



Lincoln
Human
Resource
Management
Association



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



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Volume 5, Issue 1

January, 2014

Program: The 'Bermuda Triangle' of FMLA, ADA and Worker's Compensation Issues

Workshop: Best Practices for Documenting Performance and Conduct Issues

Presented by Susan Sapp of Cline Williams Wright Johnson & Old Father, LLP

WHEN:

Tuesday, January 14th, 2014
11:00 – 11:30 Registration
11:30 – 12:00 Lunch & Announcements
12:00 – 1:00 Keynote Session
1:15 – 3:30 Workshop

WHERE:

Cornhusker Hotel, 333 S 13th St, Lincoln, NE

Parking in a city garage will be validated!

COST:

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

College Student Chapter Members—FREE (You must register with Jenessa Keiser, College Relations Chair)

Workshop Registration Fee: All Attendees—\$35

MENU: Chicken Salad Sandwich, Pasta salad, cookie and tea or water.

DEADLINE: Register/cancel your registration by **12:00 noon, Friday, Jan. 10th**.

REMINDER: There is a \$10 fee for late registrations and for no-shows. This \$10 fee 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 Program:

Do you understand the interaction between FMLA and Workers Compensation? Do you understand the ADA exposures created by injuries? What happens when ill and injured employees try to return to work and you send them home? What happens if you terminate them? With recent expansion of both the Americans With Disabilities Act and the Family Medical Leave Act, navigating the waters of an employee's medical leave can be precarious, at best. Add to the troubled waters, workplace injuries that qualify for workers' compensation and the employer's own paid time off programs, and human resource professionals may feel like they are lost in the Bermuda Triangle.

Join attorney Susan Sapp of Cline Williams Wright Johnson & Old Father, LLP as she

outlines the turbulence and the penalty-infested waters of medical leave laws every employer needs to know about and try to avoid. Ms. Sapp will discuss:

- recent changes to medical leave laws,
- the interplay of the ADA, FMLA, and workers' compensation,
- best practices: including tips to follow and pitfalls to avoid.

About our Workshop:

Whether an employee seeks legal recourse regarding a termination is often affected by the quality and accuracy of the documentation supporting the decision. Timely and thorough documentation of conduct issues, performance deficiencies, lack of compliance with reasonable directives, and the inclusion of specific and measurable plans to remediate deficiencies, decreases the likelihood of a legal challenge and increases the likelihood that the non-discriminatory nature of the termination will be upheld if challenged. Learn techniques to create performance improvement plans and avoid common mistakes in documenting conduct and performance issues for all employees.

About our Speaker:

Susan Sapp has a general civil trial practice which includes labor and employment issues, medical and legal malpractice defense and insurance defense. She represents school districts, hospitals, doctors, employers and insurance companies in all aspects of legal representation. She also handles all aspects of adoption proceedings, and was the legislative drafter for LB 712 (1995), LB1014 (1998) and LB 247 (2007) adoption legislation. In addition, Susan serves as mediator in personal injury and employment cases.

Practice Areas Include:

- Litigation
- Family Law
- Health Care
- Labor & Employment
- Alternative Dispute Resolution

Admitted to Practice:

- Nebraska
- Iowa
- United States District Court for the District of Nebraska
- United States Court of Appeals for the Eighth Circuit

Education:

University of Nebraska, J.D., with high distinction, 1989

University of Nebraska, B.S., 1986

Other Experience/Achievements:

- Fellow, American Academy of Adoption Attorneys
- Listed: Best Lawyers in America (Woodward/White, Inc.) (Employment Law-Management; Labor Law-Management)
- Named: Best Lawyers' 2013 Lincoln Labor Law - Management Lawyer of the Year
- Listed: Great Plains Super Lawyers (Employment and Labor; Personal Injury Defense; General; Schools & Education)
- Fellow, Nebraska State Bar Foundation
- Past President and Member, Nebraska Council of School Attorneys
- Member, American Trial Lawyers Association
- Member, National Association of Trial Attorneys
- Vice-Chair, Nebraska State Bar Association Continuing Legal Education Section
- Past Chair, District One Committee on Inquiry for Attorney Discipline
- Board Member, Child Guidance Center
- Research and Case Note Editor, Nebraska Law Review, 1987-1988
- Order of the Coif

President's Message

Melissa Price, LHRMA President



Happy Holidays! I hope that everyone had a wonderful holiday with your families and friends.

LHRMA wrapped up 2013 with a social at Wilderness Ridge. This well-attended, festive event gave members the chance to network and socialize. Members also kindly donated toys for the Marine's Toys-for-Tots annual campaign. With your help we were able to donate XX toys which have gone to less-fortunate children. We truly appreciate your generosity to make this fundraiser successful.

It is hard to believe 2014 is already beginning which means that I have the pleasure of serving as LHRMA's President. Our organization has had a wonderful previous two years of leadership with Judy Ganoung. I have already learned so much from her and will continue to lean on her for support and wisdom.

We have several position changes on our board. I am pleased to announce that Joel Scherling will act as President-Elect for the next two years. Joel has been on the board for two years as Co-Certification Chair and contributes so much to our meetings. I am excited to also introduce Adam Parrish as our Membership Director and Leon Holloway as our Diversity Director. Adam works at Hudl as their HR Manager. Leon is the HR Manager at Duncan Aviation. Finally, Jenessa Keiser will be our College Relations Director. She has already been filling the role for the last three months, and has hit the ground running. She currently is an HR Coordinator at Lincoln Surgical Hospital.

Your LHRMA Board already has some exciting items scheduled for this year.

- The year will be kicked off with a strategic planning session for the board. We will decide initiatives that we will drive throughout the year.
- Our board and committee members will have the opportunity to attend the SHRM Nebraska State Council's Leadership Conference on January 31st in Norfolk. This exciting event will continue to focus on planning and then networking with other chapters across our state.
- Our Programs Committee, led by Kenda Fink, has already been hard at work planning informative lunch speakers and programs for the entire year. Look for a full calendar of events coming soon.
- Finally, we will review and look at LHRMA's by-laws, as well as, the policies and procedures to ensure that they are up to date. Any changes will be presented to the membership this year.

Please feel free to catch me or any of our board members at an upcoming meeting if you have suggestions that you would like the board to consider. Our members' feedback is so valuable and important.

I am looking forward to a great year and am thrilled to partner with the wonderful human resource professionals in our organization.

— Melissa Price

Legal Update

Top Recruiting Trends for 2014: Just Like the Movies

by Megan M. Ruwe

Rembolt Ludtke LLP

Over the past few years, hit movies such as *Moneyball* and *Up In The Air* have depicted recruiting and personnel management scenarios that seemed, to many, to be extreme and unrealistic. Now, with continued advances in technology, Human Resources departments understand the potential benefits of many technology-driven practices, and changes in the recruitment process will likely take to the forefront during the 2014 calendar year.

Three key trends for 2014 will be the reliance on “big data” analytics to help employers recruit and hire employees who are “best fit” for a job; the use of video communications and gaming tools during interviews; and the continued use of social media websites as a recruiting tool. These practices can benefit employers as long as they are used consistently and correctly; any misstep can turn an organization’s Hollywood masterpiece into a costly courtroom drama scene.

Reliance on “Big Data”

Many employers rely on “human resources analytics” – objective data from pre-employment tests and other statistics about the workforce – to narrow a large applicant pool down to just a few finalists. Tests that measure cognitive and/or personality traits may help a company determine not only whether a person is intelligent enough to perform a job, but also whether the individual will fit in with the company’s culture and stay on board as a long-term employee. Many employers see this as an easy way to find the “perfect” new hire from a large applicant pool without relying solely on resumes, recruiting trips, or word-of-mouth job references.

This new practice is not without its pitfalls. Employers should take care to choose metrics that are consistently applied and do not discriminate against any particular classification of applicants. Some courts have recently determined that certain pre-employment tests have a disparate impact on minority candidates who were tested but not hired for a position. Courts have also found against employers who fail to consistently administer the tests to all applicants or who have failed to make accommodations for known disabilities, such as refusing to provide reading assistance for applicants with learning disabilities who apply for positions that do not require reading as an essential job qualification.

Employers who hire analytics companies to design pre-employment tests should use caution in choosing these vendors. The Equal Employment Opportunity Commission (“EEOC”) takes the position that an employer is responsible for ensuring that tests are non-discriminatory, even if a carefully-chosen vendor’s documentation supports the validity of its tests. One way to ensure a test’s validity is to keep on top of any changes in job requirements and update the test specifications and selection procedures accordingly. Employers should also make certain that appropriate analytics are applied across all positions; the metrics used to hire a sales manager should be different than those used for an assembly line position. Finally, employers should also administer the tests to all applicants who reach a selected level of the interview process.

Video Communications and Games

A growing number of employers rely on video interviews as part of the recruiting process. The EEOC has stated that video interviews can be lawful so long as employers continue with hiring processes that are nondiscriminatory, job-related, and otherwise compliant with applicable laws. Thus, while employers may use video interviews as part of their recruiting process, they must make sure that the interview and hiring processes remain fair and lawful, just as they would in any other interview situation.

(Continued on page 5)

New interactive gaming technologies can also be used to screen candidates through simulated work situations that help the employer determine how an employee will perform on the job. Employers who are interested in using gaming-based simulations should proceed with care. Work simulations are a type of pre-employment test, and, as stated above, should be developed and administered in a manner that is not discriminatory. Employers should use job-related simulations consistently, and they should make any necessary accommodations for applicants that might arise out of the use of gaming software.

Social Media As A Recruiting Tool

Though hardly a new concept, the use of social media as a recruiting tool continues to grow among employers. Employers who use the Internet and, more specifically, any social media website, to recruit and investigate applicants should proceed with caution. Any picture of an applicant obtained on the Internet could subject the employer to a discrimination lawsuit for failure to hire the applicant because of a protected classification that might be perceived from the picture. Likewise, searches that uncover an applicant's membership in organizations based on protected classifications such as religious affiliation, national origin, disability, or even military service may subject an employer to a lawsuit if the employer decides not to hire the individual. To minimize these risks, employers should be consistent when reviewing information regarding applicants. If you conduct a search for one, do so for all.

Megan Ruwe is an attorney with Rembolt Ludtke LLP and may be reached at (402) 475-5100 or mruwe@remboltlawfirm.com. This article is provided for general information purposes only and should not be construed as legal advice. Those requiring legal advice are encouraged to consult with an attorney.

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Workforce Readiness Committee Needs Your Help!

The Workforce Readiness Committee (WRC) is gearing up to sponsor year two of the **"1st Job-Lincoln" project**. You may recall learning about this project from various avenues or from reading the *Journal Star* articles about the success of LHRMA's Workforce Readiness Committee when it launched the pilot for this project last spring. Our 2013 Champion Employers were: **ALN Medical Management, Assurity Life Insurance Company, Cabela's, Infinite Systems/Binary.Net, Lincoln Electric System, NCEE Labs, Nebraska Global (Don't Panic Labs), Phoenix Web Group, Region V Systems, and TMCO, Inc.**

The 1st Job-Lincoln project will again focus its efforts on working with high school youth who are interested in the information technology field, and we are **reaching out to employers of all sizes and industries who want to give back to our community** and sponsor an intern for our 2014 project.

We hope you will consider joining this win-win endeavor as recognized leaders in our community. Please contact me with your interest and questions.

Kim Michael, PHR

Workforce Readiness Committee Chair

402-441-4350

E-mail: kmichael.1stjoblincoln@gmail.com

LinkedIn: <http://www.linkedin.com/groups/1st-JobLincoln-6553524/about>

Facebook: <https://www.facebook.com/1stJobLincoln>

For more information and to read the Executive Summary, please visit our website at:

<http://lincolnhr.org/blog/workforce-readiness/>

Interested in earning your PHR/SPHR Certification?

SHRM's Nebraska State Council and Lincoln Human Resource Management Association (LHRMA) are hosting a study group to assist HR professionals in preparing for the PHR or SPHR certification exam.

- When:** January 27, 2014 – April 21, 2014
Group meets every Monday evening from 5:30 p.m. – 8:30 p.m.
(Except for Tuesday, Feb. 19th, due to President's Holiday)
- Where:** In person at Southeast Community College Continuing Education Center,
301 South 68th St., Lincoln, NE or via Distance Learning
- Register:** Via the LHRMA website (www.lincolnhn.org) by January 21, 2014
- Exam Window:** May 1 – June 30, 2014

Featuring the SHRM Learning System

The 2014 *SHRM Learning System for PHR/SPHR Certification Preparation* features up-to-date study materials and the latest technology, including SmartStudy tools, learning modules in print or e-reader formats and extensive multi-media online resources accessible via mobile devices. Thousands of HR professionals have used the *SHRM Learning System* to earn their certification. Participants of the study group will have access to the SHRM Learning System and on-line features at a reduced rate of \$495 compared to the full price rate of \$695 to \$860.

NEW! MORE WAYS TO LEARN

Build confidence with some of the newest features in the *SHRM Learning System for PHR/SPHR*.

- **Quickstarts**—guided overviews for each module highlight key topics.
- **Audio flashcards**—available on-the-go.
- **Enhanced post-test**—incorporates features similar to the HR Certification Institute exam format for increased test-taking confidence.
- **Improved reporting**—available at the HR Certification Institute responsibility level to allow for more focused studies.

To view a demo of the 2014 SHRM Learning System go to www.shrm.org/learning

Materials. The SHRM Learning System is the core for this class. Participants can elect to purchase one as part of registration for \$495 which is a savings of between \$200 and \$365. Class materials (e.g., PowerPoints, supplementary information) will also be provided. The SHRM Learning systems will be ordered by LHRMA and provided at the first session. Please note it will not be permissible for participants to share SHRM Learning Systems.

For those participants that choose not to purchase the SHRM Learning System you may want to purchase "Human Resource Management" (13th or 14th edition) by Robert L. Mathis and John H. Jackson as a supplement to your study materials. 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.

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, total rewards, human resource development, employee and labor relations, and risk management) that make up the exam specifications.

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Our expert instructors are certified practitioners in Human Resources and are able to provide both practical and technical expertise to participants.

We have several options to participate. Please find more information on our website at:
<http://lincolnh.org/blog/phr-sphr-certification/certification-registration/>

Questions about the study group may be addressed to LHRMA's Certification Director:

Amy Spellman

402.471.5027

amy.spellman@nebraska.gov

WELCOME NEW MEMBERS

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Kristi Rahe

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You've joined an outstanding organization!

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Jobs, Jobs and More Jobs!

If you are an employer with an employee that is a current LHRMA member, then you can post your HR-related job opening on our website for **FREE!** Just email Kathy Harper at lhrma0048@yahoo.com.

If you are looking for a human resource position, then check it out!
Go to <http://lincolnh.org/blog/hr-job-openings/>

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



EAP Corner

Nice Guys Finish First in Workplace Productivity
Best Practices in Employee Productivity, Part 1
Deer Oaks EAP Services



A recent survey by Workplace Options found that almost half of American workers believe that employees with more agreeable personalities (more tolerant, less controlling, and more open to the ideas of others, etc.) are more successful on the job. 43% of the respondents saw these employees as more productive, meaning that they could have a more positive effect on the bottom line.

The survey also revealed that less agreeable or aggressive employees could actually hurt workplace productivity. Although these employees may succeed in some areas, they can at times drive coworkers away and negatively affect teamwork.

BEING A NICE MANAGER CAN SET THE TONE FOR THE TEAM

In his book, *Full Engagement! Inspire, Motivate, and Bring Out the Best in Your People*, renowned motivational speaker and author Brian Tracey says that the real secret to getting the most from your people is to...“be nice”.

Tracey provides some practical advice to managers in this regard. He advises them to be sure to smile at their employees the first time they see them each day, and to show an interest in them. He says to ask questions like, “How is everything going” and “How are you feeling,” and be interested in their answers. Tracey says “to be polite to your staff and treat them as if they are talented, intelligent and accomplished.” Although this seems like obvious advice, many managers don’t take the time to do it.

Behavioral experts talk about the power of modeling in shaping behavior. Managers that model being polite and nice will have a positive influence on the behavior and productivity of their team.

Deer Oaks is a leading national provider of EAP and Work/Life services that enhance employee health, morale and productivity. For more information, contact Greg Brannan at 301-829-0364 or gbrannan@deeroaks.com.

Wellness

What Does a Winning Wellness Program Look Like?

Jackie Varicak
WorkWell

Nebraska has been on the cutting edge of creating winning wellness programs for employers across the state putting us on the map for really making a difference. It is important that a program follow a roadmap that actually helps employees be healthier and more productive. That roadmap includes the following: leadership support, wellness committee engagement, internal wellness marketing, worksite assessment, wellness planning, plan implementation and program evaluation.

Technically this roadmap is called the **Evidence Based Model of Worksite Wellness**. It deserves to be called this because it is a proven scientific model for implementing a program that, if done properly, will make real positive outcomes to the health, productivity and safety of employees. Companies who utilize the model and show measureable positive outcomes can build an award winning wellness program.

This past year Nebraska had 50 organizations that applied and won the Governor's Wellness Award. Many area companies were recognized this year: Arbor Day Foundation, Nebraska Association of Resources Districts, Norris School District, Duncan Aviation, Kawasaki Manufacturing U.S.A, Lincoln Airport Authority, Lincoln Electric System, Lincoln Public Schools, Nelnet, Pen-Link, Speedway Motors and State Farm Insurance. All of these organizations followed the steps of the model, demonstrated program and organizational outcomes, and became Governor's Wellness Award Winners. It seems Nebraska is on a roll and it will be exciting to watch how many more lives can be impacted as the ball keeps rolling!

Companies big and small, and everywhere in between have utilized the same steps it takes to make a successful program. Here are more specifics on the roadmap to winning with wellness:

Leadership Support is the first and most important element. Without it the program will falter. A company must have an executive level leader who will be able to provide support by being a good example, supplying resources and by giving a voice to the wellness program. He or she will need to get the next level of leadership on board. A point person for wellness should also be chosen. Many companies now have full or part time paid wellness coordinators, but most have a person who takes wellness on as an additional job duty.

Wellness Committee Formation and engagement is the next element of a winning wellness program. The wellness point person, or coordinator, usually will chair the wellness committee and they must begin meeting regularly and learn about worksite wellness and the evidence based model. The committee should be comprised of a diverse group of employees in order to represent the organization as a whole.

Marketing and Assessing the program is essential as the next steps on the roadmap to winning with wellness. The committee can begin promoting the program through marketing efforts and then start assessing the organization through different types of evaluations such as health risk assessments, interest surveys, biometric screenings and environmental checks.

Planning can now begin based upon the results of the above assessments. A key component of the plan is that it should address both the needs and interests of the employees. If employees aren't interested regardless of the need they won't engage in the program. Plans can vary in length from four weeks, eight weeks, 6 months or even a year. Incentives should be developed to increase participation. Also, it has been found that a simple process is best for the most engagement by employees and competition is a great way to motivate people to get on board with the plan.

Plan Implementation can now take place beginning with marketing and communicating to the employees on

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what they should do.

Evaluation is the final step to a winning wellness program. After implementation an evaluation should take place to measure whether the program achieved the intended outcomes. Examples of outcomes will be things such as a reduction in tobacco use, an increase in good nutrition, an increase in physical activity and improved biometric numbers. Cost savings analysis is also a great way to evaluate program effectiveness.

The above steps are a very quick review of what a winning wellness program technically looks like. Collaborative efforts are in effect to continue promoting this winning wellness model including WorkWell, the Lincoln/Lancaster County Health department, the State of Nebraska, the Nebraska Sports Council, and many community groups who take special interest in health and wellness. It takes a lot of work and many considerations to make this process a success and organizations should take advantage of the expertise of these collaborative organizations and reach out to them for training, consultation, mentorship and networking opportunities that can help them achieve a winning wellness program.

Here are just a few benefits of successful wellness programming: A comprehensive analysis of 42 published studies of worksite health promotion programs shows a 28% reduction in sick days, 26% reduction in health costs, 30% reduction in workers' compensation and disability management claims and a savings-to cost ratio of \$5.93 to \$1. Winning wellness programs have been shown to increase workplace job retention, talent recruitment, and employee engagement. (Source: The Truth about Return on Investment and Worksite Health Promotion Programs. Steven Aldana, CE Wellsteps; 2010.)

What sections of **shrm.org** are most popular with certified SHRM members?

TOP 5 WEB RESOURCES

Found at shrm.org Tab	How You Benefit
1. Templates & Samples	Save time with customizable forms, policies, job descriptions and many other convenient resources.
2. Legal Issues & Public Policy	Stay in compliance with the latest regulations. Be alert to new court cases and changing laws.
3. HR Answers/HR Q&A	Get quick answers to your everyday HR questions.
4. Templates & Samples/Toolkits	In-depth information on a topic is organized by HR discipline.
5. Education & Recertification	More choice means more learning—over 40 free webcasts per year!

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