

MINUTES OF THE NC DEPT OF LABOR ADVISORY COUNCIL

ON OCCUPATIONAL SAFETY AND HEALTH

November 20, 2019

The NC Department of Labor Advisory Council on Occupational Safety and Health met on November 20, 2019, the Comer Conference Center at Randolph Community College in Asheboro, North Carolina.

The following Council Members attended: Terry Brewington, 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: Linda Andrews, Robert Carruth, and Ron Ingerick. NCDOL/OSH attendees were: Deputy Commissioner/OSH Director Kevin Beauregard, Nicole Brown - Eastern Compliance Bureau Chief, Jennifer Haigwood - Director of Administration and Gov't Affairs, Wanda Lagoe - Bureau Chief ETTA, Assistant Deputy Commissioner Scott Mabry, Kevin O'Barr – Consultative Services Bureau Chief, Beth Rodman – ASH Bureau Chief, Paul Sullivan – Western Compliance Bureau Chief, and Angela Hamilton - OSH Executive Assistant.

The meeting started at 10:07 a.m. Kevin Beauregard welcomed everyone to the meeting and addressed housekeeping items and told the attendees that Commissioner Berry would not be at this meeting due to illness. Kevin invited the Council members to Commissioner Berry's Christmas Open House which will be held on December 11, 2019 in the Labor Building.

Kevin explained that the BLS has released the Injury and Illness statistics for calendar year 2018. The rates are close to our all-time low and are as follows: Total case rate for 2018 was 2.6, slightly increased from 2017 which was 2.5. For private industry the rate for 2018 was 2.4, also a slight increase from 2017 which was 2.3. Construction rates had a significant increase for 2018 at a rate of 2.5, up from the 2017 rate of 1.8. Due to the increase the Occupational safety and Health (OSH) Division focused on the construction industry where we had noticed some trends. OSH offered construction forums and webinars as well as participating in an OSHA national "Safety Stand Down" initiative. Governor Cooper proclaimed a week in observance of safety in the workplace, Safe and Sound week. North Carolina was in the top three in the nation for participation by employers for the safety stand down according to preliminary numbers from OSHA. Lindsay Cook commented on what the increase in the construction I & I rates could be due to and inquired if it was due to the increase in more construction business or lack of skilled workers? Kevin Beauregard stated it could be due to both, and the trend has continued so far into 2019. Corey Hill commented further on the skill gap in construction possibly leading to more injuries. Jennifer Haigwood also commented about the Apprenticeship and Training section that was within the Department of Labor prior to being moved to Commerce and then to the Community College System, and how this important

program provided valuable training to employees. Debbie mentioned the need for having skills classes in high schools. Corey Hill added that young people today don't have as much of an interest as they used to in becoming skilled workers, even with apprenticeship programs. Jessica Foster added that many companies offer grants for apprenticeship programs. Jessica and Gloria Bone Gunther suggested talks on workforce development for the next meeting. Jessica indicated that she would provide some contact information for NC Works.

Chair Debbie Rogers-Lowery discussed the Consultative Services Bureau (CSB), headed by Kevin O'Barr, and the benefit it is to employers. She explained Days Away Transfer or Restricted (DART) rate inspections in relation to consultative services and that if a compliance inspector initiates an inspection that the employer can tell the inspector they are currently under the consultative program, which usually results in no compliance inspection. She encouraged the employers represented by her to look into the services offered by our CSB. Kevin Beauregard went on to explain that if an employer is already involved in our consultative program it is usually a waste of our resources to continue with any programmed compliance activity. Kevin O'Barr (Consultative Services Bureau Chief) stated that North Carolina was 4th in the country for consultative visits in FY2019.

Debbie Rogers-Lowery went over agenda items for the meeting. Debbie introduced Jennifer Haigwood who provided the legislative update. Jennifer indicated that it was a long and unusual session and a state budget is still not in place. Jennifer explained that there was a Senate bill regarding youth employment passed in which certain youth workers would be allowed to perform limited work in certain detrimental occupations that is currently prohibited by law. The bill would allow youth workers involved in approved student internships to work in these areas, when certain guidelines are met. As Jennifer brought up in the spring meeting, there is an agency proposed bill in the works. It has been held up due to some technical language in which the agency would like to protect the identity of witnesses who give statements taken during investigations. Jennifer also explained a new pilot program sponsored by the Office of State Budget Management that the ASH Bureau participated in this year. The program was designed to assist departments in finding areas that could benefit from program improvements. Processes are systematically evaluated, and potential short and long-term solutions are proposed. The primary need that was identified in the ASH Bureau was an increase in staffing to keep up with the increase of migrant housing sites that require preoccupancy inspections. Staffing shortages and demand has caused an increase in the number of provisional certificates that must be issued, which is not ideal. Some short-term process and procedural solutions were identified including improving the current software program utilized by staff. Brian Polk added that he is pleased to hear about the bill regarding allowing youth workers to work in apprenticeship programs, in identified occupations. Scott Mabry added that small counties would offer apprenticeship programs at high schools where students can gain hands on experience. Scott explained that the Department of Commerce would need to get involved in pushing this issue to put more emphasis on vocational education.

Kevin Beauregard added to Jennifer's comments about the state budget that there also is no federal budget, yet.

Scott presented on a fatality inspection involving a mast climber scaffold that collapsed on March 23, 2015, in downtown Raleigh, that ultimately resulted in 4 deaths (see attached PowerPoint). Inspections were open with several contractors and subcontractors. The project was in the end stage and there was a rush to finish using the mast climber scaffold and to disassemble it. There was some back and forth between different parties as to whether this work should be done the way it was. There was to be some glass work done as the mast climbers were disassembled. The scaffold was overloaded, unevenly loaded and some tie offs were spaced farther apart than recommended by the scaffolding manufacturer. Employees were tied off to the scaffolding and did not have an independent lifeline. One of the mast climber platforms collapsed between floors 9 and 6 and the employees on the scaffolding fell to the ground.

One of the Council members asked if there were going to be different procedures put in place for tie offs. Kevin Beauregard explained that an independent lifeline should have been secured for each worker and attached to the top of the building, instead of employees being tied off to the scaffolding. He also added that two of the workers on the platform had not received proper training regarding PPE or working from a scaffolding. In regard to training, a council member inquired if the employees involved in the incident spoke English or a different language such as Spanish. Jessica Foster added that it is important to offer training to workers in a language they understand. Kevin said he could not recall the primary languages spoken/understood by all the victims, but believed Spanish was the primary language of at least one of the victims.

Terry Brewington added that there are times when workers are forced to complete possibly unsafe tasks with the threat of losing their job if they don't comply. Kevin Beauregard explained that there are certain discrimination protections in place to protect workers. Workplace retaliatory and discrimination enforcement protection laws fall under the jurisdiction of the Employment Discrimination Bureau within the NC Department of Labor.

The topic of different dialects in the Spanish speaking community was also discussed and the importance of properly getting across safety and health procedures in a format/language understandable to employees was stressed. It is important to train and provide information to workers in a way they will understand correctly.

Gloria Bone Gunther inquired as to whether the manufacturer and other companies who use this type of scaffold was notified of the dangers. Gloria also inquired about the amount of penalties that were issued to the employers involved. Kevin and Scott explained that the information is available in some publications and on the federal OSHA website. Debbie added that you can search for different types of incidents on the website to get this information.

Kevin also explained that penalty information can be found on the NC Department of Labor website.

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

Wanda went over statistics for STAR employers noting that total employer participation slightly decreased (by three). Brian Polk asked what the decrease was due to. Wanda explained that most times there are withdrawals in the program it is due to management and company leadership changes. There is a lot of effort that goes into a STAR site. When companies drop out the program manager asks the company why they withdraw, and if another recognition program would be an option.

A council member asked about air quality requirements for the public and commented there is some confusion in this area. Kevin Beauregard explained that it is a jurisdiction issue and that NCDOL has jurisdiction on employee exposures, but the North Carolina Department of Health and Human Services, Division of Air Quality oversees public exposures.

As the meeting came to a close Debbie announced Commissioner Berry's annual Christmas Open House and the Toys for Tots event that will be held in the Labor Building in downtown Raleigh on December 11 from 2:00 p.m. to 3:30 p.m.

Debbie reiterated the topics requested by the council at the next meeting to include workforce development and apprenticeship programs.

Kevin asked the council members to provide us with any other topics and/or a speaker they may know of that would be willing to present.

The next meeting will be scheduled for Spring 2020.

The meeting ended at approximately 1:30 p.m.