



St. Louis Chapter Newsletter August 2018



Next Meeting

Monday, August 13th – Silica Panel Discussion

Joint Meeting with the American Industrial Hygiene Association. Eric Olson – Western Construction Group; Daniel Stark- Assistant Director of the Mo Dept of Labor Consultation Service; and Matt Orr – AmerenMO. Panel discussion about silica in the workplace and questions regarding compliance with the new silica regulations.

- Syberg's at 2430 Dorsett Road
- We open at 11:00am for networking, followed by lunch and chapter business at 11:30am and our presentation at noon.
- **Please register and pay at** <https://stl.assp.org/events/august-lunch-meeting-joint-meeting-with-aiha-silica-panel-discussion/>
- Pre-registering will ensure we have enough food and seating for everyone.

Coming Up

Friday, August 10th at 7pm -

[Membership Appreciation Skyline Dinner Cruise](#). All members (and +1) invited to join us for a free cruise on the Mississippi (\$100 payment refunded at arrival). Register online.

Monday, September 10th - How a solid Safety Culture drives Performance. Presenter Dennis Pivin will share his story of developing a strong Safety Culture at his company, Aegion Corp.

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ASSP St. Louis Board Positions

July marked the first month of the St. Louis ASSP year, and with the new year come new folks at board member positions. Returning to the board in new positions are Rick Reams, President, and Steve Williams, Vice President. Rudy May is staying on as board Secretary, and we are excited to welcome Erica Heinssen as Treasurer! Mark Krieger has succeeded to the board position of immediate Past President. Thanks to all of you for your service!

National Survey Notice

On Thursday, July 27th you received an email from the Society asking for your input on where to host the Professional Development Conference. We want to encourage all the members of our sizable membership to give their opinion.

The link in your email is tied to you and may have more impact. However, if you cannot locate that email, you may use this link: <http://surveys.assp.org/2018-pdc-city-survey/>

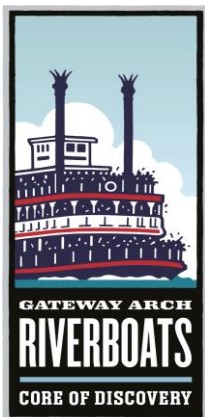


Tell us Where You'd Like to See Future ASSP SAFETY Conference

We are looking at potential future locations for ASSP's Annual Professional Development Conference (PDC) - and we need your help. Please take a few minutes to share your thoughts on the cities you feel offer the best event experience.

[Click Here to Take the 2-min Survey](http://surveys.assp.org/2018-pdc-city-survey/)

The survey will close on August 15th, 2018



ASSE 2018
MEMBERSHIP APPRECIATION
SKYLINE DINNER CRUISE

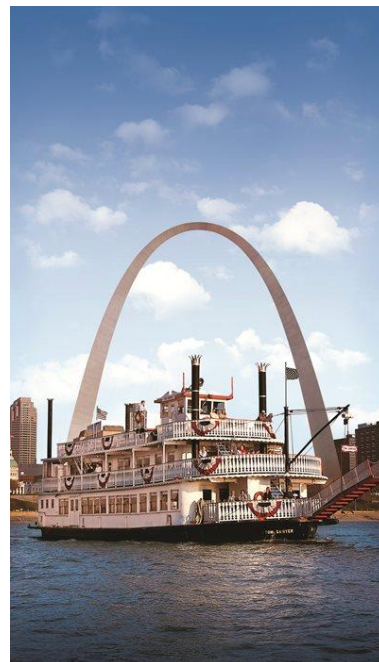
The board of the St Louis Chapter of ASSE would like to invite you and your spouse/or significant other to a Skyline Dinner cruise on Friday, August 10. The dinner cruise is free for our member and a guest. The conditions are as follows:

1. Members will 'initially' pay for their dinner cruise at a cost of \$50/person; maximum of two (2), or \$100.00; when you arrive on the night of the cruise, you will be reimbursed the cost of your initial payment.
2. Availability is guaranteed to the first 50 reservations (total count); additional 'seats' may be available subject to the Gateway Arch Riverboats schedule.
3. Payment and reservations can be made either by registering on our website, Paypal, under "Events" or directly with a check/cash to:
 - a. Dennis Dubitsky,
24 Loveland Pass,
St Charles MO 63303
4. You are encouraged to make your reservations, immediately;
5. Reservations are not transferrable or refundable.

MENU

- **Buffet includes*:**
 - Hand-carved Roast Beef
 - Breast of Chicken in a Seasonal Sauce
 - Green Beans Almondine
 - Vegetable Medley
 - Roasted Baby Potatoes
 - Mixed Greens Salad
 - Pasta Romano
 - Fruit Salad
 - Chef's Choice Dessert
 - Coffee and Iced Tea
 - Cash bar also available

BOARD: 7:00 PM
DEPARTS: 7:30 PM
RETURNS: 9:30 PM



INCLUDES: Two-hour cruise with a ½ hour board, reserved seating, dinner, and live Dixieland Duo entertainment.

No tickets are available at time of boarding, and there are no cancellations or refunds.

Suggested dress: From casual to dressy. No tank tops or cut-offs. Jackets and ties are not required.

Cocktails can be purchased on board on a cash basis. The cruise usually sails both north and south. This is subject to change depending upon the captain, barge traffic and river conditions.

For more information, visit: <http://www.gatewayarch.com/experience/riverboat-cruises/skyline-dinner-cruise.aspx>

Government Affairs Update

Comments by Tom Lawrence, STL ASSP Government Affairs Chairman

There is a legislative initiative now to repeal the Congressional Review Act and restore the regulations that were repealed as a result of its application. The CRA also prohibits another regulation that is similar to the regulation repealed.

The most notable use of the CRA was for the Ergonomics regulation passed in the waning days of the Clinton administration in 2000. Congress passed a repeal of that regulation and Bush signed it into law. Again, the key point is not just to repeal the existing regulation but to prohibit a successor regulation that is similar to that one. So even, though, there are significant ergonomic issues in certain industries, and the overall number of ergonomic related cases is significant, OSHA is prohibited from imposing a new ergonomics regulation.

In the current administration of President Trump, the CRA has been invoked a number of times. The most notable thus far is repeal of the Volks rule. This rule, issued in the latter days of the Obama administration, increased the statute of limitations to 5 ½ years from 6 months for employers who failed to properly record injury/illness data.

There are advocates for even more action to repeal OSHA regulations. The advocates here are basing their interest in more use of the CRA on the failure of many agencies to submit their regulations to Congress. The premise is that a regulation that has not been reported to Congress is vulnerable to Congressional disapproval when it is finally reported.

Efforts have been initiated to repeal the CRA, but at this point, the legislation remains stalled in the Senate Homeland Security and Governmental Affairs Committee.

---Tom Lawrence

The opinions expressed in this column are solely those of the author. They do not necessarily represent the views of the leadership or membership of the St. Louis Chapter of ASSP.

The Pitfalls of Using Second Opinions in OSHA Recordkeeping

by William Kincaid, P.E., CSP, CET
Lockton Companies of St. Louis

Given that there's a lot at stake for some companies these days that depends on their OSHA 300 log numbers, it's no surprise when employers attempt to reduce the impact of a case on their logs through the use of second opinions. Customers, insurers, banks and other important agencies can use OSHA log data in their decisions. An OSHA log brimming with lost time cases can cost a company a new customer, whether the potential client is in construction, retail or manufacturing. That makes every case important. No wonder employers have figured out that getting a second medical opinion might allow them to reduce the severity of a case, maybe getting rid of the lost time, or maybe taking the case off the log entirely. It should be done with care, and with an eye on the rules.

The practice of seeking a second conflicting opinion is perfectly OK with OSHA, as spelled out in OSHA's Recordkeeping FAQ's: "When deciding how to record a work-related injury or illness, an employer may choose to rely on a second conflicting medical recommendation from a physician or other licensed health care professional, provided the subsequent recommendation is contemporaneous to, and more authoritative (best documented, best reasoned or most persuasive) than the first recommendation."

Note the OSHA people are clearly trying to have employers choose the best judgment rather than the one which serves the employers' business interests. The decision is to be based on which is the most authoritative. OSHA says the most authoritative opinion would be "the best documented, the best reasoned, or the most persuasive".

If the doc who first saw the patient, talked with him, discussed the diagnostics with him, etc. is the best documented, the best reasoned, or the most persuasive, then that's the most authoritative opinion. If the second opinion is the most authoritative, then that's the one to use.

There's another catch: the second opinion must be "contemporaneous". One measure of whether or not it's contemporaneous is the timing. OSHA says: "For conflicting recommendations to be contemporaneous, they must be conducted within a time frame so that an injury or illness can be evaluated when the signs or symptoms are in the same stage of development, same degree of severity, and thus can be viewed in a similar context for analysis. In most instances, medical recommendations provided on the day of the injury or illness would be considered "contemporaneous."" If too much time passes after the first opinion, the window for a second opinion - at least one that changes the recordability status of a case - slams shut. OSHA's not clear on how soon that happens after the first opinion, but based on the "provided on the day of the injury or illness" statement, any changes made more than a day or so after the initial opinion seem doubtful.

However, even if the second opinion is contemporaneous, once medical treatment has been provided, or days away from work or restricted work activity have occurred, the employer must record it on the OSHA 300 Log. The employer may not consider a conflicting recommendation once medical treatment, days away from work or restricted work activity have taken place, even if the subsequent recommendation is more authoritative.

Note "medical treatment" starts as soon as the doc puts pen to paper. Once a prescription is written, that's medical treatment, even if the second doc says it could have been an OTC med.

What about a remote review of the diagnostics, vitals, photos of the injury, etc.? That's entirely possible in these days of electronic communication and emergent telemedicine, and there are now some doctors who do this sort of thing as a sideline. New technology is only adding to the list of ways a doctor can evaluate a person without ever being in the same room. Can remote evaluation be more authoritative than a hands-on examination? I don't think OSHA has ever addressed the possibility.

But the OSHA people already know radiologists usually read x-rays and MRI's without ever seeing the patient, lab results are analyzed by various experts without the patient being seen by them, respirator medical evaluations are done using a remotely evaluated checklist, and so on. Considering much medical consultation is already done remotely, to get tangled up in a serious court argument over remote consultation,

it would likely have to be a very specific instance where the medical judgment was not appropriate to be made without the in-person examination. That circumstance would likely be an issue with the state medical licensing boards as well.

I think it boils down to the OSHA statements on how to choose which opinion is followed. If the doc who saw the patient, talked with him, discussed the diagnostics with him in person, etc. is the best documented, the best reasoned, or the most persuasive, then that's the most authoritative opinion. If the remotely developed opinion is the most authoritative, then that's the one to use – although I would think it could be subject to a bit of suspicion as to why the doc who reduced the severity of the case but who never saw the patient is the more authoritative doc, especially if there are multiple instances. If getting a conventional second opinion merits some caution, then doing it remotely merits twice the caution.

Since not all second opinions are going to be contemporaneous or most authoritative, a second opinion isn't necessarily going to be the one you should use when deciding what goes on the OSHA log, and what stays off. Use caution when evaluating cases based on second opinions.



American Society of Safety Engineers - St. Louis Chapter

Protecting people, property, and the environment since 1911

2018-19 Rolling Calendar of Meetings and Events

| <u>Date</u> | <u>Meeting Topic & Presenter</u> | <u>Notes</u> |
|---------------------------------------|--|--|
| May 14 Monday Lunch | Fall Protection, Ladder Safety & Dropped Objects from heights Speaker Dave Barklage of Midwestern Safety Equipment | Beef Buffet |
| June 15 Friday | ASSE Scholarship Golf Tournament Fundraiser The Praires Golf Club in Cahokia, Illinois | Registration Required |
| July 9 Monday Lunch | "Head Injury in the Workplace: Evaluation and Management." Dr. Brandon Larkin will discuss multiple constellations of complaints in head injuries—the concussion, cervical injury, vestibular dysfunction, visual disturbances, etc. and the importance of quality therapy. | BBQ |
| August 13 Monday Lunch | Joint Meeting with the American Industrial Hygiene Association (AIHA) Silica Panel, Eric Olson-Western Construction Group; Daniel Stark- Asstnt Dir Mo Dept of Labor Consultation Service and Matt Orr-AmerenMO | Ball Park Buffet |
| September 10 Monday Lunch | How a Solid Safety Culture Drives Performance ASSE Member & Presenter Dennis Pivin will share his story of developing a strong Safety Culture at his company, Aegion Corp. | Dad's Meatloaf Special |
| October 8 Monday Lunch | Worker's Compensation Speaker J Bradley Young of Harris Dowell Fisher & Young L.C. will provide us with the latest information on what is happening in the legal circles that affect worker's compensation. | Mexican Buffet |
| November 12 Monday Lunch | Joint Meeting with the Gateway Society of Hazardous Material Managers (GSHMM) Effective Communication - Working through the Generations – Presenter Erin Mutert, VP, Loss Control Coordinator, JW Terrill | Taste of Italy |
| December 10 Monday Lunch | OSHA Update Speaker Bill McDonald, OSHA's Area Director in St Louis provides his annual OSHA fiscal year update and quick review of new/old initiatives. | Chicken Delight |
| January 10, 2019 Thursday, 5 pm | Membership Appreciation Night No luncheon meeting this month. Enjoy dinner at Bristol Seafood Grill on Olive and relax with others in your field at this event just for St Louis Chapter Members. | Heavy Appetizers |
| February 11 Monday Lunch | OSHA Defense Speaker Julie O'keefe of Armstrong Teasdale Law Firm Update on strategies to defend against OSHA citations | Deli Delight |
| March Monday All Day | Professional Development Conference Joint conference with the American Industrial Hygiene Association (AIHA) to bring you high quality training at the best price. CEU's awarded. | Registration required Ameren Hdqtrs |
| April 8 Monday Lunch | Defensive Communication Speaker Mary Sue Love Ph.D Associate Professor SIU-Edwardsville | Roasted Pork Buffet |

Lunch will include house salad, bread and cookies in addition to the listed entree.

American Society of Safety Professionals

St. Louis Chapter Committees

Website – Dave Callies – dcallies@kelpe.com

Maintains website with updated news, chapter events, and job postings

Newsletter – Dan Bemhower – dan.bemhower@usi.biz

Publishes and distributes the chapter newsletter to all chapter members

PDC Chair – Paul Edler – paul_edler@yahoo.com

Coordinates logistics of professional development activities

Government Affairs – Tom Lawrence – twlawr@swbell.net

Provides input on federal laws and regulations on which ASSE is proposing to comment

Membership – Dianne Gibbs – dianne@ideasftp.com

Ensures new members are recognized & introduced at membership meetings

Public Relations – Steve Williams – swilliams@bellelectrical.com

Promotes chapter activities to the general public. Coordinates poster contest

Awards & Honors – Bill Kincaid – billkincaid@yahoo.com

Recognizes member achievement through awards like Safety Professional of the Year

Scholarship – Rob Miller – rmiller7@ameren.com

Promotes student scholarships & continuing education scholarships for members

Programs – Jim Latta – jlatta@nbwest.com

Plans the program time and needs for presentations & coordinates schedule

Social Media – JaNola Rigsby – jrigsby@qualsafesolutions.com

Maintains Face book & Twitter accounts promoting discussion with local membership

Please contact the committee chair with comments or if you would like to participate.

Mid Missouri Officers

Bret Derrick, Chairman

bderrick@broadwayergonomics.com

Mark Woodward, Vice Chair

mwoodwar@mem-ins.com

Bethany Watson, Membership Chair

bethany@365safety-services.com

Job Opportunities

Job opportunities are posted frequently on the website:

<https://stl.assp.org/current-openings/>

The St. Louis Chapter would like to offer unemployed ASSE members with a free lunch at our monthly meeting! Just be ready to show your membership card for validation.

St. Louis Chapter Board Members

Rick Reams – President, 618-670-6589 (rick@haydenwrecking.com)

Steve Williams – Vice President, 314-213-5859 (swilliams@frenchgerleman.com)

Rudy May – Secretary, 636-677-3421x362 (rudym@h-j.com)

Erica Heinssen – Treasurer, 314-941-4545 (heinssen.e.1@pg.com)

Mark Krieger – Past President, 314-435-3630 (mark.krieger2007@gmail.com)



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