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LHRMA
Lincoln Human Resource Management Association

AFFILIATE OF
SHRM[®]
SOCIETY FOR HUMAN
RESOURCE MANAGEMENT

June Program

Program on July 9: Navigating Employee Mental Health Issues

Join us for our Program on Tuesday, July 9. Dr. Dave Miers with Bryan Medical Center and Susan Sapp, J.D. with Cline Williams Wright Johnson & Oldfather will present from 12:00 to 1:00 p.m.

About the Presentation

Post-traumatic stress disorder (PTSD), depression, addiction, bipolar disorder... Nearly one in five U.S. adults live with a mental illness according to the National Institute of Mental Health.

It can be difficult for HR professionals to cope with employee mental health issues—not only from a legal perspective, but also from a humanitarian one. In this presentation, you will learn about:

- How to spot potential mental health issues in the workplace;
- What information to obtain once an employee discloses a psychiatric disability;

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About the Presentation (continued from page 1)

- Your employer's legal obligation under the FMLA and ADA
- How to address work performance deficiencies when an employee has a mental health issue;
- Guidance for your supervisors; and
- Preventative measures to strengthen your company's ability to address employee mental health issues.

About the Presenters

Dr. Dave Miers – Bryan Medical Center

Dave Miers, PhD, is the Counseling and Program Development Manager for Mental Health Services at Bryan Medical Center in Lincoln, NE. He has been with Bryan Medical Center for 22 years. Dr. Miers received his B.S. from Nebraska Wesleyan University, a M.S. from St. Cloud State University, and a PhD from the University of Nebraska with a focus on suicide prevention/postvention. He is the co-founder and past co-chair of the state of Nebraska State Suicide Prevention Coalition and current Board Member. He is on the leadership group for the Lincoln/Lancaster County Nebraska Youth Suicide Prevention Coalition. He has published research and co-authored a chapter in The Routledge International Handbook of Clinical Suicide Research focusing on family survivors of a child suicide. Dr. Miers assisted in the development of the Lincoln Lancaster Local Outreach to Suicide Survivors (LOSS) team in Lincoln, NE in 2009 and has assisted in the development of other LOSS teams in Nebraska and LOSS team development on a national level. He has served in the past on several local and state boards in various capacities.

Susan Sapp, J.D. – Cline Williams Wright Johnson & Oldfather

Susan 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 serves as mediator in personal injury and employment cases. Susan is a friend of LHRMA and has frequently presented to us over the years. She is a respected attorney in the area of employment law who dispenses guidance in a straight-forward, no-nonsense manner.

July Program

WHEN AND WHERE

Tuesday, July 9, 11:15 — 1:00 p.m. at Jack J. Huck Continuing Education Center, 301 S. 68th St. Place, Lincoln, NE

REGISTRATION FEES:

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

Luncheon attendance is free for SHRM designated student chapter members. Current SHRM designated chapters include: University of Nebraska-Lincoln. Students must register through Jenessa Keiser, College Relations Chair, college.relations@lincolnhr.org for free meeting attendance.

WELCOME NEW MEMBERS

LHRMA welcomes the following new members:

Wendy Thomas
HR Manager
Holmes Lake Rehabilitation
HR@holmeslakecc.com

Jordan Arndt
Human Resource Generalist
Mosaic
Jordan.arndt@mosaicinfo.org

Jennifer Rasmussen
Engagement & Retention Specialist
CIP
jennyr@rentcip.com

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2019 LHRMA Membership Renewals

Visit www.lincolnhr.org to renew!

CONGRATULATIONS!!!!

LHRMA is pleased to recognize the following human resource professionals who earned their SHRM credentials during the Winter Exam Window (12/1/2018 – 2/15/2019):

Cheryl Anderson, SHRM-CP
 Amy Bilka, SHRM-CP
 Amy Bolton, SHRM-CP
 Stephanie Lambrecht, SHRM-CP
 Joshlyn Mangan, SHRM-CP
 Codie Meehan, SHRM-CP
 Mark Schanou, SHRM-CP
 Emilee Urbanek, SHRM-CP

SHRM Certification includes taking an exam to show mastery of the SHRM body of knowledge and participating in approved continuing education opportunities to keep the designation. SHRM Certification is a symbol of professional achievement.

LHRMA offers a SHRM Certification Study Group twice a year to assist HR professionals in obtaining their certification. If you would like more information about SHRM Certification or LHRMA's Certification Study Group please go to www.lincolnhr.org or contact Amy Spellman at certification@lincolnhr.org.

HR Certification Study Group

Earn the Standard in HR Certification
 With a SHRM Learning System Study Group.

LHRMA is offering a SHRM Learning System study group to expand your human resource knowledge and prepare you for the SHRM Certified Professional (SHRM-CP) or the SHRM Senior Certified Professional (SHRM-SCP) exam.

This 11 week study group is designed for individuals interested in preparing for the SHRM-CP/SHRM-SCP exam, achieving professional advancement and building confidence for addressing today's human resource challenges.

Study Group Materials: 2019 SHRM Learning System

This study group is based on the SHRM Learning System, a premier-quality exam preparation tool that combines learning modules available in print and e-reader formats and online resources, accessible via mobile devices, to teach the entire SHRM Body of Competency and Knowledge™ (SHRM BoCK™).

Register now!! Study groups fill quickly and space is limited.


Whether you are a SHRM-CP/SHRM-SCP candidate or a manager seeking training for your staff, our SHRM Learning System study group can help you accomplish your certification and Professional development goals.


For more information or to register visit lincolnhr.org/available-certifications/. Please contact Amy Spellman at certification@lincolnhr.org with questions.



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Over \$500 was donated to the SFRM Foundation from the May Day Raffle!

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President's Message

By Lindsay Selig, LHRMA President



Don't miss your chance to attend this year's State HR conference!

This year's conference is August 22nd and 23rd and held at the LaVista conference center – so just a short drive up the interstate from Lincoln. Early bird registration is available until July 11th. I sincerely hope you are able to attend and find it beneficial in helping you continue to move your career forward.

There is a ton of planning that goes into making each conference happen – in fact, the planning starts over a year in advance and continues up to the day of the conference. The individuals on the planning committee are HR professionals, just like you, so I thank each and every one of them for their hard work and dedication. Plus, as HR professionals themselves, they know what you are looking for in a conference and this one promises to be great!

For those that are not aware, the HR Nebraska state conference is hosted by the HR Nebraska State Council (formerly SHRM Nebraska). The State Council is a statewide HR organization. There are seven local chapters, such as LHRMA, that feed into the State Council. The goal of the state-wide organization is to help bring all HR professionals together and help us be a voice in the professional world.

If you are debating about whether the state conference is for you, here are a few highlights about what to expect:

- 5 outstanding keynote speakers
- Over 70+ exhibitors sharing information on HR resources
- 35 breakout sessions outlining various topics related to the HR world
- Record number of HR professionals to network with throughout the conference
- 12 Continuing Education Credits for SHRM Certifications; 12 General and 4 Business Continuing Credits for HRCI Certifications
- Chance to win the grand prize trip to Ojai, California to a wonderful Inn and Spa for a very relaxing weekend for two!

Once again – it promises to be an outstanding event! I encourage you to consider attending and reach out with any questions. Thank you!



Legal Update

FMLA Leave and Accrued Leave Time

Jack L. Shultz and Kramer L. Lyons
O'Neill, Heinrich, Damkroger, Bergmeyer & Shultz, P.C., L.L.O.

The Family and Medical Leave Act ("FMLA") provides for 12 weeks of unpaid, job-protected leave time per year for certain qualifying medical or family purposes (and up to 26 weeks for military caregiver leave). According to an Opinion Letter released by the Department of Labor ("DOL") on March 14, 2019, employees may not use their other accrued leave time to extend FMLA leave. Previously, when faced with an FMLA-qualifying situation, an employee could have attempted to take other available paid leave accrued through their employment, followed by using the FMLA leave time to extend their leave up to an additional 12 (or 26) weeks. The Opinion Letter has specifically disallowed this practice.

In the Opinion Letter, the DOL addressed an individual's concern that employers were allowing employees to exhaust their accrued leave time before designating the leave as FMLA, even when the purpose of the other leave time was for an FMLA-qualifying reason. The Opinion Letter expressly disallowed this, stating that an employer must *immediately* designate the leave as FMLA leave, without allowing the employee to take advantage of their other accrued leave before beginning FMLA leave. The DOL's Opinion Letter disagreed with a holding from the Ninth Circuit that allowed an employee to decline to use FMLA leave, and instead use other leave time first for an FMLA-qualifying purpose. See *Escriba v. Foster Poultry Farms, Inc.*, 743 F.3d 1236 (9th Cir. 2014). Although the Ninth Circuit holding still stands, it is likely a court will be persuaded otherwise in light of the DOL's new Opinion Letter.

The Opinion Letter stated that once an employer learns of a potentially FMLA-qualifying situation, they must immediately designate it as such. The employee is not required to identify their situation as FMLA-qualifying or use any specific language to request FMLA leave. Rather, the employee must provide the employer with sufficient facts so as to put them on notice that the leave may be FMLA-qualifying. This requires employers to be sufficiently trained to identify when FMLA leave may be appropriate. When the employer learns of such facts, they must identify the employee's absence as FMLA leave without delay and notify the employee of the designation within five business days. This prevents the employee from first taking advantage of additional leave, such as PTO, and then essentially "tacking" the FMLA leave onto the additional leave when the additional leave has been exhausted.

A failure to designate the leave as FMLA leave immediately and provide notification to the employee can result in "an interference with, restraint on, or denial of" the employee's rights under the FMLA, which must be avoided. Therefore, after an FMLA-qualifying reason is identified by the employer, neither the employer nor the employee may elect to decline FMLA leave or to essentially postpone FMLA and take other leave time first. The FMLA leave must be designated immediately.

Legal Update (continued from page 5)

The Opinion Letter issued by DOL does not prevent an employer from allowing or implementing leave policies that are more generous than those required under the FMLA. However, an employer is not allowed to designate more than 12 (or 26) weeks as FMLA leave. If an employer allows leave beyond the cap provided by the FMLA, such leave is no longer considered FMLA leave, and the protections it affords are no longer in place. FMLA cannot be expanded beyond 12 (or 26) weeks. Further, the Opinion Letter does not prohibit an employee from using paid leave during FMLA unpaid leave, as a way of supplementing income during their absence. If an employee chooses to do this, the paid leave will run concurrently with the FMLA leave, and will not operate to delay the FMLA leave.

As an example, if an employee communicates to his or her employer that they will need to care for a family member who has unexpectedly become ill (which is an FMLA-qualifying reason), the employer must first recognize the applicability of FMLA leave. Once they have done so, they must notify the employee of the FMLA designation within five business days, barring exceptional circumstances. Even if the employer and the employee would both like to postpone the FMLA leave, because they would like to preserve the FMLA leave for an event later that year, the DOL prohibits this. The employee must use the FMLA designation immediately for his or her leave. The employee can elect to use other available paid leave time concurrently with their unpaid leave if they wish to receive compensation during their leave, or they may use their paid leave time when the FMLA leave time is exhausted if they wish to extend their leave. Otherwise, the employee would be required to use their FMLA leave time to care for their family member, and use other available leave policies or any remaining FMLA leave time, if available, for the later event.

In light of the new Opinion Letter, employers should review their employment and FMLA policies. Employers must make sure that their policies require immediate FMLA leave designation, correct for counting time off due to FMLA leave, and otherwise allow for the full protection of the FMLA.

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 authors 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 Kramer L. Lyons can be contacted at (402) 434-3000, or at O'Neill, Heinrich, Damkroger, Bergmeyer & Shultz, P.C., L.L.O., P.O. Box 82028, Lincoln, NE 68501-2028, jshultz@ohdbslaw.com and klyons@ohdbslaw.com.

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Tips for Working More Effectively with Difficult Employees

As every manager knows, some employees are more difficult to work with than others. More difficult to manage individuals can take extra time and effort, be less cooperative, and often a source of frustration for their supervisor.

Of course there are many reasons that an individual employee can be difficult to manage. Some are due to temporary circumstances or stressors (i.e., a personal issue that the employee is dealing with), and others are ongoing and appear to be driven by the employee's personality (chronic negativity, self-centeredness, etc.).

Whether these challenges are temporary or long-term in nature, below are several tips for working more effectively with a difficult to manage individual:

- Be extra prepared for the interactions – To minimize the stress of interacting with a challenging individual, make a point to pick the right time and place to talk. Make sure that you're in a good place mentally and emotionally – if you're not, put off the conversation if possible. Be sensitive to the mood of the employee as well. If they seem upset or agitated, it's probably also wise to pick a different time to talk.
- Take a positive approach – Although it's human nature to minimize contact with individuals that are harder to work with, try not to avoid these employees. That can make things worse. They need your time and attention. Try to stay positive and encouraging as you interact with them. Optimism can be contagious – some of it will rub off on the employee and potentially help them to become a more cooperative and productive team member over time.
- Be more of a coach than a boss – Instead of using a directive management approach when interacting, introduce the task, problem, or performance to be discussed and ask the employee for their input. This approach helps many individuals to feel more valued and respected which can lead to them being more engaged in the work and easier to deal with.
- Thoughtfully respond, instead of emotionally react – When you're confronted by a difficult to manage individual, discipline yourself to stay calm emotionally so you can respond thoughtfully. If you find yourself getting overly emotional, consider putting off the conversation if possible.

When 95% Is Not An “A”

We are groomed from a young age to think that an “A” grade means better than most – top of the class. In the worksite wellness world, any company reporting a 90% plus engagement is considered outstanding! But is it enough? I was quickly challenged by one of my co-workers when she indicated that 95% was not enough in safety nor should it be for wellness. From her perspective only 100% is acceptable. All-be-it not realistic most of the time, but her point is that 5% non-compliance means acceptance of someone or several people getting hurt, disabled or worse – killed. It gave me pause and she was correct. In wellness, 5% non-compliance in wellness means accepting the occasional heart attack or diabetes. It means that we could possibly be O.K. with someone dying prematurely and not being able to raise their children. When I put it in terms of my parents or children being in that 5% pool, it would never be acceptable! So, you may say, “we are not perfect and how can we expect others to be?” I challenge you to put your children in the 5% pool. What changes would you make at your company to give them the best chance to succeed and go home to their family? I challenge organizations to strive for perfection and set your people up for success. Keep in mind that these top ten suggestions are the bar and you may need to step into this, but you can set a plan to get there someday.

1. Take a strong stand on wellness and safety by making it part of your mission and/or core value statements!
2. Embed wellness and safety metrics into your corporate strategic plan just as you would revenue or people metrics.
3. Include wellness and safety in your entire workforce individual performance plans.
4. Provide as much incentive to engage in healthy and safe behaviors as your budget can bear.
5. Place your wellness and safety staff members on your management team or senior team.
6. Provide adequate staff support to manage a strong safety and wellness program.
7. Provide adequate compensation for your safety and wellness professionals just as you would your sales team or other essential staff.
8. Provide adequate leave for your people to engage in safe and well behaviors.
9. Establish wellness and safety as a priority upon hiring new people especially management.
10. Set your people up for success by providing safe equipment and healthy policies and environments.

As I write this, I already hear the grumbles and push-back. I challenge back and give you the results of three studies of the top 500 companies on Wall Street. These companies make up the Standards and Poor 500 Index.

The studies demonstrate that publicly traded companies with best-in-class workplace wellness programs have better stock valuations than the Standard and Poor’s, (S & P), Stock Index. Very few mutual funds perform better than the S & P Stock Index, so there must be something to this craziness! Maybe your company will never be publicly traded, however, there are lessons to be learned here. Safe and well people are good for business. Most importantly, you can rest at night knowing you have put your people in an environment for success so that they go home to their families, have the opportunity to play with grandchildren when they get older, and live a good life. Strive for 100%!



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#0048



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