

The Butler/Warren County Buzz



September 3 Monthly Meeting

BWSHRM and Ohio Employers Council:

Speakers: Scott Warrick, JD, MLHR, CEQC, SPHR
Cost: \$25.00 for members, \$50.00 for non-members
Date: Thursday, September 3, 2009
Time: 7:15 AM – Registration/Networking
7:30 AM – Breakfast
8:00 AM - 10:00 AM - Presentation



Location: Miami University Hamilton- Harry T. Wilks Conference Center 1601 University Blvd

Directions: From 75, take 129 W towards Hamilton. Turn left on Martin Luther King Jr. Blvd (127). Follow 127 left on Central Ave and continue on 127 onto Pleasant Ave. Turn right onto Fitton Ave. Fitton Ave dead ends into University Blvd. Turn right on University and parking lot is on the left.

“Emotional Intelligence, Tolerance & Diversity for White Guys ... And Other Human Beings”

PREVENTING Employee Problems from happening &
Training & Coaching Managers and Employees ON-SITE in over 40 topics

Scott travels the country presenting his revolutionary “**Emotional Intelligence, Tolerance & Diversity for White Guys ... And Other Human Beings,**” (**FINALLY ... A Program For EVERYONE!**) which focuses on the **BASIC SKILLS** needed to excel as an Emotionally Intelligent Communicator, or “Verbal Jujitsu,” as some like to call it. **SCOTT** teaches you how to not only “disarm” others when they attack you, but also how to build a more tolerant workplace between managers and employees, men and women, odd people and “more odd” people and so on. Scott’s clients include the Ohio Department of Administrative Services, The Office of Housing and Urban Development, The Bayer Corporation, The Ohio State University, Area Agency on Aging, Skyline Chili, The Ohio Supreme Court, Heinz Frozen Foods, Boeing, Honeywell, International Truck & Engine, MTD Products (Cub Cadet, Troy-Bilt & Bolens Lawn Products), Honda of North America, Utah State Workforce Development, etc.

Scott’s academic background and awards include:

- Masters degree in Labor and Human Resources: The Ohio State University
- Capital University College of Law (Class Valedictorian (1st out of 233))
- The Human Resource Association of Central Ohio’s Linda Kerns Award for Outstanding Creativity in the Field of Human Resource Management and the Ohio State Human Resource Council’s David Prize for Creativity in Human Resource Management

Solving Employee Problems BEFORE They Happen!

Please reserve your seat by Friday, August 28th by emailing Angela Sherrick at asherrick@generalrevenue.com or by calling 513-605-7402.

A MESSAGE FROM THE PRESIDENT

di-ver-si-ty: 1. the state or fact of being diverse; difference; unlikeness. 2. variety; multiformity. 3. a point of difference.
Synonyms: change, difference, variation, dissimilarity.

What a drab and boring world this would be if everyone was the same. Worse than that, if everyone was the same we would either still be back in the caves or possibly have killed ourselves off eons ago. There is plenty of data that establishes individuals are more comfortable around others who look like they do, who share the same worldview and knowledge base. Unfortunately, being comfortable at all times is not necessarily an advantage. We miss opportunities that others with a different perspective might see. We may not be prepared for adversity lurking around the corner. We would get tired of the same jokes!

In tough economic times it may seem expedient to ignore issues of diversity, because of our focus on just thrashing our way through our mounting challenges. But we do so at our own peril, because those many different views and approaches are different tools to expedite our journey to our destinations. Just like it takes more than just a rope to climb a mountain (and keep us from falling off), it takes more than one point of view to keep us competitive in the workplace today. Our September meeting with Scott Warrick broaches the subject of diversity in the workplace and should be a great reminder of what we can do to be more inclusive in our workplace. I hope to see you there.

Linda P. Stryker, PHR
President, B/WSHRM

President

Linda Stryker, PHR – HR Manager
Square D/Schneider Electric
5735 College Corner Road
Oxford, OH 45056
513-523-4176
Linda.stryker@us.schneider-electric.com

Secretary

Lisa Wray – HR Administrator
Miami Conservancy District
38 East Monument Avenue
Dayton, OH 45402
937-223-1278
lwray@miamiconservancy.org

Membership Advocate

Marc Fleischauer, SPHR – Partner
Porter Wright Morris & Arthur, LLP
1 S. Main St., Suite 1600
Dayton, OH 45402
937-449-6720
mfleischauer@porterwright.com

School-To-Work Advocate

Jeff Harvey, PHR - HR Specialist
Great Miami Valley YMCA
105 N. Second St.
Hamilton, Oh 45011
513-887-0001
jharvey@gmvyymca.org

College Relations Advocate

Chad Johnson – HR/Public
Relations Manager
Neturen America Corporation
2995 Moser Court
Hamilton, OH 45011
513-863-1900 x.11
chadjohnson@fuse.net

Vice President

Angela Sherrick, SPHR – Sr. HR Generalist
General Revenue Corporation
11501 Northlake Drive
Cincinnati, OH 45249
513-605-7402
asherrick@generalrevenue.com

Treasurer

David Beckett, CEBS
Principal
Mercer Health & Benefits, LLC
525 Vine Street, Suite 1600
Cincinnati, OH 45202
513-632-2624
dave.beckett@mercercor.com

Certification Advocate

Sandy Stude, SPHR – Corporate Director,
HR
Amtex, Inc.
1500 Kingsview Drive
Lebanon, OH 45036
513-933-6215
[sstude@amtexna.com](mailto:ssstude@amtexna.com)

Legislative Advocate

Jackie Cordell, PHR
Human Resources Consultant
bwshrmlegislativeadvocate@yahoo.com

Foundation Advocate

Katie Frey, PHR - HR Consultant
Mercy Health Partners
4600 McAuley Place
Cincinnati, OH 45242
513-981-6201
kafrey@health-partners.org

Diversity Advocate

Alicia King – Sr. HR Representative
Square D/Schneider Electric
5735 College Corner Road
Oxford, OH 45056
513-523-4176 x.291
alicia.king@us.schneider-electric.com

Public Relations Advocate

Brittany McIntyre - HR Assistant
Amtex, Inc.
1500 Kingsview Drive
Lebanon, OH 45036
513-933-6267
bmcityre@amtexna.com

Past President

Kristi Cain, SPHR – Director of HR &
Safety
Crane America, Inc.
3440 Office Park Drive
Dayton, OH 45439
937-293-6526 x. 246
kristi.cain@craneamerica.com

BWSHRM LOCAL MEMBERSHIP DRIVE



Once again, we want to challenge our members to participate in another year of growth by inviting a new member to join our chapter. In return for a new member application, you are invited to join us at the next breakfast meeting at no cost to you. Together, we can make it happen!

To request a membership application, please contact our Membership Advocate:

Marc Fleischauer, SPHR – Partner, Porter Wright Morris & Arthur, LLP
1 S. Main St., Suite 1600, Dayton, OH 45402
937-449-6720 or mfleischauer@porterwright.com

Or visit our website at www.ohioshrm.org/butler and click on the membership link for more information. If you are a SHRM National Member, your local dues are only \$45 per year. If you want to join our local organization only, your local dues are only \$90 per year.

We hope to see you soon!



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LEGISLATIVE UPDATE

“America is not governed by the majority, but by the majority of those who participate.” – Thomas Jefferson

Dear HR Professionals:

With summer winding down, now is a good time to take a look at where we are with regard to key pieces of legislation. The following is a synopsis of the bill, its status, and where applicable, SHRM’s public position – which can be utilized for letter writing to your local and federal lawmakers to participate and influence public policy and regulatory efforts. As a member of the HR community, it is important that you keep your elected officials informed on how public policy issues can affect your organization, its employees, and the HR profession as a whole. Visit

<http://www.shrm.org/Advocacy/GetInvolved/Pages/default.aspx>

An optional form letter is available for use by e or snail mail.

Enjoy the remainder of your summer!

Jackie Cordell – Legislative Advocate

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**FEDERAL
EMPLOYMENT/LABOR**

**Employee Free Choice Act of
2009- Employee Free Choice
Act of 2009**

The legislation would amend the National Labor Relations Act to change the procedures by which employees can form or join a labor organization, and require an arbitrator to produce a first contract binding on the employer and employees when contract disputes last longer than 120 days.

As the top legislative priority of organized labor, EFCA will certainly be considered by Congress in 2009. It is widely believed that some version of this bill will pass.

SHRM opposes the EFCA. SHRM believes Federal government-supervised private ballot elections best protect the privacy rights of individual employees in choosing whether to join a union. SHRM also believes mandatory binding arbitration would impose unwanted employment conditions on both employees and employers.

Alert Laid off Employees in Reasonable Time Act - Would amend the Worker Adjustment and Retraining Notification (WARN) Act by increasing WARN Act penalties from back pay to two times the amount of back pay and cover mass layoffs that occur at more than one site of an employer. A revision to the WARN Act is likely to be considered in the 111th Congress.

Wounded Veteran Job Security Act - Would expand the Uniformed Services Employment and Reemployment Rights Act (USERRA) to prohibit employer discrimination against armed service members who receive medical treatment related to military service. The bill also would allow employees to access USERRA leave prior to exhausting any accrued vacation, annual, medical, or other paid leave to cover time away from work to receive such medical treatment.

H.R. 466 will now be considered by the U.S. Senate, and stands a very good chance of becoming law in 2009.

HEALTHCARE

Healthy Workforce Act

Provides tax credits to employers for the costs of implementing wellness programs. The Healthy Workforce Act enjoys bipartisan support and could be considered during debate on comprehensive health care reform legislation. SHRM strongly supports the Healthy Workforce Act.

Emergency Retiree Health Benefits Protection Act

Would amend the Employee Retirement Income Security Act (ERISA) to prohibit employers from reducing or terminating retiree health benefit plans. H.R. 1322 has been referred to the House Education and Labor Committee. In recent years, key lawmakers have signaled an interest in amending ERISA in their efforts to promote access to health care coverage. As a result, H.R. 1322 could see action in the 111th Congress. SHRM opposes H.R. 1322 and signed onto a group [letter](#) in opposition to the bill in March 2009.

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TAXES AND BENEFITS

H.R. 1664, To amend the executive compensation provisions of the Emergency Economic Stabilization Act of 2008 - Amends the Emergency Economic Stabilization Act of 2008 (EESA) to prohibit a financial institution that receives or has received a direct capital investment under the Troubled Asset Relief Program (TARP) (from making a compensation payment to an executive or employee under a pre-existing compensation arrangement, or from entering into a new compensation payment arrangement, while that capital investment remains outstanding. Due to the current financial climate and the perception by many members of Congress that Chief Executives have mismanaged their stakeholders funds, there is motivation to safeguard investors money. This bill is likely to pass considering the public's outrage at companies for excessive compensations that have been paid. SHRM does not take a position on H.R. 1664. However, in general, SHRM believes that employers need to have the freedom to compensate their employees however they see fit, in order to stay competitive and attract the most talented people.

WORKPLACE FLEXIBILITY

Family and Medical Leave Enhancement Act - Would expand access to FMLA by covering employers with 25 or more employees and allows for "parental leave" under the FMLA. Several lawmakers have expressed an interest in expanding the FMLA, so provisions in H.R. 824 could be considered in the 111th Congress. SHRM believes the FMLA implementing regulations need further clarifications and opposes expansions of the Act at this time.

OHIO

H.B. 1 - EMPLOYER FINANCED HEALTH CARE, MANDATED BENEFITS

Summary: Final version (July 17) requires all employers that employ 10 or more employees to adopt and maintain a cafeteria plan that allows the employer's employees to pay for health insurance coverage by a salary reduction arrangement. Provides an exception for employers that already offer specified health benefits and requires the Superintendent to receive written confirmation from the federal government that the individual policies purchased under cafeteria plans do not need to comply with federal Health Insurance Portability and Accountability Act (HIPPA) requirements for group policies. **Status:** Governor Ted Strickland signed the budget into law with 61 line-item vetoes. The General Assembly may override the Governor's vetoes on a three-fifths vote of all members of both houses. However, due to the partisan split in both chambers, it is unlikely the General Assembly will consider such action. **Effective Date:** July 1, 2009

H.B. 40 - EMPLOYMENT DISCRIMINATION, FAMILY/ MEDICAL LEAVE, WAGE AND HOUR

Summary: Requires employers to exercise court-ordered parenting time without terminating employment, reducing pay or taking similar action against the parent. **Status:** During the April 23 hearing, the International Brotherhood of Teamsters and the Brotherhood of Locomotive Engineers and Trainmen testified in support of the bill. Representative Bacon (R) voiced opposition to the bill, citing the bill's prohibition of a reduction in pay for a parent who takes time off. No action was taken during the March 25 hearing. Legislation

will be considered when the General Assembly reconvenes September 15.

H.B. 46 - UNEMPLOYMENT INSURANCE

Summary: Permits a person who quit work to accompany person's spouse on a military transfer to be eligible for unemployment compensation benefits. **Status:** During the May 12 hearing, an amendment was proposed to extend benefits to spouses of recently discharged veterans. During the April 28 hearing, the bill sponsor provided testimony in support of this legislation. Legislation will be considered when the General Assembly reconvenes September 15.

H.B. 48 - FAMILY/MEDICAL LEAVE, MILITARY LEAVE

Summary: Current version (June 9) clarifies conditions that must be met under which an employer is required to allow an employee to take leave of up to 10 days or 80 hours, whichever is less. Amends the bill's definition of employer to those with 50 or more workers, instead of 15 as listed in the initial version. Requires employers to provide two weeks of leave to an employee who is the spouse or parent of a member of the military who is called to active duty or injured, wounded or hospitalized while serving in a combat zone. **Status:** The bill passed the House 86-8. The bill passed the Veterans Affairs Committee with amendments. Legislation will be considered when the General Assembly reconvenes September 15. **Effective Date:** 91 days after enactment

H.B. 176 - EMPLOYMENT DISCRIMINATION, WAGE AND HOUR

Summary: Current version (June 17) clarifies that employers have the right to establish a dress code. Prohibits quotas or affirmative action from being

allowed. Exempts businesses primarily religious in nature. Includes sexual orientation and gender identity in anti-discrimination laws. Prohibits employers from discriminating against employees or potential employees based on their sexual orientation and gender identity. Prohibits employers from determining an individual's wages based on their sexual orientation and gender identity. **Status:** The bill passed the State Government Committee with amendments on largely partisan lines. Legislation will be considered when the General Assembly reconvenes September 15.

H.B. 184 - IMMIGRATION AND EMPLOYMENT VERIFICATION

Summary: Requires employers to register and participate in a

status verification system, such as e-verify, to verify the work eligibility status of all new employees and to affirm their participation on their state income tax returns. Specifies that an employer's failure to affirm their participation in the status verification system on their state income tax returns constitutes falsification or dereliction of duty. Requires public agencies to cancel contracts with private employers who do not participate in a status verification system. **Status:** Representative Coley (R) noted the bill at present provides no immunity for businesses that receive incorrect information through E-Verify, recommending that such language could possibly be added. Legislation will be considered when the General Assembly reconvenes September 15.

S.B. 17 - WAGE AND HOUR

Summary: Provides private sector employees the option to accrue and use compensatory time off. **Status:** The bill passed the Insurance, Commerce and Labor Committee 8-3 along party lines and awaits further action on the Senate floor. Although the bill has garnered seven cosponsors, the lack of bipartisan support for the bill limits its likelihood of passage in the highly partisan Ohio legislature. Legislation will be considered when the General Assembly reconvenes September 15.

DOES WEIGHT IMPACT PERFORMANCE?



Dr. Regina Benjamin

President Barack Obama's nominee for Surgeon General, Dr. Regina Benjamin, might have an M.D. and an MBA, but it's her **BMI (body mass index)** that's received the most attention since her nomination was announced

July 13, 2009. Some critics suggest that this detracts from her ability to serve as a role model for a country of increasingly hefty citizens.

"By all accounts, Regina Benjamin is a smart, accomplished person, a caring and skilled physician and a real go-getter. Yet, by all appearances, she also is overweight," said Jennifer LaRue Huget in a July 22, 2009, *Washington Post* article.

"Though no one knows for sure, it's been speculated that Benjamin is about 40 pounds overweight," reports the *Atlanta Journal Constitution*. This means that she could be considered **obese** under federal guidelines.

The *Chicago Tribune* offers one reason why an overweight or obese surgeon general might be considered a problem: "Some

advocates say it's increasingly critical for health care workers and those with visible, influential roles to 'walk the walk' and serve as role models."

And with obesity on the rise in the U.S., this is no small problem.

As **SHRM Online reported recently**, "among U.S. adults obesity rates increased in 23 states and did not decrease in a single state in 2008."

But the public—by some accounts at least—is not concerned.

When asked if Regina Benjamin's weight made her a poor choice for surgeon general, two-thirds of respondents to a nonscientific user poll on *The Washington Post* web site said "no."

To some, her weight is even seen as an advantage. For example,

one commenter on the WeightWatchers.com online bulletin board said: "We all know how tough it is to lose weight. I kind of like the idea of having a surgeon general who understands it too."

Another Weight Watcher pointed out that weight and health don't always go hand in hand: "President Obama smokes and eats cheeseburgers. On the other hand, he runs and exercises regularly," the commenter noted. "He is thin, but thin is not an indicator of good health, in and of itself; nor is being overweight necessarily an indicator of poor health, in and of itself."

The Gender Penalty

Research suggests that Benjamin's weight might be seen as an issue simply because she is a woman.

Overweight and obese women are underrepresented significantly among the top CEOs in the United States, compared to the general population, according to research conducted by Mark Roehling, associate professor of human resource management at Michigan State University.

Of the 32 female CEOs in the *Fortune* 1000 between 2005 and 2008, four were deemed overweight or obese by observers skilled at judging weight accurately from photographs, Roehling says.

Roehling says negative stereotypes associated with weight are generally worse for women than for men, at least in the United States. "We tend to like males above their ideal weight and women below their ideal weight," he told *SHRM Online*, when it comes to general perceptions of attractiveness.

Is Weight Relevant?

Roehling said he's not surprised by the furor over Benjamin's weight, given his research, but he said it raises some interesting questions: When is weight relevant to hiring a person? And, in this case, what does having a certain weight or appearance have to do with being a role model? "What does the job description say for this position?" Roehling asked. "If you say being a role model is important, maybe you consider weight along with other factors. I can't imagine it would trump all other considerations."

Weight might be relevant for some jobs if a company has evaluated the job thoughtfully and determined that serving as a role model is important, Roehling said. But if that's the case, it should be spelled out clearly in advance, rather than being used as a factor when an overweight person comes for an interview, he adds.

However, according to the U.S. Department of Health and Human Services (HHS) web site, the [official duties of the surgeon general](#) contain no requirements regarding the health or fitness of the holder of the title, nor any expectation that the surgeon general emulate behaviors the United States wants its citizens to display.

Instead, it says, in part, that the surgeon general is expected to "protect and advance the health of the nation through educating the public, advocating for effective disease prevention and health promotion programs and activities, and, providing a *highly recognized symbol of national commitment* [emphasis added] to protecting and improving the public's health."

The Role of the Role Model

"Role models are people who others imitate, emulate or look to

for guidance," says Dr. Robyn Silverman, a child development specialist and blogger. She says positive role models:

- Model positive choice-making.
- Think out loud.
- Apologize for and admit mistakes.
- Follow through.
- Show respect.
- Are well-rounded.
- Demonstrate confidence in who they are.

In the workplace, the boss is the role model employees imitate. "People take their cues from the boss. The boss sets the tone and the standards. The boss sets the example. Over time, the department, the office, the store, the workshop, the factory and the company begin to do what the boss does," says the author of [*How to Become a Great Boss: The Rules for Getting and Keeping Great Employees*](#) (Hyperion, 2002).

Research certainly confirms this is the case, according to Marianne M. Jennings, professor of legal and ethical studies at Arizona State University's W.P. Carey School of Business.

She said a 2004 *Journal of Business Ethics* study concluded that the example managers set has the greatest influence on employees' behavior, even more so than what managers say and what is written in the company code of ethics.

Other research has found that factoring desired behaviors into performance evaluations does not have as much impact as the managers' example, she told *SHRM Online*.

"Employees take their signals from the leader—from the behaviors at lunch (tipping) to the behaviors at office retreats and company picnics," Jennings says.

DOES WEIGHT IMPACT PERFORMANCE?

“Employees let loose when the boss lets loose.

“Employees who may be troubled by the boss’ behavior will actually join in because they don’t want to be seen as self-righteous,” she adds.

“Employees do not expect managers to be perfect, but they do expect them to show good judgment and sincere efforts to live the values they espouse,” Jennings says.

Yet whether a heavy boss or CEO will lead to heavy employees—or a thin surgeon general will lead to thin U.S. citizens—remains to be seen.

Roehling said he is not aware of any research that suggests that companies with obese or overweight CEOs tend to have a greater percentage of obese or overweight employees, nor did he have any evidence that companies with obese or overweight CEOs tend to have lower business performance. However, he said one study that compared the weight of sales people to their sales performance found that heavy sales people sold more than their thinner counterparts.

Is Weight Really the Issue?

“Weight can be relevant to employment in some settings, but usually people are using it as a shortcut for something else they are really concerned about,” Roehling said. For example, he said, women used to be excluded from jobs that required the ability to lift heavy loads. This led to the use of an objective measure—strength testing—to determine if women could meet the lifting requirement.

It is possible that weight is being used as an argument against Benjamin in lieu of other possible concerns critics have about her ability to perform that are linked to race, gender or religion. For example, as a Catholic, Benjamin will be subject to scrutiny about her views on abortion and other “life issues,” *USA Today* reports.

Roehling says a lab study on weight bias found that weight was more of a factor when individuals were given something legitimate they could use to articulate why they didn’t like someone.

To counteract weight bias, Roehling says, HR professionals should do “what we are trained to do” by conducting a thorough analysis of a job to determine what qualities and skills are really

needed, and by ensuring that a structured interview process focuses on job relevant materials.

Training should make hiring managers aware that biases against overweight people are commonplace, he adds. “If we do nothing they are likely to manifest themselves—and it will likely affect overweight women more than men.”

Above all, Roehling says: “If an overweight applicant shows up, don’t [then] try making excuses.”

By Rebecca R. Hastings, SPHR
8/4/2009