

VOSHA REVIEW BOARD SPECIAL MEETING MINUTES
13 Baldwin Street, Montpelier, VT 05633

July 16, 2021

The VOSHA Review Board (VRB) Meeting began at 8:37 A.M. and was attended remotely via instantaneous transmission of video through Microsoft Teams by Leigh Keyser Phillips (Chair), Mark J. Gregoritsch (Board Member), Benjamin R. O'Brien (Member) and Carolyn Desch (Clerk).

ADDITIONS OR DELETIONS TO THE AGENDA

Budget Review and Discussion was deleted and postponed until the next VRB meeting.

APPROVAL OF MINUTES

RESOLUTION PASSED: After discussion and upon motion made by Benjamin R. O'Brien and seconded by Mark J. Gregoritsch, the Board unanimously voted to approve the June 9, 2021, and July 1, 2021, VRB meeting minutes. - PASSED

CASELOAD REVIEW

Carolyn Desch shared that there are nine cases open at this time including a new case. All cases have some activity varying from settlements in process to Supreme Court brief submittal.

RULES OF PROCEDURE REVIEW

Leigh Keyser Phillips shared with the Board Members details of the July 15, 2021, Legislative Committee on Administrative Rules ("LCAR") meeting on the proposed VRB rules revision. Leigh Keyser Phillips, Carolyn Desch and Dirk Anderson, General Counsel for the Department of Labor, were present. The Committee did not have a quorum, but did take testimony. Questions were asked by the Committee about expedited proceedings and the criteria for a simplified proceedings case. The meeting was rescheduled for July 29, 2021 at which a quorum should be present for purposes of adopting any motion with respect to the proposed rules. Carolyn will be present for that meeting, and Leigh will attend remotely if possible. LCAR has until July 30, 2021, to make comments on the proposed rules. The deadline for adoption submittal to the Vermont Secretary of State's office is August 3, 2021. If necessary, the Review Board will file for extensions of these deadlines.

BOARD MEMBER PARTICIPATION IN HEARINGS DISCUSSION:

Hearing Officer Alan Rome had brought up concerns about Board Members participation in hearings and being able to be impartial. The Board discussed the pros and cons:

- Participation is important, because:
 - (1) The Board Member can report to the full board on the nuances of any testimony given, such as body language and witness behavior, to determine if a witness is being truthful, and
 - (2) The Board Member can ask questions to clarify testimony provided.
- Participation is unnecessary, because:
 - (1) There are ways to listen or watch a recording of the hearing or to read the transcript,
 - (2) It effects the ability of the Board to be impartial, and
 - (3) In Civil Courts, there are no appellate judges or other hearing officers participating.

Hearing Officer Alan Rome was also concerned about the Clerk's involvement at hearings. While the topic was briefly discussed, the Board agreed that the Hearing Officers should attend the next meeting so that there can be a dialog about Board Member participation and the Clerk's relationship/interaction with the Hearing Officers.

STATUS OF LEIGH KEYSER PHILLIPS RETIREMENT:

Leigh shared that she would submit a letter to the governor stating that she will step down from the Board on September 15, 2021, or until such time as a replacement can be found. She also said that she will also suggest to the Governor that there be a raise in the Per Diem for the Board Chair, at the very least, due to the number of hours that the position can require.

SCHEDULING OF BOARD MEETINGS

The next meeting will be scheduled on either August 17 or 20, 2021, depending on Hearing Officers' availability.

ADJOURN

The meeting of the VOSHA Review Board was adjourned at 9:25 A.M.