

# SHRM Sentinel

Jayhawk Chapter—Lawrence, KS #486



April 2006

AFFILIATE OF



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### NEXT MEETING—MAY 9

**"A Stakeholder Approach to Evaluations"**

Presented by: Ann Gabel  
Lawrence Memorial Hospital

## President's Message

Dear Jayhawk Members,

Are you aware of all of the great information and tools that you have available at your fingertips on S.H.R.M. websites? If you haven't got these sites bookmarked as your "favorites" already, you will after you check them out.

Current highlights on these sites are:

**Local Chapter:** [www.jayhawkshrm.org](http://www.jayhawkshrm.org)  
Registration for April 6 SHRMinar. Click on "Event Calendar" and the website offers convenient online registration with the option to pay by credit card or at the door with cash or check. It's not too late to register. Walk-ins are welcome.

**State Council:** [www.ksshrm.com](http://www.ksshrm.com)  
Kansas State Council will begin accepting Early Bird registrations on April 1 (\$199 now or \$249 later) for its 17th Annual Kansas State SHRM Conference. The conference will be held in Topeka at the Capital Plaza Hotel and Conference Center from September 20-22, 2006. The theme this year is to honor the "Super HReroes- the HReart and Soul of Business." Speakers are top notch and include Johnny Taylor, JR, JD, National SHRM; Michael Mercer, PHD; Hunter Lott, JD; Tim Davis, JD; and David Nastor. The Governor has also been invited!

**National S.H.R.M.:** [www.shrm.org](http://www.shrm.org)  
Check out the "HR Knowledge Center." It can guide you through any HR nightmare that has been keeping you awake at night. Do I sound like an S.H.R.M info-commercial? I suppose I do, but I know how the work demands of the daily grind stone often prevent us from taking time out and seeking out expert advice to get the job done.

I'm sure you will find these resources and upcoming conferences of great benefit. See you there!

--Karen Reed, President

Thursday, April 6, 2006

## Leadership & Customer Service Workshop

Presented by Dr. Cal LeMon



### Lawrence Art Center

940 New Hampshire  
Lawrence, KS 66044

Registration begins at 7:30—8:00 am

Workshop starts at 8:00—11:30 am

*Lunch is on your own.*

Workshop resumes at 1:00—4:45 pm

**Cost: \$125**

Vendor opportunities—contact Lori MacDonald at [lori.macdonald@adeconna.com](mailto:lori.macdonald@adeconna.com).

Registration and more details about the workshop can be found at [www.jayhawkshrm.org](http://www.jayhawkshrm.org).

Door prizes—drawings!

## COBRA Denial of Benefits and Misconduct

**QUESTION:** We recently terminated an employee for misconduct — he violated our company's confidentiality policy. Do we have to offer him [COBRA continuation coverage](#), or can we exclude him because of "gross misconduct"?

**ANSWER:** Many behaviors that are considered a violation of corporate policy or workplace conduct rules will not meet the "gross misconduct" exception in the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). Under COBRA, employers that provide "group health plans" must offer continuation coverage to "qualified beneficiaries" who have lost health coverage as a result of certain qualifying events. In particular, termination of employment is a qualifying event, except when gross misconduct is involved. In other words, you do not have to offer COBRA coverage to an employee terminated for engaging in gross misconduct.

The term "gross misconduct," however, is not defined either in [COBRA](#) or in the law's implementing regulations. Courts generally have interpreted this term to require a high degree of misconduct before you may deny continuation coverage. Here are a few court cases that illustrate when that level was reached:

-- *Nakisa v. Continental Airlines*, 2001 U.S. Dist. LEXIS 8952 (S.D. Tex. 2001), an airline employee who threw an apple and uttered an audible racial epithet at another employee in front of boarding passengers demonstrated a substantial and deliberate indifference to her employer's clear interests. Her actions, therefore, constituted gross misconduct.

-- *Burke v. American Stores Employee Benefit Plan*, 818 F. Supp. 1131 (N.D. Ill. 1993), a former grocery store employee's participation in a scheme to steal turkeys was an act of criminal theft and constituted gross misconduct.

-- *Avina v. Texas Pig Stands, Inc.*, 1991 U.S. Dist. LEXIS 13957 (W.D. Tex. 1991), an employee's termination for "cash handling irregularities, invoice irregularities, and the failure to improve the performance of one of the defendant's stores" constituted gross misconduct.

However, an employee's misconduct typically must involve more than negligence or incompetence. For example, in *Lloyd v. Hanover Foods Corp.*, 72 F. Supp. 2d 469 (D. Del. 1999), the court determined that the employee's omission of onion powder while mixing ravioli was accidental and not intentional, as the employer alleged. The court noted that ordinary negligence or incompetence alone will not suffice to meet the gross misconduct standard under COBRA.

And, in *Paris v. F. Korbel & Brothers, Inc.*, 751 F. Supp. 834 (N.D. Cal. 1990), the court determined that a breach of company confidence was not gross misconduct.

In addition, courts typically have found that you must have evidence of the gross misconduct before denying COBRA benefits, not just a good faith belief that an employee engaged in gross misconduct. So, in *Kariotis v. Navistar Internat'l Transp. Corp.*, 131 F.3d 672 (7th Cir. 1997) the court required the employer to demonstrate that the employee actually did engage in gross misconduct. The employer's good faith belief that the employee engaged in gross misconduct was insufficient to deny COBRA benefits.

Because the term "gross misconduct" is not clearly defined and court decisions hinge on case-specific facts, most legal experts advise against denying COBRA coverage on that basis, except in the most extreme cases. So, you may want to check carefully before denying COBRA benefits to an employee for breaching your confidentiality policy.

If you still want to invoke the "gross misconduct" exception, be sure to consult with an attorney. Remember, there are substantial penalties for [COBRA violations](#) (including fines of up to \$110 a day per violation, actual damages such as medical costs, and attorneys' fees), and, if you are the plan administrator, you as an individual could be personally liable as well.

Source of information: HR MATTERS E-TIPS

Published by Personnel Policy Service, Inc.

## Got a question about a particular situation in the workplace?



Send me your question, and I'll try to find an answer for you and post it in the next newsletter.

Send questions to:  
[ann.connor@prosoco.com](mailto:ann.connor@prosoco.com)

## Membership

New Member Orientation will be held right before our next regular chapter meeting. From 11:15 AM to 11:30 AM on Tuesday, May 9<sup>th</sup> at the Hereford House, you can come and learn about the Jayhawk Chapter of SHRM, meet other new members, current members and Board Members. If you plan on attending, please RSVP to Lori MacDonald at [lorimacdonald@sunflower.com](mailto:lorimacdonald@sunflower.com) no later than Friday, May 5<sup>th</sup>.

### Welcome New Members

**Becky Gonzales**, Senior Manager of Human Resources  
GCSAA

**Ann Stephens**, Vice President, Human Resources  
Falley's/Food 4 Less

**Anne Baughman**, Human Resources Director  
Therapy Works

**Alison Lomas**, President  
KU Student SHRM Chapter

- Lori MacDonald, Vice President of Membership

## Certification

### Certification Question of the Month

**Q.** May I submit my recertification activities to HRCI as I go or do I need to wait until I have accumulated all 60 hours to do so?

**A.** If you use the online recertification application process at [www.hrci.org](http://www.hrci.org) you can document your activities as you complete them. Once you have accumulated 60 hours, please provide payment information and submit your application for review. However, if you are submitting a paper application to HRCI to complete this process, please do not submit it until you have at least 60 hours documented. Paper applications can be mailed to HRCI at the following address:

Human Resource Certification Institute  
Attn: Recertification Applicant Processing  
1800 Duke Street  
Alexandria, VA 22314

Due to the volume of applications received, HRCI cannot verify receipt of applications. HRCI recommends sending your application by certified mail to verify receipt.

### Not Yet Certified? What are you waiting for???

Are you interested in joining the 825 HR Professionals in the state of Kansas who have obtained their PHR or SPHR certifications? Don't delay! The last day to late register for the Spring 2006 PHR/SPHR testing window is Friday, April 21st. To obtain a registration application, simply log on to <http://www.hrci.org/hrcicertonline/?apply> and complete their online application. The Spring testing window runs from May 1, 2006 through June 30, 2006. If you have questions about the certification process, please contact Angela Fleming, Certification Director for the Jayhawk Chapter of SHRM at [AngelaF@FirstStateKS.com](mailto:AngelaF@FirstStateKS.com).

- Angela Fleming, Certification

## Member Survey

### Submit benefit information please!

We only had three (3) responses to last month's request, so I am extending the member survey deadline to April 20th.

What benefits do you offer regular, full-time (part-time) employees? What percentage does the company pay? What percentage does the employee pay? When are new employees eligible for each benefit? What is your co-pay on medical office visits? On prescriptions? What other unique perks do you offer your employees ... daycare, workout facilities?

Send information to the attention of Amy Bellerive via email ([abellerive@kinedyne.com](mailto:abellerive@kinedyne.com)); or via fax (785-841-3668) by April 20th. Results of the survey will be provided in next month's newsletter.

## Financials

### First Quarter Financial Report

Balance—12/31/05 Total: \$14,109.95

Jan/Feb/Mar



Deposits— \$6,653.01  
Expenses—< \$2,375.37 >

Balance—03/31/06 Total: \$18,387.59

- Robert Bryant, Vice President of Finance

**Federal Regulatory Alert!**

Please urge the Department of Labor's Office of Federal Contract Compliance Program (OFCCP) to repeal the Equal Opportunity (EO) Survey. The OFCCP has proposed to repeal the EO Survey, and SHRM would like to support the OFCCP's efforts. The current EO Survey requires federal contractors to report applicant, hiring, promotion, termination, and incumbency data for "full-time" employees based on EEO-1 categories. The EO Survey also requests compensation data by EEO-1 category.

**Background**

In 1999, when the OFCCP proposed the EO Survey, SHRM expressed concerns that the survey would impose enormous burdens on contractors required to complete the form without curtailing systemic discrimination. In December 2005, SHRM submitted comments to the OFCCP, requesting that the agency delete the EO Survey for the same reasons addressed in SHRM's comments submitted in 1999. Now, in response to comments received from numerous organizations and a research report that revealed the ineffectiveness of the EO Survey data, the OFCCP has proposed to eliminate the EO Survey. See 71 Fed. Reg. 3,374 (Jan. 20, 2006). However, despite the OFCCP's attempts to remove the EO Survey requirement, some groups plan to organize a grassroots effort to oppose the repeal of the EO Survey.

**Action Needed**

Please contact the OFCCP today! This is your opportunity to eliminate the EO Survey requirement. In any federal rulemaking, numbers count in making the final rule determination and supporting the record against any potential legal challenge. Although the deadline for submitting comments to the OFCCP was March 21, 2006, you are still able to go online and submit comments.

To submit comments to the OFCCP, please follow these steps:

1. **Log onto SHRM Online by clicking here.**
2. **Sign in using your member number and last name.**
3. **Click on "Governmental Affairs," then go to "HRVoice" on the left side of your screen.**
4. **Choose "Write your elected officials."**
5. **Click on "Equal Opportunity Survey" under the heading "Take Immediate Action on these Hot Issues."**

- Ruby McDavis, Legislative Affairs

**Federal Legislative Alert!**

**YOUR SUPPORT IS NEEDED!** Your senator or representative has been selected as a member of the conference committee on S. 1793, the Pension Security and Transparency Act of 2005 and H.R. 2830, the Pension Protection Act of 2005. Please call or write your conferee to ensure that provisions important to the HR community are included in the pension conference report.

**Background**

Social Security and Medicare face projected financial shortfalls. Several employers who sponsored defined benefit pension plans have defaulted on those plans and turned to the Pension Benefit Guarantee Corporation to pay promised benefits to their retirees. Fewer organizations offer defined benefit plans favoring defined contribution plans such as 401(k), 403(b) and 457 plans to help employees save for retirement. For the past four years, employees have benefited from increases in defined contribution plan limits; catch-up contributions for employees age 50 and over; and the Saver's Credit for modest-income employees who save for retirement. These provisions, among others, made law through the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), will expire in 2010 unless Congress acts to extend or make them permanent.

**Legislation**

Major pension reform legislation is currently in conference committee where differences between the House (H.R. 2830) and Senate (S. 1783) pension reform bills will be reconciled. Both bills contain provisions addressing the solvency of defined benefit plans, provide protections to pension plans offering investment advice to employees and include provisions facilitating the automatic enrollment of employees in defined contribution plans. H.R. 2830 includes the EGTRRA provisions offering an opportunity for increased retirement contributions and savings. In addition, H.R. 2830 modifies the current "use it or lose it" rule for Flexible Spending Accounts (FSA) to permit an annual carry-forward of up to \$500 in funds or a rollover into a Health Savings Account.

**Action Needed**

Write or call your conferee today! This is your opportunity to impact the legislative process at the federal level. To write your elected official, follow these steps:

1. Log onto SHRM Online by clicking [HERE](#).
2. Sign in using your member number and last name.
3. Click on "Governmental Affairs," then go to "HRVoice" on the left side of your screen.
4. Choose "Write your elected officials."
5. Click on "Urge Pension Conferees to Pass Comprehensive Reform Legislation" under the heading "Take Immediate Action on these Hot Issues."

Your representatives can be found at: [www.congress.org/congressorg/home/](http://www.congress.org/congressorg/home/)

## KANSAS SHRM Legislation:

### Senate Bill 518.— The Paperless Payroll Bill.

SB 518 would provide Kansas employers with the flexibility they need to more efficiently manage payroll processes and payment methods.

SHRM believes that companies must deliver competitive products or services to the marketplace at a cost that permits the organization to remain financially viable. Compensation programs should be designed to provide the maximum return to the employees consistent with achieving these goals. SB 518 accomplishes these objectives.

Allowing Kansas employers the choice to mandate and implement paperless payroll programs will provide businesses an important opportunity to deliver high quality service that their employees deserve, result in more efficient and cost-effective operations, and helps employees without traditional bank accounts take advantage of the benefits of electronic payments. Kansas employers should be provided the option to choose the method by which they pay their respective employees that best fits their business model. Paperless payroll processing is safe, convenient and reliable.

Paperless payroll systems provide numerous benefits to both employees and employers.

#### Employer Benefits:

- Cost savings - Eliminate the possibility of lost, stolen, or forged checks.
- Provides a popular benefit to their employees.
- Significantly improves payment delivery services.
- Security - an electronic audit trail ensures payment can always be located.
- Less cost incurred by employers through the cost of paper checks, bank fees, postage costs, labor costs, and unclaimed property (in the form of unclaimed checks) which are remitted to the state.

#### Employee Benefits:

- Employees would be able to choose a direct deposit or a payroll card that would operate similarly to a live check.
- Receive their pay on time, every time, even when they are away from work or home.
- Faster access to money than with a paper check - benefits are credited to accounts at the opening of business on the scheduled payment date
- Payments can be traced through the banking system.
- Permanent records of payment through their financial records.
- Avoids check cashing fees and similar charges for "unbanked" employees

Please add your company's name to the Coalition of Supporters for the Paperless Payroll Bill, Senate Bill 518. Write or Call Your STATE Representative – Follow the link below, and use the type box in the upper right-hand corner to find the contact information for your State Representative using your Business or Home zip code:

<http://www.kslegislature.org/legsrv-legisportal/redistricting.do>

**From:** Phil Hayes

[phayes@the-arnold-group.com]

**Sent:** Monday, March 13, 2006 9:57 AM

**Subject:** SB 518 - Is it dead?

It's up to you... Call or email today!

Good morning SB 518 supporters! KS legislative leadership has shortened the regular session in order to provide more time for the veto session and that has increased pressure to move SB 518 in the remaining days of the session.

Your previous actions to support SB 158 will be all for not, unless you take action one more time! After hearing testimony in the House Commerce and Labor Committee, Chairman Don Dahl struck SB 518 from the agenda the following week and apparently wishes to not take further action on the bill. Scott Schwab, vice-chair, tried to get Chairman Dahl to appoint a sub-committee on SB 518 and Chairman Dahl would not do so. We have done a great job bringing Scott on board as well as several other committee members and we now have solid support for the bill. Now we just need to convince the chairman to release the bill.

Please call or email Representative Doug Mays, Speaker of the House, today and let him know that you and your company support SB 518 and wish the House Commerce and Labor release the bill. This, in turn, will hopefully encourage Rep. Mays to be interested in the bill, which will hopefully make him put some pressure on Dahl to release the bill. Your support is critical in pushing the bill forward to a vote on the House floor.

Contact information for Representative Doug Mays:  
785.296.2302 [mays@house.state.ks.us](mailto:mays@house.state.ks.us)

Additionally, you might encourage your company owner/president to call Representative Mays also and express their support for SB 518 and concern that Chairman Dahl is not releasing a bill that will provide more flexibility to Kansas employers.

Thank you for your time and efforts!

Phil Hayes, SPHR

President, Wichita SHRM

(316) 263-9283

(800) 794-6098

(316) 262-8790 fax

## Diversity Corner

### Training: Disability Awareness

#### Division: Commission on Disability Concerns

#### What this program does

The training explains the basic premises of communicating (interacting) with people with disabilities. It emphasizes that people with disabilities are people first and should be viewed as such and treated accordingly.

#### How this program works

Presentation is designed to be interactive and generate conversation about disability among the attendees. This will allow them to better understand how they can more effectively interact with people with disabilities and what they could do to improve their interaction.

Contact Martha Gabehart (785-296-1722 in Topeka or 800-295-5232 outside of Topeka) to arrange a presentation. She is available for either group presentations or individual consultations, depending on your needs.

#### Eligible entities:

Businesses — Note: This is the most logical resource of potential attendees. Employers are many times reluctant to resolve issues between themselves and their employees or applicants with disabilities. This is often because the employer isn't comfortable interacting with people with disabilities.

#### Communities

#### Educators

#### Individuals/Families

Non-Profits — Note: Disability service providers find this training useful and helpful. Additionally, service providers who provide training of an able-bodied population find this training helpful in real-world scenarios for their students.

#### Assistance categories:

Services

#### Contact for more information

Martha K. Gabehart, Executive Director  
 Kansas Department of Commerce  
 1000 S.W. Jackson Street Suite 100  
 Topeka, Kansas 66612-1354  
 Phone: (785) 296-6525  
 Fax: (785)296-3490  
 TTY (Hearing Impaired): (785) 296-3487  
 E-mail: [mgabehart@kansascommerce.com](mailto:mgabehart@kansascommerce.com)

- Ryann D. Pem, Diversity

### The Top 10 Reasons to Hire People with Disabilities

1. Employees with disabilities can ease concerns about labor supply.
2. People with disabilities have equal or higher job performance ratings, higher retention rates and lower absenteeism.
3. Employees with disabilities can relate better to customers with disabilities, who represent \$1 trillion in annual aggregate consumer spending.
4. Diverse work groups can create better solutions to business challenges.
5. People with disabilities are better educated than ever, and are proven to have met and/or exceeded challenges.
6. A person with a disability motivates work groups and increases productivity.
7. Companies that hire and accommodate people with disabilities in their workplaces can receive tax benefits.
8. Employing people with disabilities is good for the individual, the business, and society. This is a "win-win-win" strategy.
9. People with disabilities are motivated by the desire to give something back, and opportunities for personal growth, job flexibility, and social inclusion.
10. It's ability, not disability, that counts.

Data from N.O.D./Harris Surveys and other sources

**Diversity: the art of thinking independently together.**

**- Malcolm Forbes**

**We all should know that diversity makes for a rich tapestry, and we must understand that all the threads of the tapestry are equal in value no matter what their color.**

**- Maya Angelou**

# SHRM Jayhawk Chapter

## 2006 Board of Directors & Committee Chairpersons Contact Information

### Board of Directors

<b>President</b> —Karen Reed	<a href="mailto:kreed@ci.lawrence.ks.us">kreed@ci.lawrence.ks.us</a>
<b>President Elect</b> —Janice Johnson	<a href="mailto:janicej@vna.lawrence.ks.us">janicej@vna.lawrence.ks.us</a>
<b>VP of Membership</b> — Lori MacDonald	<a href="mailto:lorimacdonald@sunflower.com">lorimacdonald@sunflower.com</a>
<b>VP of Professional Development</b> — Cheryl White Mary McKenzie, Co-Chair	<a href="mailto:cwhite@kansascommerce.com">cwhite@kansascommerce.com</a> <a href="mailto:mmckenzie@douglascountybank.com">mmckenzie@douglascountybank.com</a>
<b>VP of Communication</b> — Ann Connor Amy Bellerive , Co-Chair	<a href="mailto:ann.connor@prosoco.com">ann.connor@prosoco.com</a> <a href="mailto:abellerive@kinedyne.com">abellerive@kinedyne.com</a>
<b>VP of Finance</b> —Robert Bryant	<a href="mailto:rbryant@bertnash.org">rbryant@bertnash.org</a>

### Committee Chairpersons

<b>Certification</b> Angela Fleming	<a href="mailto:angelaf@firststateks.com">angelaf@firststateks.com</a>
<b>Diversity</b> Ryann Pem	<a href="mailto:ryann.pem@intervet.com">ryann.pem@intervet.com</a>
<b>Foundation Activities</b> Michelle Moreland	<a href="mailto:mmoreland@allenpress.com">mmoreland@allenpress.com</a>
<b>Legislative Affairs</b> Ruby McDavis	<a href="mailto:rmcdavis@bertnash.org">rmcdavis@bertnash.org</a>
<b>Recognition &amp; Networking</b> Carol Rau	<a href="mailto:careeradvantage@sunflower.com">careeradvantage@sunflower.com</a>
<b>School to Career</b> Victoria Purvis	<a href="mailto:VPurvis@sauer-danfoss.com">VPurvis@sauer-danfoss.com</a>
<b>Student Relations</b> Kathy Youngquist	<a href="mailto:kathy@firststateks.com">kathy@firststateks.com</a>
<b>Volunteerism</b> Cristy Bidinger	<a href="mailto:cbidinger@cwood.org">cbidinger@cwood.org</a>



#### Keep us Posted!

Please send any corrections or updates of names, job titles and mailing addresses of our members to Ann Connor or Amy Bellerive.

SHRM Sentinel  
Jayhawk Chapter SHRM  
P.O. Box 442033  
Lawrence, KS 66044