



# advantage



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# advantage



## 25 YEARS AGO!!

Since 1985! Do you remember when Human Resources was called “Personnel”; when everything was paper, not electronic; when there were fewer employment laws? So much has changed in the world of business and the HR function!

HR Answers has changed over the years as well. We’ve changed our name, we changed locations a couple of times, some staff members have left us, and some have been invited to return and serve you as alumni. But one thing has never changed, and that’s our commitment to our clients and your success. Whether it has been creating products or new services, providing you with phone support, or our resource library, we have been all about making the HR staff and the business owner look good!

Can you believe it? HRA is turning 25!!! We are so pleased and honored to be of service to clients and friends like you over these many years! We definitely could not have done it without you!!!

It’s with a bit of nostalgia and sadness that we think of some of the people we’ve met and had as clients, who are no longer in business or who have moved on to that “great workplace in the sky.” We miss them! There is a significant amount of warmth and delight when we think about new friends made and our client’s organizational successes. We feel a firm sense of satisfaction with every “You really helped us” compliment offered to our staff for their caring efforts and information. Almost 25 years of relationships, intriguing situations, and some stories we can never tell. From the loft in Judy’s house to a beautiful set of offices in a Tualatin business park, it has been a fascinating trip, and we look forward to many more years of helping with our client’s ever-changing HR needs.

We will spend this next year revisiting the past, sharing some pictures, bringing back some of the old newsletter columns, and we’ll even have a special Top 25 List for you each month. But we will not just live in the past! We have several new and special things to roll out for you in 2009. **In fact, we have our first surprise. HRA has produced a video for our website. Check it out at [www.hranswers.com/gettoknowusvideo](http://www.hranswers.com/gettoknowusvideo), and let us know what you think.** Also, be on the lookout for our announcement to mark the date of our special 25<sup>th</sup> Anniversary event as we close out this magical 25<sup>th</sup> year.

We encourage you to stay tuned, whether via email, website, or the newsletter....with this group you just never know what we’ll come up with next!

## TIPS FOR COMPLIANCE ON NEW COBRA SUBSIDY

The federal economic stimulus package includes some changes to how COBRA is administered. While the minutia can be complicated and detailed, here is a broad overview of what is included in the legislation.

- Any former employee who was involuntarily terminated September 1, 2008 or later needs to receive new COBRA eligibility notification by April 18, 2009. This includes employees who may have already rejected COBRA coverage and those who have not responded to recent notifications. This does not include employees who left your organization voluntarily.
- The retroactive notifications and future notifications for 2009 need to include information regarding the subsidy. It may be easiest to send your current notification, adding an addendum referencing the subsidy because the subsidy is currently only temporary.
- Former employees who were involuntarily terminated September 1, 2008 or later have the right to elect COBRA coverage beginning March 1, 2009 no matter what they elected originally. Coverage is not retroactive and does not extend the original COBRA period.
- Employees involuntarily terminated between September 1, 2008 and December 31, 2009 are eligible for a subsidy lasting 9 months that is equal to 65% of the amount they are required to pay to continue benefits under COBRA. This subsidy is initially paid by the employer, who then claims a credit on their quarterly payroll tax return. If the amount of the subsidy exceeds the tax due, the excess is refundable to the employer.
- Employees with an adjusted gross income over \$145,000 are not eligible for the subsidy. Employers, however, do not have to inquire about an employee’s income. This is an employee responsibility.
- It is the employee’s responsibility to either accept or refuse to take the subsidy.

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## CHIPRA WILL IMPOSE REQUIREMENTS ON GROUP HEALTH PLAN SPONSORS

On February 4, 2009, President Obama signed legislation that reauthorizes the Children's Health Insurance Program (CHIP), which provides the program with continued funding and also makes certain changes to the program. The new law, titled the Children's Health Insurance Reauthorization Act (CHIPRA), enables states to offer a premium assistance subsidy for qualified employer-sponsored health coverage to targeted low-income children. CHIPRA will impose certain requirements on sponsors of employer-provided group health coverage, including the requirement to provide notices to employees and a requirement to provide disclosures to state agencies. However, as of the date of this publication, no guidelines have been provided concerning those requirements. The federal Department of Health and Human Services has until February 4, 2010, to develop model notices for use by plan sponsors. The obligation for employers to meet the notice requirements does not begin until the plan year following the date on which model notices are issued.

HR Answers will continue to watch for further information as it becomes available, and we'll keep you posted as we learn more about CHIPRA and its effects on employer obligations.

## GUM IS MORE THAN A TASTY DIVERSION

A Swinburne University researcher and the Wrigley Science Institute have found that gum chewing can lower stress levels and improve performance. The results were presented at the 2008 10th International Congress of Behavioral Medicine in Tokyo. For the study, participants performed a battery of multitasking activities while chewing gum. Among the findings gum chewing demonstrated:

- **Relieved anxiety.** During mildly stressful activity, chewing gum was found to reduce anxiety in gum-chewers by 17% when compared to non gum-chewers. During moderately stressful activities, the reduction rate was 10%.
- **Increased alertness.** During mild stress activities, gum-chewers were 19% more alert than non gum-chewers. During moderate stress, gum-chewers were 8% more alert.
- **Reduced stress.** Salivary cortisol (a physiological stress marker) levels were 16% lower in gum-chewers during mildly stressful activities; during moderately stressful activities, the difference was 12%.
- **Improved performance.** Gum-chewers improved mean performance by 109% during mildly stressful activities, and 67% during moderately stressful activities, when compared to non gum-chewers.

Makes you want to consider putting a gum dispenser in the employee lunchroom, doesn't it?

## HAVE FEDERAL CONTRACTS? ARE YOU MEETING THESE REQUIREMENTS?

In our consulting work in the Affirmative Action arena, we have found that many business executives as well as HR professionals are confused about Affirmative Action requirements, or may not be aware of the newest requirements. We hope the following helps clear up some of the uncertainty.

There are at least three conditions that will require an employer to develop and implement a written Affirmative Action Plan. They are:

- A prime federal contractor or a first tier subcontractor who employs 50 or more individuals **and** who has \$50,000 or more in federal contract revenue during any twelve-month period
- A depository of government funds in any amount
- An issuing and paying agent for U.S. Savings Bonds and savings notes in any amount.

A financial institution is very likely required to meet affirmative action requirements if it has funds in the federal banking system (such as deposits insured under FDIC), or issues or exchanges U.S. Savings Bonds or notes.

By regulation, federal contractors must write or update, as well as implement, an Affirmative Action Plan each year. Title 41, Part 60 of the Code of Federal Regulations is the document that governs the steps and format that federal contractors must use in writing Affirmative

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Editor: Deborah Jeffries, PHR, CPC. Advantage is published monthly and is designed to provide information on regulations, HR practices and management ideas and concerns. The intended audience is managers, supervisors, business owners, human resource and employee relations professionals. If you have questions about the content, an opinion about the information, questions about your subscription, or if you need additional Advantage binders, please give us a call at (503) 885-9815 or e-mail [djeffries@hranswers.com](mailto:djeffries@hranswers.com).



Action Plans. The U.S. Department of Labor, Employment Standards Administration, Department of Federal Contract Compliance Programs (OFCCP) oversees affirmative action compliance.

Every federal contractor is subject to a compliance review audit by the OFCCP. Compliance reviews are the government's way of checking to see if all regulatory requirements concerning Affirmative Action are being met. During the compliance review process, what an organization believes to be a good faith effort may not be viewed the same by a compliance officer. Remember that the OFCCP is a law enforcement agency. If EEO and AA laws are violated, a financial penalty may be assessed.

This year there are some new requirements that federal contractor employers must meet. Effective January 30, 2009 a new Executive Order, "Notification of Employee Rights under Federal Labor Laws," specifies four new contract clauses that must be included in all qualifying government contracts and subcontracts. The required posting language is to be released by the Department of Labor within 120 days. This Executive Order also requires federal contractors to post a yet-to-be-released notice advising employees of their rights to organize and collectively bargain.

## **E-Verify Program**

On November 14, 2008, a final rule was announced to enforce an Executive Order requiring most federal contractors and subcontractors to use E-Verify to confirm employment eligibility for all new hires and all existing employees who directly perform work under federal contracts. The effective date of the final rule was delayed until May 21, 2009. Under current law, employers must complete an Employment Eligibility Verification Form (Form I-9) for each newly-hired employee to verify the employee's identity and employment eligibility. Under the final rule, **federal contractors must also** enter the employee's identity and eligibility information into the E-Verify system. Contractors must E-Verify all new employees within 3 days of hire regardless of assignment or not to a covered contract, and current employees working on a covered federal contract, using the information from the I-9 form at hire.

The E-Verify requirement will be included in all federal contracts awarded after February 20, 2009, that call for a time of performance that exceeds 120 days and that have a value greater than \$100,000. Subcontracts of less than \$3,000 are exempted. Additionally, federal agencies will review existing federal contracts with a time for performance extending past July 15, 2009, and will negotiate amended contracts to include the E-Verify requirement.

For more information and to register for the E-Verify program, visit the Department of Homeland Security's website, [www.dhs.gov/e-verify](http://www.dhs.gov/e-verify).

In summary, the important thing to remember is that if you are a bona fide government contractor, you must have a written Affirmative Action Plan. Affirmative Action Plans are documents that are intended to be working management plans used throughout the year. All managers in your organization, especially those involved in the hiring process, should be aware of the plan's content and able to explain it, at least in general terms, to their employees.

We acknowledge that affirmative action requirements are not easy to understand, and Affirmative Action Plans are not easy to develop. If you would like some assistance, please give us a call. We have two staff members who routinely work on client AAPs.

## FOCUS ON HARASSMENT TRAINING

### **The Headlines:**

**"Man Harassed For Not Being 'Manly'"**

**"Firing One of The Good Ole Boys"**

**"No Affirmative Defense Where Supervisor Witnessed Harassment"**

**"Gender Based Discrimination Does Not Have To Be Sexual"**

It's easy to ignore such headlines when they only concern someone else, certainly not your organization. Unfortunately, the reality is that employees bring such claims and suits against organizations regardless of the employer's notoriety, size, or assets. The sad fact is that the volume increases during economic downturns.

Organizations can reduce their risks of such claims and settlements by preventing harassing behaviors. Prevention begins with an organization developing the philosophy and culture of a harassment free environment. Develop a good, zero tolerance policy of all forms of harassment based on sex, race, color, religion, national origin, disability (mental or physical), age, or any other protected status.

Implementing a policy is not enough. Employers should provide ongoing harassment prevention training to **ALL** employees. Training provides a consistent message to all employees of the organization's stance on harassment. Good training helps clarify for employees what harassment is and isn't; when behavior is acceptable, unacceptable, and when it can become illegal. Finally, training provides employees



with information about dealing with a situation if it arises, providing the organization the opportunity to investigate and correct a situation, hopefully before a claim is filed. Not only should training provide all the necessary information, there should be an opportunity for employees to ask questions. We strongly recommend that supervisors attend a different session that also outlines their responsibilities in preventing and responding to claims of harassment.

Training is a good way to communicate this information to employees and it can help an organization avoid or minimize their liability if a claim or suit is filed. As a result of several Supreme Court cases in 1998, employers can assert an affirmative defense if they “exercised reasonable care” to prevent and promptly correct any harassing behavior, and the employee “unreasonably failed to take advantage” of the employer’s preventive or corrective opportunities.

Organizations that train supervisors and employees to prevent sexual harassment will be able to show that they acted reasonably. Further, they will be able to show that employees were informed of the organization’s complaint procedures, but failed to use them. And, as if all these legal developments weren’t enough, the EEOC recently issued guidance that directs employers to provide anti-harassment training.

Despite these incentives, however, your line employees (who are most often involved in sexual harassment disputes) receive the least amount of prevention training, according to repeated survey results.

One thing is for sure: organizations can no longer afford to wait until an employee files a charge to confront the problem of harassment in the workplace. Proactive steps, including effective employee and supervisor training, must be taken to stop harassment before it occurs.

The EEOC released guidance to assist employers with workplace harassment. Such steps in supporting an affirmative defense include: create, communicate, and implement a strong harassment policy; encourage employees and supervisors to report any observed harassment; offer a dispute resolution process for reporting incidents to any manager; investigate and take appropriate actions immediately; prevent retaliation; and train all employees and supervisors. Providing harassment training won’t do your organization much good unless it’s the right kind of training. When courts and the EEOC examine your training programs, they are likely to look for certain components. Whether you’re auditing your organization’s current sexual harassment training efforts, designing training for the first time, or planning to purchase training services from an outside vendor, you must emphasize these critical components in a harassment educational program. Take a look at the areas the EEOC will want to explore if they were to investigate your organizations.

**Who should be trained?** In the past, some organizations may have resisted training for their line employees because they feared that employees who were educated about harassment would be more likely to file complaints. Other organizations may have excluded lower-level employees from training – and offered it solely to supervisors – to save money. However, the Supreme Court has made it clear that neither rationale is acceptable.

Organizations must train *both* their supervisors and employees. The training offered to employees and supervisors should have similar content; however, supervisors should be given additional training that relates specifically to their duties and responsibilities under the law.

If you need assistance in creating material to conduct your own educational programming or would like to have a trainer come on-site and facilitate a session or two, please give us a call. We have created a set of train-the-trainer materials and we have three trainers on staff who can work with you to deliver the right program for the right audience.

## CLIENT ACCOLADES

We all know that bad news sells, but surely there must be positive news as well. We think you’ll agree that we’ve been hearing more than enough of the bad news, and some people are saying they don’t even watch the news anymore because it’s just too depressing.

HR Answers would like to brighten up this little corner of the world. Years ago, we had a standing article in our newsletter, that we called Client Accolades. In this article, we recognized the activities and achievements of our clients. We’ve decided to bring Client Accolades back, and we’re asking for your help.

Please let us know the positive things you’re doing, the successes you’re having, the awards you’re receiving, and the milestones you’re achieving. Of course, we at HRA can read the newspapers, hop onto the websites of our clients, and watch the news too. But it would be fun to hear directly from you, our friendly readers, as well. So give us a call or drop us an email and let us know the good news about what’s going on in your organizations!

## THE EFFECT OF ALZHEIMER'S DISEASE ON U.S. BUSINESSES

The Alzheimer's Association conducted a study to discover the effects that Alzheimer's disease has on businesses. Not only are employees with the disease costing businesses billions, caregivers are an enormous financial obligation as well.

In 2002 there were an estimated 4 million people in the United States with Alzheimer's disease. This number has since grown tremendously with an estimated 5.2 million persons with the disease in 2008, and is estimated to grow to a massive 14 million within the decade.

For those of you in Oregon, here are some specific numbers of importance. Approximately 65,000 Oregonians are currently challenged by Alzheimer's disease or a related dementia. Seventy-five percent of those individuals are cared for at home by family and friends, thus a conservative estimate of Oregonians who are caregivers is at least 120,000.

Many of these caregivers are juggling both jobs and the care of their loved one. One in four caregivers provides 40 hours of care per week. Thirty-nine percent sustain this commitment for more than a year – 32% do so for five years or more.

The chart below illustrates the costs to businesses, in billions, and the growth in those costs from 1998 to 2002 alone.

	Total Cost (in billions)	
	<u>1998</u>	<u>2002</u>
Business cost for workers who are caregivers of people with Alzheimer's disease	\$26.024	\$36.512
Business cost of health care and health care research for people with Alzheimer's disease	\$7.144	\$24.634
Total business costs for Alzheimer's disease	\$33.168	\$61.146

Ross Koppel, Ph.D.

Just imagine what the costs are now!

Given the size and expense of this issue for business, it makes some sense for organizations to understand the concerns and take concrete steps to educate their employees. Making sure that the organization's EAP is well versed on the problem and available resources is also a critical step.

### THOUGHTS TO THINK ABOUT

"Ideas have a short shelf life. You must act on them before the expiration date."

— John C. Maxwell

"When you talk, you repeat what you already know; when you listen, you often learn something."

— Jared Sparks

"We have overstretched our personal boundaries and forgotten that true happiness comes from living an authentic life fueled with a sense of purpose and balance."

— Kathleen Hall

"They can because they think they can."

— Virgil

"When I was kidnapped my parents snapped into action. They rented out my room."

— Woody Allen

"In order to succeed we must first believe that we can."

— Michael Korda

"Good judgment comes from experience, and experience comes from bad judgment."

— Barry LePatner

## Q & A

**Q.** I have a driver who is a good employee, but who just told me their driver's license has been suspended for six months. Since driving is an essential part of their job (and I do have a written job description that requires a current driver's license), how do I handle this situation?

**A.** You have essentially two options. If this is an employee you truly wish to keep, you can see if you have a temporary position you can transfer them to that does not require driving or a current driver's license. Be sure they are aware that, once their license is returned, they can go back to their original position, IF it is open and available and they meet all other conditions of a transfer (i.e. acceptable performance, attendance, etc.). The second option is to terminate their employment based on the fact that they are no longer able to perform an essential function of their job.

NOTE: This is yet another example of why it is so important to have a current job description that outlines the essential functions of the job and any job requirements, such as a current license. If you choose the second option above, solid documentation will be critical.

## SNOW WHITE'S DWARF SLEEPY - IS HE ONE OF YOUR EMPLOYEES?

Today's employees have concerns and fears. The economy is certainly one of the biggest stressors for many people. They are concerned about losing their jobs and homes, having and/or keeping their health insurance, taking care of themselves as well as their families, and, of course, fears around retirement and savings. All of this is causing millions (one third of Americans) to lose sleep, according to a new study by the National Sleep Foundation (NSF). To learn more about the specific results [click here](#). These feelings and situations are contributing to overall health problems for our employees, including stress, sleeplessness, anger, depression, headaches, and even elevated alcohol and nicotine consumption.

This lack of sleep is not only causing serious health challenges, but it's costing employers millions of dollars in productivity losses. When employees don't get enough sleep, they are more prone to illnesses and less able to fight them off as their immune systems become weaker for lack of proper rest. It can also lead to other discomforts, such as headaches, migraines, and muscle or back pain. All of that translates to absenteeism. It also means people don't concentrate as well, so they're more prone to mistakes and impaired driving, which can mean more traffic accidents or accidents on the job.

Wow! That really makes you want to get up and go to work, right? Not so much! Of course it's not just work that's been impacted. These sleep-deprived individuals also are reporting that they're more than twice as likely to miss participating in family events, leisure activities, and work functions because of their sleepiness.

Pharmacies are also confirming the trend, as they report increases in sales of sleep aids. That could mean that, instead of sleepy employees, we have employees using more medications – a whole different challenge.

As you can imagine all of this has an impact on the workplace. Employers need to be on the lookout for these sleepy employees, and consider a possible new remedy – napping. Research at the Salk Institute for Biological Studies shows that catching a mid-day nap can increase alertness, improve physical dexterity, boost stamina, and lower stress. Other studies have shown naps can reduce crankiness and enhance brain performance. A Harvard University study indicated an hour-long nap at work helps computer programmers write better code. The study suggests the brain uses sleep to restore overused brain circuits and consolidate the memories of actions and skills learned during the day. Harvard concludes that any amount of sleep, even a short nap of less than an hour, improves our ability to process information and learn. Harvard researchers indicate that 15 to 30-minute naps revive and refocus sluggish employees, thus improving productivity and overall job performance. The researchers conclude that for some employees, such as pilots, truck drivers, and night shift laborers, a nap should be mandatory. Despite this growing evidence, American employers continue to resist napping in the workplace. To read a previous article HRA has written on napping [click here](#).

It's been established that sleepy workers are dangerous, less productive, and a major source of increased health-care costs and corporate liability. Studies show sleeplessness to be a factor in 90% of accidents resulting from human error. The NSF research estimated that over-tired employees cost businesses \$18 billion a year. But this is not the case at businesses in other parts of the world. Napping is an established part of the culture in countries such as India, Italy, Mexico, Spain, Germany, Japan, and Portugal. Spaniards take siestas, Germans enjoy ein Schläfen, and Japanese professionals like to power snooze. Indeed, between 40 and 60% of the world's adult population naps.

One thing is for sure: it is important for Americans to recognize that good sleep is not negotiable; rather it is a pillar of good health and function. As times get tougher, it actually becomes more important than ever to do what one can to maintain good sleep quality, as poor sleep has such an immediate impact on daily function and longer-term impact on physical health.

If you or your employees are experiencing sleep challenges, the experts have some suggestions for you. To learn about these recommendations, [click here](#).

## FOR YOUR CALENDAR

*Open up your Daytimers, computer calendars, Palm Pilots, and of course those Blackberries. The following is a look at upcoming events, special days and other diverse and fun activities you will want to be aware of and get scheduled. To register for our workshops, please call any of our offices, send an e-mail to Melissa Sambuceto at [MSambuceto@hranswers.com](mailto:MSambuceto@hranswers.com), or simply register online at [www.hranswers.com](http://www.hranswers.com) and click on the "Workshop Registration" tab at the top of the homepage.*

### MARCH

American Red Cross, Employee Spirit, International Listening, and National Nutrition Month.

**HR Answers begins its year long celebration of 25 years in business.**

March 20 First Day of Spring

March 24 American Diabetes Association Alert Day

**March 26 HRA Workshop (Tualatin)  
EFCA – Being Pro Employee  
8:00am – 10:00am**

### APRIL

To help you plan ahead, here's a look at what we have planned so far for April and beyond.

**April 2- May 7 HRA Series (Tualatin)  
Beginning Supervision Series  
8:30am – 12:30 pm**

**May 7 HRA 5th Annual Provider Night (Tualatin)  
Networking event to meet service providers to the HR/Business community.**

## ON MY SOAPBOX

I've been watching the Liberty Northwest TV commercials for some time now, and I am really impressed by their theme of "Responsibility." I think of these commercials as the best case for Random Acts of Kindness that I have seen in a very long time.

You must know the spots I am talking about. They show a common occurrence of a person seeing a positive or helpful gesture done for someone while another individual is watching. Seeing the beneficial action encourages or motivates the watcher to do something for someone else, and the chain of good deeds continues. There is even a website ([www.responsibilityproject.com](http://www.responsibilityproject.com)) that allows you to see the commercials, read stories about encounters that people have had with "responsibility" or the lack of it, and posted personal opinions about news items that show responsibility or its absence in our daily coverage. Think about the financial crisis and what caused it, or the "octomom," as items that have generated lots of commentary and postings.

Here is a story I found somewhere else that probably ought to be on the website. Please read it and then I'll let you know what I think the connection is, but I am betting that I won't have to tell you; the answer will be obvious to you.

*Mark was walking home from school one day when he noticed the boy ahead of him had tripped and dropped all of the books he was carrying, along with two sweaters, a baseball bat, a glove, and a small tape recorder. Mark knelt down and helped the boy pick up the scattered articles. Since they were going the same way, he helped to carry part of the burden. As they walked, Mark discovered the boy's name was Bill, that he loved video games, baseball, and history, that he was having lots of trouble with his other subjects, and that he had just broken up with his girlfriend. They arrived at Bill's home first and Mark was invited in for a Coke and to watch some television. The afternoon passed pleasantly with a few laughs and some shared small talk, then Mark went home. They continued to see each other around school, had lunch together once or twice, then both graduated from junior high school. They ended up in the same high school where they had brief contacts over the years. Finally the long awaited senior year came and three weeks before graduation, Bill asked Mark if they could talk.*

*Bill reminded him of the day years ago when they had first met. "Did you ever wonder why I was carrying so many things home that day?" asked Bill. "You see, I cleaned out my locker because I didn't want to leave a mess for anyone else. I had stored away some of my mother's sleeping pills and I was going home to commit suicide. But after we spent some time together talking and laughing, I realized that if I had killed myself, I would have missed that time and so many others that might follow. So you see, Mark, when you picked up those books that day, you did a lot more. You saved my life."*

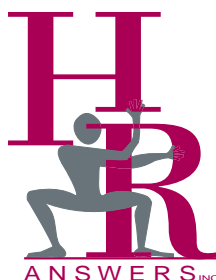
*John W. Schlatter (true story)*

The above story is one of a small gesture that had a huge impact; and just as important is the fact that the result of that small action was unknown for many years. It could have been unknown forever. It is like the Liberty Northwest stories that are the essence of their message. A little action that is meaningful, helpful, or even designed to save someone from harm can have a larger impact.

We often don't know the outcome, or the role that our warm deed may have played in someone else's life. It may have been simply a minor convenience, or it may have been life-altering. The very fact that we did something nice or courteous for someone is sufficient unto itself. It makes us feel good about ourselves; it contributes to the world we live in; it makes life easier for someone else; and, just maybe, it is a little miracle that positively alters one person's existence.

Liberty Northwest calls it responsibility – I call it being our best selves. Either way, it's something worthy!

- Judy Clark, President



"Whatever the Question"

PLEASE FEEL FREE TO VISIT OUR WEBSITE:

[WWW.HRANSWERS.COM](http://WWW.HRANSWERS.COM)