



# BV-SHRM Newsletter

## Chapter #0330

February 2012

### Board Officers

#### President

Stacy Overby, SPHR

#### President Elect

Geanna Kincanon, SPHR

#### VP of Programs

Katherine Kleemann

#### VP of Membership

Brittany Berryman

#### Treasurer

Krystal Broussard, PHR

#### Secretary

Lisa Villalobos, PHR

#### Past President

Cheryl Young, SPHR

### Committee Chairs

#### Business Seminar

Sheri Yetter, SPHR

#### Certification

Liz Galvan PHR, CCP

#### Diversity

Cheryl Young, SPHR

#### Legislation

Alexis Alexander, SPHR, JD

#### Member Relations

Lauren Othold

#### Newsletter & PR

Sarah Tobola, SPHR, CEBS

#### School to Work

Julie Irvin, SPHR

#### SHRM Foundation

Thom Holt, SPHR

#### Student Liaison

Diana Dean, SPHR

#### Website

Bob Hensz, SPHR

#### HRSW Ambassador

Cheryl Young, SPHR

### Monthly Program & Luncheon

**TOPIC:** Mental Health Issues in the Workplace - Recognizing and Dealing with Them

**WHEN:** Thursday, February 2, 2012

**TIME:** Lunch served from 11:30AM to noon; Program from noon to 1:00PM

**WHERE:** College Station Conference Center

**COST:** \$10/member & first time guest  
\$15/non-RSVP guest

**SPEAKER:** Shane De Los Santos

#### *Inside this Issue:*

Monthly Program

President's Piece

HRCI Exam

Refer-a-Friend

Building Value with HR Excellence Award Program

Welcome New Members

Upcoming Events & Prof. Development Opportunities

Membership Dues

Legal Briefs

### Program Details

#### **Program Title:**

Mental Health Issues in the Workplace - Recognizing and Dealing with Them

Did you know that one in four Americans suffer from some form of mental health issue? Is it affecting your workplace? Would you be able to recognize the signs?

There's hardly a person in our community whose life won't be touched by someone struggling with a mental health issue. Unfortunately, many of us don't know what to do or how to help, and the situation escalates. In this informative session, you will learn how to recognize and handle issues surrounding mental health in the workplace.

### Speaker Bio

College Station native, Shane De Los Santos, Licensed Professional Counselor, has vast experience in serving people in community health settings who have severe mental illnesses and is a specialist in adult mental health and crisis intervention. Currently, Ms. De Los Santos serves as the Program Manager for MHMR Brazos Valley's Emergency Services, Intake, and Referral Department which assists people suffering from mental illnesses get the help they need. Managing the Mobile Crisis Outreach Team, providing diagnostic assessments and cognitive behavioral therapy, as well as training and supervising a staff of over 30 case workers are just a few of the responsibilities entrusted to Ms. De Los Santos. Through her experience of working with people who have Major Depressive Disorder and other mental illnesses, she has seen the impact this can have on the workplace and how with proper intervention and assistance, people with mental illnesses can have successful careers.



Please RSVP for the monthly luncheon by noon on  
**Tuesday, 1/31/12**  
rsvpprograms@gmail.com





# Member Newsletter



**Make sure you notify us of email changes or changes to your contact information!**

*“Do you want to know who you are? Don’t Ask. Act! Action will delineate and define you.”  
~Thomas Jefferson~*

Invest in your professional development through BV-SHRM and SHRM National Membership.

Visit us and become a Fan of BV-SHRM on



## President’s Piece

Happy New Year,

I hope everyone had a very well deserved relaxing Holiday Season. I look forward to the New Year and as an organization doing even more than we did in 2011. You have selected an outstanding group of professionals to guide BV-SHRM to even higher levels of excellence. If you are willing to help in a specific area, please don’t keep your talents hidden. As an organization we are going to make a more concerted effort into areas like workforce readiness in our schools and career planning with our college students. If this seems like something you are interested in, please volunteer when and where you can. We are so fortunate to have the members we do. Our chapter received a huge compliment from our District Director who came to swear in the new board members at the Holiday luncheon. She was amazed with the level of enthusiasm and electricity that you all displayed. Thank you for all you do and again I look forward to working with each of you in 2012.

Humbled to Have this Opportunity,  
Stacy

## HRCI Exam

**The HRCI application window has opened for the Spring testing window. If you plan to take the PHR or SPHR exam this Spring, make sure you get your application submitted before the below deadlines. More information on the HRCI website [www.hrci.org](http://www.hrci.org).**

### 2012 Exam Application Submission Dates

	Testing Dates	Applications Accepted	Late Applications Accepted*
<b>Spring</b>			
	May 1-June 30, PHR/SPHR 2012	Jan. 9, 2012 - Mar. 9, 2012	Mar. 10 - April 13, 2012
	May 1 - May 31, GPHR/CA 2012	Jan. 9, 2012 - Mar. 9, 2012	Mar. 10 - April 13, 2012

## Refer-a-Friend Program

Share BV-SHRM with a friend or co-worker in the HR field by completing the *Refer-a-Friend* form located at the end of the newsletter. Help them achieve professional growth and networking.



# Member Newsletter



## Upcoming Meetings:

February 2  
March 1  
April 5  
May 3  
June 7

*All meetings are at College Station Conference Center unless otherwise noted.*

Have you recently attended a great presentation or do you have a topic or speaker idea to share with Programs?

Or are YOU willing to share about a HR subject matter at an upcoming meeting?

If so, please contact us with the details.

AFFILIATE OF  
**SHRM**<sup>TM</sup>  
SOCIETY FOR HUMAN  
RESOURCE MANAGEMENT

## **Building Value with HR Excellence Award Program**

### **Lee Felder wins Building Value with HR Excellence Award!**

The BV-SHRM *Building Value with HR Excellence* Award program recognizes and rewards an outstanding HR Professional for his/her accomplishments within the organization, advancing the HR Profession, and providing service to the community as a HR Practitioner.

As written by his nominator, Timothy Rocka, “[Lee] holds everyone in high regard and uses the Golden Rule as a point of departure. To inspire teamwork, this nominee replaces "I" and "me" with "us" and "we" while inspiring all with a "You'll Go Far With HR" self-initiated mantra. The attitude of support by this individual is displayed by actually doing things for others that some would consider beneath them or none of their business (i.e., answering the phone, and even quelling a community problem for an employee).”

In recognition of the Award, Lee Felder was presented with a plaque and a \$250.00 donation to the SHRM Foundation made in his name.

Also nominated was Sheri Yetter, sent in by Tom Owen. He writes “[Sheri] is the epitome of a team player. Hard working, dedicated, competent, and mission-oriented are but a few of the words I can use to describe this nominee. When dealing with employee issues the nominee takes the time to truly listen to the parties and then makes thoughtful and effective recommendations.

The selection committee consists of the executive board members as well as the previous year’s recipient, which was Janelle Ramirez for 2010. Nomination packets are available in late fall for presentation at the December BV-SHRM meeting.

## **Announcements**

**Janice Quast**  
Manager of HR  
The Association of Former Students

**Faren Franklin**  
Human Resource Rep.  
Texas A&M Agrilife HR



# Member Newsletter



*“Successful people are simply those with successful habits.”*  
~Brian Tracy~

## Fun Monthly Observances:

- Pull Your Sofa Off the Wall Month
- National Pancake Week (19-25)
- Hula in The Coola Day 1
- Bubble Gum Day 3
- Give Kids a Smile Day 3
- Ice Cream for Breakfast Day 4

## Some Actual Useful Observances:

- Black History Month
- Wise Health Consumer Month
- Expect Success Month
- American Heart Month
- International Networking Week (6-10)
- Telecommuter Appreciation Week (2/27-3/5)
- Groundhog Job Shadow Day (2)
- Nat'l Stop Bullying Day (9)
- NACCP Day (12)
- Employee Legal Awareness Day (13)
- National Donor Day (14)
- President's Day (20)

## Professional Development Opportunities

### **CUPA Lone Star Chapter Winter Conference**

The Lone Star Chapter invites you to attend its 2012 Winter Conference February 8, 2012

The conference will be held at Tarrant County College Trinity River Campus in Fort Worth, TX.

For more information and to register, please go to:

<http://www.cupahr.org/chapters/lonestar/registration.asp>

### **SHRM Employment Law & Legislative Conference**

SHRM invites you to attend its 2012 Employment & Legislative Conference March 4-7, 2012

The conference will be held in Washington, DC

For more information and to register, please go to:

<http://www.shrm.org/Conferences/EmploymentLawLegislativeConference/Pages/default.aspx>

### **SHRM Talent Management Conference**

SHRM invites you to attend its 2012 Talent Management Conference April 30-May2, 2012

The conference will be held in Washington, DC

### **2012 Gulf Coast Symposium on HR Issues**

HR Houston invites you to attend its 2012 Symposium May 9-10, 2012

The conference will be held at Tarrant County College Trinity River Campus in Fort Worth, TX.

The theme for the conference is "**Connect2.**" Our keynote speakers are Keith Ferrazzi, Best-Selling Author and Sales and Marketing Expert; and Cy Wakeman, Speaker, Author and Trainer.

<http://www.hrhouston.org/displaycommon.cfm?an=1&subarticlenbr=189>

### **SHRM Annual Conference & Exposition**

SHRM invites you to attend its 2012 Annual Conference June 24-27, 2012

The conference will be held in Atlanta, GA

For more information and to register, please go to:

<http://annual.shrm.org/>

## BV~SHRM Membership Dues

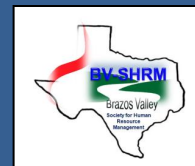
### ~Reminder~

BV-SHRM membership dues are for the calendar year January 1 through December 31 and are no payable for 2012. If you have not already, please submit your membership dues to remain an active member of the chapter. Your membership dues help support chapter functions, the SHRM Foundation and also supply support to the Student Chapter. The low chapter dues rate of \$40.00 also is prorated if you are a SHRM National member to just \$20.00 a year.





# Member Newsletter



## Legal Briefs

Welcome to Legal Briefs for HR, an update on employment issues sent to over 5000 HR professionals, in-house counsel and business owners all over the U.S. 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.munckcarter.com](http://www.munckcarter.com) under Media Center/Legal Briefs. I look forward to speaking at the January 18 lunch meeting of the SMA, a special interest chapter of SHRM, at the Prestonwood County Club. For info on the meeting and to register, go to [www.dfwsma.org](http://www.dfwsma.org).

Out with old and in with the new!

1. **Posting Date Pushed Back (Again)** - On Dec. 23, the NLRB announced it was again pushing the deadline for employers to display a new employee rights poster, to April 30, 2012, in order "to facilitate the resolution of the legal challenges that have been filed with respect to the rule." During a hearing of legal challenges made by employer organizations, the judge suggested the Board might want to do this and they complied.
2. **Heads' Up, Government Contractors** - You may want to read and comment on an OFCCP NPRM published on Dec. 9 and having a comment period that runs until Feb. 7, 2012. Proposed revisions to the Rehab Act include requiring covered federal contractors and subcontractors to set a hiring goal of having 7% disabled workers in each job group, initial and annual issuance of invitations to self-identify using new OFCCP-provided language, new record-keeping requirements relating to disabled applicants and employees, formal accommodation policies and procedures, expanded outreach for recruitment purposes and annual review of HR processes and job descriptions. FYI, the 7% hiring goal was derived from census data which estimates that 5.7 % of the U.S. population has a disability as defined by the Census Bureau's American Community Survey and that disabilities are defined more broadly under the Rehab Act, so 7% sounded good to OFCCP. To comment, just go to [www.regulations.gov](http://www.regulations.gov) and put OFCCP in the Search box.
3. **No Diploma, No Worries** - In response to a query from the State of TN, the EEOC opines that the lack of a high school diploma for a job that requires one is not always a bar to employment, where the individual could not complete end-of-course assessment or "gateway" test due to a learning disability, resulting in the denial of a diploma. Under the ADAAA, the prospective employer must [1] prove that a high school diploma requirement is justified by business necessity; and [2] even if the requirement is justified, it must prove the applicant cannot perform the job, with or without reasonable accommodation of the disability.
4. **No Kidding!** - There's an interesting article in the January 9 edition of Business Week, suggesting that states may be inclined to relax their child labor laws and pointing to two states which already have, Maine and Wisconsin.
5. **Companionship Exemption Under Fire** - In 1975, the DOL created an exemption to the FLSA's minimum wage and overtime requirements for employees who were "employed in domestic service employment to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves . . ." Based on a perception that individual wages are out-of-step with industry profits, DOL proposes to narrow the scope of that exemption. One way is to limit the exemption to individuals who are directly employed only by the individual, family or household who uses the services, and there is no end-run around this requirement by claiming a joint employer relationship between the caregiver and a third party employing entity. Another way is to limit the type of services that fall within the exemption to "fellowship and protection" which means going on walks, watching TV together and some incidental help with dressing and grooming. Expressly excluded are general

household work such as vacuuming and doing laundry and personal care (e.g., dressing, grooming) which exceeds 20% of all hours worked. The comment period on this proposed regulation remains open until February 27 and comments can be made via the e-rulemaking portal at [www.regulations.gov](http://www.regulations.gov). Comments on this issue should be labeled RIN 1235-AA05.

6. **Teachable Moment** - A teacher has no ADA claim because she cannot meet the minimum obligations for her desired job and is therefore not a "qualified individual" per the 9<sup>th</sup> Circuit. The story begins with a special ed teacher in Idaho who has bouts of depressions and bipolar disorder. She did not have a state-mandated teaching certificate for the next school year, in part because she suffered a "major depressive episode" during the summer when one would normally take the three semester hours of professional development needed to attain the certificate. Her beef was that the school district did not apply for a provisional authorization from the State and she characterized this as a failure to accommodate her disability. The Court disagreed, noting that the EEOC's regulations define a "qualified individual as a disability" as one who [1] satisfied the requisite skills, experience, education and other job related requirements of the employment position such individual holds or desires; and [2] who, with or without reasonable accommodation, can perform the essential functions of such position. The Court observed that the accommodation requirement applies to only part [2] of the definition, which shows the EEOC did not intend to require employers accommodate individuals in satisfying part [1]. The duty to accommodate only applies if the person satisfies those prerequisites. *Johnson v. Board of Trustees of the Boundary County School Dist.* (9<sup>th</sup> Cir. 12-11).
7. **Tick Tock** - The new year is a great time to revisit your time-keeping procedures for FLSA nonexempts and make sure they are being paid properly. Call centers have been the focus of DOL investigations for several years and a recent settlement shows they are not finished in their quest. Hilton Reservations Worldwide LLC dba Hilton Reservations and Customer Care is paying \$715, 507 to 2,645 current and former employees because the time they spent prior to scheduled shifts booting up their computers, opening work-related programs and reading relevant emails was "off the clock." The workers were in four locations around the U.S., including one in Carrollton, TX. Other call center employers have been tagged for the exact same mistake, so listen and learn.
8. **That's Sick** - Sniffle season is upon us and employees will proffer all sorts of reasons for staying away from work. To compare notes and read a list of the most unusual excuses for missing work, check out the October 2011 list on [careerbuilder.com](http://careerbuilder.com). Personal favorite? A deer bit the employee during hunting season. You go, Bambi! For plain silliness, consider the dude who had a fake obituary on his mom published because he was afraid he would be fired for taking time off from work without that excuse. Guess he forgot that he could be fired for telling a lie, too.
9. **That's Heavy** - A district court in Louisiana relied on the EEOC compliance manual in holding that severe obesity is an ADA disability, whether or not there is an underlying physiological cause for the condition. The decision arose in denying the employer's motion for summary judgment and is troubling since the employee told the EEOC that she was not disabled ("organization treats me as if I am disabled"). *EEOC v. Resources for Human Dev. Inc.*, (E.D. La. 12-11). The EEOC is proceeding to trial, on behalf of the estate of the deceased 527-pound employee, claiming she was fired due the perception of disability and a failure to accommodate her disability.
10. **Stated Differently** - Here are some hot topics for you multi-state employers:
  1. **Massachusetts** - A Florida-based sales rep sued his Massachusetts employer for unpaid commissions, expenses and accrued vacation under MA's Wage Act, and won (including automatic trebling of damages resulting from any violation). The court first noted that the law contains no language limiting its scope to residents of MA or otherwise addressing the location of the employer or the employee. The court then looked at the employee's "regular and sufficient contacts" with MA, to include multiple trips to the HQ in MA, many customers in MA, his use of the HQ business address, telephone and fax numbers in his dealings with

customers, daily communication with his boss in MA and the MA HQ serving as the nexus for all sales-related paperwork, in determining that MA should apply.

2. **New Jersey** - Employers of 10+ employees must annually distribute the Conscientious Employee Protection Act (CEPA) "Whistleblower Act" notice to employees and post it in the workplace. There is a new version (dated 8/11), so be sure and go to [http://lwd.dol.state.nj.us/labor/forms\\_pdfs/lwdhome/CEPA270.1.pdf](http://lwd.dol.state.nj.us/labor/forms_pdfs/lwdhome/CEPA270.1.pdf) to retrieve it. It's available in English and Spanish.
  3. **New York** - The NY Attorney General announced a new Religious Rights Initiative Project on Nov. 9, 2011 to educate employees and employers about reasonable accommodation of religious needs. There is a website with a list of rights, a brochure, a complaint form and more at [www.ag.ny.gov/bureaus/civil\\_rights/religious\\_rights/home.html](http://www.ag.ny.gov/bureaus/civil_rights/religious_rights/home.html). Unlike federal law, NY law requires employers to permit workers to observe holy days unless doing so would cause an undue hardship.
11. **For the Birds** - If you like being tweeted and want breaking news on employment law changes (and the occasional random cheer for K-State), follow me on Twitter. I'm at @amross.

Until next time,

Audrey E. Mross  
Labor & Employment Attorney  
Munck Carter LLP  
600 Banner Place  
12770 Coit Road  
Dallas, TX 75251

972.628.3661 (direct)  
972.628.3616 (fax)  
214.868.3033 (iPhone)  
[amross@munckcarter.com](mailto:amross@munckcarter.com)  
[www.munckcarter.com](http://www.munckcarter.com)

---

## REFER A FRIEND!

I would like to refer a friend to BV-SHRM.

Please send information about this organization to:



Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Your Name: \_\_\_\_\_  
(Optional)