of her customers should ever be taken for granted.⁶ The second reason is that too many African-Americans, at least in Stewart’s view, were unlawfully prevented from participating in the U.S. economy.⁷ And a final reason is Black folks, all too often, did not receive certain public

1. See generally E.R. Shipp, *Ella P. Stewart: The First Black Woman to Graduate From Pitt’s Pharmacy School*, PITTWIRE (Jan. 27, 2021), <https://www.pitt.edu/pittwire/features-articles/ella-p-stewart-first-black-woman-to-graduate-pitts-pharmacy-school> (explaining that “Mrs. Stewart . . . [was] the first Black woman to be graduated from the . . . School of Pharmacy.”).

2. *Id.* (explaining that “Stewart offered so much more than the advertised fare of Stewart[s] Pharmacy.”). The advertised fare often included consumer goods and prescriptions.

3. *Id.* (“Ella and Doc Stewart’s apartment above the drugstore served as a meeting place for civil leaders hashing out Toledo’s problems.”).

4. See Jessie Carney Smith, *NOTABLE BLACK AMERICAN WOMEN 1079–80* (Gale Research Inc. 1992) (describing Stewart’s initial purchase of her pharmacy and the deliberate mixed-use activities the pharmacy hosted—even on Sunday). Bowling Green’s archival collection offers a biographical sketch highlighting the toll that pharmacy management had upon Stewart’s health. *MS 203 – Ella P. Stewart Collection*, BOWLING GREEN STATE UNIV. (July 22, 2014), https://lib.bgsu.edu/finding_aids/items/show/795 (noting “the pressure of business affected her marriage and health”).

5. See generally Smith, *supra* note 4, at 1079–80 (“As a [B]lack woman, . . . [Stewart] used her talent as an organizer, editor, and community worker to support various causes dedicated to uplifting . . . [B]lack people.”).

6. See generally Smith, *supra* note 4, at 1081 (citing how she “tried to be fair[-]minded, tolerant, and have consistently fought for human and civil rights with love in rendering a service to all people, regardless of race, color, or creed, locally, nationally, and internationally”).

7. See *id.* (explaining that the unjustified exclusion of African Americans arose from racial prejudice in the United States).

goods or services that were bestowed on many other racial groups.⁸

These three reasons explain, at least in part, why Stewart generated additional benefits for her mostly African-American customers.⁹ Often, these benefits took the form of increased economic, political, and social opportunities.¹⁰ Examples of such opportunities include a better chance of obtaining gainful employment as a pharmacist, an increased ability to engage in arm's length deals with local small businesses on the same terms as everyone else, and some assurance that similarly-situated people would be treated in a relatively standardized way by at least one public accommodation—Stewart's pharmacy.¹¹

Each of these additional benefits arose out of the fact that Stewart owned a neighborhood pharmacy, which provided her with the economic, political, and social security to call out situations in which similarly-situated people were treated in nonstandard ways without adequate justification. In doing so, Stewart highlighted the unnecessary costs that arise from unjustified disparities in customer treatment, which may be expressed in economic and noneconomic terms, especially with respect to how African-Americans are treated by public accommodations and the governments that license them.¹²

And this Essay asserts that more contemporary pharmacists may do the same thing.¹³ One way to build upon Stewart's "uplift work," which

8. *See id.* (stating how assuring more equal opportunities for Black people was a significant motivation for Stewart and her husband, especially in the absence of any such legal guarantee by the U.S. federal government).

9. *See id.* at 1080 (describing how the Stewarts' ownership of a neighborhood pharmacy, and the arrangements that it allowed them to make with others, had sweeping effects).

10. *Id.* ("In the absence of . . . [access to public] accommodations for [B]lacks in Toledo from the 1920s to the 1940s, the Stewarts did what many [B]lacks who lived in segregated areas felt obligated to do—they opened their residence [and business] to visitors . . .").

11. *See id.* ("The store also became a training ground for [Black people] interested in pharmacy and an unofficial recruitment center for [Black people] in the profession."). Hotels, restaurants, and retail stores are places of public accommodation, while means of transportation, like trains, airplanes, and buses, are common carriers. For purposes of this Essay, and to provide a clear rule of thumb, a public accommodation or common carrier is one that "holds itself out as providing service to all members of the public," but not when "they make individualized business decisions about who to serve." Christopher S. Yoo, *The First Amendment, Common Carriers, and Public Accommodations: Net Neutrality, Digital Platforms, and Privacy*, 1 J. FREE SPEECH L. 463, 480 (2021).

12. *See id.* at 1081 (explaining how Stewart was business savvy, in part, due to her experiences as an owner of one type of public accommodation: a neighborhood pharmacy).

13. *See* Christopher John, Opinion, *The Changing Role of the Pharmacist in the 21st Century*, PHARM. J. (Jan. 8, 2018), <https://pharmaceutical-journal.com/article/opinion/the-changing-role-of-the-pharmacist-in-the-21st-century> ("In an environment of increasing public expectations, workforce pressures, and significant scientific and technological advances, it is

partly consisted of using her local small business to advance the interests of African-Americans and other traditionally disadvantaged groups in the United States, is to identify, analyze, and disclose unjustified disparities in the provision of public goods or services.¹⁴ An illustrative example of such a disparity includes cases in which similarly-situated people are treated differently based on their race or color.¹⁵

Despite the acknowledged impact that Stewart made as a pharmacist, and in her subsequent U.S. public service career, there are few books and no law review articles that focus on her.¹⁶ As such, the many things she achieved are mostly lost to history.¹⁷ Although there has been some interest in Stewart's life in other mediums, such as television programming and a podcast, there is a need for more scholarly work.¹⁸

This Essay takes up this charge, at least in part, and fills the scholarly void. It does so, specifically, by viewing Stewart as a historical figure.¹⁹ And in drawing on accounts of her life—particularly during the years that she ran a neighborhood pharmacy in Toledo, Ohio²⁰—this Essay explains how Stewart worked to limit shortfalls in the provision of U.S. public goods. Much of this work took place before, during, and after the U.S. Civil Rights Movement.²¹

important to define the contribution the pharmacist makes not only to the healthcare team but more widely.”).

14. Smith, *supra* note 4, at 1081.

15. *See id.*

16. A notable exception is an anthology by Jack K. Paquette. *See* JACK K. PAQUETTE, *SMALL TOWN GIRL: AND OTHER STORIES ABOUT ORDINARY PEOPLE WHO LED EXTRAORDINARY LIVES* (2013). In the foreword, Paquette notes, “[s]ome of the people . . . chronicled . . . were famous in their day but are . . . forgotten today. Others gained a measure of renown . . . only after their deaths. And still others are receiving . . . recognition for the first time.”

17. *Id.*

18. *See, e.g.*, BOWLING GREEN STATE UNIV. LIB., *Episode 1: Ella P. Stewart, Civil Rights Trailblazer of Toledo*, ARCHIVAL ENCOUNTERS PODCAST (2021) <https://www.bgsu.edu/library/cac/events-and-programs/podcast.html>.

19. *See generally* Smith, *supra* note 4, at 1079 (explaining that a similarly historical approach was used when “Stewart was interviewed in 1980 at the age of eighty-seven for the biographical sketch later published in *Contributions of Black Women to America*”); *cf.* Randall K. Johnson, *Frederick Douglass And The Hidden Power Of Recording Deeds*, 95 S. CAL. L. REV. POSTSCRIPT 54, 56 (2022) (describing how a historical approach also may be used to look at, and to draw lessons from, Frederick Douglass’s service as District of Columbia Recorder of Deeds).

20. *See* Shipp, *supra* note 1 (documenting Stewart’s opening of the Toledo pharmacy, something she was compelled to do after discovering the lack of a Black-owned pharmacy in that area).

21. *See* Pavlik, *supra* note 18 (discussing how Stewart’s work was crucial in laying the groundwork for what would become the U.S. Civil Rights Movement).

This Essay achieves this goal by building on social science research, including Jessie Carney Smith's foundational work on notable African-American women.²² It also lends support to scholarship on the need for more standard public service work, particularly in situations in which perfect quality of treatment is required under U.S. law.²³ This Essay concludes by marshalling contemporary research, including articles indicating pharmacists can make better use of information they already collect in the normal course of business, as a way to eliminate unjustified disparities in U.S. public services.²⁴

This Essay proceeds in three Parts. Part II provides background information about Stewart and how she used her neighborhood pharmacy to generate a range of economic, political, and social benefits for African-Americans. Part III explains how contemporary pharmacists could undertake a similar uplift project, and perhaps do even more, by adopting Stewart's expansive view of the role of neighborhood pharmacies as mechanisms for identifying, analyzing, and disclosing unjustified disparities. Part IV summarizes the Essay's findings and details its implementation plan.

I. BACKGROUND

A. 1893–1922

Stewart, born Ella Nora Phillips in 1893, was among the first Black women to earn a doctoral degree in pharmacy.²⁵ The child of Virginia farmers, Stewart

22. See generally Smith, *supra* note 4 (providing narratives of prominent African American women, such as Stewart, who made their contributions during the twentieth century).

23. See Johnson, *supra* note 19, at 73 (describing how recording deeds may improve public service provision). Such work is particularly useful since other U.S. health care suppliers increasingly are reaching the exact same conclusion. See generally Adam Gaffney, *Racism and Respiration*, BOSTON REVIEW (Nov. 30, 2020), <https://www.bostonreview.net/articles/adam-gaffney-racism-and-respiration/> (describing how the absence or “maldistribution” of U.S. public service provisions and medical resources and infrastructure are correlated to racial and socioeconomic inequities spurred by the absence of wealth, income, and insurance).

24. Cf. Johnson, *supra* note 19 (describing how contemporary recorders of deed may analogously build on Frederick Douglass's work as Recorder Of Deeds in order to protect the rights of Black property owners across the U.S.). Such a project may be especially important because chain pharmacies may have other interests and concerns, perhaps due to the ongoing litigation over these businesses' purported role in the U.S. opioid crisis. See, e.g., Amanda Bronstad, *Pharmacies Appeal Ohio Opioid Verdict Claiming Award Would Cost \$500B if Extended Nationwide*, LAW.COM (Dec. 2, 2022), <https://www.law.com/2022/12/02/pharmacies-appeal-ohio-opioid-verdict-claiming-award-would-cost-500b-if-extended-nationwide/> (describing how large-chain, commercial pharmacies such as Walgreens and CVS prioritize profit over possible nationwide expansion of opioid abatement funds for their role in the ongoing opioid crisis and community health).

25. Shipp, *supra* note 1.

was admitted to the University of Pittsburgh's School of Pharmacy in 1914.²⁶ Stewart "graduated with high marks, passing her state exam in 1916 to become the first licensed African-American female pharmacist in Pennsylvania and one of the earliest practicing African-American female pharmacists in the country."²⁷ Stewart achieved each of these professional milestones despite being subjected to race- and gender-based discrimination, such as being forced to sit at the back of the classroom in pharmacy school.²⁸

After graduating, Stewart owned and operated several small businesses near her alma mater.²⁹ Stewart fell ill, however, and asked fellow African-American pharmacist, William Wyatt "Doc" Stewart, to fill in for her.³⁰ On May 1, 1920, after Stewart's return to full-time work, the two pharmacists married.³¹ Later that year, Stewart sold her remaining ownership interest in each small business and moved to Youngstown, Ohio.³²

For the next two years, Stewart worked at Youngstown City Hospital.³³ In early 1922, the Stewarts moved to Detroit, Michigan.³⁴ After a few months, and upon hearing there was an opportunity to open their own neighborhood pharmacy in Northwest Ohio, these pharmacists moved to Toledo, Ohio's Pinewood District.³⁵

By 1922, the Pinewood District was a neighborhood in transition.³⁶ In previous decades, European immigrants were the majority in this area.³⁷ But

26. Paquette, *supra* note 16 at 62.

27. Shipp, *supra* note 1; *see generally* Smith, *supra* note 4, at 1079 (Stewart was also the oldest licensed pharmacist in her demographic).

28. *See* Shipp, *supra* note 1 (University of Pittsburgh initially denied Stewart admission).

29. Shipp, *supra* note 1 (highlighting Stewart's success despite experiencing racism in various professional settings).

30. *See generally* Shipp, *supra* note 1.

31. *See* Smith, *supra* note 4, at 1080. This was Smith's second marriage. *Id.*

32. *See id.* (explaining that Stewart and her husband moved to Northeast Ohio, where she served as a pharmacist and purchasing agent at the Youngstown City Hospital).

33. *Id.*

34. *See generally* Shipp, *supra* note 1 (explaining that Stewart broke the color barrier as the first African American pharmacist at Youngstown City Hospital).

35. *Id.* (explaining that after learning there were no Black pharmacies in Toledo, Stewart bought a building in an up-and-coming part of Toledo: the Lenk's Hill section of Toledo's Pinewood District).

36. Smith, *supra* note 4, at 1080 (noting that in the summer of 1922, the Stewarts bought a new building in a majority-white part of Toledo and in July 1922 opened Stewart's Pharmacy); *see also* Stan Lee, *What A Difference A Lifetime Makes*, TOL. BLADE Feb. 28, 1988, at B1-2, 6.

37. *See* Smith, *supra* note 4, at 1080 (describing how Stewart's client changed from a mostly white clientele to an increasingly African American clientele, as the demographics in

by the time that Stewart and her husband made their move, Toledo and its Pinewood District had become increasingly popular with African-Americans.³⁸ In fact, between 1920 and 1930, the Black population tripled.³⁹

Almost immediately, Stewart decided to open her namesake pharmacy.⁴⁰ But to do so, she would have to find a building to house her family and business.⁴¹ The ideal one, in Stewart's view, was 566 Indiana.⁴²

Stewart's ideal building was located at the corner of Indiana and City Park Avenues.⁴³ Its owner of record was Julia A. Pecord, a married woman whose family emigrated from continental Europe.⁴⁴ The historic record shows that Pecord sold this mixed-use property to Stewart on or about April 20, 1922.⁴⁵

Once Stewart took possession of her new building, she likely reflected on the many troubling ways that racism had adversely impacted her life.⁴⁶ For example, Stewart "was initially told that there was no room for her at the . . . [University of Pittsburgh's] pharmacy school."⁴⁷ Stewart also experienced discrimination in University of Pittsburgh classrooms, as "[w]hite males had the first rows of seats, and they were followed, in descending order, by [w]hite females, then Jew[ish individuals], then Black people."⁴⁸ After she graduated and got married, Stewart refused "to submit to the strict racial segregation of the period, . . . [and pursued] a job as a pharmacist at a Youngstown hospital even though the job was initially open only to white applicants."⁴⁹ Stewart would use her knowledge, experience and training in dealing with anti-Black racism to challenge unlawful discrimination against various traditionally disadvantaged groups, as well as

the area shifted over twenty-five years).

38. See generally Lee, *supra* note 36, at B1 (explaining that Toledo's Black population increased from 5,691 to 13,260 people from 1920 to 1930).

39. *Id.*

40. See generally Pavlik, *supra* note 18 (explaining that Stewart needed a building, and that the perfect one was located at the corner of Indiana and City Park in the Pinewood District).

41. See generally Shipp, *supra* note 1.

42. See 570 LUCAS COUNTY RECORDER, 570 at 219 (1922) (describing the Pecord–Stewart real estate transaction).

43. *Id.*

44. See generally LUCAS COUNTY RECORDER, GENERAL INDEX TO DEEDS, GRANTEE BOOK 38, at 500 (1922) (referencing the Stewart–Pecord transaction).

45. *Id.*

46. See Smith, *supra* note 4, at 1082 (Stewart took a thoughtful approach to challenging racism).

47. Shipp, *supra* note 1.

48. Shipp, *supra* note 1.

49. Stewart, *Ella 1893–1987*, ENCYCLOPEDIA.COM, <https://www.encyclopedia.com/education/news-wires-white-papers-and-books/stewart-ella-1893-1987> (last visited May 26, 2023).

to create ways for other people to do the same thing.⁵⁰

B. 1922–1945

In 1922, Stewart's neighborhood pharmacy opened to the public.⁵¹ This business, initially, served a mostly white clientele.⁵² But, over time, the store became a social center for Toledo's growing Black community: the Pinewood District comprised two-thirds of Toledo's Black population.⁵³ This transition led Stewart to offer additional and different services to the Black community, due to bias in public accommodations.⁵⁴

Stewart's Pharmacy quickly became a gathering place for African-Americans from every walk of life.⁵⁵ The Stewarts' kindness and generosity, however, was not limited to their paying customers.⁵⁶

In the absence of hotel accommodations for [B]lacks . . . [prior to *Brown v. Board of Education* and the Civil Rights Movement] the luminaries who visited . . . [with Stewart and her husband] were singer Marian Anderson, educator Mary McLeod Bethune, cartoonist E. Simms Campbell, . . . NAACP leader W.E.B. Du Bois, historian Carter G. Woodson . . . General Benjamin O. Davis, singer Paul Robeson, and educator Rayford Logan.⁵⁷

In other words, Stewart and her husband used their neighborhood pharmacy to generate a range of supplemental benefits.⁵⁸ Examples—with benefits to society as a whole—included providing lodging for dignitaries such as Marian Anderson, Mary McLeod Bethune, and W.E.B. Du Bois.⁵⁹ Other examples were more local in nature and provided benefits solely to

50. Stewart also experienced racism as a Black consumer and publicly disclosed many of these experiences. See generally Pavlik, *supra* note 18 (explaining that Stewart held many businesses accountable, often, by meeting with management and refusing to be turned away).

51. See Rose Russell, *Toledoan Battled Discrimination with Grace, Poise*, *TOL. BLADE* (Feb. 12, 2012, 1:45 PM), <https://toledoblade.com/local/2012/02/12/Toledoan-battled-discrimination-with-grace-poise.html> (noting that Ella and Doc Stewart operated their namesake business until the sale of Stewart's Pharmacy in 1945).

52. See Smith, *supra* note 4, at 1080.

53. *Stewart, Ella 1893–1987*, *supra* note 49.

54. See Smith, *supra* note 4.

55. *Stewart, Ella 1893–1987*, *supra* note 49.

56. See Paquette, *supra* note 16 at 63 (explaining that Ella and Doc Stewart's goal was to ensure the success of their new business, using it to support the health and wellbeing of the city's African American families).

57. Smith, *supra* note 4 at 1080.

58. See *id.* (explaining that this setup permitted fortuitous meetings such as when Art Tatum played piano for Adelaide Hall, who immediately hired him).

59. *Id.*

Stewart's customers, such as providing them a safe meeting space.⁶⁰

But Stewart's uplift-work on behalf of African-Americans did not stop there. She went on to identify additional ways to increase the real freedoms that Black people enjoyed in the U.S., especially between 1922 and 1945.⁶¹ For example, after her family moved to Toledo, "Stewart became a leading member of several community groups."⁶² While on the Toledo Board of Community Relations, Stewart fought to "ensure that fair employment practices and other civil rights would be fully enforced."⁶³ In this modest way, Stewart generated political benefits for African-Americans that continue to be felt to this day.⁶⁴

Stewart, in addition to generating new political benefits for Black residents in her area, also used her small business to generate net economic gains for her customers from various walks of life.⁶⁵ Stewart did so, primarily, by providing jobs to Black pharmacists and dispensing canny advice to African-American members of other professions.⁶⁶ In the process, Stewart helped African-Americans overcome many race-based obstacles.⁶⁷

Stewart showed that anti-Black racism could not stifle the occupations that met the needs of African-Americans.⁶⁸ In fact, Stewart encouraged her

60. *See id.* (noting African-American communities often used drugstores for social gatherings).

61. *Stewart, Ella 1893–1987, supra* note 49 (describing Stewart's transition from pharmacist to civil rights activist). *See* AMARTYA SEN, DEVELOPMENT AS FREEDOM 3 (1999) (explaining that expansion of freedom is the means and the end of any development process).

62. *See generally Stewart, Ella 1893–1987, supra* note 49 (explaining that as the only business of its kind, Stewart's Pharmacy became a community gathering spot that provided Stewart with the knowledge, experience and training to transition from working as a licensed pharmacist into U.S. civil rights work).

63. *Id.* (explaining that as an inaugural member of the Toledo Board of Community Relations, she worked to improve race relations and fulfill the city's commitment to fair labor and civil rights enforcement).

64. *See Smith, supra* note 4, at 1080 (showing how Stewart built on her pharmacy's success and made other contributions to her community, such as by becoming a political force that opposed systemic injustice).

65. *Stewart, Ella 1893–1987, supra* note 49.

66. *See id.*; *see also Smith, supra* note 4, at 1080 (Stewart became a mentor to many by dispensing sage business advice, which helped many talented Black people navigate persistent racial discrimination and avoid the trap of low-wage, semi-skilled or unskilled work).

67. *See generally Shipp, supra* note 1 (detailing Stewart's commitment to community and service as both a business woman and civil leader); *see generally Smith, supra* note 4, at 1080 (explaining how helping other African Americans to navigate the racially discriminatory barriers in existence between the 1920s and 1940s was a motivating factor for Stewart and her husband).

68. And Stewart is not the only person that made such an observation during that period. Amos N. Jones, *The Old Black Corporate Bar: Durham's Wall Street, 1898–1971*, 92 N. C. L. REV.

customers to open their own businesses and use their earnings to buy homes.⁶⁹ By implication, Stewart highlighted the economic benefits that often arise from ownership.⁷⁰

The preceding analysis explains how Stewart went beyond her narrow charge as a pharmacist to generate additional benefits for her mostly African-American customers. But follow-up questions remain to be answered. For example, why did this pharmacist choose to do that specific work, especially in a time and place that was particularly hostile?⁷¹ Especially in cases where providing such benefits would cost Stewart in terms of her time, money, and energy?⁷²

Possible answers, which are informed by the historical record, are that Stewart did this work for three primary reasons.⁷³ The first reason is that this pharmacist believed that none of her African-American customers should ever be taken for granted.⁷⁴ The second reason is that too many Black Americans, at least in Stewart's view, were unlawfully prevented from participating in the U.S. economy without adequate justification.⁷⁵

1831 (2014), describes:

A largely unnoticed [B]lack bar . . . [that] influenced a relatively sophisticated legal landscape in a moderate, medium-sized southern city, facilitated by a laissez-faire white leadership class in the middle of the twentieth century who stood in contradistinction to the general state policies designed to preclude African American . . . advancement.

Id. at 1836.

69. Stewart and her husband encouraged African Americans to become property owners in direct and indirect ways. Seymour Rothman, *The 'First' Lady*, THE BLADE SUNDAY MAG., Feb. 21, 1965, at 24 (“The Stewarts, along with other leaders decided to show the [Black] community that housing developments could be built by [African-Americans] with [Black] money. [The group] bought a five-acre plot in the Nebraska-Moran Avenue neighborhood and developed and subdivided it into [twenty-two] lots. A restriction was placed on the price of homes built there. The lots were gobbled up and . . . [as of this writing, a largely African-American community continues to thrive] there.”).

70. *Id.* (describing Stewart's work with other local leaders in Toledo, which led the group to acquire and develop twenty-two residential lots for the benefit of upwardly mobile Black Americans).

71. See generally Shipp, *supra* note 1.

72. *Id.*

73. *Id.* (explaining that twenty years ahead of her time Stewart was fighting for civil rights).

74. *Id.* (describing the discrimination experienced by Black Toledo residents in public accommodations); see generally, *Who Votes In America?*, POPULATION REFERENCE BUREAU (Oct. 1, 2000) <https://www.prb.org/resources/who-votes-in-america/> (explaining that white people are more likely than African-Americans to vote in U.S. elections and that both groups are more likely to vote than either Hispanic or Asian American people).

75. See, e.g., Pavlik, *supra* note 18 (“Though it wasn't as explicit as in the south, anti-Black racism was still pervasive throughout the Northern United States, and Toledo was no exception. Black people still faced daily racial discrimination . . . particularly in public accommodations such as movie theaters and restaurants.”). Unfortunately, even though there has been a marked

And the final reason is African-Americans were barred from receiving certain protections lavished on almost every other racial group (like presumptions that customers always are right).⁷⁶

These three reasons, which highlight only a few of the various ways that Black people were traditionally excluded from U.S. markets, help to explain why Stewart sought to generate additional and different benefits for her mostly African American customers—despite the fact that she risked incurring personal losses.⁷⁷ Stewart may have been willing to incur these losses because she and her husband owned a neighborhood pharmacy, which was not subject to the same pressures as similarly-situated chain pharmacies during the 1920s, '30s and '40s.⁷⁸

As such, Stewart was free to identify and describe unjustified disparities Black individuals faced.⁷⁹ Stewart did this work, mostly, using a method that

decline in the overt racism that is directed at African-Americans, a range of public accommodations and common carriers continue to be accused of unequal treatment of African-Americans despite clear prohibitions on such discrimination under U.S. federal, state, and local laws. *See, e.g.*, City of Kansas City, Missouri, Discrimination Report, Work Order #1375965, Public Accommodations in KCMO City Limits, Osteria Il Centro, Date Submitted: 02/05/23. Similarly, a study of the Transportation Security Agency (TSA), found that “its officials engaged in [unlawful] profiling. At Newark Liberty International Airport in New Jersey, a supervisor . . . instructed profiling of passengers based on race and made improper law enforcement referrals to Customers and Border Protection.” Spencer Ackerman, *TSA Screening Program Risks Racial Profiling Amid Shaky Science – Study*, THE GUARDIAN (Feb. 8, 2017), <https://www.theguardian.com/us-news/2017/feb/08/tsa-screening-racial-religious-profiling-aclu-study> (internal quotations omitted). Chicago O’Hare International Airport has received similar complaints about the same type of unlawful anti-Black discrimination recent years. *See, e.g.*, U.S. Department of Transportation, Office of Consumer Protection, Case Number KS2021120208, Complaint Code LZ0099, Carrier Name: TSA, Date: 01/20/20.

76. Pavlik, *supra* note 18 (describing an instance in a movie theater where Stewart refused to move from her seat to an inferior one that that was reserved for African-Americans).

77. *See generally* William Brower, *Of Heartbreak and Gratitude*, TOL. BLADE, Dec. 5, 1987, at 9 (explaining that Stewart and her husband, Doc, were partners in both their neighborhood pharmacy and public service goal of inspiring young people to make something of themselves).

78. Chain pharmacies, which often answer to a larger number of owners than a neighborhood pharmacy, often make decisions based solely on conventional wisdom. *See generally id.* (“[T]he doors were closed in public accommodations in Toledo to such renowned personages as Paul Robeson and Marian Anderson, [Stewart] and Doc opened theirs to them and scores of others.”).

79. Perhaps Stewart was influenced in this regard by her pharmacist husband, Doc, who had done the same thing while serving in World War I. *See generally* Rothman, *supra* note 69, at 7 (describing that Doc and his fellow African-American soldiers wrote to their hometown newspapers to share that they served under inferior white officers—without any opportunities for advancement—despite their education).

Stewart referred to as her contact and communicate principle.⁸⁰ This principle required Stewart to “meet with people, talk with people, [and] discuss the problems” that arise from unequal treatment of African-Americans.⁸¹ In the process, Stewart nudged individuals, groups, and institutions to do better by their Black customers.⁸²

C. 1945–1987

Stewart ran her neighborhood pharmacy for more than twenty years.⁸³ During that time, she provided a range of economic, political, and social benefits to her customers.⁸⁴ Examples of these benefits included creating safe spaces for African-Americans.⁸⁵ These safe spaces allowed Black citizens to engage in ordinary economic activities, such as lawful trades, which members of other groups executed without fear of third-party interference.⁸⁶

In 1945, Stewart decided to retire and engage in other pursuits.⁸⁷ For example, Stewart went on to serve as President of the National Association of Colored Women’s Clubs (NACWC).⁸⁸ In this position, she “forcefully spoke out against segregation, discrimination[,] and . . . stereotyping.”⁸⁹ Stewart also worked to assure adequate funding to maintain the Frederick Douglass National Historic Site.⁹⁰ This

80. *Id.* (explaining the approach that Stewart took to identifying, analyzing, and disclosing unjustified disparities, i.e., “contact and communication,” and her justifications for doing so).

81. *Id.*

82. *See id.* (describing how prior to Stewart applying for a job with Youngstown General Hospital there were zero Black employees, but after she left two years later, there were forty African-Americans working at that institution in several different positions).

83. *See generally* Pavlik, *supra* note 18 (describing how Stewart’s Pharmacy became central to the Lenk’s Hill section of Toledo’s Pinewood District neighborhood for over twenty-five years).

84. *Id.* (noting that Stewart’s Pharmacy operated from eight in the morning to eleven at night; however, if customers needed something after hours they could ring the doorbell for service).

85. *Id.* (highlighting that Stewart’s kindness and generosity to her customers, regardless of their background, led her pharmacy to become a focal point in the community).

86. *Id.* (emphasizing that Stewart often fought for the fair treatment of other Black people).

87. *Id.* (explaining that after Stewart retired, she became the president of an organization that maintained the home of Fredrick Douglass, the National Association of Colored Women’s Clubs (NACWC), which later turned over control of the site to the National Park Service).

88. *See* 164 CONG. REC. (daily ed. Nov. 16, 2018) [hereinafter Comstock Statement] (statement of Rep. Barbara Comstock) (detailing Stewart’s public service career with the Enterprise Charity Club, NACWC, and the Toledo Board of Communications).

89. Comstock Statement, *supra* note 89.

90. *See generally* National Association of Colored Women’s Clubs, Inc., *Program In Commemoration of the Life and Works of Frederick Douglass*, https://edan.si.edu/transcription/pdf_files/16693.pdf (last visited May 26, 2023) (describing efforts to preserve the Frederick Douglass homestead).

Washington, DC site was operated by NACWC, along with a coalition of other civil rights organizations, until the National Park Service took over.⁹¹

In the 1950s and '60s, Stewart accepted a series of U.S. federal appointments from Republicans and Democrats.⁹² Her public service work included serving as an advisory committee member for the White House Office on Aging; an advisory committee member for the U.S. Department of Labor, and as a Goodwill Ambassador for the U.S. Department of State.⁹³ In each position, which were largely ceremonial and had little ability to directly impact U.S. policy, Stewart called on governments to “[f]ight for dignity and . . . peace” for everyone.⁹⁴

Later, between the 1960s and 1980s, Stewart’s public service work took on an international flavor.⁹⁵ Stewart was first elected as vice president of the Pan-Pacific Southeast Asia Women’s Association, although she declined the nomination, and was later named as a charter member of the U.S. National Commission for the United Nations Educational, Scientific, and Cultural Organization (UNESCO).⁹⁶ In each of these progressively more powerful positions, which she took on until her death in 1987, Stewart was recognized as a reliable source of advice and a fierce advocate for Black uplift campaigns.⁹⁷ Stewart was recognized as “a fearless trailblazer in her profession, . . . a successful businesswoman, a civil rights leader . . . and an American goodwill ambassador who contributed to . . . peace and understanding.”⁹⁸

91. See *The Saviors of Cedar Hill*, NAT’L PARK SERV. (July 24, 2021), <https://www.nps.gov/frdo/learn/historyculture/the-saviors-of-cedar-hill.htm> (describing the role of the NACWC in saving and restoring the Frederick Douglass homestead).

92. See generally *Ella Stewart’s Renewed Spanned Decades*, *Globe*, TOL. BLADE, Nov. 28, 1987, at 6 [hereinafter Stewart Obituary] (explaining that Stewart served as an Advisory Committee Member for the White House Office on Aging and as a Goodwill Ambassador for the U.S. Department of State).

93. *Id.*

94. *Stewart, Ella 1893–1987*, *supra* note 49.

95. See Stewart Obituary, *supra* note 93 (explaining that throughout this time, Stewart was also engaging in public service work on an international level at the behest of both major U.S. political parties).

96. Stewart Obituary, *supra* note 93.

97. Stewart Obituary, *supra* note 93 (explaining that Stewart “acquired a wide circle of international friends” many of whom relied upon her sage advice, up-to-and-including “Queen Salote, of the Island of Tonga.”).

98. Comstock Statement, *supra* note 88.

D. 1987–Present

Throughout her long career, Stewart was not afraid to highlight the fact that African-Americans are treated significantly worse than many otherwise similarly-situated groups.⁹⁹ Instead of ignoring racist double standards, or minimizing their real-life impact on her, Stewart emphasized the benefits of bringing discrimination to light.¹⁰⁰ One illustrative example took place in 1957, when Stewart publicly shared that she had been subjected to racial discrimination by her home state of Virginia.¹⁰¹ By doing so, Stewart hoped to encourage public officials to discharge their duty to treat all similarly-situated people in a standard way.¹⁰²

It is clear that Stewart's public disclosure had a positive impact upon Virginia public officials.¹⁰³ It also is likely that Stewart's openness similarly effected other public officials, even those who had never heard of her.¹⁰⁴ Stewart's canny approach was widely adopted, including by some of her most powerful contemporaries.¹⁰⁵ For example, as First Lady of the United States and the United States Delegate to the United Nations General Assembly, Eleanor Roosevelt channeled Stewart in her 1958

99. See generally Christine Snyder, *Righting a Wrong from 1957*, SPIRIT OF JEFFERSON (Oct. 5, 2018), https://www.spiritofjefferson.com/article_3d62b626-c8b2-11e8-bb48-536823bc3c8f.html (explaining that, in 1957, the Commonwealth of Virginia planned to honor Stewart as a distinguished citizen, but rescinded its invitation after learning Stewart was Black and asked her to return the invitation. Stewart refused to return it and, instead, wrote about what happened in an open letter that was published in various newspapers).

100. See Rothman, *supra* note 69, at 7.

101. Cf. Paquette, *supra* note 16 at 65 (“Ella received a formal invitation to attend a dinner on May 17, 1957, in Richmond, Virginia to commemorate the 350th anniversary of the founding of the settlement of Jamestown Before she could respond to the invitation, it was rescinded when the dinner’s sponsoring committee discovered that Ella was an African-American. . . . Ella’s response to the snub was typical of her. ‘I’m not going to let Virginia embarrass me,’ she vowed. Nor was she going to return the dinner invitation: She planned to keep it . . . in the hope of someday being able to . . . say that Virginia has had a change of heart.”).

102. Shipp, *supra* note 1.

103. For example, long-time Virginia politician L. Douglas Wilder was elected as the first Black governor in U.S. history in 1990. See *L. Douglas Wilder*, VA. MUSEUM OF HIST. & CULTURE, <https://virginiahistory.org/learn/l-douglas-wilder> (last visited May 26, 2023).

104. *Id.*

105. See, e.g., Allison Lange, *National Association of Colored Women*, NAT’L WOMEN’S HIS. MUSEUM, <https://www.crusadeforthevote.org/nacw> (last visited May 26, 2023) (noting how African-American women including Sojourner Truth, Francis Ellen Watkins Harper, and Harriet Tubman founded the National Association of Colored Women to advocate for a wide range of reforms to improve life for African-Americans, which may have increased the uptake of its later president’s ideas).

speech on the Universal Declaration of Human Rights:

Where, after all, do . . . rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman and child seek equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without . . . citizen action to uphold them . . . , we shall look in vain for progress in the larger world.¹⁰⁶

Even after her death, in 1987, Stewart's approach has continued to hold sway.¹⁰⁷ Among the reasons is that disclosure of unjustified disparities in treatment, especially in cases when public officials or public accommodations are required to provide the exact same treatment to everyone, led to many traditionally disadvantaged groups being treated much like traditionally more advantaged ones.¹⁰⁸ Among the reasons for this improvement is it became increasingly difficult to give poor treatment, solely, to disadvantaged groups.¹⁰⁹

II. RECOMMENDATIONS

This section explains how more contemporary pharmacists may build on Stewart's views, and uplift-work on behalf of African-Americans, so as to encourage more socially beneficial behavior.¹¹⁰ Many small business owners may do so by analyzing and disclosing information they already collect in the normal course of their work, such as data about any unjustified disparities in the provision of public services.¹¹¹ Illustrative examples may include observed

106. 'Close to Home' – *The Universal Declaration of Human Rights, Teaching Guide And Resources*, UNITED NATIONS VISITOR CENTRE, https://www.un.org/sites/un2.un.org/files/close_to_home_-_the_udhr_-_teaching_guide_and_resources_2.pdf (last visited May 26, 2023). See generally Smith, *supra* note 4, at 1080 (explaining that "[p]erhaps through Mary McLeod Bethune's relationship with President Franklin Roosevelt and his wife . . . Ella Stewart became an unofficial member of Eleanor Roosevelt's [B]lack cabinet . . . [of advisors].")

107. See Rothman, *supra* note 69, at 7, 24 (explaining how Stewart's refusal to accept sub-par treatment impacted others).

108. *Id.*

109. *Id.*

110. See *id.* (explaining how and why Stewart called out disparate treatment of Black Americans).

111. Pharmacists have long had a duty to collect, and analyze, a range of information in the normal course of their daily work. And this obligation, among others, continues to this day. See generally Nick Oberheiden, *20 Elements of An Effective Pharmacy Compliance Program: A Nonexclusive List of U.S. Pharmacies' Obligations Under Federal Law*, NAT. L. REV. (July 28, 2020), <https://www.natlawreview.com/article/20-elements-effective-pharmacy-compliance-program-nonexclusive-list-us-pharmacies> (describing the legal obligations of U.S. pharmacies and the ways that owners of these small businesses may discharge their obligations to governments and their citizens). Stewart

differences in vaccination rate, as between two racial groups, or other related ways of establishing who receives what public goods or services.¹¹²

Another option is to identify, analyze and republish relevant information already in the public domain.¹¹³ Contemporary pharmacists may do so, merely, by drawing on information that is collected from the U.S. Census and by other federal agencies.¹¹⁴ Even more relevant and probative data could be obtained from the American Community Survey, such as information about any unjustified racial, ethnic or gender disparities within their service area.¹¹⁵

In any event, the aforementioned information about unjustified disparities may be further analyzed using methodological approaches that do more than Stewart's very modest "contact and communicate principle."¹¹⁶ For example, neighborhood pharmacists could determine how free vaccines, masks and related public goods or services have been distributed across subnational space using percentage analysis.¹¹⁷ Each of these potential distributional analyses, which by definition indicate how resources are allocated within a population, establish whether similarly-

used the information that she collected in the normal course of running her neighborhood pharmacy to bridge the yawning gap between what was promised to African-Americans, in terms of goods and services, and what they received. *See generally* Rothman, *supra* note 69 (explaining how and why Stewart often called out disparate treatment).

112. *See, e.g., See How Vaccinations Are Going in Your County and State*, N.Y. TIMES [hereinafter *N.Y. Times Graphic*], <https://www.nytimes.com/interactive/2020/us/covid-19-vaccine-doses.html> (Oct. 20, 2022) (showing the distribution of COVID-19 vaccines by geographic location).

113. *Id.*

114. *See generally U.S. Census Bureau at a Glance*, U.S. CENSUS BUREAU (Oct. 24, 2017), <https://www.census.gov/about/what/census-at-a-glance.html> (explaining that the Census Bureau, on a periodic basis, compiles and presents various information about people that are located within the geographic boundaries of the United States).

115. *See generally American Community Survey (ACS)*, U.S. CENSUS BUREAU <https://www.census.gov/programs-surveys/acs/> (last visited May 26, 2023) (American Community Survey compiles and presents population and housing information).

116. *See generally* Rothman, *supra* note 69 (explaining more about the approach that Stewart took to identifying, analyzing, and disclosing unjustified disparities and some of the justifications that she used for doing so). One approach that could prove superior to Stewart's contact and communicate principle, at least with respect to showing whether a disparity should be viewed as unjustified, is percentage analysis. I have applied this simplified statistical approach to the study of a range of public policies. *See, e.g.,* Randall K. Johnson, *Uniform Enforcement or Personalized Law? A Preliminary Examination of Parking Ticket Appeals in Chicago*, 93 IND. L. J. SUPP. 34 (2018) (arguing Chicago should identify, analyze, and disclose unjustified parking ticket disparities).

117. *Cf.* Randall K. Johnson, *Why Illinois Should Reevaluate Its Video Tolling (V-Toll) Subsidy*, 106 IOWA L. REV. 2303, 2315 (2021) (arguing Illinois should undertake distributional analyses of its own policies and provide valid justifications for them).

situated people received relatively standard treatment.¹¹⁸

As of this writing, it is somewhat clear how most public goods and services are distributed at sub-national levels like the county one.¹¹⁹ But much more fine-grained work still may be done at even lower levels.¹²⁰ This additional work may require contemporary pharmacists to partner with sub-national agencies such as the Ohio Department of Health (ODOH).¹²¹ This agency already publicly discloses information about unjustified disparities, which helps to assure similarly-situated people are treated in a standard way by government.

Such partnerships may be realized, merely, by adding this information to existing public repositories. One example of such a repository is ODOH's COVID-19 Vaccination Dashboard.¹²² By doing so, it becomes possible to assure that similarly-situated people get equal shares of public goods and services.

Another benefit of building on Stewart's work, especially in terms of expanding the real freedoms that people enjoy,¹²³ is that interested parties gain more complete information about how public goods and services are distributed by governments.¹²⁴ Other previously unacknowledged societal benefits also may be generated by focusing upon whether and how more equal distributions of government resources could advance important societal goals.¹²⁵ For example, when pharmacists distributed free H1N1, SARS and COVID-19 vaccines on behalf of federal and state governments in the past, it was sometimes claimed that such giveaways also raised standards of living.¹²⁶

118. *Id.*

119. *See generally* *N.Y. Times Graphic*, *supra* note 112.

120. *Id.*

121. Various groups have undertaken similar work that collects, analyzes, and discloses information about unjustified disparities in health care outcomes. *See, e.g., The Project: About Us, HEALTH EQUITY TRACKER*, <https://thehealthequitytracker.org/aboutus> (last visited May 26, 2023).

122. *See generally* Sen, *supra* note 62.

123. *See, e.g., State and Local Government*, THE WHITE HOUSE, <https://www.whitehouse.gov/about-the-white-house/our-government/state-local-government> (last visited May 26, 2023).

124. Another option could be to use neighborhood pharmacies, and the information that each one collects in the normal course of their work, so as to “detect new pathogens that threaten to wreak havoc on the world, share their discoveries by making their findings available publicly, and contain them before it’s too late.” Alice Park, *The Virus Hunters Trying to Prevent the Next Pandemic*, TIME MAG. (Aug. 1, 2022, 10:00 AM) <https://time.com/6202044/preparing-for-next-pandemic-virus-hunters/>.

125. *See generally* Piotr Merks, Marta Jakubowska, Ewelina Drelich, Damian Swieczkowski, Joanna Bogusz, Kryzysztof Bilmin et. al., *The Legal Extension of the Role of Pharmacists in Light of the COVID-19 Global Pandemic*, 17 RSCH. IN SOC. & ADMIN. PHARMACY 1807, 1808–12 (2021), <https://www.sciencedirect.com/science/article/pii/S1551741120306628> (explaining the ways that the role of pharmacists, especially neighborhood ones, expanded in the wake of COVID-19).

126. *See, e.g.,* Stuart Anderson, *What History Teaches Us About Pharmacy, the Spanish Flu*

By identifying the nature and strength of any such relationships, perhaps by using percentage changes in vaccination rates and per capita income to create a correlation coefficient, more governments could test the hypothesis that a public good or service has positively and strongly impacted recipients.¹²⁷ Recently, this Author proposed that very thing within the context of housing.¹²⁸ Governments may do well to apply it in additional policy settings.

Assuming Congress agrees with this Essay's analysis—an assumption that finds support in the fact that it recently passed the American Rescue Plan Act—it could make permanent a host of important COVID-19 era public policy changes.¹²⁹ By doing so, contemporary pharmacies can deliver more public goods and services to traditionally disadvantaged groups like African-Americans. Illustrative examples of these goods and services include “hand and surface disinfectants, . . . chronic treatment prescriptions, . . . pro auctore and pro familia prescriptions . . . , COVID-19, influenza . . . , Group A Streptococcus screening tests . . . [as well as every related] vaccine administration.”¹³⁰

Contemporary pharmacists also could do additional work on behalf of governments such as helping to provide alternative sourcing of medications, drug substitutions, or the preparation of “compounded formulations.”¹³¹ Furthermore, these business owners can assure African-Americans receive their fair share of public goods and services. Especially in cases wherein public goods or services recipients purportedly experience increases in quality of life.¹³²

and *COVID-19*, CHEMIST & DRUGGIST (Sep. 25, 2020), <https://www.chemistanddruggist.co.uk/CD001603/What-history-teaches-us-about-pharmacy-the-Spanish-flu-and-COVID19> (describing the positive impact of government interventions during the 1918 Spanish flu pandemic and the 2020 COVID-19 pandemic).

127. Cf. Randall K. Johnson, *How Mobile Homes Correlate with Per Capita Income*, 11 CAL. L. REV. ONLINE 91 (2020) (arguing Illinois could use correlation coefficients to find out the nature and strength of any relationship between percentage changes in mobile homes and per capita income). Relevant and probative variables, at least within the context of public health, are changes in vaccination rates and changes in per capita incomes.

128. *Id.*

129. See generally Merks et al., *supra* note 125, at 1808–11.

130. Merks et al., *supra* note 125, at 1807.

131. *Id.*

132. One potential example is when the U.S. government decides to subsidize the purchase of over the counter pharmaceuticals—a type of quality-of-life-enhancing public good. See, e.g., Jessica Glenza, *US to Begin Distributing 400m Free N95 Masks to Pharmacies and Health Centers*, THE GUARDIAN (Jan. 24, 2022, 12:42 PM), <https://www.theguardian.com/us-news/2022/jan/24/us-distributes-400m-free-n95-masks-pharmacies> (detailing the Biden Administration's distribution of “400 [million] free N95 masks” during the COVID-19 pandemic); see, e.g., Christina Jewett, *F.D.A. Clears Path for Hearing Aids to Be Sold Over the Counter*, N.Y. TIMES (Aug. 16, 2022), <https://www.nytimes.com/2022/08/16/health/fda-hearing-aids.html> (explaining that the Food

This supplemental work may be built into future federal legislation such as the Pharmacy and Medically Underserved Areas Enhancement Act (PMUAEA).¹³³ The PMUAEA, which was first introduced by Representatives G. K. Butterfield (D-N.C.) and David McKinley (R-W.V.), would “expand pharmacy services to . . . [more] seniors, provid[e] . . . easily accessible and consistent primary care services, and . . . more optimal health outcomes” for African-Americans and other traditionally disadvantaged groups.¹³⁴ Specifically, this bill would allow Medicare to directly reimburse pharmacists for Medicare Part B services that are provided to low-income people in medically underserved communities.¹³⁵

The preceding analysis suggests contemporary pharmacists may build on Stewart’s work in generating additional benefits for African-Americans, and other traditionally disadvantaged groups, while simultaneously adding public value in a variety of ways.¹³⁶ Public value is the idea that a public good or service could “satisfy the aspirations of citizens at the lowest possible cost”¹³⁷ Examples of public value include dignitary gains, such as improvements in how individual pharmacists, neighborhood pharmacies, and the public health profession itself are viewed by their customers. Informational gains, on the other hand, are a type of public value that improves what pharmacists, their customers, and the general public understand about how neighborhood pharmacies advance important societal goals. A final example of public value may take the form of efficiency gains, which arise from recognition that unjustifiably excluding African-Americans from things comes at a high cost.¹³⁸

and Drug Administration decided to allow hearing aids to be sold over the counter without a prescription to adults, a long-sought wish of consumers frustrated by expensive exams and devices).

133. See generally Hassan Shaikh & Theresa C. Carnegie, *Fourth Time’s the Charm? How COVID-19 May Spur Congress to Pass Legislation Expanding Coverage for Pharmacist Services*, NAT’L L. REV. (May 12, 2021), <https://www.natlawreview.com/article/fourth-time-s-charm-how-covid-19-may-spur-congress-to-pass-legislation-expanding> (describing what the bill does); Pharmacy and Medically Underserved Areas Enhancement Act, H.R. 2759, 117th Cong. (2021).

134. Shaikh & Carnegie, *supra* note 133.

135. Cf. Markian Hawryluk, *How Rural Communities Are Losing Their Pharmacies*, KFF HEALTH NEWS (Nov. 15, 2021), <https://khn.org/news/article/last-drugstore-how-rural-communities-lose-independent-pharmacies/> (explaining that, as of this writing, there are more than six hundred communities in the United States with neither a neighborhood nor a chain pharmacy).

136. *Id.*

137. MARK H. MOORE, RECOGNIZING PUBLIC VALUE 40 (2013).

138. Cf. Lauren C. Howe, Emerson J. Hardebeck, Jennifer L. Eberhardt, Hazel R. Markus & Alia J. Crum, *White Patients’ Physical Responses to Healthcare Treatments Are Influenced By Provider Race And Gender*, 119 PNAS 1, 5–6 (2022) (illustrating how notions of race and gender can unknowingly influence patients care despite healthcare providers’ good intentions).

CONCLUSION

In the event that contemporary pharmacists decide to open up more neighborhood pharmacies, in an attempt to build on Stewart's past work in limiting unjustified disparities in treatment, it makes sense to create a detailed implementation plan.¹³⁹ Any such plan should carefully describe the nature of the problem that a particular neighborhood pharmacy seeks to address and the specific steps that need to be taken.¹⁴⁰ For example, it may highlight how a particular reform could shine "a spotlight on . . . [how to limit unjustified] . . . inequities facing individuals with limited access to care."¹⁴¹

Contemporary pharmacists also should explain to their employees that because "citizens are the owners of government," all agents of the state "owe a fiduciary duty to act in" these owners' "best interest."¹⁴² Thus, it may be a breach of duty for neighborhood pharmacies to distribute public goods or services on a less-than-standard basis.¹⁴³ Particularly in situations in which a public good/service, such as a COVID-19 vaccine or a related giveaway, purportedly increases the benefit recipient's quality of life.

Finally, contemporary pharmacists should disclose their plans to potential customers within their service area.¹⁴⁴ Such a disclosure may help to explain how, and why, reforms are being undertaken.¹⁴⁵ It also may limit complaints, poor conduct, and disengagement that negatively impact customer service.¹⁴⁶

139. *Cf.* Hawryluck, *supra* note 135 (describing various obstacles independent pharmacy owners face that discourage them from opening more locations, especially since their profit margins would decrease).

140. *Id.*

141. Shaikh & Carnegie, *supra* note 133.

142. DAVID H. HOFFMAN & JULIET S. SORENSEN, PUBLIC CORRUPTION & THE LAW: CASES & MATERIALS 49 (2017).

143. *See generally* Paul A.M. Gregory, Manmohit Gill, Dhruv Datta, & Zubin Austin, *A Typology of Vaccine Hesitancies: Results from a Study of Community Pharmacists Administering COVID-19 Vaccinations During the Pandemic*, RSCH. SOC. & ADMIN. POL'Y 332, 338 (2023) (noting the role of community pharmacists during the COVID-19 vaccinations and how they helped provide holistic support and resources to hesitant patients).

144. *Id.* at 341.

145. *Id.*

146. *Id.* at 333, 338–39.