



## HHRAM Herald Spring 2009

*The HHRAM Herald is the quarterly member newsletter for HHRAM members. To submit an article please send an email to [info@hhram.org](mailto:info@hhram.org)*

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### **Coming Events**

2009 Spring Conference "Mission Possible – HR Making a Difference"  
April 16-17, 2009

Save the Date for the 2009 Fall Conference in Rochester  
August 26-28, 2009

*Please see the website for details about coming events*  
<http://www.hhram.org/events.htm>

### **Announcements**

Scholarship Applications are now being accepted for the 2009-2010 academic year. Please see the article on page 3 or go to [www.hhram.org](http://www.hhram.org) for more information.

*Think of managing change as an adventure. It tests your skills and abilities. It brings forth talent that may have been dormant. Change is also a training ground for leadership. When we think of leaders, we remember times of change, innovation and conflict. Leadership is often about shaping a new way of life. To do that, you must advance change, take risks and accept responsibility for making change happen. Charles E. Rice, CEO of Barnett Bank*

Economic, political and workforce changes will continue to challenge both healthcare and human resources in 2009. This is the time to focus our energies on delivering value by aligning everything we do with the business strategies of our organizations. This is the time for us to continue to find ways to build our business partner knowledge base. While we will all be pressed for time, HHRAM, as well as ASHHRA, will focus on supporting you and your organization's success through this difficult time.

Toward that end, HHRAM has several focused initiatives outlined for 2009. Our first initiative is to assist organizations in creating a culture of safety and healthy behavior. Together, HHRAM and the Minnesota Organization of Nurse Leaders will help HR and nursing leadership to create shared expectations and accountabilities which will help to ensure that a healthy behavior culture permeates throughout their organizations. This will be kicked off during our spring conference.

This brings us to our second goal; to continue to bring you relevant education and networking opportunities through our bi-annual conferences and regional education sessions. Networking and communication goals will continue into this year; including encouraging membership through regions and a new web site. Watch for notices to access to new site in the near future!

I would like to thank Jennifer Gryte, past president for her exceptional vision and leadership for HHRAM and the HR profession. Jennifer did an excellent job and deserves our thanks for a job well done. I look forward to serving you this year as HHRAM president and encourage you to get involved in this vibrant organization!

Looking forward to seeing all of you at the spring conference!

Becky Thiesfeld  
HHRAM President

## New and Improved HHRAM Website launches on April 20, 2009

By Marit Brock, HHRAM Marketing Director

After several months of working behind the scenes we are happy to announce that the updates to the HHRAM website will go into effect on April 20<sup>th</sup>.

Some of the highlights of the new site include:

- A more modern look and easy to read pages.
- The ability to set your own username and password to something easy for you to remember
- Enhanced job posting feature
- Easy to use chat forum with alerts and email features.
- And much more...



Watch for an email announcement with details!

## Ready for Success and HHRAM Partner up again in 2009!

By Jennifer Gryte, HHRAM Past-President

HHRAM had partnered with Ready For Success for a second year, and would like to ask for your support for a clothing drive taking place at our Spring Conference April 16-17<sup>th</sup>. Ready For Success assists women to get back in to the workforce through coaching, mentoring and providing professional clothing and personal hygiene items.

Please bring donations of professional clothing and personal hygiene items to the spring conference.

Item accepted:

**ONLY SPRING/SUMMER ATTIRE ACCEPTED** (limited storage space)

- ❖ Professional clothing: blazers, skirts, slacks, blouses, dresses
- ❖ Undergarments, socks and pantyhose
- ❖ Shoes and belts
- ❖ Purses, scarves, and jewelry
- ❖ Seasonal outerwear
- ❖ Personal hygiene items like soap, shampoo, toothpaste, tampax deodorant and make-up

Items not accepted:

- ❖ Jeans, sweats
- ❖ T-shirts with slogans
- ❖ Opened make-up and personal hygiene products.

All donations are tax- deductible and tax receipts are available. You will be entered into a drawing for each item of clothing you donate. Please e-mail Jennifer Gryte at [jgryte@mngastro.com](mailto:jgryte@mngastro.com) if you have questions.

## Minnesota's Drug and Alcohol Testing Statutes: A Trap for Unwary Employers

By Brian Benkstein

A recent decision from the Federal District Court in Minnesota interpreting Minnesota's Drug and Alcohol Testing Statutes highlights the numerous legal "landmines" for employers under these complicated and sometimes vague statutes. Employer missteps related to policy content, policy implementation and related employment decisions all create opportunities for legal exposure.

Minnesota's Drug and Alcohol Testing statutes, Sections 181.951 *et seq.*, ("Testing Statutes") have been on Minnesota's law books for over twenty years. The substantive provisions of the Testing Statutes are in some instances vague and in most instances cumbersome. What is more, there have been few court decisions which have analyzed these laws. As a result, there has been little helpful guidance for employers forced to navigate the numerous technical requirements contained in Testing Statutes.



As a general rule, the Testing Statutes place limitations upon an employer's ability to force job applicants or employees to undergo drug and alcohol testing. Testing is allowed under limited circumstances including: job applicant testing (after a conditional job offer has been made); physical examination testing; random testing; reasonable suspicion testing and treatment program testing. Each type of testing has its own specific requirements that must be followed, precisely. And, if an employee tests positive for drug or alcohol use, the employer must afford the employee certain rights. For example, an employee has the statutory right to request a re-test of a confirmatory positive test.

Importantly, the Testing Statutes limit an employer's ability to terminate an employee based on a positive drug or alcohol test. An employer must first provide the employee with an opportunity to participate in a drug or alcohol counseling or rehabilitation program. Then, termination is only permitted when the employee has either refused to participate in the program, the employee has failed to successfully complete it, or the employee tests positive on a drug or alcohol test following the program. As discussed below, this significantly alters the employment at-will relationship with an employee who is subjected to a test, who tests positive and then participates in treatment.

In late 2008, the Federal District Court in Minnesota issued a decision, Wehlage v. ING Bank, FSB, Civ. No. 07-CV-1852, 2008 WL 4838718, which shed some much needed light on the Testing Statutes. The employee in this case had a drug addiction. He entered a treatment program and received time off to attend it. About a month after his return to work, the company asked him to submit to a drug and alcohol test since he had recently returned to work following a treatment program (post-treatment testing is authorized under the Testing Statutes). The employee failed the test and the employer gave him two options: (1) take a severance package and quit, or (2) go into treatment again and use unpaid leave under the Family and Medical Leave Act. The employee chose the latter.

After several months, the employee completed the first phase of an intensive inpatient treatment program. Although the employee's doctor estimated the employee could return to work shortly after the in-patient treatment, the employee ended up needing significantly more time. Eventually, the employee's FMLA exhausted but he was still unable to return to work. As a result, the employer terminated the employee despite the fact that he was still engaged in a drug and alcohol treatment program.

The employee subsequently brought a lawsuit against the employer alleging violations of the Testing Statutes. The employer attempted to avoid liability by arguing to the court that because the employee tested positive following his first stint at rehab, the employer was within its rights to terminate his employment after he tested positive upon his return to work. Unfortunately for the employer, the court flatly rejected this argument. Since the employee voluntarily entered treatment the first time and

because that treatment had no connection whatsoever to a positive drug and alcohol test in the workplace, it didn't "count" for purposes of satisfying an employer's obligations under the Testing Statutes. According to the court, the employer should have instead provided the employee the full opportunity to participate in the rehabilitation program – even though it continued for longer than expected. The court rejected the employer's argument that the employee should not be able remain on leave indefinitely, just because he was in a treatment program because had the Minnesota state legislature sought to set time limits upon which an employee needed to return to work after or during a treatment program it could have so specified. Thus, an employer may not discharge an employee who is actively seeking treatment following the first positive drug test -- as was the case here.

The Wehlage case serves as an important reminder that employers should re-evaluate its policies and practices if it conducts drug and alcohol testing of its job applicants or employees. First, and foremost, an employer must have a written policy that complies with the Testing Statutes in order to conduct testing in the first place. Second, the Testing Statutes require that the policy must contain specific information. Third, employers should be wary of the many procedural requirements when implementing a testing policy. By taking these practical steps, employers can go a long way in mitigating their risks under the Testing Statutes, and in so doing, avoid the many legal "landmines" discussed above.

*Brian T. Benkstein, is an attorney at the Minneapolis offices of Felhaber, Larson, Fenlon & Vogt. Brian focuses his practice exclusively on management-side representation in the area of employment and labor law. If you have questions about this article, he can be reached at 612-373-8538 or at [bbenkstein@felhaber.com](mailto:bbenkstein@felhaber.com).*

### **HHRAM SCHOLARSHIP APPLICATIONS NOW BEING ACCEPTED**

HHRAM has a scholarship program to encourage undergraduate and graduate level academic pursuits for a career in healthcare or healthcare human resources. Eligible applicant must be:

- HHRAM member;
- Dependent son or daughter of a HHRAM member;
- Employee from a HHRAM member's workplace; or
- Current HHRAM member pursuing PHP or SPHR certification

To learn more about the HHRAM scholarship program and to print an application, visit [www.hhram.org](http://www.hhram.org). Completed applications with required documentation must be received by HHRAM no later than July 1 for the school year September 1, 2009 – August 31, 2010. Please mail the application and documentation to:

Healthcare Human Resources Association of Minnesota  
c/o Team, Inc.  
W175 N11117 Stonewood Drive, Suite 204  
Germantown, WI 53022  
Or e-mail to:  
[hhram@teamwi.com](mailto:hhram@teamwi.com)

## ASHHRA Update

By Karmen Reid, HHRAM ASHHRA Liaison

In December, I completed my two-year ASHHRA Regional Consultant role, representing the Midwest, and have now accepted an ASHHRA Board role as the Director of Regional Consultants. This means that I will be able to keep you up-to-date on what is happening at ASHHRA. Here are some things ASHHRA is working on....

- Creating a social online community called myashhra.org. This will be linked to the regular ASHHRA website. We will also create a link there to the HHRAM website. It will be coming out soon. Non-ASHHRA members will have some, but not full, access.
- Changing Chapter Management program. For our 2009 year, the guidelines will be changing. We will get bonus points for some of the activities that HHRAM does well – interact with other chapters, strong conferences, our community service initiatives, and our participation in ASHHRA activities. The new information will be on the ASHHRA website soon.
- Enhancement of the ASHHRA website. There are lots of white papers, webinars, and resources (sample policies, forms, best practices) that are now available. ASHHRA continues to build a library of these items for members.

Please consider becoming a member of ASHHRA if you aren't already. ASHHRA is working very hard to be the professional association of choice for healthcare HR professionals.

Remember that ASHHRA's annual conference will be in nearby Chicago this year. Let's try to send a strong Minnesota representation. The dates are November 1 – 3. If you register by March 31, you get an early-bird discount. Check it out at [www.ashhra.org](http://www.ashhra.org)



**Do you have information that you want to see in the HHRAM Herald?**

We are interested in seeing well-written features, how-to articles, book excerpts, legal updates, best practice tips and hints, instructions, motivational articles and other articles that will help our members gain knowledge that will help their organizations and/or their career.

For the full newsletter submission guidelines please go to [www.hhram.org](http://www.hhram.org)

## The 2009 HHRAM Executive Committee

The HHRAM Board of Directors is made up of current HHRAM members and meets monthly to continue the business of HHRAM. The Executive Committee provides leadership to the Board of Directors and is elected directly by HHRAM members. We welcome feedback so please contact us with suggestions, concerns or compliments that will help us continually improve HHRAM!

President, Rebecca Thiesfeld. Becky is the Director of Human Resources for Cuyuna Regional Medical Center in Crosby. Her phone number is 218-546-2353 and email address is [rthiesfeld@sisunet.org](mailto:rthiesfeld@sisunet.org)

President-Elect, Sarah Fredrickson. Sarah is a Senior Compensation Analyst with Mayo Clinic in Rochester. Her phone number is 507-284-8698 and email address is [Fredrickson.Sarah@mayo.edu](mailto:Fredrickson.Sarah@mayo.edu)

Treasurer, Maritza DeJesus. Maritza is the Director of Human Resources and Chief Administrative Officer for West Side Community Health Services in Saint Paul. Her phone number is 651-602-7561 and email address is [mdejesus@westsidechs.org](mailto:mdejesus@westsidechs.org)

Secretary, Jody Bjerke. Jody is the Director of Human Resources for Johnson Memorial Health Services in Dawson. She can be reached via email at [personnel@jmhsdawson.com](mailto:personnel@jmhsdawson.com)

Past President, Jennifer Gryte. Jennifer is the Human Resources Manager for Minnesota Gastroenterology in the Twin Cities. Her phone number is 612-870-5562 and email address is [jgryte@mngastro.com](mailto:jgryte@mngastro.com)

For a complete listing of the HHRAM board members and Region Directors please visit the HHRAM, Inc. Leadership section of the HHRAM website at <http://www.hhram.org/leader.htm>

### HHRAM, INC. VISION STATEMENT

The Healthcare Human Resources Association of Minnesota, Inc. will be the professional association of choice for healthcare Human Resource Professionals, supporting the members through advocacy, innovation, collaboration, partnership, education and networking.

