



Lawrence, KS #486

## THE RESOURCE

August 2013



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### **"Developing Compliant Employment Screening Practices"** Presented by: Darren Dupriest, President & Owner Validity Screening

Darren's presentation will cover all new and existing state and federal regulations regarding information used in the hiring process such as criminal background checks, employment and education verifications, professional reference checks and consumer reports. Whether your company is using a third-party vendor for background checks or conducting them internally, this presentation will cover both strategies and the regulations that apply to them. You will learn the following information:

- 1) New and existing state law requirements surrounding the use of background checks in a hiring decision in Kansas, Missouri and surrounding states.
- 2) What HR Professionals must know about local state laws regarding compliance in conducting background checks on new hires such as limitations in the use of the information based on salary
- 3) Details of the new EEOC Guidance regarding the use of criminal records.

- Intentional discrimination
- Disparate impact discrimination
- Business necessity
- Employer best practices
- 4) New and existing federal law requirements surrounding the use of background checks in a hiring decision.
- What HR Professionals must know about the FCRA, the FACTA and the Drivers Privacy Protection Act regarding

Compliance in conducting background checks.

5) State and federal regulations that affect companies using a third party vendor for their criminal background checks as well as education and employment verifications vs. state and federal regulations that affect companies conducting internal criminal background checks and education and employment verifications without the use of a third party vendor

- State and Federal regulations pertaining to preemployment background checks vs. background checks stemming from suspected misconduct
- 6) How social networking sites affect "employment screening"
- It's use of information obtained via networking mediums covered by the FCRA?
- Why a recruiter should be concerned with this practice
- What a company's policy should entail
- How social media sites affect hiring managers as well as employees in the workplace

#### Speakers Bio:

Darren Dupriest is the president and owner of Validity Screening Solutions. His industry career began in 1992 with Clarence M. Kelley & Associates (CMKA). In 2004, he acquired the Backgrounds Division of CMKA, now known as Validity Screening Solutions.

As president and owner, he directs all company functions, including

- Employment-related screenings

- Due diligence investigations
  - Substance abuse testing
  - Digital fingerprint capture
- During his career, this former licensed investigator has led investigations ranging from workers' compensation fraud, embezzlement, merger and acquisition due diligence to sexual harassment and employee theft. In addition, he has been an affiant in numerous civil actions involving employment-related screening and has served as an expert witness in the field.

Dupriest frequently is invited to speak at organizations, such as the Kansas Association of School Business Officials, the Heartland Labor Law Conference, the International Public Management Association, the High Technology Crime Investigation Association, the Kansas City Safety and Health Council and the Certified Fraud Examiners. Validity Screening Solutions, located in Overland Park, Kansas, provides accurate employment screening and drug testing services to companies who want to hire confidently. Founded in 1992, Validity offers employers nationwide a convenient, streamlined and cost-effective approach to hiring by using the latest technology and providing every client a designated account representative that understands their business, its regulations and requirements.

Continued on page 2

## “Developing Compliant Employment Screening Practices”

Presented by: Darren Dupriest

*Continued from page 1*

### Areas of expertise

Dupriest has authored and presented human resources training programs about:

- Fair Credit Reporting Act compliance
- Federally-mandated security clearance background programs
- Identity Theft
- Trade association founder

Dupriest was asked by his peers to help found the National Association of Professional Background Screeners – the organization that formalized the background screening industry. He became one of the founding members in 2003. Today, the NAPBS has more than 600 members.

**Thanks to our Jayhawk SHRM Meeting Sponsor:**  
New Directions Behavioral Health!

### “Developing Compliant Employment Screening Practices” Tuesday, August 13, 2013

Time: 11:30 a.m. to 1:00 p.m.

Registration begins at 11:15 a.m.

11:30 a.m. Buffet Lunch Available

11:45 Opening Business, Chapter Announcements

12:00 Speaker Presentation

1:00 Meeting Adjourned

Location: Pachamama's Alton Ballroom

800 New Hampshire Street, Lawrence, Ks 66044

Cost: \$15 if pre-registered by Thursday noon deadline prior to chapter meeting.

\$20 after Thursday noon pre-registration deadline or walk in at the door.

**REGISTER ONLINE: [www.jayhawkshrm.org](http://www.jayhawkshrm.org)**

1 hour general credit towards PHR, SPHR, GPHR recertification through HRCI has been approved



## About the Sponsor— Michele Barnes, Account Executive and New Directions Behavioral Health company representative

Michele Barnes is responsible for development and management of relationships with New Directions' employee assistance program accounts primarily within the Midwest. She is an MBA candidate at Avila University in Kansas City and received her bachelor's in Organizational Communication from Central Missouri State University. Michele has experience in communications, training, sales, marketing, project management, recruiting and organizational development. Prior to joining New Directions, Michele worked at Avila University, Sosland Publishing Company and Sprint.

Michele Barnes will be speaking with us about:

### Support for Human Resources

Dedicated Account Manager, Supervisory & staff orientations, Unlimited telephone consultation for managers, Crisis Management, Formal Management Referrals (FMR), Marketing Materials, Quarterly Utilization Reports, Health Coaching, On-going training and education.

### EAP Contract Training Topics

Professional Development, Management Essentials, Family Life, Personal Skills Enrichment, Wellness, Human Resource Support!

### New Directions is here to help!

Reduce healthcare claim costs, Tremendous ROI, Improve productivity, Reduce Absenteeism, Performance management tool, Risk management plan, Competitive package

We look forward to Michele's presentation and hope to see YOU at the Jayhawk SHRM Luncheon on Tuesday, August 13th at Pachamama's Alton Ballroom.



Sponsorship  
Charlie Upton  
[sponsorship@jayhawkshrm.org](mailto:sponsorship@jayhawkshrm.org)

**2013 Board of Directors****Co-President**

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**President's Message**

There is a lot happening in Lawrence in August! We can look to our past during "Heritage Days" and the 150<sup>th</sup> anniversary of Quantrill's Raid. There are several opportunities to celebrate the present. We have the Douglas County 4H Fair, the State Fiddling and Picking Championships, and of course the always unique Busker Festival.

Our Chapter meeting for the month with Darren Dupriest of Validity Screening covers Complaint Employment Screening Practices and will cover some very interesting topics including background checks and how social networking sites affect employment screening. Additionally this program was pre-certified for one (1) general recertification credit.

August also allows us to look to the future as the start of the academic year begins. While it may be some months away I find myself thinking about 2014 more and more. We are lucky to have some outstanding volunteers returning to our board; however, we will have some openings coming available so if you have ever thought about getting involved, now is the time. If this sounds like something you might be interested in, please reach out to a current board member as we would love to talk to you in more detail!

Submitted by,

Heather Bunker, SPHR

President Elect, Jayhawk Chapter SHRM

[presidentelect@jayhawkshrm.org](mailto:presidentelect@jayhawkshrm.org)

**We wish Amy Carr much success in her continued HR career!**

The board presented Amy with a beautiful award showing her our appreciation for all her time and commitment serving as presidency on the 2013 board.



Please join  
us in saying

Thank You  
And  
Best Wishes  
AMY!



## Have you thought about joining the Jayhawk SHRM Chapter? Now is an excellent time!



Our members report two primary benefits of local SHRM membership: **Networking** with other HR professionals and **quality programs** which provide HRCI (Human Resource Certification Institute) credit.

Monthly luncheon meetings are held on the second Tuesday of each month from 11:30 a.m. to 1:00 p.m. at Pachamama's Alton Ballroom, 800 new Hampshire Street in downtown Lawrence, Kansas. In December, we hold a holiday social that includes silent auctions, gift exchanges, and more. Registering is easy! Register online [www.jayhawkshrm.org](http://www.jayhawkshrm.org), members who register in advance

pay only \$15 per program which includes lunch. Non-members are welcome to register as well, for \$20 per program. Some recent programs include: Health Care Reform Update-presented by Sandy Praeger, Kansas Insurance Commissioner and Developing Compliant Pre-Screening Practices.

It is easy to join, and membership is now **50% OFF!** At only \$25 per year for national SHRM members or \$30 per year for non-national SHRM members. This gives you access to our website, legal updates and a discounted rate for our luncheons.

To join, go to [www.jayhawkshrm.org](http://www.jayhawkshrm.org) and

1. Click on "Membership Center" link on the LEFT hand side of the screen.
2. Click on the "Join the Jayhawk Chapter of SHRM" link
3. Scroll down to the bottom of the page, and either choose the link: "New Member Online Registration" or download the PDF version of our application form.
4. Complete the requested registration information and then select your payment option.

To receive this special offer, please submit your application and payment no later than September 30, 2013.

We look forward to seeing you at an upcoming Jayhawk SHRM meeting!

If you have any questions, please contact Kelly Calvert.

**Membership is now  
50% OFF!**

To receive this special offer, please submit your application & payment no later than  
**Monday 9/30/13**

Kelly Calvert, SPHR  
Vice President of Membership  
[membership@jayhawkshrm.org](mailto:membership@jayhawkshrm.org)



**Learn how to be your own coach.** Now's the time to make the necessary adjustments in order to reach the goals you have set for a successful and profitable future.

- Concentrate on today's 'I can, I shall and I will' -- not on yesterday's 'I could have, I would have or I should have.'
- Remember that pace is more important than speed. You have about 200 working days each year, so don't worry about establishing a frantic pace. Establish a steady, even pace for productivity and success -- not a fast pace that could result in burnout or a snail's pace that could waste your skills and talents.
- Develop a simple playbook for success. Most people establish too many goals for themselves.
- Reduce your distractions. Determine what drains your personal battery.

Develop the skills you need. Determine the next skill you need to succeed and master it. If your company will pay for your training, great; if not, pay for it yourself. You can't afford not to invest in yourself.

Work smarter, not harder, and you may open the doors to opportunity and advancement.







## Mark Your Calendars—2013 Upcoming Events

### August 13th Meeting—"Developing Compliant Employment Screening Practices"

Presented by Darren Dupriest  
President & Owner Validity Screening

### September 10th Meeting—"Your RAS, Ask & Act: A Networking Paradigm"

Presented by Joyce Layman Blackburn

### October 8th Meeting—"The Power of If"

Presented by Doug Richards

### November 12th – What's New in Employment Law

Presented by Kathy Perkins

### December 10th – Social Event

Debbie Snyder  
VP of Professional Development  
[professionaldevelopment@jayhawkshrm.org](mailto:professionaldevelopment@jayhawkshrm.org)



Jayhawk Chapter SHRM meetings are held on the second Tuesday of each month with registration and buffet beginning at 11:15 a.m. and the presentation from Noon to 1:00 pm at Pachamama's, 800 New Hampshire, Lawrence, Kansas.

### Quote of the Month

## Financial Report

Prepared by:  
Mary Seyk  
VP Of Finance  
[finance@jayhawkshrm.org](mailto:finance@jayhawkshrm.org)



*"Good business leaders create a vision, articulate the vision, passionately own the vision, and relentlessly drive it to completion."*

-- Jack Welch

### Current Assets: 7/31/2013

Checking Account: \$ 4,260.45

#### CD's:

91-Day (8/6/13)	\$ 4,132.48
182-Day (9/6/13)	\$ 5,114.74
12-months (5/13/14)	\$ 8,450.08
	\$17,697.30

Pay Pal Account \$ 555.09

Petty Cash: \$ 100.00

**Total: \$ 22,612.84**



**Awards for SHRM Professional Members / for Student Members and Advisors / for PhD Students and Researchers** [SHRM Foundation Scholarships](#)

### Susan R. Meisinger Fellowship for Graduate Study in HR

**Application Deadline: August 19, 2013** To be eligible to apply, an HR professional must be a first-time master's student seeking a degree in HR and must meet at least one of the following criteria: 1) be a member of SHRM or 2) hold a professional certification (e.g., PHR, SPHR or GPHR certification) from the HR Certification Institute. [SHRM Foundation Scholarships](#)

## Amendments Help to Level the Unemployment Playing Field

### By Forrest Rhodes

Few situations drive an HR professional crazier than terminating an employee for legitimate policy violations and then seeing the employee get awarded unemployment benefits. Whether driven by the volume of benefits paid out over the last several years or perhaps simply to level the playing field, in April 2013 the Kansas Legislature made numerous amendments to the employment security (more commonly known as unemployment) laws that should help to reduce how often benefits are paid in these situations.

The amendments, which take effect on July 1, 2013, are largely favorable to employers. In several situations the amendments ease the standard required to justify a denial of unemployment benefits when an employee is fired. In addition, the law has been clarified with respect to voluntary termination situations to reduce the incidents in which an employee can quit and obtain benefits.

**Strike Three ... You're Out:** In the context of involuntary terminations, the amendments retain the focus on "misconduct" as the threshold for disqualification from benefits. However, the standard for what constitutes misconduct has expanded in several areas.

**Rule/Policy Violation:** If an employee is terminated for a rule/policy violation, the employee will be ineligible for benefits if the employee (1) knew or should have known of the rule, (2) the rule was lawfully and reasonably related to the job, and (3) the rule was fairly and consistently enforced.

**Alcohol/Drug Use:** A positive alcohol or drug test is conclusive evidence of gross misconduct as long as the test was based on a reasonable suspicion that the employee used or was impaired by alcohol or drugs. The law previously required the test to be based on probable cause. Now, positive tests that are required by law or an employer's policy (that the employee is aware of), such as random testing or in a post-accident situation, can establish conclusive evidence of gross misconduct.

**Attendance/Tardiness:** The new law expands the disqualification for attendance infractions to also include tardiness. To qualify for this provision, the employer must show (1) that the employee was aware of the attendance expectations, (2) the employer gave notice that future absence or tardiness may result in discharge, and (3) that the employee's absences or tardiness were without good cause. In this context, absence or tardiness resulting from physician-documented health issues would constitute good cause.

The law also expands the disqualification provision in the area of absence notification. In addition to an employee's failure to notify an employer of an absence, the amendments added an employee's unauthorized early departure from work. Now, termination in either situation should result in a denial of unemployment benefits if the employer can demonstrate the three elements above.

**Ball Four ... Batter Walks:** The amendments also sought to further clarify when an employee can voluntarily quit and still receive benefits. From an overarching perspective, the amendments impose a reasonableness requirement in voluntary termination cases. Benefits have historically been denied when an employee voluntarily quits without "good cause," but the law did not previously define this term. The law now requires a showing that a reasonable, but not supersensitive, employee using ordinary common sense would have quit under the same circumstances. In addition, the employee's decision to quit must have been made in subjective good faith to avoid disqualification.

Within the general "good cause" framework, the law has defined twelve situations in which a voluntary quit will not result in disqualification. Most of these aren't changing; however, the amendments further define one of these situations – harassment. In that scenario, an employee must show not only that the harassment was unwelcome and the employer was aware of it (existing requirements) but also that an "average worker" would feel compelled to quit under similar circumstances.

**Establishing strike zones:** The amendments impact procedural issues as well, some of which include:

Starting in 2015, the wage base on which unemployment tax is computed will increase from \$8,000 per employee to \$12,000. The base will increase again, from \$12,000 to \$14,000, in 2016.

Subject to certain eligibility criteria, employers who do not have a negative account balance will be eligible for a 25% rate discount if all reports and contributions are made by January 31 of each year.

Starting in 2014, the maximum period an individual may draw unemployment benefits will vary between 16, 20, and 26 weeks, depending on the state's average unemployment rate. During periods of lower unemployment, the maximum benefit period will be less. Previously all eligible individuals could draw benefits for up to 26 weeks.

**No stealing bases:** If an employee falsifies statements or representations as part of the unemployment benefit application process, that individual will be disqualified from receiving unemployment benefits for five years. Individuals were previously disqualified for only one year.

**Making sure you hit a homerun:** While the amendments are a step in the right direction, documentation remains critical for employers to be able to successfully defend most unemployment claims. When an employee is fired, it is generally the employer's obligation to prove each of the elements supporting a termination for gross misconduct. From the signature page of the company handbook that sets forth the policy at issue, to the signed discipline memo notifying the employee that future violations may result in discipline "up to and including termination," being able to prove that the employee was aware of the policy or rule at issue is essential.



**Legislative Affairs**

Scott Criqui

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