



Lincoln
Human
Resource
Management
Association



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

Volume 3, Issue 8

August, 2012



The Legislative Horizon

About our Program:

The Obama Administration has increased its use of executive orders and the regulatory agencies as it faces continued congressional obstacles. Judicial limitations on the Affordable Care Act could spur new regulations and legislation. The upcoming elections will almost certainly impact the regulatory and legal burdens employers will face. Christopher Hedican will lead this session focused on providing an overview of the actual and anticipated changes and what employers must do to comply in the future. **Pre-approved for 1.0 hour of general recertification credit!**

About our Workshop:

LB 959: the State Legislative Process and How to Lobby your Representative

After more than a decade of effort, the Nebraska Legislature passed LB 959, also known as the reference check legislation. This workshop program will feature one of the legal advisors who assisted with that legislation, Scott S. Moore, along with additional speakers well experienced in the legislative process. These speakers will provide insight on how individuals can effectively lobby their representatives regarding issues affecting the workplace and be involved in the process. The program will utilize the reference checking bill as the example as participants learn the legislative process, the importance of becoming involved, and how to lobby. While the program will focus primarily on state-level activism, including an explanation of how bills become law in Nebraska, speakers will also provide recommendations for taking action on a national level.

Pre-approved for 2.0 hours of STRATEGIC recertification credit!

When:

Tuesday, August 14th, 2012

- 11:00 – 11:30 Registration
- 11:30 – 12:00 Lunch & Announcements
- 12:00 – 1:00 Keynote Session
- 1:15–3:15 Workshop

This Month's Gold Sponsor:

Where:

Embassy Suites
1040 P Street
Lincoln, NE 68508



Parking will be validated for those who park in the city garages.

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Cost:

Program Registration Fee: LHRMA members—\$15
All Other Attendees—\$25

College Student Chapter Members—FREE (must register with Nate Elgert)

Workshop Registration Fee: All Attendees—\$35

Menu: Harvest Honey Wrap, Garden Salad, Assorted Cookies and Brownies, Iced Tea and Water.

Deadline: Register or cancel your registration by: **Noon, Friday, August 10th.**

Please remember: There is a \$10 fee for late registrations and for no-shows. This \$10 is in addition to the regular registration fee. Please try your hardest to register on time, as late registrations and no-shows make it difficult on everyone involved.

About our Presenters:

Christopher R. Hedican leads the Firm's employment litigation practice, defending all types of employment claims including discrimination, wrongful termination, retaliation, employment torts and public policy claims. He regularly handles non-compete, and fiduciary litigation. His practice also includes litigation involving self funded ERISA benefit plans, fully insured benefit plans and third party administrators. Mr. Hedican is a graduate of the Washington University in St. Louis School of Law and of the John M. Olin Graduate School of Business of Washington University.

Scott S. Moore practices in the areas of management-side employment law and labor relations. He regularly represents employers in various industries with respect to labor relations and employment matters, including personnel policies and decisions, labor negotiations, preventive planning, immigration, workplace safety, equal opportunity, and the defense of employment-related claims. Mr. Moore is a member of Baird Holm's executive committee. He is a graduate of the University of Nebraska School of Law.

Additional Speakers:

Bruce Bohrer, Executive Vice President/General Counsel for the Lincoln Chamber of Commerce

Wendy Boyer, Vice President Community Affairs for the Greater Omaha Chamber

Ron Sedlacek, Vice President/General Counsel for State of Nebraska Chamber of Commerce



Upcoming Meetings:

Sept.—No Meeting. NE SHRM State Conf., Sept. 13—14, CenturyLink, Omaha, NE.

Oct. 9, 2012—Program and Workshop by Kenexa on Competency & Compensation

Nov. 13, 2012—Talent+, TBA

Dec. 11, 2012—Member Social, TBA

President's Message

Judy Ganoung, LHRMA President



Hot Hot Hot! I'm not just talking about this weather although it has been hot hasn't it? I thoroughly enjoyed the July program. Thanks again to Kim Michael and the Workforce Readiness Committee. Many hours of organizing and planning were spent to bring Christine Walters in to present for the LHRMA group. Considering it was a summer month, we had a large group that attended. It was nice to have members of Human Resource Association of the Midlands (HRAM) at the meeting.

As you have probably already read on the cover of the newsletter, Melissa Price and the Government Relations Committee will be providing us with a phenomenal program and workshop in August. I know everyone enjoys having attorneys come in to do legal and legislative updates and you won't be disappointed by this presentation. Chris Hedican will be presenting at the luncheon. I work with Chris on the SHRM State Council. Chris will be a dynamic speaker presenting on relative issues that impact the HR profession. Also, he has a son that happens to be a super hero!


Other upcoming events include the SHRM State Conference which will be held September 13 & 14, 2012. Just a reminder there will not be a September LHRMA meeting in lieu of the State Conference. The Conference will be providing two days of topics that are pertinent and informational. I hope to see you there. If you have the inclination to volunteer at the conference contact Carmen Wiles. Volunteers are needed before and after the conference workshops so if you are attending the workshops and still want to volunteer, I'm sure Carmen can find something that will fit your schedule.

Hope your summer is going great and you are getting to take some time off to enjoy yourself!

— Judy Ganoung

Volunteers Needed

The SHRM NE State Conference Committee is looking for volunteers to help at the Conference on September 13th & 14th. Volunteer job options are conference set-up, registration, greeting, and exhibitor set-up and take-down for both days of the Conference. If you are interested, please email Carmen Wiles, Volunteer Chair, for more details at Carmen.wiles@nreca.coop. Deadline is August 17th.

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Midlands Industry Liaison Group

2012 Midlands ILG Compliance Conference

Wednesday, August 15, 2012

8:30 AM – 4:30 PM

First National Tower
1620 Dodge Street, Omaha, Nebraska

REGISTRATION INFORMATION

The conference is **FREE** and includes breakfast and lunch.
You must register to attend. Space is limited. Please register by Friday, Aug.10

To register please contact:

Amy Lund, Midlands ILG Chair
(402) 516-5713 or alund@fnni.com

Bob Rossiter

Attorney at Law, Fraser Stryker PC LLO
ADA and FMLA Update

Mickey Silberman

Attorney at Law, Jackson Lewis LLP
Legal Counsel for National ILG
*The Latest OFCCP Enforcement Trends
Compensation and Pay Discrimination*

Amy Peck

Attorney at Law, Jackson Lewis LLP
*Immigration Enforcement, ICE Audits and
Proposed I-9 Changes*

Pat Barrett

Attorney at Law, Fraser Stryker PC LLO
Religious Discrimination and Accommodation

Bradley Anderson

OFCCP Midwest Regional Director
News and Updates from the OFCCP

Legal Update

LB959: Have a Little (Good) Faith

By Jack L. Shultz and Robert B. Truhe, HARDING & SHULTZ, P.C., L.L.O.

This spring, the Nebraska Unicameral passed LB 959. The bill promises to have an immediate impact on the way employers communicate with one another regarding new applicants and former employees. The intent of the bill is to offer better protection to current or former employers who disclose certain employment-related information to an employee's prospective employers.

HOW LB 959 WORKS

The bill allows current or former employers to disclose certain specific information to future employers with a presumption that they gave the information in good faith, so long as the applicant-employee provides written consent. The current or former employer may disclose the following information once the employee has consented:

1. Date and duration of employment
2. Pay rate and wage history
3. Job description and duties
4. The most recent written performance evaluation
5. Attendance records
6. Results of drug or alcohol tests administered within 1 year of the signed consent
7. Threats of violence, harassing acts, or threatening behavior in the workplace
8. Reasons and voluntariness for separation of employment
9. Whether the employee is eligible for rehire

If the employee later sues the disclosing employer, the employer will be immune from liability unless the employee can prove (1) that the information was false, and (2) the disclosing employer "had knowledge of its falsity or acted with malice or reckless disregard for the truth."

LB 959 EXAMPLE

John works for Company A, which uses an automated time clock. John is fired from Company A for continually showing up late. John signed and verified the accuracy of all of his timecards at Company A. John applies to work for Company B. In John's application to Company B, John signs a consent pursuant to LB 959. Company B requests information from Company A, and Company A provides the information. Company B sees that John was perpetually late for work and that it was the reason Company A fired John. John sues Company A when Company B notifies John that he will not be hired due to his spotty record with Company A. Company A will be immune from liability, because the information it provided to Company B was not false.

PHYSICAL REQUIREMENTS FOR PROPER NOTICE

LB 959 states that the consent form must say, at a minimum:

I, [APPLICANT], hereby give consent to any and all prior employers of mine to provide information with regard to my employment with prior employers to [PROSPECTIVE EMPLOYER].

The disclosure may be contained on a separate page of an employment application, or it may be included within the application. If the consent is included in the application, the consent must be (1) in bold letters, and (2) in a larger typeface than the largest text of the application. **The consent portion would look like**

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this, compared to the rest of the text.

OTHER CONSIDERATIONS OF LB 959

First, LB 959 does not change any other aspect of Nebraska law other than the things specifically mentioned in the bill. An employer may disclose any of the information listed above without a consent, but the disclosing employer would not get the benefit of the presumption of good faith. The list above is not an exhaustive list of employment records. However, only those things listed above can be disclosed with a **presumption of good faith**.

Second, **the consent is only good for 6 months**. After 6 months, the employer will lose the presumption of good faith under LB 959 unless the employee is willing to sign another consent form.

Finally, the presumption of good faith does not apply if the employer is using the consent as a way to **retaliate** against the employee for exercising a state or federal right. An employer cannot hide behind the good faith presumption of LB 959 while retaliating against an employee. The employee still has the burden of proof.

CONCLUSION

LB 959 will affect all Nebraska employers. Employers requesting information should understand that disclosing employers will be reluctant to disclose information without the consent, so all employers should attempt to “speak the same language” and ask for consent in their respective job applications. Disclosing employers may wish to amend their policies to require a signed consent form before disclosing. Note, however, that LB 959 does not trump a validly executed separation agreement wherein a former employer agrees not to disclose any information.

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 authors of this article, Jack L. Shultz and Robert B. Truhe, can be contacted at 402/434-3000, or at Harding & Shultz, P.C., L.L.O., P.O. Box 82028, Lincoln, NE 68501-2028, jshultz@hslegalfirm.com or btruhe@hslegalfirm.com.

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Interested in earning your PHR/SPHR Certification?

The Lincoln Human Resource Management Association (LHRMA) is hosting a fall study group to assist HR professionals in preparing for the PHR or SPHR certification exam.

- When:** August 20, 2012 – November 13, 2012
Group meets every Monday evening from 5:30 p.m. – 8:30 p.m.
(Except for Labor Day and Veteran's Day when we will meet on Tuesday)
- Where:** Nebraska Book Company, 4700 S. 19th St., Lincoln, NE
- Register:** Via the LHRMA website (www.lincolnhhr.org) by August 13, 2012
- Exam Window:** December 1, 2012 – January 31, 2013

Fall 2012 Certification Study Group Registration Fees

\$75 ➔ LHRMA Member Rate

\$130 ➔ Non-LHRMA Member Rate

Save on These Value-Added Packages!!!

Not a LHRMA member? Become one to qualify for a \$55 discount on the *study group* fee.

Are you a LHRMA member but not a SHRM member? Become a SHRM member *at a reduced rate* and qualify for a \$50 discount on the PHR or SPHR *testing* fee.

| | | |
|--------------|---|---|
| \$125 | Join LHRMA & get reduced study group rate | LHRMA membership at \$50, <i>plus</i> LHRMA member rate of \$75 for study group registration fee (reg. \$130 for non-members) ⇒ Total savings – \$55 |
| \$194 | Current LHRMA members – Join SHRM at a reduced rate AND get a reduced rate on test | LHRMA member rate of \$75 for study group registration fee, <i>plus</i> Discounted SHRM membership of \$119 (reg. \$180), <i>plus</i> Reduced rate on PHR/SPHR test (savings of \$50) ⇒ Total savings – \$111 |
| \$227 | Join LHRMA, get reduced study group rate, AND join SHRM to get reduced rate on test | LHRMA membership at \$50, <i>plus</i> LHRMA member rate of \$75 for study group registration fee (reg. \$130 for non-members), <i>plus</i> Discounted SHRM membership of \$119 (reg. \$180), <i>plus</i> Reduced rate on PHR/SPHR test (savings of \$50) ⇒ Total savings – \$166 |

Format/instructors. The Certification Study Group has been extremely successful in the past with a 90% or higher exam pass rate. The study group uses a lecture format that encompasses the six functional areas (strategic business management, workforce planning and development, compensation and benefits, human resource development, employee and labor relations, and risk management) that make up the exam specifications. 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.

Fall 2012 Certification Study Group Registration Info (continued)

Textbook. 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 and study guide **on your own**. They are available at the SHRM store (www.shrm.org), Amazon.com or college bookstores. If purchasing a used book, be sure to purchase the **13th edition**.

Exam eligibility requirements. To earn the PHR or SPHR designation the candidate must meet the [experience and education requirements](#), which can be found on the [HRCI website](http://www.hrci.org) (www.hrci.org). Individuals applying for the PHR/SPHR Certification Exam must submit their application with [payment](#) to HRCI by the appropriate [deadline](#). See [HRCI’s Certification Handbook](#) for more information about the exam. Any questions regarding the Certification Exam or eligibility should be directed to HRCI.

Study group registration. If you would like to be involved in the study group, please visit the [LHRMA website](#) and click “PHR/SPHR Certification” link on the left side of the screen to register. Payment of the study group fee can be made online or by sending a check to: LHRMA, PO Box 81066, Lincoln, NE 68501-1066.

Questions about the study group may be addressed to LHRMA’s Co-Certification Directors:

Amy Spellman

402.471.5027

amy.spellman@nebraska.gov

Joel Scherling

402.471.4736

joel.scherling@nebraska.gov

EAP Corner

Have Fun at Work!

Kari Hasemann-Herbert, Directions EAP, LLC

Directions EAP, LLC

According to Webster, the dictionary defines “happiness” as “a state of well-being and contentment”, “a pleasurable satisfaction” and “aptness”. “Aptness” is defined as “well-adapted, suitable, having a habitual tendency, likely or quick to learn”.

How do YOU define “happiness”? When is the last time you contemplated happiness and your own “aptness” for it? Do you have a habitual tendency or likelihood for happiness, or a “quick to learn” attitude toward a state of well-being and contentment? Maybe it’s time to revisit our ability to adapt our thinking and our suitability towards happiness and joy. Borrowing from some quotes on happiness, ponder with me the benefits of increasing our happiness quotient, for our own well-being and for those around us.

Even if happiness forgets you a little bit, never completely forget about it. –Jacques Prevert Hopefully, you haven’t forgotten about your happiness. Take a minute or two today (and everyday) to consider what brings you joy. When was the last time you felt happy – who were you with, what were you doing? Maybe it’s gazing at a picture of a loved one, a sunset, a relaxing vacation, and allowing those good feelings to re-surface. Life doesn’t have to be just one doldrum day after another, dealing with this issue and then another. A few minutes a day spent with happy thoughts is a few less minutes spent being stressed, angry or sad.

Of all the things you wear, your expression is the most important. –Janet Lane Yes, we do want to make sure we’re fully dressed before we leave the house for the day, but do we also deliberately put on a friendly smile for family, friends, co-workers? What does your expression say? Maybe we aren’t aware of the look

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on our face, but others certainly are! Do we look happy, sad, mad? Human beings don't have side mirrors to allow us to see what our facial expression looks like, it would be helpful if we did! It only takes a millisecond to intentionally smile or have a warm, approachable facial expression. Costs nothing, easy to do, and increases our beauty! We've all heard about how many fewer muscles it takes to smile rather than frown. Smiling as we arrive at work, as we greet and interact with co-workers - in the parking lot, in the elevator and hallways throughout the day - is important. It's also what we like to see from others, and helps keep our work groups more at ease. A happy countenance inspires others to mirror the same. Maybe smiling more will become contagious in your work group.....won't it feel great to be the one who gets identified as the person who started it?

Misery is almost always the result of thinking. –Joseph Joubert Paralysis by analysis, over-thinking and overanalyzing can cause us to bring out the worst-of-the-worst scenarios. Happiness is often spontaneous, it can happen without a great deal of thinking. When is the last time you took advantage of a spontaneous moment and made someone else smile by using humor or being quick to lighten up the moment? The last time you laughed so hard, you cried or couldn't stop laughing? Probably wasn't a result of much thinking, just being "in the moment", enjoying it, and truly letting go. Laughter, as we know, has many health benefits. He who laughs, lasts!

The best vitamin to be a happy person is B1. –Author unknown AND Jumping for joy is good exercise. – Author unknown Our wellness programs could include embracing happiness. Along with expressing humor, can we fit in some time throughout the day and a place for employees to "jump for joy"? In addition to the vitamins we take for the various health and wellness benefits they will give us, let's be sure we take this author's vitamin advice on happy people and BE ONE! Taking good care of ourselves – getting enough sleep, exercise, eating healthy, drinking water - are all important. Attending to our physical health and well-being is going to increase our feelings of overall happiness, much more than when we are not exercising, eating right or getting enough sleep. The hardest part of implementing a change is to start – make it today! Studies have shown that it takes about three weeks to break a bad habit and about six weeks to create a new, healthier habit. Six weeks is a small fraction of the rest of our life. Get healthier, be happier! Let's challenge ourselves to deliberately look for ways to embrace happiness in our day and commit to making it a life-long habit.

Plenty of people miss their share of happiness, not because they never found it, but because they didn't stop to enjoy it. –William Feather We might be "pursuing" happiness in some way or another, or want to arrive at a destination of happiness, taking "happiness tests" in magazines or on-line, setting goals that will eventually, hopefully, make us happy, or looking for that (elusive) happiness that results from a large bank account or whatever, whatever, whatever..... The "busy-ness" of life has increased dramatically over the last couple of decades. Let's not forget about identifying and enjoying happiness each day, somehow, somewhere, with someone or for someone, including ourselves. It is important to stop and "smell the roses", they will eventually fade and be gone from our gardens, preparing for the beauty of the fall colors, and then the awesome blanket of white. On and on the seasons go. Enjoy what is going on in your life and all around you, now.

Talking to someone at your EAP may be a great first step in improving your "aptness" for happiness. Are you feeling stuck in a situation that could be benefited by another perspective and talking to a neutral outside party? In the process, we can rid ourselves of negative emotions and stress, and replace them with a healthier perspective of calm, well-being and contentment. Are you ready to give it a try? Directions EAP is just a phone call away. We can be reached at (402) 434-2900 or (800) 563-8201.

What a wonderful life I've had...I only wish I'd realized it sooner! -Colette

Wellness

Operating with Peak Energy

Karen Rehm, Corporate Wellness Coordinator, Madonna Fit for Work

Feeling overwhelmed and tired lately? You are not alone! Most of us are burning the candle at both ends... leaving us feeling worn out and too tired to care. This constant state of fatigue and unrest can compromise your immune system and day to day health and performance. So, what's the next step in rebuilding your strength and productivity?

Helpful Energy Tips for the Weary:

- Eat at least every 4-5 hours, avoid skipping meals
- Get a good night's sleep...*(7-8 hours will do for most adults)*
- Increase your physical activity & eat plenty of fruits and veggies
- Walk during your work breaks and/or lunch period
- Drink non caffeinated beverages, like water throughout the day
- Take a relaxing vacation, once a year or at least every couple of years
- Walk away from your computer *(3-5 min. break every 2 hours)*
- Pin point your stressors that drain your energy and minimize your exposure
- Practice deep breathing exercises, meditation, imagery
- Surround yourself with supportive co-workers, friends and family
- Start a new hobby, that brings you joy!

And Finally.....Smile.....Just Because You Can!



Submitted by Karen Rehm, Corporate Wellness Coordinator with Madonna Fit for Work. You can reach Karen by calling 402-434-5937 or emailing krehm@madonna.org if you would like to inquire about a future stress and time management program or inservice.

WELCOME NEW MEMBERS

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Welcome! You've joined an outstanding organization!



Drawing Winner

Who Says There's No Such Thing
as a Free Lunch?

Congratulations to
Tami Lewis-Ahrendt with
Centerpointe, Inc.. Tami will
receive free registration for
the August program.



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We're on the web!
lincolnhr.org



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