

Officers:

Craig Bohman,
President

Vickie Crawford,
President– Elect

Jody Mann,
Treasurer

Karen Domaschko,
Secretary

Inside this issue:

Think Your Wellness Program
is Compliant? **2-3**

KPHRA Certification **3**

Spring Conference Agenda **4**

Conference Registration Form **5**

KPHRA Board Contact
Information **6**

Spring 2015 Conference
Sponsors **6**

Greetings from the President...

It time to warm you hearts to meet friends old and new... and get ready for the KPHRA Spring conference!

The 2015 Spring Conference is just around the corner. Make sure you mark your calendar now and register early. The conference is scheduled for May 13 – 15 in Northern Kentucky at the Cincinnati Airport Hilton located at Turfway Road and I-71/75 in Florence. Vicki Crawford, our President-Elect, is hard at work on the conference agenda and from what I've seen so far, it's going to be great! I can't stress enough how important the conference is for KPHRA, both as an organization and for the professional development that is available during our conference. Nowhere else are you going to get to discuss and analyze Kentucky focused HR issues and how they apply in the government and non-profit sector than at a KPHRA Conference. Here you will find other professionals who face many of the same challenges as you do on a day-to-day basis, and let's not mention the great friends we all have a result.

Last year had some bumps in the road, but KPHRA came through strong as always. The Kentucky Council of ADDs has a new Executive Director, Darrell Link, who is rearing to help us as we continue to find our way post-EKU. New certification guidelines make it easier than ever to get and maintain your certification.

I look forward to seeing you soon at the conference in May!

Craig T. Bohman, KPHRA President

Think Your Wellness Program is Compliant?

If so, you may want to consider recent litigation involving the Equal Employment Opportunity Commission (EEOC). Regulations issued pursuant to HIPAA that were recently modified by the Affordable Care Act included very specific provisions regarding what employers may and may not do with respect to wellness program incentives. These regulations were issued by the “Tri-Agencies”: the IRS, Department of Labor, and Department of Health and Human Services. Wellness programs, however, also fall within the purview of the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA). These statutes prohibit medical examinations or inquiries that are not job-related or consistent with business necessity or part of a “voluntary” wellness program. Both the ADA and GINA are enforced by the EEOC, which has filed three lawsuits in the past seven months against employers, alleging the employers’ wellness programs violated these federal laws because they included financial penalties or other punitive measures.

In two of the cases (*EEOC v. Flambeau* and *EEOC v. Orion*), the wellness programs at issue were highly punitive in nature, involving firing or termination of health coverage. In the third case (*EEOC v. Honeywell*), the financial penalties were more like those commonly seen in employer wellness programs (an annual surcharge of between \$500 and \$2,500 and non-receipt of up to \$1,500 in HSA contributions). According to the EEOC, requiring completion of health risk assessments and biometric screenings in order to avoid a financial penalty renders these programs involuntary and therefore in violation of the ADA; furthermore, in *Honeywell*, the EEOC argued that requiring an employee’s family members to complete a health risk assessment runs afoul of GINA.

In light of the recent EEOC litigation, employers may want to examine their wellness programs and consider making adjustments that may lessen the risk of EEOC scrutiny or liability under the ADA or GINA. The following are some suggestions that may help:

- 1) At least one federal appeals court (the 11th Circuit, which would not be binding authority in Kentucky, but could be used as persuasive authority by other federal courts) has held that when a wellness program is part of an employer’s health plan, it is not subject to the ADA voluntariness standard (*Seff v. Broward County*). If your incentive is built into the premium structure for your health plan (as opposed to other types of incentives, such as HSA or FSA contributions), this could be viewed as removing the voluntariness question altogether.
- 2) If your wellness incentive is offered in the form of a premium differential, you may want to structure the differential in a non-punitive way. While in reality having “preferred rates” for wellness participation may have the same effect as charging a higher premium for non-participation or assessing a surcharge, the EEOC specifically took issue with the punitive nature of the actual surcharges (up to \$2,500 per year) being assessed in the *Honeywell* case, as well as the forfeiture of HSA contributions. Apparently semantics are important to the EEOC. You may want to consider presenting your incentive positively rather than as a surcharge or punitive premium.

Lisa Stamm, Esq.
Vice President, Consulting Services
SHERRILL MORGAN
525 W. Fifth Street, Suite 310
Covington, KY 41011(800)727-6966
(859)291-6600
(859)291-7805 (fax)
e-mail: lisa@sherrillmorgan.com

Summary of Final PPACA Wellness Regulations (continued)

3) With respect to the GINA issues, the EEOC in *Honeywell* took issue with programs that provide an incentive for spouses or other dependents to complete health risk assessments or participate in biometric screenings. According to the EEOC, this violates GINA's prohibition against offering incentives to an employee in order to obtain family medical history in connection with a wellness program. Until the federal court in the *Honeywell* case rules on the merits of the EEOC's claims, employers may want to avoid providing financial incentives for having spouses or other dependents complete health risk assessments or biometric screenings.

The EEOC's actions have introduced a considerable amount of uncertainty to an area of compliance that is already very complex. We are hopeful that the EEOC will issue regulatory guidance that will clarify what is allowable, or that the federal courts will rule quickly on these issues. Congress has also been asked to intervene to settle what is an obvious disconnect between multiple federal agencies. Employers have invested vast amounts of resources in their wellness programs and need to be able to make informed decisions regarding the future of these initiatives.

Lisa Stamm, Esq.
Sherrill Morgan

KPHRA Certification/Recertification

The KPHRA Certification Program is distinguished from other certification programs for public human resources professionals by:

1. its focus on the public sector, and the particular problems and needs of public sector Human Resource Administrators in KY; and
2. its emphasis on developing and maintaining knowledge about contemporary public sector problems and issues; and
3. its role in facilitating professional interaction and exchange among Human Resource peers in KY.

In addition, credit in the program may count towards SHRM certification.

For more information about the certification and re-certification program visit our website at www.kphra.org.

CONFERENCE SCHEDULE

KPHRA 2014 SPRING CONFERENCE AGENDA FLORENCE, MAY 13TH – 15TH, 2015

Tuesday – May 12

6:00 p.m. – 7:30 p.m.

7:45 p.m.

After dinner

Board Meeting

Meet in lobby for Board Dinner

Hospitality room – Networking & Refreshments

Wednesday – May 13

8:00a.m. – 8:30 a.m.

8:00 a.m. – 8:30 a.m.

8:30 a.m. – 8:45 a.m.

8:45 a.m. – 9:15 a.m.

9:15 a.m. – 10:15 a.m.

10:15 a.m. – 10:30 a.m.

10:30 a.m. – 11:30 a.m.

11:30 a.m. – 1:00 p.m.

1:00 p.m. – 2:30 p.m.

2:30 p.m. – 2:45 p.m.

2:45 p.m. – 4:15 p.m.

4:15 p.m. – 5:30 p.m.

5:30 p.m. – 5:45 p.m.

6:00 p.m.

After dinner

Continental Breakfast Sponsored by Kentucky League of Cities

Registration

Welcome/Introduction/Certification Update Craig Bohman, KPHRA President

Business meeting Craig Bohman, KPHRA President

Distractions: Getting Back On Track James Driver, IRS

Break

PPACA Update Sherrill Morgan Staff

Lunch

Legislative Update Bryanna Carroll and Tyler Campbell - KLC

Break

SHERPA Coaching Judith Colemon Kinebrew, Sherpa Coaching, LLC

What Keeps You Up At Night Cathy Morris, City of Murray

Day 1 Wrap-up and prize drawing Craig Bohman, KPHRA President

Dinner on your own

Hospitality room – Networking & Refreshments

Thursday May 14

8:00a.m. – 8:30 a.m.

8:00 a.m. – 8:30 a.m.

8:30 a.m. – 10:30 a.m.

10:30 a.m. – 10:45 a.m.

10:45 a.m. – 12:00 p.m.

12:00 p.m. – 1:00 p.m.

1:00 p.m. – 2:30 p.m.

2:30 p.m. – 3:30 p.m.

3:30 p.m. – 5:00 p.m.

5:00 p.m. – 5:15 p.m.

6:00 p.m.

After Dinner

Continental Breakfast sponsored by OPEN

Registration

Internal Investigations Panel: Cities of Covington and Florence

Break

Personnel Law Andrea Shindlebower, KLC

Lunch

KRS Update Gary Toy, Field Representative. KRS

Criminal Background/Conviction History Kimberlee Walden & Janina Villanueva, City of San Francisco

How To Position Yourself During/With a Disgruntled Termination KCAB Police/SWAT @ Training Facility

Day 2 Wrap-up and Prize drawing Craig Bohman, KPHRA President

Evening Dinner & Event Tour of KCAB FAA Tower

Hospitality room – Networking & Refreshments

Friday May 15 (morning)

8:00a.m. – 8:30 a.m.

8:00 a.m. – 8:30 a.m.

8:30 a.m. – 9:30 a.m.

9:30 a.m. – 10:30 a.m.

10:30 a.m. – 10:45 a.m.

10:45 a.m. – 12:00 p.m.

12:00 p.m. – 12:15 p.m.

Continental Breakfast

Registration

Scary Recent Rulings in Employment Law Louis Kelly - ASWD

Exempt vs. Non-Exempt Status Representative from KY DOL

Break

The Role of the FBI in Data Breach Investigations & Programs in Place to Assist

Businesses Dan Jackman, Cyber Crime Task Force - FBI

Conference Wrap-up and Prize/Raffle drawings Craig Bohman, KPHRA President

KPHRA Spring 2015 CONFERENCE

The Spring 2015 KPHRA Conference will be held May 13 -15 at the Cincinnati Hilton, Florence, KY. Please call 859.371.4400 for reservations.

Website: www.cincinnatiairport.hilton.com

Room rates are \$109 per night, plus tax.

The deadline for room reservations is April 21, 2015.

Please mention "Kentucky Public Human Resources Association" when making your reservation!

NAME _____

ADDRESS _____

CITY, STATE, ZIP _____

PHONE _____ FAX _____ EMAIL _____

EMPLOYER _____

POSITION TITLE _____

Full Registration*

_____ \$350 (for members)

_____ \$400 (for non-members)

Attend "Evening Event" (TBA) on Thursday? ___Yes ___No

*Includes all conference events, lunch Wednesday & Thursday.

KY Public Human Resources Association

One Day Registration fees

Includes daytime events and lunch only for Wednesday and Thursday.

_____ One Day registration for Wednesday (\$150)

_____ One Day registration for Thursday (\$150)

_____ One Day registration for Friday (\$75)

Student Registration

_____ \$50; day program; lunches. Student ID required.



Make checks payable to "KPHRA" and mail with registration form to:

KPHRA Treasurer c/o Jody Mann
PO Box 10300
Bowling Green, KY 42102-7300

REFUND POLICY

Full refunds may be made until May 1, 2015. After May 1, 2015, 50% re-funds may be made until May 7, 2015. After May 7, 2015 refunds can only be made for family medical emergencies with prepaid expenses deducted.

Individual items may not be deducted from the registration fee.

**KENTUCKY
PUBLIC
HUMAN
RESOURCES
ASSOCIATION**

Contact Information

Officers

Craig Bohman, President
City of Villa Hills
Rogers Road
Villa Hills, KY 41017

Vicki Crawford, President-
Elect
Human Resources Manager
Sanitation District No. 1
1045 Eaton Drive
Ft. Wright, KY 41017

Jody Mann, Treasurer
BGMU
801 Center Street
P.O. Box 10300
Bowling Green, KY 42102-
7300

Karen Domaschko, Secretary
NKY Health Department
610 Medical Village Drive
Edgewood, KY 41017

Missy Andress,
Past-President
City of Erlanger
505 Commonwealth Ave
Erlanger, KY 41018

Board Members

Board members to serve remaining term through 2015:

Kim Clemons
Vicki Crawford
Catherine Morris
Jim Roberts

Board members to serve a 2-year term through 2016:

Karen Cracraft
Martha Cosby
Connie Galloway
Jill Hartley

**THANKS TO THESE ORGANIZATIONS FOR SPONSORING THE
2015 SPRING CONFERENCE**

SHERRILL  MORGAN

MedBen[®]



Kentucky League of Cities