

MINUTES OF THE NC DEPT OF LABOR ADVISORY COUNCIL

ON OCCUPATIONAL SAFETY AND HEALTH

MAY 8, 2019

The NC Department of Labor Advisory Council on Occupational Safety and Health met on May 8, 2019, at the Old Revenue Building in Raleigh, North Carolina.

The following Council Members attended: Terry Brewington, Robert Carruth, Lindsay Cook, Jessica Foster, Gloria Bone-Gunther, Corey Hill, Brian Polk, and Debbie Rogers-Lowery. The following Council Members were absent from the meeting: Linda Andrews, Ron Ingerick, and Bill Walker. NCDOL/OSH attendees were: Commissioner Cherie Berry, Deputy Commissioner/OSH Director Kevin Beauregard, , NCDOL Chief of Staff Art Britt, Fleda Anderson-Consultant Supervisor, Nicole Brown - Eastern Compliance Bureau Chief, Renathe Cotten - HR Director, Jennifer Haigwood - Director of Administration and Gov't Affairs, Deputy Commissioner Standards & Inspections Phil Hooper, Wanda Lagoe - Bureau Chief ETTA, Assistant Deputy Commissioner Scott Mabry, Judyth Niconienko - State Plan Coordinator, Mary Katherine Revels, Beth Rodman – ASH Bureau Chief, Dolores Quesenberry – NCDOL Communications Director, and Angela Hamilton - OSH Executive Assistant.

The meeting started at 10:06 a.m. Kevin Beauregard welcomed everyone to the meeting and addressed housekeeping items and asked attendees to make an entry on the attendance roster. Commissioner Berry also welcomed attendees to the Spring Advisory Council meeting and announced that she will not be running for re-election in 2020.

Chair Debbie Rogers-Lowery welcomed attendees and introduced Corey Hill as the newest member of the OSH Advisory Council. Debbie reported OSH Division activities among her clients included: one (1) follow-up for a DART rate inspection for the previous year, 7 SHARP recertifications, one (1) STAR pre-site visit, two (2) DART rate visits, and one (1) report of a fingertip amputation.

Commissioner Berry asked Debbie to explain what it is she does to the other Council members and attendees. Debbie indicated she has been a safety consultant for the past 25 years. She works with municipalities, general industry employers and construction companies. If OSHA shows up at one of the places she is consulting at she will accompany them on their inspection. She indicated that she helps companies find safer ways to do things.

Debbie thanked everyone who participated in the Toys for Tots campaign.

Debbie introduced Wanda Lagoe, OSH ETTA Bureau Chief, who presented the OSH Division update (see PowerPoint handout).

During Wanda's presentation, Gloria Bone Gunther asked what is covered under OSH long term care (LTC) training. Wanda indicated that the OSH training included items such as: ergonomics, trips and falls, msd's (musculoskeletal disorders), as these hazard areas are seen most in the LTC industry. Wanda explained that the OSH courses allowed attendees to receive industry training certification points as an incentive to encourage participation.

One of the Council members asked how OSH let's employer's/employees know about upcoming Division outreach events. Wanda explained that information is provided on our website, and is also disseminated via the NCDOL newsletter, mailings and/or they are mentioned during podcasts.

Wanda asked Assistant Director Scott Mabry to speak on OSH vacancies and staffing updates and he reported that we have several postings at this time and a 10-15% vacancy rate is usually averaged year-round.

Director Kevin Beauregard stated that the new state class & comp system eliminated a health trainee position and Scott Mabry worked with NCDOL HR to reestablish the trainee position designations. He indicated the trainee positions should help fill some of the health vacancies. If there are no qualified applicants for current health compliance officer postings, the OSH Compliance Bureaus will repost two of them as health trainee positions.

Terry Brewington inquired about extending postings to military folks. Scott and Kevin stated HR recruitment efforts include trying to get the word out to the members of the armed forces. Kevin also indicated that OSH has hired quite a few retired military personnel in the past.

Regarding a PPT slide depicting outreach activities, a member asked the difference between an OSHA "Stand Down" and an OSHA "Stand Up". Kevin explained that an "OSHA Stand Down" involved temporarily stopping work activities or "standing down" operations to take time to discuss applicable safety and health practices. However, the grain industry uses the phrase "Stand Up", as it would not be appropriate to ask grain workers to "Stand Down", as it could be construed as being hazardous. All these efforts are associated with workplace safety and health outreach activities.

Communications Director Dolores Quesenberry added they would be attending a construction forum for outreach tomorrow, May 9th.

During the PowerPoint presentation slide on recognition programs, Bob Carruth asked which public sector entity was recently awarded STAR recognition. The supervisor for the recognition program was not present at the meeting and the OSH staff in attendance did not immediately know the answer but indicated they would provide an answer as soon as possible.

Kevin Beauregard explained how OSH is using drones in conducting some OSH inspections.

Debbie Rogers-Lowery asked about an electronic OSHA injury/illness reporting requirement that was recently rescinded. There was a little confusion as to what specific OSHA

requirements were rescinded. Kevin explained that a few years ago new OSHA regulations went into effect that required some employers with over 250 employees and in hazardous industries to submit injury and illness information into OSHA's Injury Tracking Application on an annual basis. The reporting requirements were supposed to be phased in and in initial years required only OSHA 300A information to be submitted. There was a requirement that in subsequent years designated employers would also be required to submit OSHA 300 and OSHA 301 data. However, OSHA published a Final Rule recently to amend its recordkeeping regulation to remove the requirement to electronically submit to OSHA information from the OSHA Form 300 (Log of Work-Related Injuries and Illnesses) and OSHA Form 301 (Injury and Illness Incident Report) for establishments with 250 or more employees that are required to routinely keep injury and illness records. A question was asked by a member regarding whether OSH Special Emphasis Programs (SEPs) focused on an industry or if they focused on multiple industries. Wanda stated most NC SEPs focus on industries such as construction or long-term care. However, some SEP's such as the health hazard SEP cover multiple industries.

Kevin introduced the new OSH Director's Office executive assistant, Angela Hamilton. Kevin indicated she had worked as his Administrative Assistant for nine years, before moving over to Human Resources and is now back in OSH Administration. Other OSH Division Staff and Labor Senior Staff members who were present introduced themselves to the Council.

There was a 15-minute break.

Kevin went back to Bob Carruth's earlier question about the public sector STAR noted in the slides. It was determined that the town of Hillsborough received the most recent STAR recertification.

Beth Rodman conducted a PowerPoint presentation on migrant housing (see handout).

Kevin and Beth explained how competitive the Gold Star Growers are and that they are held to a higher standard. Gold Star Growers go above and beyond what they are required to provide regarding housing accommodations for migrant workers.

In response to a question about NCDOL's role in undocumented workers, Beth responded that an employee's legal status is not a consideration regarding compliance with the migrant housing requirements. Kevin went on to explain that NCDOL's role is to ensure workers are provided a safe workplace and safe housing conditions, and our staff does not delve into issues such as undocumented workers. Further questions were asked regarding translation for foreign speaking workers. It was explained that NCDOL uses a translation service and ASH also has some bilingual compliance officers. It is not our practice to use the Grower's translator. Gloria Bone-Gunther suggested possibly using translation phone apps. Beth and Kevin explained that phone apps have not proven to be a reliable source for translations while conducting inspections because sometimes the translations are inaccurate due to different dialects, and the meaning could unintentionally change.

Terry Brewington asked if there were any migrant housing issues after major hurricanes. Beth answered that most of these instances would cut the growing season short forcing workers to return to their home and therefore there were few housing issues. Beth indicated that ASH did not receive housing complaints regarding specific sites following the last hurricane, but there could be issues such as mold in the upcoming season.

Bob Carruth inquired about labor contractors having farm workers on their land. Beth answered that the number of farm labor contractors versus growers who are land owners are increasing.

There was a break for lunch.

Jennifer Haigwood provided a brief Legislative Update for NCDOL and the OSH Division that included mention of an Omnibus Labor bill and Budget requests. The Omnibus Labor bill addressed OSH personnel access to medical records, prohibiting releasing unredacted copies of OSH case files to 3rd parties and restricting OSH staff participation in 3rd party litigation. The current NC legislative session is still active; therefore, nothing has yet been finalized.

Gloria Bone Gunther indicated that she was previously in the healthcare industry and wanted to know if the long-term care industry was concerned about the release of medical records. Kevin explained that OSH is only interested in obtaining medical records that are part of an associated case file. He explained that all medical records are kept in a separate locked cabinet within each office and accessible to limited designated personnel. Debbie Rogers Lowery explained that she has some employers who are hesitant to share records because they don't want to break HIPAA laws. Jill Cramer, General Counsel for NCDOL, explained that OSH is already permitted to obtain the records under the HIPPA laws, but since NCDOL is not specifically mentioned in the HIPPA laws the changes in the new labor laws would address it and provide a reference for employers. Gloria asked what documentation we provide employers to show them we have the right to obtain medical documents. Kevin explained that Jill Cramer drafted a letter that cites the statute related to medical documents that allows NCDOL to be provided copies.

Fleda Anderson conducted a presentation on the OSH Consultative Services Bureau that covered activities.

Bob Carruth asked a question regarding the differences between the SHARP and STAR programs. Fleda explained that SHARP falls under Consultative Services and STAR is the recognition program managed by ETTA. Debbie Rogers-Lowery added that she is familiar with the SHARP program and has personally seen this being a beneficial program and how that matters to employers and employees. Debbie also explained the yearly reporting required by SHARP that should include how or what the employers has improved on.

Debbie mentioned that having Commissioner Berry in attendance at the SHARP ceremonies was special and it means a lot to employers.

Commissioner Berry reflected on a SHARP ceremony she had been to a while back and the employer told a story of how he used to tell OSHA "Get a warrant" and now he has voluntarily become a SHARP employer.

Debbie introduced new business to be brought to the floor. It was announced that the next OSH Advisory Council meeting will be in Asheboro on November 20, 2019 at Randolph Community College.

Bob Carruth announced the Eastern Carolina Safety & Health Conference is scheduled for June 20-21, 2019 in Greenville, NC.

Debbie stated that safety for workers in NC has greatly improved over the years and credited Commissioner Berry with this.

Kevin asked for topic suggestions for the next meeting from the Council and encouraged members to provide any request to the Chair or to the Director's Office staff. Gloria said she really enjoys the individual stories.

The meeting ended at approximately 1:45 p.m.