



BV-SHRM NEWSLETTER

CHAPTER NO. 0330 ♦ SEPTEMBER 2014

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MONTHLY PROGRAM & LUNCHEON

TOPIC: Workplace Bullies are Too Expensive to Keep!!!

WHEN: September 4, 2014

TIME: 11:30: Lunch, Networking, & Announcements
12:00 Program

WHERE: Hilton Garden Inn
3081 University Dr. (east side of Highway 6, across from Veteran's Park)

COST: \$12/ BV-SHRM member
\$15/ non-members
Note: The guest price is now \$15

SPEAKER Brian Hayes, Hayes HR Consultants

RSVP: Please **RSVP by noon, Friday, August 29** to
rsvpprograms@gmail.com.

MENU: Homemade chicken enchiladas served with Spanish rice, beans, chips, salsa, shredded lettuce, tea, and water

PROGRAM DETAILS

Workplace Bullies are Too Expensive to Keep!!!

Join us as we explore an important topic that is impacting your employees and workplace. The Workplace Bullying Institute defines "Workplace Bullying" as repeated, health-harming mistreatment of one or more persons (the targets) by one or more perpetrators that takes one or more of the following forms – verbal abuse, offensive conduct/behaviors which are threatening, humiliating, or intimidating or work interference which prevents work from getting done.

Workplace Bullying is serious abusive conduct that destroys workers' health and productivity and undermines your organization's success. Leaders must commit to stop workplace bullying and realize it's not a "personality clash," or conflict. It is non-physical workplace violence and not only is it detrimental to the individuals who are bullied, but the business as a whole.

SPEAKERS BIO



Brian Hayes

Senior Human Resources professional, and Texas Bay Area SHRM Past-President and Diversity and Inclusion Chairman, Brian Hayes, joins us to share more information about this important topic. He holds the SPHR certification and has over 20 years of HR experience in a variety of organizations.



Business Seminar

For more information, visit
our website:
bv-shrm.shrm.org

[Click here](#) to go directly to
the registration form.

Tuesday, September 16
8:00 am - 4:30 pm
Hilton Garden Inn, College Station
\$100 / \$50 Students
bv-shrm.shrm.org

The 2014 BV-SHRM Business Seminar is made possible by a generous donation by St. Joseph Hospital



There's more to choosing a health plan than price

St. Joseph and Cigna LocalPlus Team Up to Offer Unique Health Plan Value

In the past, the choice for employers shopping for employee health plans came down to price – how much were they willing to pay for premiums compared to the tradeoff in coverage for their employees.

Now St. Joseph Health System and Cigna have joined forces to change the equation. They're helping even small employers to offer a high quality plan with manageable cost through an insurance product that helps close the gaps in care for patients.

The product is Cigna LocalPlus, backed by the strength of Cigna and the clinical experience, knowledge and expertise of St. Joseph Health Partners (SJHP), a clinically integrated physician group composed of physicians employed by or affiliated with St. Joseph Health System.

As a clinically integrated physician group, SJHP is uniquely positioned to manage the health of individuals – and populations – at every point of care, with continuous, coordinated and *integrated care*, wherever the patient touches the health care system – in clinics, physician practices, in emergency rooms, and hospitals.

A Focus on Closing Gaps in Care, Not Just Managing Risk

The St. Joseph Health Partners and Cigna LocalPlus partnership is designed to bring a new level of direct involvement by clinicians in managing and improving the health of insured populations – employees and their dependents (if covered).

The bottom line for employers is lower insurance premiums as well as less absenteeism among employees, whether from their own illness or that of a spouse, child or other dependent. Both are cost generators.

With Cigna LocalPlus and St. Joseph Health Partners, managing the health of your employees is proactive, where caregivers actively seek out gaps in care that may be preventing a return to good health and takes steps to remedy the problem.

As an example under the current model, a patient who has received ongoing treatment for Type II diabetes, but shows no appreciable improvement, may or may not receive intervention by his or her caregiver – and certainly not by the health care plan provider. And the employer continues to shoulder additional absenteeism and lowered productivity costs.

With Cigna LocalPlus and St. Joseph's active care management, caregivers flag the patient's lack of progress. A nurse meets with and interviews the patient, discusses his or her treatment, identifies the gap in care, and works with the patient to help them understand the necessary steps to improve the treatment plan.

Then the nurse takes active care management a step further, by helping the patient manage the process of closing the gap, including communications with his or her physician to ensure the treatment program is modified.

Helping Employers Move to Variable Costs

Smaller employees are caught in a two-way squeeze. Most insurers won't write a self-funded plan for those with fewer than 1,000 employees, but the traditional fully insured model is expensive: the employer bears all of the risk of providing health coverage to their employees and pays a huge premium to the payer too.

In layman's terms, self-funded is better. Instead of a massive, static premium, employers pay a third-party administrator an admission fee. Then, its essentially pay-as-you-go, with payments to the administrator based on actual claims by employees.

Cigna LocalPlus and St. Joseph are unique in allowing employers with as few as 30 employees to move from the traditional fully insured to the self-funded model. And, with an emphasis on managing the health of populations and key features such as identifying and closing gaps in care, the St. Joseph plan is a key tool in any employer's strategy to lower the cost of providing health care benefits.

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Please notify Krystal Broussard of any changes to your contact information.
krystal@bovrdreadymix.com

Upcoming Events

MARK YOUR CALENDARS

Chamber After Hours

September 11, 2014, 5:30-7:00 p.m.

Sterling Auto Group

BV-SHRM Business Seminar

September 16, 2014

Hilton Garden Inn, College Station

<http://bv-shrm.shrm.org/events/2014/09/2014-business-seminar>

HR Southwest

October 5-8, 2014

Ft. Worth, TX

Registration opens Mar. 3

2014 Workplace Diversity Conference & Exposition

October 13-15, 2014

New Orleans, LA

Sheraton New Orleans



DIVERSITY MATTERS

Diversity Article link: *Women and Minorities Penalized for Promoting Diversity, Study Says* <http://www.forbes.com/sites/laurashin/2014/07/29/women-and-minorities-penalized-for-promoting-diversity-study-says/>

Diversity Dates for September

Sep. 1:

Labor Day (USA and Canada), the first Monday in September is celebrated with picnics and parades honoring workers in the two countries.

Sep. 11:

Patriot Day (USA) is in honor of the event of 9-11.

Enkutatash/Ethiopian New Year (Ethiopia)

Sep. 16:

Mexican Independence Day

Sep 17:

Citizenship Day (USA)

Sep. 21:

International Day of Peace was first observed by the United Nations General Assembly in 1982.

Sep. 24 – 26:

Rosh Hashanah (Jewish New Year)

Sep. 25-Oct. 3:

Navaratri (Hindu) festival of the divine mother honoring Durga, wife of Shiva, and seeking her blessings, also observed as a celebration recalling the days of Lord Krishna.

Are you  ? BV-SHRM is.

LinkedIn

BV-SHRM has created a LinkedIn account and we encourage members to connect with us through this social media.

Visit us and become a Fan of BV-SHRM on

facebook



Be on the lookout for the above logo!

It will be a featured symbol this year as we expand the marketing of our chapter!

Share Your Ideas



The Board always welcomes your comments and suggestions. See an interesting article online or have a process that could benefit other members? Share it with your BV-SHRM Chapter.



PRESIDENT'S PIECE

Howdy!

Well, it's hard to believe, but it is back to school already! Move-in day at Texas A&M is upon us and college football starts this week! Of course all of this means a little more traffic and waits at our favorite restaurants, but I love living in a college town. All of the energy, excitement and enthusiasm the students bring sort of rubs off on me every September (and inevitably takes me down memory lane).

We are in a unique situation in Bryan/College Station with the way our town meshes with one of the largest universities in the country. We are also in a unique situation at BV-SHRM with our relationship to our student SHRM chapter at Texas A&M University. These are students who have an interest in our profession, an interest in our knowledge and an interest in their own career development. We have a unique opportunity to support these students and promote the growth of our industry in a way most chapters do not. For the last two years Tami Overby has been the liaison for our student chapter and she has done a phenomenal job. In the coming meetings Tami will be requesting mentors for students who are looking for professional coaching and direction. If you have not gotten involved in the mentor program, I encourage you to do so. It is a small time commitment that will make a huge impact.

Please do not forget to RSVP for the August meeting by this Friday, August 29 so that we can accommodate the Hilton Garden Inn's catering timeline.

We look forward to seeing you on September 4 for our monthly meeting and then again on September 16 for our Business Seminar. Spots are filling up fast so please make your reservations today! Remember, we want to see Diana do her happy dance...we are very close!

Sincerely,

Katherine



BV-SHRM BENEFIT

Why come to BV-SHRM monthly meetings?

Well, last time, Justin Estep spoke to us about I-9 compliance. Things we were surprised to learn:

- One of the most common errors is a new employee dating with his/her birthdate
- Be familiar with different immigration paperwork when completing the form
- Pros and cons of the new two-page form

Consider coming! You never know what you might learn!



MEMBER NEWSLETTER

LEGAL BRIEFS

Welcome to Legal Briefs for HR, an update on employment issues sent to over 5000 individual HR professionals, in-house counsel and business owners plus HR and legal professional organizations (who have been given permission to republish content via their newsletters and websites), to help them stay in the know about employment issues. Anyone is welcome to join the email group . . . just let me know you'd like to be added to the list and you're in! Back issues are posted at www.munckwilson.com under Media Center/Legal Briefs and you can also join the group by clicking on "Subscribe."

Welcome to new subscribers who attended my speech at the TAB/Texas SHRM Employment Law Symposium in San Antonio!

Here's what's heating up:

- Mama Mia!** - On July 14, the EEOC published enforcement guidance, a fact sheet and Q&A toward changing how employers address temporary impairments arising from pregnancy. All three documents can be accessed at <http://www.eeoc.gov/eeoc/newsroom/release/7-14-14.cfm>. This guidance upends the notion that pregnancy and its related medical conditions are not "disabilities" under the ADA that may require accommodation. Now the EEOC is opining that temporary impairments related to pregnancy, such as pregnancy-related carpal tunnel syndrome, gestational diabetes, pregnancy-related sciatica and preeclampsia, can be disabilities under the broader definition of the ADAAA. Assuming an accommodation does not pose an undue hardship, the EEOC suggests employers do things like reassign marginal functions, modify policies (e.g., allow food/drink at the workstation); modify work schedules (e.g., late arrival due to morning sickness), allow telework for employee on bed rest, grant additional leave beyond what policy provides, purchase or modify equipment (e.g., provide stool, where job is normally done standing) and temporarily reassigning expectant mom to light duty. It appears the EEOC may have rushed this guidance out the door, without the normal comment period, to allow it to play out for a few months before the U.S. Supreme Court hears *Young v. UPS*, a case from the 4th Circuit which should determine whether employers who provide light duty to disabled workers must provide that same option to pregnant workers. If the Supreme Court agrees with the 4th Circuit and says "no," the EEOC will be retracting much of this guidance. *Afterthought* - *If you have not done it already, this is another reason to be sure that your job descriptions clearly define which functions are "essential" so that you do not find yourself in a position of being forced to reassign one of these functions in the name of reasonable accommodation.*
 - Heads' Up, Federal Contractors** - As expected, President Obama signed an executive order on July 21, amending E.O. 11246 and extending its EEO protection to applicants and employees based on their sexual orientation and gender identity. Implementing regulations are expected within 90 days and will apply to federal contracts and subcontracts entered into on or after the effective date noted in the pending regs. The actual language can be seen at <http://www.whitehouse.gov/the-press-office/2014/07/21/executive-order-further-amendments-executive-order-11478-equal-employem> and a Fact Sheet can be found at <http://www.whitehouse.gov/the-press-office/2014/07/21/fact-sheet-taking-action-support-lgbt-workplace-equality-good-business-0>. On the same day, a similar change was made to E.O. 11478, which applies to federal employees. Both measures are seen as the President's response to the failure of the Employment Nondiscrimination Act (ENDA) to make it through Congress. While the new language talks about taking "affirmative action" it does not say whether this means that covered contractors will need to use invitations to self-identify, track applicant flow, conduct adverse impact analyses and the other AAP measures now required under E.O. 11246 for women and minorities, and apply them to individuals in the LGBT community. Stay tuned.
 - More Contractor Conundrum** - A MN Congressman has successfully integrated an amendment onto several federal departments' appropriations bills which, if passed, may amount to the death penalty for federal contractors who run afoul of the FLSA. The measure would debar from participation in federal contracts any contractor who had a FLSA violation during the past five years if there is a criminal conviction or a civil or administrative proceeding involving a penalty or reimbursement of \$5000 or more. Just last week, the House Subcommittee on Workforce Protections heard testimony on the spike in FLSA litigation accompanied by a sharp decline in assistance to employers by the DOL. In addition to discussion of the January 2014 GAO report, which suggests the DOL should assess the adequacy of its guidance, witnesses and lawmakers pounced on the lack of clear definitions coupled with what they felt was heavy-handed enforcement. Wage and Hour Division opinion letters, which used to shine some light on common questions, have dried up with only seven letters being released over the last three years. Federal dollars should not flow to a true scofflaw, but debarment is a high price to pay if the error was an honest mistake.
- Order Up** - On July 31, President Obama signed an Executive Order designed to eliminate "wage theft" and safety violations among large federal contractors (i.e., \$500K contract value). After regulations are written and as phased in during 2016, the Fair Pay and Safe Workplace Executive Order will [1] require disclosure of all labor law violations for the past three years, prior to and as a condition of getting a federal contract; [2] require contractors to collect the same info from their subcontractors; [3] allegedly

focus on repeat and the most egregious violators; [4] give contractors with violations an opportunity to remedy the issue and remain eligible for the federal contract at issue; [5] ban pre-dispute arbitration agreements between employer and employees which apply to Title VII or to tort claims arising from sexual assault or harassment for the largest (more than \$1 million in federal contracts) employers; [6] require that employees' paycheck stubs list hours worked, overtime hours, pay and any deductions from pay; and [7] require the GSA to develop a website so that contractors will have "one stop" for mandated reporting, even when they hold multiple contracts involving several federal agencies. For more info, check out the Fact Sheet at <http://www.whitehouse.gov/the-press-office/2014/07/31/fact-sheet-fair-pay-and-safe-workplaces-executive-order>.

4. **Bring it on Home** - The Bring Jobs Home Act (S. 2569), if passed will simultaneously disallow costs tied to moving workers and equipment overseas as a deductible business expense and add a new tax credit of 20% for certain expenses arising from bringing jobs back to the U.S. One of the co-authors, a senator from Michigan, pointed to the heavy loss of manufacturing jobs in her home state as the impetus for this measure.
5. **Check, Please** - Several large employers are on the receiving end of lawsuits alleging failure to comply with the federal Fair Credit Reporting Act (FCRA). One suit alleges that an on-line job posting system does not provide the notice and authorization form which must be completed by the applicant or employee before a check is requested. Another suit alleges the employer did not comply with the FCRA's adverse employment action procedure, by failing to provide unsuccessful applicants with a copy of the background check containing negative info and failing to provide the Notice of Rights until after the adverse employment action was already taken. A few of the common mistakes that I've seen in my practice include:
 1. Employer used third party person or entity to do background check without complying with FCRA and state law (which may impose additional restrictions)
 2. Employer thought FCRA only applies to credit checks and did not comply when doing other types of checks (e.g., criminal, education, references)
 3. Employer assumed background check vendor knew and correctly applied with the law
 4. Employer thought seeking authorization to do a background check via a sentence on the employment application form was sufficient
 5. Employer thought the notice and authorization form could include a waiver of claims related to the background check
 6. Employer thought FCRA does not apply if the background check is done by accessing a web-based service instead of hiring a background checking person or entity
 7. Employer did not know there is two-step notice process prior to taking an adverse employment action (e.g., rescission of job offer, denial of promotion)
 8. Employer did not know to wait until after conditional offer of employment is made before giving notice/authorization form and commencing background check
6. **Summertime Reminders**
 1. **Interns** - College and high school students on break are looking for work and some are willing to do it for free, just to get work experience for their resume and maybe, just maybe, impress you enough that you make a job offer for future employment. As tempting as the siren song of free labor sounds, in most cases . . . don't! Refresh yourself on the requisites of an unpaid internship by reading Fact Sheet #71 on the Department of Labor's website at <http://www.dol.gov/whd/regs/compliance/whdfs71.htm>. Plenty of employers, especially in sports, journalism and entertainment biz, have made very expensive mistakes.
 2. **Kids** - The FLSA does allow employers to pay youths under the age of 20 a subminimum wage of \$4.25/hour for up to 90 calendar days or until the kid turns 20, whichever occurs first. For details see <http://www.dol.gov/whd/regs/compliance/whdfs32.htm>.
 3. **Hot Workers** - Although not every state has a statute like CA's (which requires employers to provide rest breaks with shade and cool water for outdoor workers), OSHA says employers' general duty to provide a safe workplace free from recognized hazards includes prevention of heat-related illness. OSHA set up a website page that is loaded with prevention ideas and resources at <https://www.osha.gov/SLTC/heatstress/index.html>. Click on https://www.osha.gov/SLTC/heatillness/heat_index/heat_app.html to download a "heat safety tool" app that gives a heat index and safety suggestions, based on the smartphone users location. The app is available for iPhone or Android only. Looks like they dropped Blackberry support.
 4. **The Other Kind of Hot Workers** - As the temperatures go up, the amount of clothing worn to work by some folks goes down. That can be a problem, if co-workers are uncomfortable with too much skin on display or where the scantily clad one inadvertently (or purposely) draws attention that can support a harassment claim. If professional and demure is more your style, you may need to send out gentle reminders about the dress code.
 5. **Tax Holiday** - Texans, mark your calendar for August 8 to 10, when you can avoid sales tax on most clothing, footwear, school supplies and backpacks priced under \$100.
7. **Quick Hits**
 1. **Jury Duty . . . Not!** - Per the U.S Courts service, there is a scam going on where ID thieves are sending individuals what appear to be juror summons, via email, asking for personally identifying information such as SSN, driver's license number, date of birth, cell phone number and mother's maiden name. The email says that failure to reply could result in fines and jail time and it falsely claims to be affiliated with eJuror, an on-line registration program used in about 80 U.S. court districts. If employees come asking for time off based on an email, you might suggest that they verify the source before providing personal info.
 2. **Getting Smashed at Work is OK** - Kudos to Baker Hughes, an oilfield services company, for developing a smartphone app for its employees similar to the popular game, Candy Crush. In the BH version, candies have been replaced by neon-colored boulders that can be smashed by massive, whirling drill bits. The game, Bit-Tacular, which was developed by Dallas-based Bottle Rocket, has been

downloaded about 20,000 times and is a free download on Apple's app store. Three more oilfield-themed games are in the works. Hmm. What would your company's game look like if you developed one?

3. **Honoring Those Who Served** - An organization called Honor Flight Network (www.honorflight.org) is working to provide free flights to Washington DC for WWII veterans (to see the various military memorials) and some of the regional "hubs" of the network are now accepting applications for Korean War and Vietnam War veterans. If you have some of these men and women in your community (e.g., workplace, neighborhood, place of worship), you might make them aware of this opportunity to see "their" memorial and to be honored as the heroes they are.

8. **Stated Differently** - Here are some hot topics for you multi-state employers:
 1. **Illinois** - IL becomes the fifth state to "ban the box" effective 1-1-15. Private sector employers and employment agencies may not inquire about a job applicant's criminal record or history until after determining if the individual is otherwise qualified for the job AND scheduling an interview. If hiring is generally done without an interview, the employer may not inquire until after a conditional offer of employment has been made. Other states with similar bans include HI, MA, MN and RI.
 2. **Illinois (Chicago)** - A mayor's task force recommends that the minimum wage for workers in Chicago be raised from \$8.25/hour to \$13 hour. Statewide, citizens will weigh in on the issue in November by voting on a ballot initiative seeking to raise the state minimum wage to \$10/hour.
 3. **Maryland (Baltimore)** - Effective August 13, employers of ten or more employees are subject to new limits on queries relating to applicants' and employees' arrests and convictions. Employers may not ask about or require an individual to disclose any arrest or criminal accusation that is not pending and has not resulted in a conviction. Employers may not, until after a conditional offer of employment is offered, ask about or require an individual to disclose a criminal record or conduct a criminal record check. A "criminal record" includes verdict or plea of guilty or no contest, including a sentence of incarceration, a fine or a suspended sentence.
 4. **New Jersey** - A new version of the New Jersey Division on Civil Rights mandatory poster can be found at <http://www.nj.gov/oag/dcr/posters.html>. Ditch your old version and post this one, which adds "pregnancy" as a protected category and drops references to two NJDCR branch offices that closed.
 5. **Ohio** - The Bureau of Workers' Compensation has agreed to settle a lawsuit filed by employers claiming that it used an unlawful rating system that resulted in deep discounts on workers' comp premiums for some employers at the expense of others. A March 2013 trial court decision ordered BOWC to pay employers \$860 million. The settlement is roughly half that amount, but some employers will receive more than \$1 million. After court approval of the settlement, a third-party administrator will be tapped to begin processing employers' claims.

9. **Last Call** - I hope to see you at one or more of my upcoming presentations at the North Texas Compensation Association meeting (August 21 in Dallas) and the North Texas SHRM conference (September 5 in Denton).

10. **For the Birds** - If you like being tweeted and want breaking news on employment law changes (and the occasional random cheer for K-State . . . football practice starts today!), follow me on Twitter. I'm at @amross.

Until next time,

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Please send information about this organization to:

Name: _____

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