



Lincoln
Human
Resource
Management
Association



PO Box 81066, Lincoln, NE 68501-1066
www.lincolnhrr.org

Volume 2, Issue 8

August, 2011



August 9th, 2011 Program

Luncheon:

Hot, Hot, Hot!

Hot Employment Law Topics

Presented by Scott S. Moore from Baird Holm, LLP

When:

Tuesday, August 9th

11:00 – 11:30 Registration

11:30 – 1:00 Luncheon*

*HRCI Credits have been applied for

Where:

Embassy Suites

Regents Room

1040 P Street, Lincoln, NE

Parking: validated by LHRMA when you park at:

Que Place Garage, 11th & Q Streets

Market Place Garage, 10th & Q Streets

Cost:

Luncheon: LHRMA members- \$15

All Other Attendees- \$25

Menu:

½ Focaccia Sandwich

Summer Spinach Salad

Homemade Potato Chips

Cookies & Brownies

Coffee/Decaf & Tea Service

Deadline: The deadline to register or cancel your registration is by: Noon, Friday, **Aug. 5th.**

About our Program:

Hot! Hot! Hot!

Please join us as we help you cool off your Summer anxieties about Hot Employment Law Topics. Our presenter will serve you a cool drink of current labor and employment law trends while splashing you with legislative updates. We hope you join us in waves to hear how you can cool off this summer by taking a dip in the learning pool of HR Employment Law.



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About our Presenter: Scott S. Moore is a partner on the Executive Committee with Baird Holm LLP. Scott represents employers in various industries with respect to labor relations and employment matters, was previously a Vice President of Human Resources for a company with 12,000 employees.

Scott completed both his undergraduate and legal education at the University of Nebraska-Lincoln. There, he graduated with high distinction, was an executive editor of the *Nebraska Law Review*, and was inducted into the Order of the Coif.

Scott is a former Nebraska State Bar Chairman of the Labor and Employment Section, the founder of the Best Places to Work in Omaha event, counsel for the Human Resources Association of the Midlands and former Legislative Director for the Nebraska SHRM State Council. Scott is a Chapter Chairman and Editor for BNA's Employment Discrimination Law, and a Contributing Editor for BNA's The Developing Labor Law. Scott has been named one of *The Best Lawyers in America*, named as a *Great Plains Superlawyer*, has received *Martindale-Hubbell's top rating*, and has been recognized by *Chambers USA* as "one of the most innovative thinkers" in employment law.



Scott S. Moore

Drawing Winner

Who Says There's No Such Thing as a Free Lunch? Congratulations to **Nancy Shy** from EF Johnson Technologies. She will receive free registration at the August 9th luncheon meeting!



Upcoming Meetings

September – No LHRMA Meeting - SHRM State Conference

October – Employee Financial Wellness & Employer Fiduciary Responsibilities

November – Name Tag Scott presents – The Approachable Leader



The Salvation Army and LHRMA Help Kids Go Back To School



The following items are recommended—please concentrate your efforts on school supplies and less on backpack donations :

Notebooks	No. 2 pencils
Colored Pencils	Pencil Sharpener
Erasers	Ballpoint Pens
Highlighters	Backpacks
Loose Paper	Rulers
3-Ring Binders	Folders
Scissors	Calculators
Index Cards	Zipper Notebooks

Please bring your donations to the **August 9th** LHRMA meeting.
Thank You!

Board Meeting Recap

- Special Interest Group—first session July 21st on Social Media Recruiting.
- Financials presented
- 9 new member referrals from last meeting
- All PHR/SPHR exams taken. 2—SPHR; 6—PHR
- Marketing/Social Media—still need to recruit committee members.
- Will work with Juneteenth event for SHAPE
- Need to know which officers would like to stay on board and serve next year.
- December Social—Dec. 13; location TBD; evening

President's Message

Mark Pankoke, President



Three Lessons in Leadership

A few recent experiences made me think about Leadership and how it works. Two of the following lessons came from my SHRM annual conference experience. (By the way I highly recommend attending the conference next year to learn lots of new things, reinforce existing thoughts and recharge your professional batteries.) I hope at least one of these three lessons will speak to you.

Lesson One – from SHRM, Lessons from Parkland Hospital

At the annual SHRM conference a practical example of HR leadership was shared by Candy Knowles, Chief Human Resource Officer at Parkland Health & Hospital System. Parkland was best known as the hospital where John F. Kennedy was taken when he was shot in that sad day in Dallas. Candy's message was how HR can help lead a cultural change for an organization while simultaneously changing the structure within HR. This is being done in an organization with an HR department of 73 people! It seems to me she is doing this by utilizing a tried and true formula. She with the help of others, obtained data and feedback, developed a plan, worked diligently to obtain support for the plan and then executed the plan, modifying it as necessary along the way. She said several times during the presentation, "Change is not trouble free." It may not be trouble free but it is possible and it is worthwhile. (If you want more details give me a call or an email.)

Lesson two – "Wait for me, I'm the Leader!"

On a recent outing at a State Recreation Area my wife, daughter and granddaughter were taking a nature hike with me. My 5 year old granddaughter, Lexie, was leading the group. We stopped to look at something interesting and then began walking again. Lexie was at the back of the group when she yelled, "Wait for me, I'm the Leader". This made quite an impression on me. I thought about how often this happens in our work life. It also made me think about other times when it should happen except the leaders don't realize the employees are ahead of them on a journey. If you are a leader in your organization, think about the possibility that you may need to be saying to yourself as you kick into action, wait for me I'm the leader.

Lesson Three – also SHRM, "People are Just Followers"

Four of the Nebraska contingent at the SHRM Conference attended the Tuesday night SHRM concert together. We arrived in a car parked and attended a wonderful concert by Keith Urban. When we were leaving there was a minor traffic problem getting out of the parking lot as people converged into two tightly packed lanes to exit. To his credit our driver, Craig Garrett, looked to his left and saw that there were opened barricades with wide open space for two or more additional lanes of traffic even closer to the street exit. He turned and created new exit lanes which people immediately followed. We got out of the traffic much quicker than if we had waited in line like everyone was doing before he made his move. As he was exiting he said, "People are just followers". He meant people often don't think for themselves and just follow along even if it is inefficient, ineffective or just plain wrong. Leaders need to be creative and courageous. It often pays off. In Vegas it did.

My challenge to you is this: consider if you need to be the leader to shake things up and lead your organization's culture change? Do you need to look around, catch up and then surpass others in HR or the organization? And finally do you need to be creative and courageous to help your department become more efficient and effective. The lessons are out there; now decide if you want to adopt any or all of them.

— Mark Pankoke



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the conversation.

Legal Update

Social Media and the Hiring Process

By Jack L. Shultz, HARDING & SHULTZ, P.C., L.L.O., Lincoln, NE

The recent resignation of Representative Anthony Weiner (D-NY) underscores the fact that social media may provide too much information on occasion. Representative Weiner's resignation, however, serves as a reminder to all employers to tread cautiously when utilizing social media to conduct background checks on applicants. Social media tools such as Twitter, Facebook and LinkedIn do provide employers with a great deal of information about job applicants. However, in light of the restrictions placed upon employers by Title VII and other anti-discrimination state and federal laws, employers need to be careful to not obtain "too much information."

THE PROHIBITION

The prohibition found in state and federal law is simply that employers not discriminate against employees in protected classes who are making hiring decisions. For example, Title VII prohibits discrimination in making hiring decisions because of an individual's "race, color, religion, sex or national origin." Nebraska state law adds the protected class of "marital status" and both state and federal law add the additional protected classes of "age (40-70 years), pregnancy and disability." Anti-discrimination provisions are also found in the Family and Medical Leave Act and the Fair Labor Standards Act. Active discussion has taken place and will continue to take place about adding additional protected classes to both state and federal law.

THE PROBLEM

As evidenced by Representative Weiner's conduct, individuals post a wide variety of information on their Facebook accounts, comment about numerous topics on their Twitter account and do both on LinkedIn. It is obvious that applicants may make comments which clearly identify them as being a member of one of the protected classes listed above or one of the other protected classes listed in other state or federal laws. Some employers routinely check on job applicants through such social media tools leading to the possibility that "too much information" might be obtained by the individuals who make the hiring decisions. Without more, a social media search, which identifies an applicant as being a member of a protected class, could lead to the filing of discrimination charges if the applicant is not selected for employment.

THE SOLUTION

The key element of any employer's defense to a charge of discrimination is centered on a clear explanation of the job at issue. All employers should have a clearly written position description which defines job duties and any necessary education or certification required to perform the job duties. The position description should be current and accurate. Questions asked during the hiring process should be based on the position description and applicants should be ranked based upon how well they fit the position in question. An objective analysis should be made in every instance where it is possible to do so. Subjective factors may also be used but should be based upon the job duties and the relationship of the subjective criteria to being able to successfully perform such job duties.

THE PROCESS

Employers should make a decision on what kinds of background checks are going to be undertaken and whether social media tools will be used. The process should be written and distributed to all employees who are involved in the hiring process. Just like an application blank should be developed which requests information relevant to the position in question, employees involved in the hiring process should also be given a set of questions to ask all applicants which relate to the job in question. Information obtained through social media tools should only be added to the background check information if it relates directly to the job duties for the position being sought. Some employers make it a point to have the background

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check performed by different employees of the employer or a subcontractor. In either instance, it is prudent to instruct the individual or individuals performing the background check to exclude from their report any social media information which identifies an applicant as being a member of a protected class.

CONCLUSION

The bottom line is that employers should base hiring decisions on the abilities and qualifications of an applicant to perform successfully the job duties of the position being sought. The fact that an applicant happens to be a member of a protected class under either state or federal law is not relevant and employers should be careful to avoid obtaining “too much information” if social media tools are used for background checks as such information might identify the protected class status of an applicant. Since social media tools are readily available and easily checked, employers may decide to use such social media tools to perform background checks on applicants. There is nothing inherently illegal in taking this approach, but employers should develop a carefully constructed hiring process which focuses on job duties not protected class status even if background checks are conducted at least in part by using social media tools. The failure to take these steps might result in state or federal court litigation which might be as challenging as the situation recently faced by Representative Weiner.

Editor’s Note: This article is not intended to provide legal advice to our readers. Rather, this article is intended to alert our readers to new and developing issues and to provide some common sense answers to complex legal questions. Readers are urged to consult their own legal counsel or the author of this article if the reader wishes to obtain a specific legal opinion regarding how these legal standards may apply to their particular circumstances. The author of this article, Jack L. Shultz, can be contacted at 402/434-3000, or at Harding & Shultz, P.C., L.L.O., P.O. Box 82028, Lincoln, NE 68501-2028, or jshultz@hslegalfirm.com.

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Congratulations!

Congratulations to the following newly certified Human Resource Professionals who obtained their certification during the May/June exam window:

Sandra Gause, PHR
Dan Krick, SPHR
Kelly White, SPHR

Laurie Gyhra, PHR
Jessica Reay, PHR
Sarah Zach, PHR

Denise Jensen, PHR
Cindy Rohlmeier, PHR

Please take time to congratulate those who passed. The certification exam is a difficult exam because it covers a wide variety of human resource issues. The pass rates for the exams are generally 65% for those taking the PHR (Professional in Human Resources) and 55% for those taking the SPHR (Senior Professional in Human Resources). Human Resource Certification is the symbol of professional achievement. Beyond experience and education, the PHR or SPHR designation signifies that you have mastered the HR body of knowledge. Certification also provides:

- National recognition of your professional achievement;
- An aid for career advancement;
- A reminder to peers and co-workers of your professional achievement through the use of your certification designation on business correspondence.

Certification exams are administered via computer during two testing windows each year, May 1st thru June 30th and December 1st thru January 31st. To request a certification handbook or find out more about the exam, visit www.hrci.org. If you would like to enroll in LHRMA’s Certification Study Group starting see www.lincolnhrc.org for more information or contact Melissa Price at mprice@nebook.com or 402.421.0402.

EAP Corner

Building Resiliency Through the Tough Times

Julie Gibson, LMHP

Directions EAP, LLC

Our hearts go out to all persons, families and communities affected by the recent flooding in the Midwest. A flash flood is one thing- heavy rains overpower systems and floods happen. But typically within days or weeks the water starts receding and people can begin cleaning up their lives. What we've had lately is a whole different ballgame. Most of the people displaced by June's heavy flooding won't see the water leave for perhaps months yet. People are crowded into temporary shelters, homes of relatives, government housing – all just wondering if there is anything left of the life they once knew. I recently heard that some lowans who work in Nebraska City and Auburn have to drive a detour route taking 4 extra hours to get to work. But they're feeling fortunate yet to still have jobs and the cars to get to them.

Do you know anyone personally affected by this year's storms? Do any of your employees or their family members have to cope with this lingering crisis? It has been a couple months now since the levies broke and the river stormed the banks, we're not back to normal yet. This is the hard part of a crises- when it lingers and we still don't have all the answers we need – will we salvage any of our personal belongings, do we have all the papers we'll need to file for FEMA? Can we still plant these fields? Does our insurance cover any part of this? Where do we go for help? Should we stay in the area—will our company rebuild the business here—will I still have a job? Can we go home yet? It's easy to become a news junkie and to constantly watch for signs of hope only sometimes to be sickened by more bad news.

You can help the people around you by becoming sensitive to those who might be struggling with the lingering effects of recent flooding. I recently ran across some tips for shoring up your resiliency in times like these. The American Psychological Association has written an article called *Manage Flood-Related Distress by Building Resilience*, retrieved from their website 2/23/2011. A paraphrase of some of their suggestions included:

- **Make connections:** Initially there can be great comfort in sharing the ordeal with others facing the same losses and challenges. We gather in shelters and churches and schools for safety and comfort. But it's easy to become isolated after the initial crises and people scatter from the shelters to private homes with friends and family. Be sensitive that many folks who might need it, don't know how or are reluctant to ask for help.
- **Avoid seeing crises as insurmountable problems:** You can only do so much against flooding waters, but you can change how you interpret and respond to the disaster. Focus on trying to stay positive, being grateful for lives spared. Decide to be a survivor not a continuing victim of the flood of 2011. Remember- "Life is 10% what happens and 90% what we chose to think about what happens." (Anonymous)
- **Take a news break:** No pun intended – it's easy to get over-saturated with pictures of destruction. Limit time in front of the pictures of flooded towns and roads and houses.
- **Accept that change is a part of living:** Help people focus on elements in their circumstances that they can change and to come to terms with the parts that are permanently changed beyond their control. Everything is changing in life, resiliency means coming to terms with that fact.
- **Move toward new goals:** Try to direct the feelings of loss and uncertainty into realistic goals – don't start with –"I have to clear the acreage and rebuild my house". Think about "What is 1 thing I could do today that takes me in the direction of my goal?"
- **Take decisive actions:** Take decisive actions rather than detaching completely from problems and stresses and wishing they would just go away. There is a lot of waiting around with flood recovery. Look for ways to get back to some more normal routines.

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- **Look for opportunities for self-discovery:** Many people who have experienced tragedies and hardship have reported better relationships, greater sense of strength, increased sense of self-worth, a more developed spirituality, and heightened appreciation for life. Frequently, struggling through the tough times is where our real growth occurs. Allow yourself to think – things may never be the same...but maybe that means they'll be better.
- **Nurture a positive view of yourself:** Don't compare yourself to everyone else. While some feelings might apply to many in the same situation- everyone responds to loss and grief differently. Try not to judge yourself or others. You are all persevering through difficult circumstances. That's an accomplishment. Developing confidence in your ability to solve problems and trusting your instincts helps build resilience.
- **Keep things in perspective:** Remind yourself of past hardships that may have felt overwhelming at the time. Tap into those successful skills to get you through the current challenges.
- **Take care of yourself:** Engage in healthy behaviors that will enhance your ability to cope with excessive stress. Be patient in the midst of the chaos. Try to eat well-balanced meals and get plenty of rest. Avoid alcohol and drugs since these can increase feelings of sadness or distress and hinder your ability to cope with current stresses.

As an HR Professional or a concerned employer or co-worker of someone close to our recent flood disaster be prepared to listen and consider creative ways for helping through the crises. All of us have different levels of resiliency depending on our own trials in life. This is a time for compassion and empathy and building on those resiliency skills. People can be worried and stressed, have a hard time sleeping or concentrating- stay connected to them. Watch for symptoms of grief and loss, anxiety and depression. Encourage good self care. Remember your EAP if an employee is particularly having a hard time coping, perhaps someone to talk with who can listen and coach them to the next steps in their journey is just what is needed. Employee Assistance professionals are trained to help folks through critical times like these, take advantage of their expertise.

NEW MEMBERS

Nicole Friesen

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Christine Stephens, PHR

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Wellness

Back to School, Back to Business

By Michelle Welch, RD, LMNT, Corporate Wellness Developer and Registered Dietitian
Madonna Fit for Work

Summer's wrapping up, the smell of freshly sharpened pencils is in the air and it's time to set sites on getting back to business. If you look, you will notice, the entire work world seems to shift gears a bit when school starts, no matter the backpack count in your mudroom.

How does your family recalibrate for fall? Do you move up the kids' bedtime? Kick out the sugary cereals and start their day with choices that stick with them until lunch? Do you clear a space and build a lower distraction zone for them to be successful in completing homework in a reasonable period of time, instead of letting it drift on throughout the evening? To cut the morning chaos, do you help build family systems to have the key elements in place for a quick run out the door?

Let's face it, much of what we need to know we really did learn in kindergarten. Focus on one activity at a time to do it well. Don't eat the paste. Be nice to each other and giggle a little. Build in recess, two if you can. Feed you body health foods so that it can work the best. Play is good. At the end of the day, put your things where they belong so that you can have a good start the next day.

As your staff buckles down to take on serious projects, it's time to help remind them to build great back to work habits, just like the kids are building their habits for the new school year. From stretching and screen time breaks (recess) to fueling their bodies with better food choices and adequate hours of sleep, fall can be a great time to hardwire best practices into workplace culture.

If you are a leader within your business, take steps to help make work injuries for your MVPs a thing of the past. Contact Sande Dirks, Corporate Relations Director of Madonna Fit for Work on the Corporate Services Hotline at 402.420.0002 to learn more about how the resources of Madonna can support your business needs.

The (Unconfirmed) Origin of the Infamous "Pink Slip"

By Timothy G. Wiedman, D.B.A., PHR
Doane College, Crete, NE

A rudimentary (and somewhat heartless) performance appraisal system was said to be in operation at Henry Ford's Model T assembly plant in the early 1900s; and each employee's appraisal covered a single day's performance on the job. At the end of each shift, as workers left for the day, they walked past a wall filled with small cubbyholes. All assembly workers had personalized cubbyholes, and their supervisors would fill those cubbyholes with an evaluation of each day's job performance for each individual worker (Moffit, 1995). In those days, job-seeking immigrants had flocked to Ford, assembly workers spoke literally dozens of different European languages and dialects, and many of Ford's line workers spoke little (or no) English at all (Sorensen, 1956). So, under these conditions, written evaluations would have been of limited value.

Thus, supervisors were said to use colored pieces of paper instead of words to signal whether an employee's work was up to par: a piece of white paper in a worker's cubbyhole signified acceptable work (as if to say, "see you tomorrow"); a pink piece of paper signified unacceptable work and meant that the worker had been fired (Moffit, 1995).

Confirming the existence of an early 20th century performance appraisal system that did not utilize written records is all but impossible. However, given what is known about other unusual management practices that Mr. Ford embraced – his contempt for the use of corporate accountants, for example (Ford, 1922) – one would not be surprised to discover that Ford Motor Company had pioneered the use of the pink slip.

Ford, H. (1922). *My Life and Work*. Garden City, NY: Doubleday, Page & Co.
Moffit, T. (1995). Origin of the Pink Slip. *HR Focus*, 72(6), 15.
Sorensen, C. (1956). *My Forty Years with Ford*. New York: W.W. Norton & Co.

PHR/SPHR Certification

LHRMA is sponsoring a Certification Study Group beginning August 22, 2011 and ending November 14, 2011 to aid HR professionals in the preparation for the next PHR/SPHR certification examination period of December 1st – January 31st. These sessions are held on Monday evenings from 5:30pm – 8:30pm (except on Labor Day and Halloween when they will be held the following Tuesday) at Nebraska Book Company.

Enrollment Fee: \$65 for LHRMA members or \$100 for non-LHRMA members

THIS PROGRAM IS DESIGNED FOR:

Professionals desiring a review course in preparation for the HRCI Certification Exam. To earn the PHR or SPHR designation, the candidate must have the appropriate experience and education requirements found on the HRCI website (http://www.hrci.org/2011_Exam_Eligibility/). Individuals applying for the PHR/SPHR Certification Exam must submit their application with payment to HRCI by the appropriate deadlines. Any questions regarding the Certification Exam or eligibility should be directed to HRCI. HRCI's Certification Handbook can be accessed online at www.hrci.org.

CERTIFICATION COURSE INSTRUCTIONAL FORMAT AND MATERIAL:

The Certification Course uses a lecture format that encompasses the six functional areas that make up the test specifications.

- Strategic Management
- Workforce Planning & Development
- Total Rewards
- Human Resource Development
- Employee & Labor Relations
- Risk Management

The Certification Study Group has been extremely successful in the past with a 90% or higher exam pass rate. Our expert instructors are certified practitioners in Human Resources and are able to provide both practical and technical expertise to participants. The “Official PHR & SPHR Certification Guide” written by HRCI will be provided to all participants.

The core text for the certification study group is “Human Resource Management” (13th edition) by Robert L. Mathis and John H. Jackson. You must purchase the textbook **on your own**. The textbook and study guide are available at the SHRM store (www.shrm.org). Prices are listed below. You must be a SHRM member to get the best rate. Other sources may be Amazon, Textbooks.com, or a college bookstore. If purchasing a used book, be sure to purchase the **13th edition**.

- Human Resource Management (Mathis & Jackson) \$181.95/\$208.95
- Text plus Study Guide \$190.95/\$210.95
- Study Guide only \$32.95/\$34.95

If you would like to be involved in the study group, please click the “enroll now” button above to register for the group. For more information about certification, exam dates, and exam locations, visit the HRCI website. Any questions or concerns about the study group or exams can be addressed to Melissa Price, Certification Director.

Jobs, Jobs and More Jobs!

Do you have one to advertise or are you looking for one?

CHECK OUT OUR WEBSITE—<http://www.lincolnhhr.org>.

If you are an employer who has a LHRMA member employee, then you can post your human resource job opening on our website by contacting Kathy Harper at lhrma0048@yahoo.com or 402.483.4581, x. 339.

If you are looking for a human resource position, then you can check our website at www.lincolnhhr.org.

This will be an excellent resource for students who are seeking an HR position. It is also an excellent forum for companies to advertise if they have summer internships available. Please take advantage of this great resource—you can't beat the price!





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