



June Newsletter

June Meeting

**Wednesday,
June 10th**

Decatur Country Club

\$15.00

11:45 am — 1:00 pm

Networking will begin at 11:15 a.m. and the program will start at 11:45 am.

If you **RSVP** that you are coming and then you don't attend, you will still be charged for the meal.

If you are unsure about attending and paying for a lunch, you can always save-a spot for the salad bar.

For reservations, contact

Patti Fowler at

pfowler@alliancehrservices.com



June 10, 2015

Our Speaker:

Pam Werstler

Topic:

“It’s All Your Fault! How High Conflict Personalities can Wreck the Workplace and What You Can Do About It”

Pam Werstler, SPHR, is the Director of Human Resources at National Packaging Company in Decatur, Alabama; she has been with NPC for 14 years. She has a BSBA in Human Resources from The University of Alabama in Huntsville. Pam obtained the Senior Professional in Human Resources certification in 2001. She is Past Director of SHRM Alabama State Council and past Co-Legislative Director. She also serves as the Legislative Director for the Tennessee Valley Chapter- SHRM where she has served as President four times. She is a Team Captain for the SHRM Advocacy Team. Other volunteer roles include the City of Decatur Personnel Board, Morgan County Personnel Board, Morgan County Sherriff’s Department Personnel Board, Decatur/Morgan County Chamber of Commerce Board of Directors, Alabama Association of Employers, Decatur Personnel Officers Association, Decatur/ Morgan County Women’s Chamber of Commerce and Women’s Leadership Council.

High conflict personality types exist in large numbers throughout society. Many have actual personality disorders or maladaptive personality traits. They cause disruption in the workplace due to their propensity for persuasion... they attract negative advocates who enable them. Based on the books of Bill Eddy, this session will focus on recognizing HCPs, understanding them and will include tips on how to work with them because many HCPs bring value to the workplace if they are managed effectively. The session will bring value to the participant through the employee relations section of the body of knowledge.

Thank you to Horizon Point Consulting and B&B Cleaning for sponsoring our June meeting!



Telecommuting Accommodation is Limited, Rules Court

Courtesy of Lehr Middlebrooks & Vreeland, P.C.

Questions frequently arise about to what extent, if at all, employers must accommodate employees by permitting them to work from home. On April 10, 2015, the full Sixth Circuit Court of Appeals narrowed the scope of the circumstances when such an accommodation may be required in rehearing the case of EEOC v. Ford Motor Company.

Employee Jane Harris worked as a steel resale buyer. The buyers purchase steel and resale it to auto parts manufacturers, whose representatives work in the same building as Ford's buyers. Harris had irritable bowel syndrome. She requested an accommodation to work from home four days a week. Ford provided a limited work at home accommodation, and when Harris was unable to report to her regular work location, Ford terminated her. The EEOC sued, claiming that Ford failed to reasonably accommodate her in violation of the ADA.

In rejecting the EEOC's position, the Court made the following key points which are useful to employers when faced with the "work at home" accommodation issue:

"Regular and predictable attendance" at the work place was an essential function of the buyer's job. The Court stated that "even with the past reasonable accommodations of telecommuting. Harris could not regularly and predictably fill the essential job function of reporting to work."

The Court stated that "attending work onsite is essential to most jobs, especially interactive ones."

The Court cited the EEOC's guidance on reasonable accommodation, which stated that employers may deny a request for employees to work from home where jobs require "face to face interaction and coordination" with customers or fellow employees.

The Court stated that "a sometimes forgotten guide likewise supports the general rule: common sense. Non-lawyers would readily understand that regular onsite attendance is required for interactive jobs. Better to follow the common sense notion."

The Court also rejected the EEOC's argument that by providing telecommuting as a temporary accommodation, Ford was obligated to do so on a permanent basis. "If the EEOC's position prevailed," the Court said, then "once an employer allows one person the ability to telecommute on a limited basis, it must allow all people with a disability to telecommute on an unpredictable basis ... that's one hundred eighty degrees backward. It encourages—indeed requires—unlimited telecommuting as an accommodation for any employee."

When faced with a request to telecommute as an accommodation, evaluate the impact of an employee working from home on the business. Some questions to consider include: What duration and frequency of telecommuting is the employee requesting? Could a different telecommuting schedule work, even if what the employee proposed could not work? Does the job require interaction with others where face time is important? Does the job require access to documents or other work related materials? If it does, can the access be reliably and securely provided? If a work from home accommodation is possible for a limited period of time, then under the ADA the employer should follow that as one accommodation approach. However, because regular attendance at the employer's place of business is an essential function of most jobs, it will be a difficult for an employee to show that an employer must reasonably accommodate by shifting the employee's work location from the employer's business to the employee's home.

EEOC Issues Proposed Rule on Wellness Programs

Courtesy of Lehr Middlebrooks & Vreeland, P.C.

On April 20, 2015, the EEOC issued a proposed rule amending regulatory guidance related to wellness programs. The proposed rule provides guidance to employers and employees regarding how wellness programs can comply with the ADA and remain consistent with the provisions governing wellness programs under HIPAA and the Patient Protection and Affordable Care Act (ACA). Specifically, the rule is intended to clarify issues that have confused employers who use financial incentives in workplace wellness programs.

Some necessary history on employer wellness programs. Employer sponsored wellness programs must comply with all laws enforced by the EEOC, including the ADA, which generally prohibits employers from requiring medical exams of employees or making disability-related inquiries. Wellness programs must also comply with the HIPAA, which prohibits health plans from discriminating based upon an individual's health status. An exception to the HIPAA law allows discounts or rebates, and other rewards in exchange for an employee's adherence to certain requirements consistent with health promotion and disease prevention, such as those provided by many wellness programs. ACA's final regulations included additional guidance on requirements for wellness programs, and expanded the previously set limits on rewards and penalties that certain workplace wellness programs may provide. The new rules, which are applicable for plan years beginning on or after January 1, 2014, made significant changes to the criteria that wellness plans must meet in order to reward health results without discriminating based upon a health factor. They also recognized that compliance with HIPAA nondiscrimination rules (as amended by the ACA) did not ensure compliance with other laws, including the ADA. This left the door open for the EEOC's attack on the "voluntariness" of wellness programs.

There are generally two types of wellness programs under the HIPAA/ACA provisions:

1. Participatory Wellness Programs, and
2. Health-Contingent Wellness Programs (which may be either "activity-only" or "outcome-based")

A participatory wellness program is one that either does not provide a reward for participation, or offers a reward, but does not condition the reward on an individual satisfying a standard that is related to a health factor. Participatory wellness programs are permitted under HIPAA nondiscrimination rules as long as they are available to all similarly situated individuals regardless of health status. Although HIPAA does not place any limits on incentives for participatory wellness programs, the EEOC's proposed rule appears to extend the 30% limit placed on incentives for health-contingent wellness programs (see below) to participatory programs.

The EEOC's focus has been on the second type of wellness program, those that are "health-contingent" and require an individual to "satisfy a standard related to a health factor to obtain a reward." Among other requirements, a reward offered under a health contingent program must meet certain parameters. A "reward" may be a discount or rebate of a premium or contribution, a waiver of all or part of a cost-sharing mechanism, an additional benefit, any financial or other incentive, or the avoidance of a penalty (such as the absence of a premium surcharge or other financial or nonfinancial disincentive). The ACA regulations increased the award employers are allowed to offer under a health contingent wellness program from 20% to 30% of the cost of coverage. The maximum permissible reward was increased to 50% for wellness programs designed to prevent or reduce tobacco use.

In 2014, the EEOC filed several lawsuits targeting wellness programs established by employers who impose penalties (or even simply withhold incentives) when employees are required to participate in health assessments or tests aimed at improving their health. The basis for these suits is the ADA's prohibition on employers requiring medical exams of employees or making disability-related inquiries. The EEOC took the position that employers may conduct voluntary medical examinations (and obtain information from medical histories) as part of a voluntary employee wellness program. However, the EEOC further stated that wellness program is only "voluntary" if the employer neither requires participation, nor penalizes employees (by denying incentives) who do not participate. See *EEOC v. Orion Energy Systems* (E.D. Wis. 2014); *EEOC v. Flambeau, Inc.* (W.D. Wis. 2014); and *EEOC v. Honeywell* (D. Minn. 2014).

The Commission concludes in the proposed rule issued last week that "allowing certain incentives related to wellness programs, while limiting them to prevent economic coercion that could render provision of medical information involuntary, is the best way to effectuate the purposes of the wellness program provisions of both laws."

The proposed rule states that the term "voluntary" means that a covered entity:

1. Does not require employees to participate;
2. Does not deny coverage under any of its group health plans or particular benefit packages within a group health plan for non-participation or limit the extent of such coverage (except pursuant to allowed incentives); and
3. Does not take any adverse employment action or retaliate against, interfere with, coerce, intimidate or threaten employees within the meaning of Section 503 of the ADA.

The rule further requires that sponsors of wellness programs provide a notice to participants that clearly explains the following:

- What medical information will be obtained
- How the medical information will be used
- Restrictions on the disclosure of medical information
- How the program will prevent improper disclosure of the medical information (including whether the program complies with the HIPAA Privacy requirements)

Comments on the proposed rule are requested through July 19, 2015. For now, employers are reminded of all HIPAA privacy obligations because these take on additional importance under the EEOC's proposed rule. Furthermore, employers should ensure that no adverse action is taken based upon an employee's actual or perceived disability, including acting on information obtained pursuant to a wellness program.

We will continue to keep you advised as this issue develops.

2015 SHRM Annual Conference & Exposition

**SHRM 2015 ANNUAL
CONFERENCE & EXPOSITION**
June 28 – July 01 Las Vegas
COMMIT TO YOUR CAREER & THRIVE TODAY



When: June 28 - July 1, 2015

Where: Las Vegas Convention Center, Las Vegas, NV

Who: Keynote speakers include:

1. **Marcus Buckingham**, best-selling author and founder, TMBC
2. **Sheryl Sandberg**, Chief Operating Officer, Facebook
3. **Mehmet Oz**, Leading Doctor in the Healthcare Industry

For more information go to <http://www.annual.shrm.org>.

[Area Map](#)

[Register Now!](#) or [Download Form](#)

Saturday June 27, 2015	Sunday June 28, 2015	Monday June 29, 2015	Tuesday June 30, 2015	Wednesday July 1, 2015
SHRM Seminars 8:00 a.m. - 6:00 p.m.	SHRM Seminars 8:00 a.m. - 1:30 p.m.	Concurrent Sessions 7:00 a.m. - 8:15 a.m.	Concurrent Sessions 7:00 a.m. - 8:15 a.m.	General Session 8:30 a.m. - 9:45 a.m.
Preconference Workshops 1:00 p.m. - 5:00 p.m.	Preconference Workshops 8:00 a.m. - Noon	Session- Marcus Buckingham 8:30 a.m. - 9:45 a.m.	Session- Sheryl Sandberg 8:30 a.m. - 9:45 a.m.	Concurrent Sessions 10:00 a.m. - 11:15 a.m.
	Attendee Orientation 11:00 a.m. - Noon	SHRM Exposition Open 9:30 a.m. - 4:00 p.m.	SHRM Exposition Open 9:30 a.m. - 2:00 p.m.	Concurrent Sessions 11:30 a.m. - 12:45 p.m.
	Sunday Sessions 12:30 - 2:00 p.m.	Masters Series 10:30 a.m. - 12:15 p.m.	Concurrent Sessions 10:45 a.m. - Noon	Conference Concludes 12:45 p.m.
	Opening General Session 2:30 p.m. - 4:00 p.m.	Concurrent Sessions 10:45 a.m. - Noon	Lunch Noon - 1:30 p.m.	
	Grand Opening Reception 4:00 p.m. - 7:00 p.m.	Lunch Noon - 1:30 p.m.	SHRM Seminars 1:30 p.m. - 5:30 p.m.	
		Masters Series 1:45 p.m. - 3:45 p.m.	Concurrent Sessions 2:15 p.m. - 3:30 p.m.	
		Concurrent Sessions 2:00 p.m. - 3:15 p.m.	Masters Series 2:15 p.m. - 4:15 p.m.	
		Refreshment Break 3:15 p.m. - 4:00 p.m.	Concurrent Sessions 4:00 p.m. - 5:15 p.m.	
		Concurrent Sessions 4:00 p.m. - 5:15 p.m.	Tuesday Night Show- Jennifer Hudson 8:00 p.m.	



2015 TVC-SHRM BOARD

President

Amy Smith, PHR

Big Heart Pet Brands

Amy.Smith@bigheartpet.com

Vice President of Programs

Mary Ila Ward, SPHR

Horizon Point Consulting

miw@horizonpointconsulting.com

Valerie Curtis

Alliance Source Testing

Valerie.Curtis@StackTest.com

Vice President of Membership

Taylor Simmons

Horizon Point Consulting

tbs@horizonpointconsulting.com

Secretary

Patti Fowler

Alliance HR

pfowler@alliancehrservices.com

Treasurer

Pat Bearden

National Packaging Co., Inc.

pat.bearden@npcoinc.com

Legislative Director

Pam Werstler, SPHR

National Packaging Co, Inc.

Pam.werstler@npcoinc.com

Director of Community Relations

Dr. Denny Smith, PHR

Calhoun Community College

dws@calhoun.edu

Director of SHRM Foundation

Linda Robinson

linda.robinson@bellsouth.net

Director of College Relations

Jeff Powers, SPHR

Toray Carbon Fibers America, Inc.

Jeff.Powers@toraycfa.com

Director of Certification

Forrest Keith, SPHR

Daikin America

forrestkeith@daikin-america.com

Diversity Director

Omar Smith

omar.smith@rehab.alabama.gov

Director of Wellness

Heather McDearmond

Heather.mcdearmond@bunge.com

Special Events Advisor

Newsletter

Tiffany Weaver

Ascend Performance Materials

tweave@ascendmaterials.com

Advisor to the Board-Technology

Amanda Tidwell

Amanda.tidwell@npcoinc.com

Past President

Robin Jackson

Cook's Pest Control

Robin.Jackson@cooksppest.com

GET CONNECTED (CLICKABLE ICONS)



SHRM 2015 ANNUAL CONFERENCE & EXPOSITION
LAS VEGAS
LAS VEGAS CONVENTION CENTER | JUNE 28 - JULY 1, 2015

SHRM
Foundation
Shaping the future of HR

HR CERTIFICATION
INSTITUTE
COMMIT TO A HIGHER STANDARD

SHRM's HR Jobs
Best HR Professionals. Best HR Jobs.

SHRM
CERTIFIED PROFESSIONAL

WELCOME NEW TVC-SHRM MEMBERS

- **Paula Franklin**, SMT Machine Operator, Adtran
- **Shanon Cornell**, Communications & Management Services Specialist, GE
- **Penny Townson**, Project Manager, Morgan County Economic Development Association
- **Dale Lenahan**, Property Control, Northrop Grumman
- **Kathy Copeland**, HR Manager, Automatic Screw
- **Lori West**, HR Coordinator, EPIC Church

SAVE THE DATE! UPCOMING EVENTS

- **June 28, 2015—July 1, 2015**
SHRM 2015 Annual Conference & Exposition at the Las Vegas Convention Center
- **November 4, 2015**
TVC-SHRM Fall Workshop at the Doubletree Hotel (formerly Garden Plaza Inn) in Decatur
- **Every 1st Wednesday**
Workforce Coalition meeting at The Chamber of Commerce (Contact Mandy Price for more info)

Please contact **Tiffany Weaver** at tweave@ascendmaterials.com if you have an upcoming event that you would like to add.

In lieu of our May meeting, we are encouraging everybody to attend ALSHRM conference.
Hope to see everyone there!

Tennessee Valley Chapter SHRM
PO Box 1271
Decatur, AL 35602
www.tvcshrm.org