



Lincoln  
Human  
Resource  
Management  
Association



PO Box 81066, Lincoln, NE 68501-1066  
[www.lincolnhnr.org](http://www.lincolnhnr.org)



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Volume 8, Issue 1

January, 2017

**Managing the Prescription Drug Landscape and Benefits Program**  
Presented by **Craig Andreasen, OptumRx Vice President Client Management**

**WHEN:**

**Tuesday, January 10, 2017**

11:00 – 11:30 Registration

11:30 – 1:00 pm Keynote Session

**WHERE:**

Hillcrest Country Club

9401 East O St., Lincoln, NE 68527

**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)

**MENU:** Pasta Buffet, Salad, and Assorted Cookies

**DEADLINE:** Register/cancel your registration by **12:00 noon, Friday, Jan. 6<sup>th</sup>.**

**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.

This program has been pre-approved for 1.0 PDC from SHRM and has been submitted to HRCI for 1.0 General Recertification Hour.

LHRMA strives to assure that our membership receives quality professional programs and resources as well as numerous networking opportunities. There have been several changes affecting human resource professionals this last year, and LHRMA has worked hard to address and keep you informed of them all.



Your membership renewal is due by December 31, 2016. Annual dues are \$50 per individual, and are based on the calendar year, January 1<sup>st</sup> – December 31<sup>st</sup>. You may mail your check to the address below, or you can pay with a credit card on our web site by clicking here: [Pay for Your Membership Renewal Now.](#)

**If you are paying by check,** please note each renewing member's name on your company check.

Please verify the information we have listed for you on our website under the Members tab. If changes are needed, please update your member profile accordingly.

Mail checks to: LHRMA, PO Box 81066, Lincoln, NE 68501-1066.

## NEW MEMBERS

### **Londa Eberle**

NE Department of Environmental Quality  
Personnel Officer  
londa.eberle@nebraska.gov

### **Jennifer White**

Resort Lifestyle Communities  
Certified Hospitality Trainer  
jwhite@rlcommunities@.com



**Welcome! 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](mailto:lhrma0048@yahoo.com).

If you are looking for a human resource position, then check it out!  
Go to <http://lincolnhr.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!

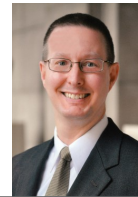
A rectangular advertisement banner for Aureus Group. The top section has a green background with the text "We Know People" in white, followed by a white arrow pointing right. The middle section has a dark green background with the text "Partnering with top companies to recruit the best talent for their culture since 1969." in white. Below this is the Aureus Group logo, which consists of the word "AUREUS" in a large, stylized font, with "GROUP" underneath it. To the right of the logo is the phone number "402.891.6900" and the website "aureusgroup.com". At the bottom of the banner, on a purple background, is the text "Contract • Direct Hire • Interim" in white.

**We Know People**

Partnering with top companies to  
recruit the best talent for their  
culture since 1969.

**AUREUS**  
GROUP 402.891.6900  
Finance | Systems | Executive [aureusgroup.com](http://aureusgroup.com)

Contract • Direct Hire • Interim



## President's Message

Joel Scherling, LHRMA President



Have you thought about participating in Lincoln's Best Places to Work competition?

Do you know of a company that should be nominated to participate?

Here are some compelling reasons to take the plunge:

- Participation is free using the standard, on-line survey.
- The employee survey yields a sound measure of employee satisfaction and engagement. All companies will receive a free one-page overview report.
- The survey is administered by a neutral third party; individual employee survey responses are confidential.
- The survey allows for analysis of various aspects of company culture. All nominated companies will receive a report detailing their respective performance on ten key dimensions of the employee experience, regardless of where companies place. Results can be used to shape company goals and track action.
- Recognition as a Best Place to Work in Lincoln garners news coverage and is a coveted recruiting tool. The top performing companies will be honored at the Best Places to Work awards celebration on April 27, 2017, and featured in a special supplement of the Lincoln Journal Star.

**The nomination deadline is January 13, 2017.** Want to learn more? Click on the following link to nominate your company and access Frequently Asked Questions about [Best Places to Work in Lincoln](#).

## 2016 Winners

### Small Companies (10-50 employees)

1. The Schemmer Associates
2. Child Advocacy Center
3. World of Knowledge Child Development Center, Inc.
4. Region V Systems
5. Stonebrook Roofing Inc.

### Medium Companies (51-150 employees)

1. Edward Jones
2. Zillow Group
3. National Rural Electric Cooperative Association
4. Hausmann Construction Inc.
5. John Henry's Plumbing, Heating & Air Conditioning Co.

### Large Companies (151+ employees)

1. Hudl
2. Verizon
3. Assurity Life Insurance Company
4. Olsson Associates
5. Firespring

# Legal Update

## Hindsight is 20/20: Lessons Learned from *Hartley v. MUD*

Mark A. Fahleson

Rembolt Ludtke LLP

Progressive employers strive to develop and implement preventative strategies to avoid costly and time-consuming employment litigation. That includes regular supervisory training. Effective workplace policies and procedures. Clear communication of workplace expectations and the consequences for not meeting such.

But there is no such thing as a perfect employer. All employers can learn and work to fine tune their policies and practices. Sometimes the best lessons are learned at someone else's expense. Take for example the Nebraska Supreme Court's recent decision in *Hartley v. Metropolitan Utilities District of Omaha* (294 Neb. 870, Sept. 30, 2016).

The focus in *Hartley* was on MUD's process and decision to fill a vacant supervisory position. On January 20, 2010, MUD posted the open position of Supervisor of Field Engineering. The posting was similar to the posting for the same position when it was last open in 2003, with one important change: Senior Plant Engineer Stephanie Henn ("Henn") added the requirement that an applicant must have recent "locating" experience (location of gas/water lines) within the past 5 years—something that had never been required and giving rise to speculation as to why this duty was essential to the Supervisor position.

Plaintiff Kristina Hartley ("Hartley") was a senior engineering technician who started working for MUD in 1984, receiving several promotions along the way. Hartley applied for the open Supervisor position, along with two (2) other female applicants and eight (8) male applicants.

MUD's personnel policies declared that performance appraisals were to be conducted annually during the employee's anniversary month. However, that didn't happen. According to Henn, she "was really busy" and the performance appraisals were not conducted in a timely or regular manner. Just three days before she interviewed with Henn for the Supervisor position, Hartley received her first performance appraisal in 7 years, and it was not the month of her hiring anniversary date. The appraisal identified deficiencies and performance goals, including the need to "[l]isten more effectively" and the need to work on communication skills. Hartley claimed the written performance review was literally "thrown" at her as she sat in her cubicle. Hartley perceived the sudden appraisal after 7 years as MUD's "way to try to eliminate [her] from contention." Hartley submitted a written response to the appraisal, noting that in the 15 prior appraisals Hartley had received from 1986 to 2003 she had received overwhelmingly positive feedback.

Hartley and the other female candidates testified that their interviews with Henn were "perfunctory," and that Henn "kind of sneered and rolled her eyes." After the interviews, Henn offered the position to David Stroebele, tenth in seniority out of the 11 applicants for the Supervisor position. Stroebele, like the other candidates, did not receive scheduled performance appraisals, but unlike the female candidates his pre-interview performance appraisal was overwhelmingly positive. In a letter to human resources, Henn described why she chose Stroebele over Hartley:

[Hartley] has not been able to handle larger or more complex projects. Ms. Hartley requires a lot more help from her supervisor if she encounters anything out of the basic realm of her current position as a Senior Engineering Technician. Mr. Stroebele has taken on larger, more difficult projects and handled them very effectively.

(Continued on page 5)

In 2011 MUD was sued by Hartley and one of the other unsuccessful female applicants. After various motions and one prior appeal, Hartley's case was eventually tried to a Douglas County jury in August 2015. The jury found MUD discriminated against Hartley based on her sex, awarding her over \$111,000 in damages and over \$56,000 in attorneys' fees. On September 30, 2016, the Nebraska Supreme Court affirmed the jury's verdict in Hartley's favor.

**LESSONS:** It's easy to "Monday morning quarterback" MUD's human resource practices, but there is much to be learned from *Hartley* to help Nebraska employers to avoid expensive litigation. The lessons include:

- Performance appraisals are double-edged sword. When done properly, they serve as a useful coaching tool. But most are not done properly. Too often performance appraisals are conducted without adequate training. Not a month goes by where we are not asked to advise on the proposed termination of an employee who previously received satisfactory or "meets expectations" appraisals. There is no such thing as an employee who exceeds expectations in all measured categories and has no room for improvement. If you are going to use performance appraisals, make sure those conducting them are trained.
- Does your employee handbook provide that employees "will" receive a performance appraisal annually? Like MUD's Henn, who "was really busy" and failed to conduct performance appraisals in a timely manner, most employers are busy and do not conduct performance reviews within the promised time period. The failure to give timely performance reviews can serve as a convenient excuse for a poor performing employee, i.e., "if only I had received my review I would have known that you didn't think I was doing my job and would have understood that my job was in jeopardy." For that reason, we often suggest that our clients add language such as the following to their employee handbook: "*Acme, Inc. evaluates your performance on an ongoing basis and will attempt to give you a written performance evaluation at least once per calendar year. If you have not received a performance evaluation in accordance with this time frame, it is your responsibility to notify your supervisor and the Human Resources Department to help us ensure that the appraisal process is administered in a timely manner.*"
- Job descriptions matter. Various workplace laws—from the ADA to the FLSA—rely upon job descriptions in determining whether an employee is qualified to perform a position and how the employee should be paid. Engage in a collaborative process before making substantive changes to a job description, and thoroughly document the legitimate, nondiscriminatory reasons why such changes are made.
- Use a team approach in interviewing applicants and making hiring decisions. Although it is unclear from the court record, it appears the hiring decision in *Hartley* was made by a single individual. In most instances employers are best served by having a team or committee review, interview, deliberate on applicants as it makes it less likely that one individual's actual or perceived bias to affect the hiring decision.

The start of a new year presents a great opportunity for employers to review and strengthen their policies, practices and hiring procedures. Time spent on these proactive strategies now—and learning from the lessons in *Hartley*—will mean less time spent in litigation.

***Fahleson is an attorney with the Lincoln-based law firm of Rembolt Ludtke LLP and may be reached at (402) 475-5100 or mfahleson@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 their attorney.***

## COMMUNITY

## OUTREACH

### **Creating an Inclusive Workplace: what's gender identity got to do with it?**

Over the last few years, gender identity issues have increasingly become a national conversation and the subject of significant policy debate, lawsuits as well as a more prevalent issue in our workplaces. As HR professionals – what does that mean for you and your organization? How have you responded? How do you (or can you) create that inclusive workplace as it relates to gender identity and expression? The importance of inclusive language, personal and professional experience in the workplace, assessing the workplace for inclusivity and ways to create and sustain an inclusive and welcoming environment have never been as important as it is today. This is something that will be explored at the **May 9, LHRMA luncheon and workshop**.



In looking at a company's culture and supporting policies, a thorough understanding and clarification of the law is important. Title VII of the Civil Rights Act of 1964 is a federal law that prohibits discrimination in employment based on sex (and other protected characteristics). There continues to be debate about whether prohibited "sex" discrimination includes discrimination based on a person's gender identity. Some courts have rejected that interpretation, and so far, the U.S. Supreme Court hasn't addressed the issue. On the other hand, the Equal Employment Opportunity Commission (EEOC) takes the position that discrimination based on gender identity is sex discrimination and is therefore unlawful in employment.

During fiscal year (FY) 2015, the EEOC received 271 complaints of gender identity discrimination. While that's still a small fraction of the 26,396 total sex discrimination complaints the agency received nationwide in FY 2015, the EEOC notes that complaints of gender identity and sexual orientation discrimination rose 28 percent from the previous fiscal year.

Gender identity discrimination by federal contractors and subcontractors is clearly prohibited under an Executive Order issued by President Barack Obama in 2014. Executive Order 13672 went into effect last year. There are also some states that prohibit discrimination against employees because of their "gender identity or expression."



### **What does this mean for your organization?**

The prohibition on discrimination based on gender identity means job applicants cannot be denied employment *because* they are transgender or do not conform to gender norms. It also means transgender employees cannot be fired, denied promotions or raises, or be subjected to other adverse employment actions because of their gender identity.

The EEOC has identified certain obligations for employers with transgender employees, including:

- **Restroom Access.** The EEOC has concluded that it is unlawful for an employer to deny an employee access to a common restroom that corresponds to the employee's gender identity. An employer can make a single-occupant restroom available to all employees but cannot restrict the transgender employee to using only that restroom. That doesn't mean that men can enter and use a women's restroom using "gender identity" as an excuse. However, the EEOC maintains that if an employee has begun living and working full-time in accordance with his gender identity and has notified the employer, it cannot restrict him from using the restroom corresponding to his gender identity.
- **Names and Pronouns.** Employers should instruct coworkers and supervisors to use the name and pronoun that corresponds to the gender identity with which a transgender employee identifies. It will take employees some getting used to when a person they've known for years as "Steve" changes her name to "Shelly" and must now be referred to as "she" or "her." While some mistakes are unavoidable, persistently refusing to refer to an employee by her preferred name or pronoun can create a hostile environment.
- **Harassment Prevention.** Investigate reports of harassment of transgender employees, including the use

*(Continued on page 7)*



(Continued from page 6)

of derogatory terms, attempts to sabotage a transgender employee's work, and any other actions based on the person's gender identity. If the investigation reveals that inappropriate conduct has occurred, you should take appropriate corrective measures.

- **Personnel Records.** The EEOC found an employer acted unlawfully by taking an unreasonably long time to revise its personnel records to reflect a transgender employee's new name and gender. Accordingly, your HR department should pay attention to any requests to update records.
- **Medical Procedures.** The EEOC maintains that employers must not require employees to have surgery or other medical procedures before according them the right to be treated consistent with their gender identity. "Gender reassignment surgery is in no way a fundamental element of a transition," the EEOC wrote in one decision. In that case, the agency concluded that the employer had acted unlawfully by conditioning access to the women's restroom on the employee undergoing a "final surgery" in her transition from male to female.

### The bottom line

It is not a new phenomenon for people to identify with a gender that's different from their sex at birth. What is new is that transgender individuals are becoming more comfortable expressing their gender identity in the community. Society and the law have become more accepting and protective. You should expect that trend to continue and be prepared for the day that one of your employees provides notice of their transition.

Please join us on May 9 for the LHRMA luncheon and afternoon workshops to learn about creating an inclusive workplace - mark your calendar!

Information in this article was adapted from the December 18, 2016 article in HR Hero – *What's gender identity got to do with work?* with permission by the author – Amanda M. Jones. Amanda Jones is an attorney with Cades Schutte LLP, practicing in the firm's Honolulu, Hawaii, office. She may be contacted at [ajones@cades.com](mailto:ajones@cades.com).

### Community Outreach Committee:

Shannon Rowen (chair), Maggie McPherson, Lynn Friesen, Dana Buss, and Angela Caldwell



## EAP Corner

### How to Handle the Pressure of Being a Supervisor/Manager

Greg Brannan  
Deer Oaks EAP Services

Most supervisors and managers are confronted with stress and pressure on a daily basis. Whether it's dealing with employee problems, changes in the workplace, or balancing competing priorities at work and home, being in a leadership role today brings a consistent array of challenges.

For supervisors and managers, pressure comes with the territory. Learning how to effectively respond to it is the key to success. Below are several strategies for responding effectively to the stress and pressure you face as a leader:

- **Maintain a positive attitude** – A positive attitude starts with how you choose to perceive the challenging situations that confront you. Do you face them with a healthy mindset expecting that everything will work out, or do you allow yourselves to get negative and complain when things aren't going your way?

Also, when you stay positive in your approach to a problem or challenge, you'll be more apt to take the steps that increase the likelihood of a positive outcome.

- **Manage your emotions, instead of letting your emotions manage you** – When you're confronted with stress or pressure, it's normal to feel strong emotions such as impatience, frustration, anger, fear, etc. The key is to be aware of your feelings, and manage them well so that you don't overreact emotionally.

One effective self-management strategy is to take a step back when you feel particularly emotional in response to a situation. This could include putting off a meeting or interaction, asking someone on the telephone if you can call them back, or even sleeping on something before you respond to it. Stepping back provides the opportunity to calm down and get your thoughts together so that you can respond rationally.

- **Build up your resilience** – When you keep your life in balance, manage your stress well, and get enough sleep, you will generally have a greater ability to cope with the pressure that comes your way.

Build up your resilience daily by connecting with people that you care about, doing things that you enjoy, and remembering to exercise. Taking good care of yourself will help to keep your mind and body primed to deal effectively with challenging situations.

*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](mailto:gbrannan@deeroaks.com).





# Wellness News

## Reduce Stress and Increase Work Performance

Tonya Vyhlidal, Director

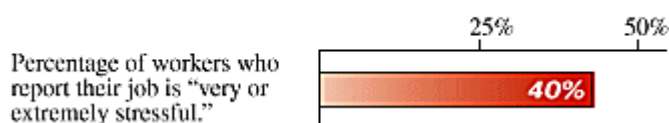
WorkWell

Employers can empower their employees by closely evaluating and acting on initiatives that help reduce workplace stress and job burn out. This type of action can improve the health and well-being of the staff, the morale in the workplace, and the overall performance of the individual and the organization.

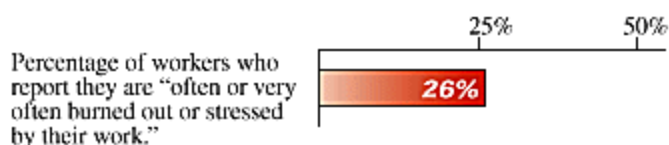
The Staples Business Advantage Workplace Report Index found that 57 percent of employers and 64 percent of employees surveyed agreed that taking adequate breaks is a key factor to their overall productivity and stress management. Employers and employees also agreed that burnout due to excessive workload combined with frequent multitasking is a major problem for employees in a variety of different business environments. Constant multitasking drains energy and leads to decreased sharpness. The constant switching back and forth makes employees less efficient and can cause stress and mental decline and reduced overall performance. Single-tasking on the other hand increases energy and focus, improves attention to detail, increases productivity levels, and reduces errors.

Job stress has become a common and costly problem in the American workplace, leaving few workers untouched. Other studies report the following:

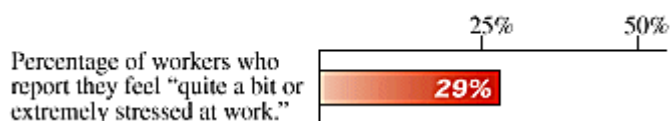
### Survey by Northwestern National Life



### Survey by the Families and Work Institute



### Survey by Yale University



The good news is that there are steps organizations can take to help reduce job related stress. As a general rule, actions to reduce job stress should give top priority to organizational change to improve working conditions. But even the most conscientious efforts to improve working conditions are unlikely to eliminate stress completely for all workers. For this reason, a combination of organizational change and stress management is often the most useful approach for preventing stress at work. The best design for a stress prevention program will be influenced by several factors—the size and complexity of the organization, available resources, and especially the unique types of stress problems faced by the organization. Support resources on preventing stress at work can be found on the [NIOSH Stress at Work](#) topic page - specifically in the [Stress at Work](#) booklet and in the [Working with Stress](#) video. Additionally, the National Institute of Mental Health has developed a [two page employee focused document](#) that can be given to employees.

Any person can become overwhelmed by stress. Doing our best as employers to provide solutions and resources to help reduce the impact stress can have on the well-being of our workforce is an important action step worth taking.

#### Links:

Stress at Work

<http://www.cdc.gov/niosh/docs/99-101/>

NIOSH Stress at Work

<http://www.cdc.gov/niosh/topics/stress/>

Working with Stress Video

<http://www.cdc.gov/niosh/docs/video/stress1.html>

NIMH Two Page Adult Stress FAQ

[https://www.nimh.nih.gov/health/publications/stress/stress\\_factsheet\\_in\\_142898.pdf](https://www.nimh.nih.gov/health/publications/stress/stress_factsheet_in_142898.pdf)

## LHRMA Board Member Profile SHRM Foundation Chair: Jessica Reay



Jessica Reay

### **Where were you born?**

Lincoln, Nebraska

### **Where did you grow up?**

Sutherland, Nebraska

### **Describe your first car**

My first car was a white 1982 Ford Tempo nicknamed “Three Hub” because it only had three hubcaps. The fourth one refused to stay on.

### **Tell us about your family.**

I have been married to my husband, Jim, for 10 years. We have two kids – Owen, 5 and Ella, 2.

### **What are your favorites?**

- Meal: lasagna with breadsticks
- Candy: gummy worms and peanut butter M&Ms
- Cookies: snickerdoodle
- Book: anything by John Grisham or Tom Clancy
- TV show: “24” is my absolute favorite

### **What’s your educational background?**

I have a bachelor’s degree from University of Nebraska-Kearney in business education. I continued at UNK and completed by MBA with an emphasis in Human Resources. I never went into teaching as a profession.

### **What kind of work did you do to get through college?**

I worked in the office for a small masonry company throughout college.

### **What certifications do you hold?**

I have PHR and SHRM-CP.

### **How did you come to a position in the field of HR?**

I got my first true HR department position at Assurity Life Insurance. I had previous HR-related work experience as well.

### **How long have you worked in the field of HR?**

Through a variety of positions for different employers, I am approaching 15 years of HR experience.

### **Who is your employer?**

For the past 6.5 years, I have worked for Crete Carrier Corporation. We have approximately 6,000 people who work for us throughout the country. My title is Senior Human Resources Generalist.

### **What is your biggest HR challenge right now?**

I have been the point-person for the FLSA changes. We had hundreds of people impacted by the change, so it was a fun challenge!

### **What advice would you give to those new to the HR field?**

My advice to new HR professionals is to push yourself to be in uncomfortable situations. It seems to me that you learn the most and have the most career development when you are outside of your comfort zone. Networking is also important.

**The thing I enjoy most about being on the board is...**

I enjoy being part of our community of HR professionals at both the chapter and board levels.

**I joined LHRMA because...**

I originally joined LHRMA because of the access to resources and information through the monthly meetings.

**What I learned by being on the LHRMA board that I didn't know as a member is...**

Before I joined the board as the SHRM Foundation Chairperson, I did not know about all of the good work the SHRM Foundation does advancing the HR profession. The SHRM Foundation is supported entirely by donations; our SHRM dues do not fund the SHRM Foundation. The SHRM Foundation provides academic research grants, educational resources, and offers scholarships to professional and student SHRM members. Please consider joining our SHRM Foundation Committee!

**SHRM FOUNDATION COMMITTEE**

Generate donations for the SHRM Foundation to meet SHRM requirements.

(Contact: [shrm@lincolnhr.org](mailto:shrm@lincolnhr.org))

- Assist with educating chapter members about the purpose and ongoing activities of the SHRM Foundation.
- Identify potential sources, solicit contributions, and pick up donated items for fundraising activities(e.g., May Basket Raffle).
- Design marketing information/materials to advertise fundraising activities.
- Assist with “day-of” activities such as organizing displays and selling raffle tickets.
  - Assist with committee correspondence, reports, etc.

**Drawing Winner**

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

Congratulations to

**Kristi Rahe** with

NEAPCO Components.

Kristi will receive free registration  
for the January program.



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Management Association**  
PO Box 81066  
Lincoln, NE 68501-1066

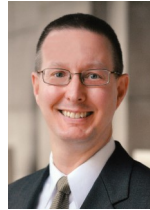
[www.lincolnhr.org](http://www.lincolnhr.org)

SHRM local chapter #0048



**We're on the web!**  
[lincolnhr.org](http://lincolnhr.org)

**Board of Directors**



**PRESIDENT**  
Joel Scherling, SHRM-CP, PHR  
HR Administrator  
NE Dept. of Education  
402.471.4736  
[president@lincolnhr.org](mailto:president@lincolnhr.org)



**PAST PRESIDENT**  
Melissa Price, SHRM-CP, PHR  
Director of Human Resources  
PenLink  
402.421.8857  
[pastpresident@lincolnhr.org](mailto:pastpresident@lincolnhr.org)



**PRESIDENT ELECT/  
GOV'T RELATIONS**  
Lindsay Selig, SHRM-SCP, SPHR  
HR Officer  
First State Bank  
[govt.relations@lincolnhr.org](mailto:govt.relations@lincolnhr.org)



**PROGRAMS**  
Judy Sinner  
Fiscal & HR Director  
Disability Rights Nebraska  
402.474.3183  
[programs@lincolnhr.org](mailto:programs@lincolnhr.org)



**PROGRAMS**  
Michele Spadt, SHRM-CP, PHR  
Chief HR Officer  
Lincoln Surgical Hospital  
402.484.9016  
[programs@lincolnhr.org](mailto:programs@lincolnhr.org)



**MEMBERSHIP**  
Jamie Mohrman, PHR  
HR Generalist  
Kidwell  
402.817.3494  
[membership@lincolnhr.org](mailto:membership@lincolnhr.org)



**MARKETING/SOCIAL MEDIA**  
Kelly White, SPHR  
Asst. Director of Employee  
Relations/Sr. HR Facilitator  
University of Nebraska - Lincoln  
[marketing.sm@lincolnhr.org](mailto:marketing.sm@lincolnhr.org)



**CERTIFICATION**  
Amy Spellman, SHRM-CP, PHR  
HR Assistant Director  
NE Dept. of Education  
402.471.5027  
[certification@lincolnhr.org](mailto:certification@lincolnhr.org)



**COMMUNITY OUTREACH**  
Shannon Rowen, SHRM-SCP  
Asst. Professor of Practice  
University of Nebraska—Lincoln  
402.472.3097  
[communityoutreach@lincolnhr.org](mailto:communityoutreach@lincolnhr.org)



**SECRETARY**  
Kellie Graham, SPHR, SHRM-SCP  
Director of Human Resources  
Complete Children's Health  
402.327.6002  
[secretary@lincolnhr.org](mailto:secretary@lincolnhr.org)



**COLLEGE RELATIONS**  
Jenessa Keiser, SHRM-CP, PHR  
Director of Human Resources  
Lincoln Surgical Hospital  
402.484.0823  
[college.relations@lincolnhr.org](mailto:college.relations@lincolnhr.org)



**WORKFORCE READINESS**  
Kim Michael, SHRM-CP, PHR  
Director of Operations & HR  
Region V Systems  
402.441.4350  
[workforce.readiness@lincolnhr.org](mailto:workforce.readiness@lincolnhr.org)



**TREASURER**  
Laurie Gyhra, SHRM-CP, PHR  
HR Representative  
State Farm Insurance  
402.327-5341  
[treasurer@lincolnhr.org](mailto:treasurer@lincolnhr.org)



**SHRM FOUNDATION**  
Jessica Reay, PHR, SHRM-CP  
Senior HR Generalist  
Crete Carrier Corp.  
402.479.7074  
[shrmfoundation@lincolnhr.org](mailto:shrmfoundation@lincolnhr.org)