



NEWSLETTER

SEPTEMBER 2016

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President's Address

Hello, NUHRA Members!

Hard to believe school has started already!
Fall is about here.

We had a great golf tournament last month. It was a beautiful day and, best of all, funds were raised to help with scholarships for the HR students at Weber State University.

Next up, we have the Crossroads Conference to look forward to. On Tuesday, September 27th and Wednesday, September 28th HR Professionals from all over the state will come together at the Davis Conference Center in Layton, UT. The presentations are varied and interesting. Please go to www.utahcrossroadsconference.org for more information and to register. Hope to see you there!

We will be meeting as a group again on October 20th at Jeremiah's. Please tell your friends and colleagues of our meetings. We love to have guests!

If anyone is interested in joining the NUHRA Board, please contact me or any board member. 2017 is just around the corner.

Hope everyone has a happy and safe fall!

Veronica Akers – NUHRA President

2016 Board Members

- President | Veronica Akers
- President Elect | Alison Evans
- Secretary | Ronda Bateman
- Treasurer | Darrel May
- VP Membership | Steven Maughan
- Communications | Trisha Clark
- Programs | Shauna Greer
- Certification | Kevin Smith
- Hospitality | Ashley Wendt
- Workforce Readiness | Tia Larsen
- Diversity | Christina London
- Legislative Representative | Jesse Oakeson
- Public relations | Kathy Hammerle
- Foundation Liaison | Stacey Comeau
- Student Liaison | Pat Wheeler
- Student President | Curtis Waite
- Golf Committee Chair | Shawn Choate
- Past President | Crista Sanchez

AFFILIATE OF



SOCIETY FOR HUMAN
RESOURCE MANAGEMENT



Upcoming Events

Utah Crossroads Conference

September 27-28
Davis Conference Center
1651 N 700 W
Layton, UT 84041

<http://utahcrossroadsconference.org>



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October Luncheon

October 20th @ 11:30 a.m.
Jeremiah's Restaurant
1307 W 1200 S, Ogden

You, Others & the Next Level

Presenter | Kevin Scott

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November Luncheon

November 17th @ 11:30 a.m.
Jeremiah's Restaurant
1307 W 1200 S, Ogden
Presenter | Mikhail Shneyder

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December Luncheon

December 15th @ 11:30 a.m.
Jeremiah's Restaurant
1307 W 1200 S, Ogden
Presenter | Roger Knecht of Universal Accounting

**For more information on upcoming events
visit www.nuhra.org**

HR Humor

A Good
HR Manager
NEVER Makes
Mistakes.

These funnies landed on the desk of the Human Resources Director

1. I have a graduate degree in unclear physics.
2. My hobbies include raising long-eared rabbits as pets.
3. My last job was as a plumbing and hating specialists.
4. I worked for 6 years as an uninformed security guard.
5. The academic scholarship I earned came with a plague.
6. Most of my experience to this point has been as a blue-color worker.
7. As part of the city maintenance crew, I repaired bad roads and defective brides.
8. My career goal is to shave my talents with a growing company.
9. This has reference to your advertisement calling for a 'typist And an accountant - Male or Female'... As I am both for the past Several years and I can handle both; I am applying for the post.
10. As my mother-in-law has expired and I am responsible for it, Please grant me 10 days leave.

The ADA and Prescription Meds: What You Need to Know



By Jon Hyman

Jon is a partner at Myers, roman, Friedberg & Lewis in Cleveland

Can an employer include prescription medications in its drug screening of job applicants and employees? Here's a good lawyer answer for you: It depends.

Last week, the EEOC announced that it had sued an Arizona car dealership for disability discrimination after it rescinded a job offer when a pre-employment drug test revealed a prescription drug used to treat a disability.

According to EEOC's lawsuit, Bell-Arrow Automotive, Inc. (doing business as Bell Lexus), a subsidiary of Bell Leasing, Inc. (doing business as The Berge Group), maintained a policy of refusing to employ any applicant who tested positive for one of several enumerated substances on a list identified by Bell Lexus and the Berge Group. Bell Lexus extended a job offer to Sara Thorholm to work as product specialist or a salesperson, but rescinded it when her drug test returned positive for a single substance. Thorholm explained to Bell Lexus that the substance was legally prescribed to treat a disability and would not affect her ability to perform the duties of the job. Bell Lexus refused both Thorholm's offer of proof and her offer to change medications.

The EEOC contends that the employer violated the ADA by maintaining a "blanket exclusion policy" for certain prescription medications, and refusing to consider an exception to its drug testing policy as a reasonable accommodation. Indeed, according to

the EEOC's Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA, in most cases an employer cannot even *ask* about prescription drugs:

Asking all employees about their use of prescription medications is not job-related and consistent with business necessity. In limited circumstances, however, certain employers may be able to demonstrate that it is job-related and consistent with business necessity to require employees in positions affecting public safety to report when they are taking medication that may affect their ability to perform essential functions. Under these limited circumstances, an employer must be able to demonstrate that an employee's inability or impaired ability to perform essential functions will result in a direct threat. For example, a police department could require armed officers to report when they are taking medications that may affect their ability to use a firearm or to perform other essential functions of their job. Similarly, an airline could require its pilots to report when they are taking any medications that may impair their ability to fly. A fire department, however, could not require fire department employees who perform only administrative duties to report their use of medications because it is unlikely that it could show that these employees would pose a direct threat as a result of their inability or impaired ability to perform their essential job functions.

The ADA and Prescription Meds cont.

In other words, it is the rare case in which an employer is justified in asking about prescription meds, or disqualifying from employment one who tests positive.

How is an employer supposed to maintain a safe workplace in light of these limitations? Here are four thoughts.

1. *Blanket prohibitions are illegal.* The ADA imposes on employer an obligation to make individualized inquiries about implications such as reasonable accommodations and direct threats. A blanket prohibition against on-the-job use of prescriptions medications violates this obligation.
2. *Drug testing.* Drug testing programs can include legally prescribed drugs. An employer cannot, however, have a blanket policy excluding from employment any employee testing positive for a prescribed drug. Instead, following a positive test, the employer should ask if the employee is taking any prescribed drugs that would explain the positive result.
3. *Drug-free workplace policies.* It is permissible to include prescription drugs in drug-free workplace policies. These policies can require employees to disclose prescription drugs that may adversely affect judgment, coordination, or the ability to perform job duties. After disclosure, an employer must, on a case-by-case basis determine whether it can make a reasonable accommodation that will enable the individual to remain employed.
4. *Post-disclosure handling.* After an employer learns that an employee is taking a prescription drug that may affect job performance, it should request a medical certification regarding the effect of the medication on the ability safely to perform essential job functions. That certification will enable the employer to engage the employee in the interactive process and making the individualized determination of whether a reasonable accommodation is even possible.

“What about medical marijuana,” you ask? How do these ADA concerns impact its impending legality? I’ll have more to say about this in a future post, but, *most* of the courts that have examined the issue of workplace drug testing for states in which medical marijuana is legal have concluded that the ADA does not protect medical marijuana because the drug remains illegal under federal law. Stay tuned, however, as the issue of medical marijuana under the ADA is nuanced and certainly developing and subject to change.



Reach Out to Workers Living Paycheck-to-Paycheck

By Stephen Miller, CEBS

Roughly 3 in 4 workers in the U.S. say a delayed paycheck would have an immediate impact on their financial well-being, indicating that they are living paycheck-to-paycheck.

The survey, conducted in spring 2016 among 2,000 full-time and contract workers, revealed "the precarious financial position of many American workers in 2016," said Brent Warrington, CEO of San Francisco-based Hyperwallet, a provider of payee account services and the survey's sponsor.

Half of respondents reported that they would have to stop buying nonessential items and delay payment on important bills in the event of a delayed paycheck, according to the firm's *Payday in America* report.

On a positive note, most American workers are satisfied with the way they receive their paychecks, the Hyperwallet survey found, with 82 percent of workers receiving direct deposit and 78 percent indicating that their payments are processed in two days or less.

But contract workers often wait for payments much longer than their full-time counterparts: About 28 percent of contract workers wait three to four business days for a payment to process, while an additional 15 percent wait more than a week, forcing them to deal with inconsistent payment dates as many struggle to make ends meet.



Not Just Low-Wage Workers

The above findings are in line with other survey results released in August by recruitment website CareerBuilder. This survey of more than 3,200 full-time employees, fielded in May and June, found that:

- 38 percent of workers said they sometimes live paycheck-to-paycheck.
- 23 percent said they always do so.
- 15 percent said they usually do so.

It's not just minimum-wage workers who are struggling, CareerBuilder found. While the likelihood of living paycheck-to-paycheck decreases for workers with higher salaries, a lack of savings was found among all salary ranges:

- 9 percent of workers making \$100,000 or more feel they usually or always live paycheck-to-paycheck.
- 23 percent of workers making \$50,000-\$99,999 feel the same.
- 51 percent of those making less than \$50,000 agree.

Reach Out to Workers cont.

Further, 68 percent of all workers say they're in debt, CareerBuilder found, and among those workers only 46 percent say their debt is manageable. That's having an effect on their retirement savings, the findings suggest:

- 36 percent of all workers do not participate in a 401(k) or comparable workplace retirement plan, or in an individual retirement account (IRA) outside of work.
- 25 percent have not set aside any savings each month over the last year.
- 16 percent have reduced their 401(k) contribution and/or personal savings in the last year.

Better Savings Habits

An Aug. 29 online post by Christina Lavingia, an editor at the personal finance website [GoBankRates.com](#), [addresses those struggling to make ends meet](#) and cautions that "sometimes, your income isn't the culprit—it's your financial habits, or lack thereof."

Making common mistakes often leads people to end up living paycheck-to-paycheck, "no matter how big your paycheck is," Lavingia observed. These missteps, which employers can warn against as part of their financial wellness initiatives, include:

- **Paying only the monthly minimum on credit card debt**, so that an increasing share of employees' income goes to interest payments.

- **Trying to "keep up with the Joneses"** by living a lifestyle beyond what employees and their families can afford.
- **Failing to have a budget**, since a budget helps employees to calculate how much money they can allot to food, housing, transportation and personal expenses while still saving for anticipated future expenses (such as college tuition) and developing an emergency fund for irregular expenses (such as car repairs and home maintenance)—without being pushed further into debt.

