

MINUTES OF THE NC DEPT OF LABOR ADVISORY COUNCIL
ON OCCUPATIONAL SAFETY AND HEALTH

November 12, 2020

The NC Department of Labor Advisory Council on Occupational Safety and Health met virtually on November 12, 2020, after the Spring 2020 meeting was cancelled due to the COVID-19 pandemic.

The following Council Members attended using the Lifesize video platform: Linda Andrews, Terry Brewington, Robert Carruth, Lindsay Cook, Jessica Foster, Gloria Bone-Gunther, Corey Hill, Brian Polk, Debbie Rogers-Lowery, and Bill Walker. The following Council Members were absent from the meeting: Ron Ingerick.

NCDOL/OSH attendees were: Commissioner Cherie Berry, Deputy Commissioner/OSH Director Kevin Beauregard, Assistant Deputy Commissioner Scott Mabry, Chief of Staff – Art Britt, Eastern Compliance Bureau Chief – Nicole Brown, General Counsel – Jill Cramer, Director of Administration and Gov’t Affairs – Jennifer Haigwood, OSH Reviewer – Leaton Jones, Consultative Services Bureau Chief – Kevin O’Barr, Director of Communications – Dolores Quesenberry, Western Compliance Bureau Chief – Paul Sullivan, PSIM Bureau Chief – Anne Weaver, and OSH Executive Assistant – Angela Hamilton.

Also, in attendance at the meeting was Representative/Commissioner of Labor – Elect, Josh Dobson.

The meeting started at 9:03 a.m. Kevin Beauregard welcomed everyone to the meeting and gave a brief overview of the Lifesize video conferencing system. Kevin Introduced Commissioner Berry.

Commissioner Berry greeted the participants and indicated she was excited about her pending retirement, even though she will miss those she has worked with over the years. She introduced Representative Josh Dobson (Commissioner of Labor – Elect). Representative Dobson introduced himself and indicated he was looking forward to beginning work at the Department of Labor.

Chair Debbie Rogers-Lowery greeted everyone and opened the meeting by introducing Jennifer Haigwood, who gave a legislative update. Jennifer indicated that the department’s agency bill passed the House in 2019 but was not considered by the Senate. She explained that the 2020 session became mostly about budget and policy issues related to COVID-19. The agency bill had a couple of items related to OSH, one regarding medical records being released to us. The other item dealt with redacted items on case files. Moving forward there will be more work on these issues. There were a couple of budget items as well including OSH salaries and funds to pay for the contract associated with the Labor Section of the Attorney General’s office. COVID-19 will

affect budgetary legislative issues, and the focus may be not having any cuts to our current funding due to the pandemic. Commissioner-Elect Dobson added that we would try to maintain the budget we have now as a priority, and then fight to add funding. Jennifer stated that over the years there have been some gains for OSH. Commissioner Berry asked Jennifer to explain the request we had received over temporary rulemaking. Jennifer explained that during the pandemic there has been a focus on certain industries such as meat packing and there were some COVID-19 outbreaks, especially early on. Jennifer indicated that NCDOL was able to partner and develop relationships with other agencies to assist with this. Commissioner Berry received a petition for rulemaking asking for COVID-19 related exposure control standards to be adopted across industries. Jennifer indicated that the petition was recently denied due to several factors. Jennifer also indicated that positive outcomes came about through multi-agency partnerships. The agency may be petitioned again.

Commissioner Berry asked Scott Mabry to comment on OSH's participation with other agencies in our response to COVID-19. At the onset of the pandemic, Scott was contacted by DHHS and asked to participate in a group who would conduct consultative site visits to meat packing plants regarding COVID-19 issues. There was a good response from these visits as statistics show there have been fewer outbreaks within this industry in the past several months. Commissioner Berry interjected one of the reasons the previously mentioned petition for a COVID-19 standard was denied was due to situations like this where we partnered with other agencies/organizations and got good results and improvements in areas listed in the petition.

Corey Hill asked why the visits within the meat and poultry industry wasn't pushed across all industries, as it seems to have had positive results. Kevin Beauregard answered that there would be more information to come during his COVID-19 presentation. He said that OSH has made positive impacts in other areas, it is just that the media has been more focused on the meat and poultry industry. Scott added that as time has gone by DHHS has offered similar on-site services to other industries such as manufacturing, and that outreach is ongoing.

Scott gave an OSH Update presentation (PowerPoint presentation attached) which included statistical updates reflecting historically low DART and Injury and Illness rates. The number of fatalities increased over the previous Fiscal Year, but that was at least partially due to the COVID-19 pandemic. The types of events that contributed to an increase in fatalities are being looked into, to see if there is anything OSHNC needs to focus on. The quantity of complaints that OSH received and processed significantly increased this past fiscal year, due to COVID-19. Special Emphasis Programs (SEPs) made a positive impact overall, even amid the pandemic. Scott explained how the Safety Awards were conducted virtually this year. Scott also indicated that OSH has several partnerships and alliances across the state. An alliance with Lamar allows OSH to use vacant billboards across the state to promote areas of occupational safety and health. Scott indicated that although the pandemic has impacted in-person outreach efforts, training is still taking place virtually. Participation in national efforts such as safety Stand Downs and Safe and Sound week was good across the state. North Carolina was in the top five states

regarding participation. An OSH Division staffing overview was also provided. There were holds in filling many positions at the start of COVID-19, but as time went on some of these positions were able to be filled. Robert Carruth asked for more information about having an alliance with the Department of Labor. Kevin Beauregard directed him to our website to review the informational section on alliances, then to contact either him or Wanda Lagoe for further information. Robert indicated he would pursue this further.

Kevin added that in the beginning stages of the pandemic OSH started obtaining supplies such as masks, sanitizer, gloves, etc., when available, to ensure staff could continue to perform their duties and responsibilities in a safe and healthful manner. OSH also allowed telework for employees, when possible. There were some changes needed to strategic activity goals, but overall OSH operations have continued to run smoothly.

Kevin Beauregard presented on COVID-19 resources and activities for the OSH Division (PowerPoint presentation attached) after giving a background on coronavirus that leads to COVID-19. Exposure to the virus takes place throughout our community and is not confined to occupational exposure. There are several applicable OSH standards, depending on work activities and specific circumstances. These include Personal Protective Equipment (PPE) requirements, signs, bloodborne pathogens, hazard communications, recordkeeping, sanitation and temporary labor camps. Any other compliance issues addressed by OSH would likely fall under the general duty clause of the OSH Act of NC, on a case-by-case basis (if certain required conditions are met).

OSH has had to adapt guidance with the changes that have emerged over time with CDC guidance to make sure we provide the most up to date guidelines. We saw this with face covering guidance that was provided early by CDC indicating they were not needed to be worn by everyone and were not necessarily effective at reducing the spread of COVID-19. Later CDC guidance indicated face coverings should be worn and were shown to be an effective measure to slow COVID-19 spread. To date OSH has developed webpages and other guidance materials for workers and employers. Several of the guidance materials developed are industry specific. One of the digital billboards includes the NC COVID-19 website and materials offered to assist employers in making workplaces safer during the pandemic.

OSH has been tracking COVID-19 related activities, including phone and email inquiries, concerns/complaints, outreach in the form of webinars and hazard alerts, memos, etc. Other activities being tracked include compliance inspections, consultative visits, and virtual outreach related to COVID-19. OSH has processed and tracked thousands of pandemic related complaints. The food service and restaurant industry are at the top of the list for OSH complaints received, followed by supermarkets. One of the largest COVID-19 outbreaks we have investigated so far was associated with a medical telemarketing facility. Paul Sullivan indicated that one of the interesting things noted in that situation was that the COVID cases were tied to the same shift, the folks that came in the same area on a different shift didn't get COVID-19. This presents evidence that the virus may be more airborne than being spread by

surface contact. In addition to addressing and/or directing COVID related phone calls and emails OSH has had thousands of related file disclosure requests and many meetings with other agencies.

Gloria Bone Gunther inquired about the use of KN95 versus N95 masks. Kevin Beauregard advised that KN95 used as a nuisance mask is fine, but not where N95 masks are required. He explained that N95 masks, when worn properly block out 95% of airborne particles. When the KN95 masks were tested the percentage dropped as low as 50% for some. Scott added that KN95 masks are category 3 masks that are the same category as a dust mask. Gloria asked if there were stats available on the use of different types of masks. Kevin told her the surgical and other disposable masks often look identical, but the surgical masks usually have a moisture resistant layer.

Brian Polk asked for clarification on whether or not our staff was required to wear N95 masks. Kevin Beauregard said N95 masks are available to our staff. Scott Mabry clarified that OSH and ASH staff are wearing N95 masks as a “comfort” masks when needed but without fit testing they have had to sign off on Appendix D of the OSHA respiratory standard regarding this.

Gloria Bone Gunther and Lindsay Cook expressed thanks to Commissioner Berry for her work over the years and gave her their best wishes. Bill Walker commended Commissioner Berry on a job well done during her time at Labor. Commissioner Berry credited the success of the safety and health of workers in the state to the OSH staff and workers and employers across the state.

Debbie Rogers-Lowery commented on how strange the year has been, but even with all the bad many good things have happened. She indicated examples of good included spending more time at home with loved ones and she also said we are all ready for a holiday. Debbie indicated that this year NCDOL will continue the Toys for Tots tradition with Commissioner Berry’s Open House. However, this year will be a little different with an outside drive-by drop-off Open House at the Labor building. Jennifer added her appreciation for all the support the council always gives during this event. She explained participants could drop off items or checks directly from their car during the Open House. An electronic invitation to this event will be going out to Advisory Council members and others soon.

Debbie explained how having a great staff overall makes the Department and Commissioner Berry look good.

Kevin added it has been great working with everyone on the Council over the years and explained that there will be some seats open at the end of the year. Once these seats are filled and depending on meeting in person, a spring meeting will be announced.

Commissioner Berry asked that folks support the Toys for Tots drive this year especially, if you are able, as so many have had a hard year and the need is great.

Holiday greetings were expressed by all.

The meeting was adjourned at 11:50 a.m.