



**NCDOL**

N.C. Department of Labor

Josh Dobson, Commissioner

# Labor LEDGER

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## Novartis Technical Operations Receives Third Star Recertification

By John Mallow, Public Information Officer

**N**ovartis Technical Operations (Novartis), a division of Novartis AG based in Basel, Switzerland was awarded the Carolina Star award for their successful recertification in the N.C. Department of Labor’s Carolina Star Program. On Tuesday, Sept. 6, Labor Commissioner Josh Dobson attended the ceremony to present the award to company leadership and employees at Novartis’ Wilson manufacturing facility.

“Congratulations on receiving the Carolina Star award, which is the highest safety honor we bestow on employers,” Commissioner Dobson said. “We do this because we know it saves lives and prevents injuries, and to achieve Carolina Star status you have to have buy-in from everyone, not just management.”

This most recent certification marks the third time Novartis has been recognized as a Carolina Star site. Earning this prestigious designation highlights Novartis’ outstanding safety record as well as the ability to develop and implement highly effective workplace safety and health management systems.

Carolina Star Program consultants visited the Wilson facility during July and August 2021 to complete an evaluation to determine the eligibility of continued participation in the program. Novartis successfully met all requirements to maintain its status as a Carolina Star site.

Among the criteria used in the evaluation were interviews with employees and company leadership, a review of Occupational Safety and Health (OSH) program documentation, a review of OSH 300/300A forms and the injury and illness rates for 2018, 2019 and 2020.

To participate in the Carolina Star Program, three-year averages of Total Recordable Case (TRC) and Days Away, Restricted or Transferred (DART) rates are compared to the three-year averages of other worksites in the pharmaceutical manufacturing industry. Novartis’ TRC rate measured 58% lower and its DART rate 47% below the average rates for its industry.

Sandoz U.S. is a global leader in generic and biosimilar medicines, committed to playing a leading role in driving access to medicine worldwide. Sandoz in the U.S. is led by a diverse team with extensive experience in the generic pharmaceutical and biopharmaceutical industry. They have a long history of innovating to increase access to high-quality, affordable medicines to millions of patients around the world.



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Labor Commissioner Josh Dobson (first person to the right of Novartis sign) presents the acrylic Carolina Star Program award to Associate Director of HS&E John Price (to the right of Commissioner Dobson) and Vice President of Technical Operations Habib Nasirullah (holding Carolina Star award) in front of Novartis’ Wilson manufacturing facility.





## From Labor Commissioner Josh Dobson

In September, I had the opportunity to visit Merck, in Durham, and present their company and DPR Construction with a million-hour award for no injuries or illnesses that resulted in lost workdays. This is a prestigious award, and you could feel the energy and comradery of both management and the employees. They all truly cared about one another and the importance of safety and health in the workplace.

The N.C. State Fair is open Oct. 13-23 at the N.C. State Fairgrounds in Raleigh. On Oct. 10, I will participate in Media Day and then take the opportunity to explore the fair, meet with Agriculture Commissioner Steve Troxler and maybe, even enjoy a turkey leg. The theme of this year's N.C. State Fair is "So Happy Together."

In late October, I will be making my way to Western Carolina University (WCU) for the opening of the new steam plant. While I was a member of the N.C. House of Representatives, I helped secure funding for the replacement and design of a new facility. This steam plant is critical to the functionality of WCU because it provides heat and hot water for the entire campus. I am honored to speak at the opening ceremony not only because I was part of the group that secured the funding for this venture but because in my capacity as Labor Commissioner, my department will oversee the inspections of the boiler in the future thanks to our Boiler Safety Bureau.

In each issue of the Labor Ledger, there will be a "classified ad" for current job openings with the NCDOL. This month's edition includes a brief description and link to a job posting for an OSHA Safety Compliance Officer I. If you have experience in the industry, please consider applying for this position. See Page 3 for more information.

On Oct. 1, we will wish Kevin Beaugard, long-time employee and Deputy Commissioner of the Occupational Safety and Health (OSH) Division, a bittersweet farewell as he retires with more than 31 years of service to the department. Kevin was originally appointed to the role by former Commissioner Cherie Berry, and I asked him to remain in that role when I took office in January 2021. Kevin has been a great asset to the department and will be greatly missed by all. I welcome Jennifer Haigwood as my new Deputy Commissioner of OSH. Happy Fall!



Nova Development

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## Recognition Roundup

"Recognition Roundup" identifies businesses that qualify for one of the N.C. Department of Labor's recognition programs. Congratulations to all of the recent award recipients. For a complete list of **Star** and **SHARP** sites, visit the **NCDOL website**.

### Building Star \*Recertification

- Metcon Inc.\*
- RGD Project Management Inc. - Pfizer\*

### Carolina Star \*Recertification

- Cintas Corp., Location No. J77\*
- Cintas Corp., Location No. 936\*
- CLT- Division of Facilities\*
- Sonoco Recycling LLC – New Hanover County\*
- Sonoco Recycling LLC – Onslow County\*
- Veolia ES Technical Solutions – Mooresville Facility\*

### SHARP \*Recertification

- Canterbury House, Roxboro\*
- City of Reidsville Fire Station No. 1, Reidsville\*
- City of Reidsville Fire Station No. 2, Reidsville\*
- City of Reidsville Fire Station No. 3, Reidsville\*
- Crown Equipment Corp., Kinston\*
- Edwards Wood Products Inc., Liberty\*
- Grass America Inc., Kernersville\*
- Highgrove Longterm Care Center Inc., Reidsville\*
- Lee County Industries Inc., Sanford\*
- North Buncombe Family Medicine, Weaverville
- Piedmont Endodontics, Asheboro
- Piedmont Endodontics, Kernersville
- Piedmont Endodontics, Winston - Salem
- Purolator Facet Inc. - Parker Hannifin Aerospace Division, Greensboro\*
- Pyrotek Inc., Salisbury\*
- United Methodist Retirement Homes Inc. dba Croasdaile Village, Durham\*
- Whispering Pines Nursing & Rehabilitation Center, Fayetteville\*



**Josh Dobson**  
Commissioner of Labor

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# 2022 Annual Carolina Star Safety Conference

By: LaMont Smith, Recognition Program Manager

The Annual Carolina Star Safety Conference (CSSC) was held at the Joseph S. Koury Convention Center in Greensboro on Sept. 14-16. The theme of the conference was “25 Years of Safety – Past, Present, Future.” The theme represents 25 years of Star safety conferences and best practices sharing. There were 724 participants from across the state that attended the conference, including a variety of vendors and speakers at the event.

Opening day for conference activity began with preconference workshops that were designed to encourage the growth of the N.C. Department of Labor’s (NCDOL) Star Program. The preconference workshops included topics that focused on the Star application and evaluation processes. In addition, there were preconference workshops designed to assist current participants with preparing their Star Annual Report and other topics that were designed to assist all participants with improving their safety culture and eliminating employee injuries. As the day progressed, the conference transitioned into the general session where opening session guest speaker, Ashley Waddey of Biogen, engaged the audience with her presentation on Learning Teams. Learning Teams are used to better understand the systems in which people work, in order to enhance safety and reliability.

Additionally, the Carolina Star Program recognized Mundy Maintenance and Services LLC for 25 years of active participation in the Carolina Star Program. The company began their Star Program participation in 1997 and they continue to demonstrate their commitment to meeting stringent Star Program participation requirements. Mundy Maintenance and Services LLC was recognized at the 2022 conference for their long-lasting commitment to workplace safety and health excellence.

The audience was fortunate to receive an additional closing session message from keynote closing speaker, Candace Carnahan. Carnahan’s closing message provided the audience with a unique way to use their respective voices to approach safety as an opportunity and not just an obligation. She stated that she suffered a traumatic work-related injury at the age of 21. Furthermore, Carnahan emphasized the impact that her injury had on her, her family, co-workers and others in her community. The audience was moved by Carnahan’s message as she demonstrated her strength and resilience by sharing her personal story regarding her injury.

Additionally, Kevin Beauregard, deputy commissioner of the Occupational Safety and Health (OSH) Division, spoke to the audience and provided updates regarding NCDOL OSH-related activities. Beauregard proceeded by introducing Labor Commissioner, Josh Dobson. Dobson began by congratulating all Carolina Star participants on their safety and health achievements. He proceeded by thanking the audience for contributing to North Carolina’s low injury and illness incidence rates. Dobson indicated in his presentation to the audience that what they do as Star Program worksites and as a conference matters. Dobson further indicated that Star participants are a part of an elite group and that he was honored to be a part of the conference. Finally, Dobson concluded by indicating that workplace fatalities, job crisis and divisiveness are issues that motivate him to make a difference during his tenure as Labor Commissioner.

The Carolina Star Safety Conference is appreciative of all attendees, sponsors, vendors, Star Program participants, regional team leaders and board members for providing for another successful conference event. Please plan on attending the 2023 Annual Carolina Star Safety Conference which is scheduled for Sept. 20-22, 2023, at the Joseph S. Koury Convention Center in Greensboro.



**Are you looking to elevate your career to the next level?**

**Become an OSHA Safety Compliance Officer I with the NCDOL!**

**You may be eligible for a \$3,000 sign-on bonus!**

Safety Compliance Officer (SCO) position requires identifying workplace hazards (and potential hazards); recommending citations for alleged violations and making appropriate referrals; inspecting a variety of establishments; performing safety and health hazard assessments; evaluating employer’s hazard abatement efforts; preparing reports, investigating fatalities, accidents and complaints as required by the Occupational Safety and Health Act. No more than a 50-mile commute to the Raleigh OSHA Field Office is required. A valid Drivers License is required. Click [here](#) and apply today.

# FOCUS: The NCDOL Retaliatory Employment Discrimination Bureau (REDB)

By Harriet Hopkins, Administrator, Retaliatory Employment Discrimination Bureau

## Overview:

It is a massive understatement to say that the past several years have been challenging and difficult for most employees and employers in North Carolina. Each of us has had to navigate the financial, emotional and physical ramifications of the COVID pandemic; manage interruptions in commerce from supply chain issues; find our footing in a fractured political landscape; and of course, struggle with inflation and the increased cost of living and cost of doing business.

REDB has, in many ways, had a front row seat over the last several years to witness how this changing and challenging environment has affected the citizens of North Carolina. Most employee complaints come through REDB because they have been terminated and are understandably worried about how they will support their families now, much less plan for the future. By the same token, employers are challenged by the need to downsize, take appropriate precautions, allow work from home and perhaps lay-off workers. They, too, worry about the decisions that must be made. REDB receives approximately 500 complaints a year from employees who allege that their employers have retaliated against them in the workplace—for a variety of reasons. Not all terminations of employment, however, are retaliatory, discriminatory or illegal.

## At-Will Employment Doctrine:

In North Carolina, employment is “at-will.” This means that either the employer or the employee may end the employment relationship at any time. As a practical matter, the “at-will” doctrine generally serves to protect employers rather than employees, but not always. Here are some key facts about “at-will” employment:

- ◆ Whoever is terminating the relationship can do so for any reason whatsoever, so long as it is not illegal. This generally means that the reason cannot be in violation of a federal or a state law.
- ◆ Whoever is terminating the agreement does NOT have to give the other party a reason.
- ◆ Basically, “at-will” employment means that the employment relationship can be terminated for a good reason, a bad reason or for no stated reason at all.

The good news for employees is that there are exceptions to the “at-will” employment relationship.

## REDA:

For purposes of this article, the focus is on the N.C. statute that prohibits retaliatory employment action by employers against employees, the N.C. Retaliatory Employment Discrimination Act (REDA). If an employer has violated REDA, the “at-will” doctrine does not apply. So, what does it mean to violate REDA?

Not every employment decision is covered by REDA. While it does not cover all “unfair” situations, it has some very real, concrete protections for employees and guidance for employers.

REDA protects employees from engaging in conduct that it specifically says is protected and is based upon 11 different N.C. statutes. An employer must not retaliate against an employee who exercises certain rights under the N.C. Workers’ Compensation Act; the N.C. Wage and Hour Act; the N.C. Occupational Safety and Health Act; the statutes protecting National Guard Service; and people who carry the sickle cell trait, among others. Exercising rights means filing a complaint, initiating a complaint, testifying in a legal investigation, participating in an inspection, etc.

### *Here are some examples of what REDA does cover:*

- ◆ Employee A is terminated because they filed a safety complaint with the N.C. Occupational Safety and Health (OSH) Division.
- ◆ Employee B is denied a promotion because they complained about overtime pay.
- ◆ Employee C was transferred to another location in another city because they filed a workers’ compensation claim.
- ◆ Employer D complained about COVID protocol not being followed and was terminated.

### *Here are some examples of what REDA does not cover:*

- ◆ Protections afforded by federal law such as discrimination based upon sex, national origin, race, age, disability, pregnancy, religious affiliation, among others. REDB will not be able to investigate any complaint based upon these conditions.
- ◆ Employer behavior that may seem unfair but is not covered such as: refusal to give a reason; termination based upon a Facebook post; relocation because of a sexual harassment complaint; replacing the employee with a relative.

## What is the role of the REDB?

Our bureau investigates the complaints that employees file under the requirements of REDA. If the complainant’s allegations are not protected under REDA, we cannot investigate. If they are covered by REDA, the employer is given an opportunity to respond. We will conduct investigations and gather evidence. Our job is to review the evidence and make a determination as to whether the evidence indicates that REDA may have been violated. Our staff remains neutral at all times.

We take our statutory charge very seriously. Every complaint is important. Every response from an employer is considered. All of the evidence and witness testimony is evaluated.

*continued on page 5*

# NCDOL Retaliatory Employment Discrimination Bureau

*continued from page 4*

## What happens after the investigation?

There is a legal analysis that the bureau must do. The complainant must show that they engaged in protected activity under REDA, that the employer knew about it and that the employer took the alleged action against the employee **because** of the protected activity. “Because” is key. The respondent’s evidence is considered to see if it produced evidence of a legitimate reason (rather than in retaliation for the protected activity) for the employment action taken against the employee.

## What happens after REDB has finished the investigation?

If REDB finds that the evidence shows that the employer violated REDA, we offer mediation to the parties to help them settle the dispute. If REDB determines that the employer did not violate REDA, the employee is issued a right-to-sue letter which allows them to sue the employer in court under REDA.

## REDB’s Commitment:

REDB is committed to the fair and impartial investigation of complaints filed under REDA. Because jurisdiction is limited to complaints under REDA, the bureau will refer employees who allege retaliatory action under statutes other than REDA to other agencies for assistance.

Click the following **bold hyperlinks** for more information about **REDA**, **FAQs** and the **website** or call the Helpline directly at: 919-707-7941.



NCDOL Photo Library

## Inside NC Labor

Be sure to check out NCDOL’s podcast, **Inside NC Labor**.

Episode 56 features special guests Phil Hooper, Deputy Commissioner of Standards and Inspections; Beau Thomas, Bureau Chief of the Mine and Quarry Bureau; Jay Stem, N.C. Aggregates Association; Bryan Moore, Vulcan and Jason Godwin, Wake Stone Corp. at the 2022 Mine Safety and Health Conference.

In addition to NCDOL’s website, **Inside NC Labor** is available on YouTube, Spotify, Apple Podcasts, Anchor and Google Podcasts.

**Inside NC Labor** is designed to inform and educate North Carolina citizens on the role that the Department of Labor plays in state government.



By Harriet Hopkins, Administrator,  
Retaliatory Employment  
Discrimination Bureau

**Q:** I work for a small company, and I earn eight hours of vacation leave each month. There is no written vacation policy. I asked my boss if I could take five consecutive days of vacation and she said no that they couldn’t manage without me for that long. I admit that I got upset and argued with her, especially because I had already rented a house at the beach. I took the time anyway and went to the beach. When I got back, she fired me, said I was insubordinate. Aren’t I entitled to take my vacation whenever I want to? I had the hours. Can she fire me for taking the vacation when I wanted to?

**A:** Yes. An employer does not have to offer vacation leave to employees. You had earned vacation time, but the employer is within its rights to require any requested leave to be approved. Complaining about not being permitted to take leave when you want to is not a protected activity under the Retaliatory Employment Discrimination Act (REDA). When you took the vacation anyway, that was insubordinate. Respondent did not violate REDA.

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★ Oct. 13–23, 2022 ★



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# DEADLY Mistakes



By Judyth Forte, State Plan Coordinator

**Fatal Event:** On Feb. 21, 2018, a 23-year-old man died from a blunt force crushing injury to the neck after his forklift flipped over when he made a sharp turn with the forks loaded and raised and was not wearing a seatbelt.

sharp turn with the forks loaded and raised and was not wearing a seatbelt.

**Investigative findings:** The personnel file of the employee was reviewed, and it showed that the employee had filled out his application for a loader position indicating he had intermediate experience operating a sit-down liquid propane forklift but was not certified to operate the equipment. No documentation was provided by the employer to show that the employee was trained or certified to operate the forklift he was using at the time of the incident. Interviews with employees who were operating forklifts at the facility stated that there was no formal training or skill set appraisal done before they were allowed to operate the forklifts. The employer's safety rules, located in the employee handbook, are reviewed with employees upon their hiring. The established rules stated that forklift trucks were only to be operated by authorized personnel, and employees were not authorized to operate machines or equipment until they had been properly instructed and authorized to do so by the supervisor. However, the employer did not provide a comprehensive training program, nor enforce their safety rules, which also included the use of seatbelts. Employees stated they did not wear seatbelts and employees were observed not wearing seatbelts.

**Discussion:** Forklift overturns are the leading cause of forklift related fatalities. Forklifts are relatively stable equipment if the center of gravity is directly above the vehicle's wheelbase. A sideways tip-over can happen when the center of gravity shifts too far to the left or right of the wheelbase which may occur during sharp or sudden turns or when the load is not centered on the forks. A forward tip-over can occur when the center of gravity moves too far forward, such as when a lift is driven down a slope or ramp or is overloaded with the forks raised. A load that is safe four inches off the ground may not be safe

at four feet off the ground. It is important to always maintain control of the vehicle. Speed needs to be adjusted to match the conditions and the operator must be aware of and anticipate dangerous motions, other forklift operators and pedestrians. When operating a forklift, the seatbelt must be worn. An employer is responsible for enforcing the use of seatbelts in their facility. If a forklift tips over, the seatbelt should hold the operator in place if it is operating correctly. The operator should stay in the seat and not attempt to jump off. They should lean away from the falling direction of the lift and hold onto the steering wheel, bracing their feet on the floor of the truck.

Occupational Safety and Health Administration (OSHA) standards require both classroom-style training and practical, hands-on forklift training followed by an evaluation before an operator is deemed as trained. Employers must certify that each operator has received the training and must evaluate each operator's performance at least once every three years. Refresher training must be given when an operator has been observed using a forklift in an unsafe manner or is involved in an accident or near-miss incident. OSHA states that an employer does not need to retrain an employee in the operation of a powered industrial truck (forklift) if the employer certifies that the operator has been evaluated and has proven to be competent to operate the truck safely.

**Recommendations:**

- ✘ A forklift operator must be fully trained and certified before they are allowed to operate a forklift alone and must have a basic knowledge of the equipment they are operating including the lift mechanism, lift capacities, the concept of the moving center of gravity, proper backing techniques and use of authorized attachments.
- ✘ The best way to reduce the likelihood of operating an improperly maintained forklift is to conduct daily, before use, maintenance inspections. Any deficiencies should be repaired prior to forklift use, or the forklift should be taken out of service.
- ✘ Operating a vehicle at a high rate of speed can affect the operator's reaction time and may increase the risk of crashing into an object or person. As a large percentage of forklift accidents involve pedestrians, they should also be trained on how to work safely around forklifts in use in their work areas.
- ✘ Employers should provide safe work areas. A good floor plan would contain uncluttered aisles wide enough to easily maneuver equipment, good lighting, clear floor markings and directional/warning signs for all employees.

## WORKPLACE WORRIES



By Kisha Holmes, Administrator, Wage and Hour Bureau

**Q:** I was hired as a waitress with an expectation to work 40 hours per week. The first few months that I worked, I worked about 40 hours each week. During the past two weeks, the employer has significantly reduced my hours and there are times that I drive 40 minutes to work, and my employer tells me that I'm not needed. Can I file a claim since I am not working 40 hours as expected?

**A:** The employer is required to pay you for all hours that you physically work. North Carolina is a work at-will state; therefore, the employer can control how they schedule their employees to work and how many hours they require or allow the employee to work each week.





# Bulletin Board

## Mine and Quarry Training

### MSHA New Miner Training

Oct. 3-5, Spruce Pine  
Oct. 24-26, Wilkesboro

### MSHA Annual Refresher Training

Oct. 6, Spruce Pine  
Oct. 27, Wilkesboro

To register for any of these classes, **go online**  
or call the Mine and Quarry Bureau at 919-707-7932.

## OSH Webinar Courses

Visit the **OSH Training Schedule Calendar** to view upcoming internet training and other safety courses.

## Pre-Recorded Webinars

Visit the **OSH Training Schedule Calendar** to view upcoming internet training and other safety courses.

## Wage and Hour Presentations

Investigators from the Wage and Hour Bureau offer presentations to employers, employees, high schools and career development organizations. The presentation covers the provisions of the Wage and Hour Act, minimum wage, overtime, record keeping, wage payment and youth employment. The presentation is designed to enhance North Carolina citizens' knowledge on labor laws and to inform employers and employees of their rights and responsibilities in wage and hour matters. Investigators conduct the presentations onsite at schools or local businesses if there is a minimum of 10 attendees.

To schedule a presentation, please email [whbinfo@labor.nc.gov](mailto:whbinfo@labor.nc.gov) with the following information: requesting individual or business, location, desired topics and preferred dates for presentation.

## Library Update

Click **here** for information on how to register with the Library to access streaming safety/health videos and/or borrow materials.

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