

**OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, FRIDAY, APRIL 20, 2012
Room 1D, Portland State Office Building**

APPROVED MINUTES

Board attendance: Thomas King, Frank Krause, Wayne Lemler, Shirlee Templeton, William McMillen, Kimberly Earp, Pamela Warren. Also David Howe, (RPS; advisory member).

Others in attendance: Ed Conlow, executive director; Sarah Anderson, administrative licensing specialist; Vincent Mandina, administrative LEADS specialist; Carol Parks, Senior Assistant Attorney General; John Terpening, Legislative Fiscal Office.

Call to order: 8:40 a.m. by board chair Thomas King.

Executive session: Thomas King convened the board in executive session pursuant to ORS 192.660(2)(k) at 8:42 a.m.

Convene public session: Chair Thomas King convened the board in public session at 2:42 p.m.

Adoption of minutes from previous meeting: Kim Earp moved to approve the draft minutes from the January 6, 2012 board meeting as submitted; Lemler seconded. Approved unanimously.

Ratification of licenses: Motion to ratify by Earp; second by Krause. Adopted unanimously.

1. Radiographer licenses: From 171199 through 171238
2. Radiation therapy licenses: From 270855 through 270860
3. Nuclear medicine licenses: From 500219 through 500225
4. MRI licenses: From 400400 through 400410
5. Sonography licenses: From 600883 through 600915
6. Limited x-ray machine operator permits: From 4009 to 4037
7. All temporary initial medical imaging modality licenses and permits: From 04916 through 04974.

Investigation Cases:

Case #12-04-02: Motion by Krause; second by Lemler. Approved unanimously: \$200 civil penalty to licensee based upon ORS 688.415(1) and OAR 337-030-0002(10) and OAR 337-030-0010(3)(a)(B) for practicing medical imaging without a current Oregon license due to nonpayment of fees for a period in excess of six months but less than 12 months. Also, send a letter of concern to the employer indicating our concern that, although the employer has indicated a protocol for checking licensure of employees, the employer apparently has not made that known to all of employees.

Case #12-02-02 and 12-02-03: No action at this time. These cases will be carried-over for further discussion and possible resolution at the next board meeting.

Case #12-02-01: Defer action and call the employer before the Board at the next Board meeting.

Case #12-02-05: Direct the Board executive to request that the licensee ask his attending physician to provide a letter, on the physician's letterhead, indicating that, in the physician's opinion, the licensee is able to practice medical imaging in a safe manner while taking Kadian as prescribed. The executive director will provide the letter to the Board at the next meeting, for the Board's review and consideration.

Case #12-02-06: Issue a \$500 civil penalty for a violation of ORS 688.915(1) and OAR 337-030-0010(3)(b), for practicing medical imaging without a current Oregon license. Also, send a letter to the employer, reminding them of licensure requirements and urging them to make sure their employees or contract workers are properly licensed in accordance with Oregon law. Motion by Krause; second by Earp. Approved unanimously.

Case #12-02-07: No action against the person's license. Separate from the motion, the Board will request that the license have the results of his diversion provided to the Board.

Case #12-02-08: No motion. Take no action against the person's license.

Case #12-03-01: No motion. Take no action; issue temporary permit.

Case #12-03-02: Motion is to levy \$500 civil penalty in accordance with ORS 688.525(1)(g) and OAR 337-030-0010(3)(g), making a false statement to the Board. Motion by Krause; second by Earp. Approved unanimously.

Case #12-04-03: Motion is to levy a \$200 civil penalty for practicing medical imaging without a current Oregon license or permit due to nonpayment of fees, in accordance with under ORS 688.415(1) and OAR 337-030-0010(3)(a)(B). Also, the executive director is directed to send a letter of concern to the employer regarding the employer's failure to verify licensure of employees. Motion by Krause; second by Earp. Approved unanimously.

Case #12-04-01: Motion is to levy a \$200 civil penalty and enter into a stipulated agreement to not practice until ARRT registration is reinstated. Failure to disclose the change in certification is a violation of ORS 688.525(1)(c) and OAR 337-010-0009, subject to a penalty pursuant to OAR 337-030-0010(3)(c). Motion by Krause; second by Earp. Approved unanimously.

Case #12-04-04: No motion. Take no action at this time, pending further investigation by the Board.

Case 12-02-09: Motion is to issue a notice of proposed disciplinary action to revoke the license (based upon nonpayment of the license fee). Violation of ORS 688.525(1)(g) and OAR 337-030-0002(7). Motion by Krause; second by Earp. Approved unanimously.

Case 10-02-06: No motion. Take no action.

Case 01-08-04: No motion. Carol: Get an evaluation from a professional who is named by the Board. The nursing or medical board could recommend some names.

Committee updates: Thomas King indicated that the school inspections committee will have an update on recent inspections in July. Pat Williams will attend for the school inspections committee.

Kim Earp indicated that the CE committee is keeping up with course approval requests. Thomas King indicated that the ARRT will be holding its CE Consensus committee meeting this year (October 12) in which all states which are RCEEMS are invited to meet. He said we will bring this up at the July meeting, to see if there is anything that we need to discuss or bring before the CE Consensus Committee.

Administrative rulemaking: Rulemaking to amend the rules for temporary licensure was initiated by the Board at the January 6, 2012 Board meeting, with draft rules published in the Oregon Bulletin on March 1, 2012. Ed Conlow explained the revised draft rule that was revised in response to comments received during the public comment period. The revised draft rules:

- Specify that a medical imaging student may be employed (under supervision) with a temporary license no earlier than five months prior to the student's projected course completion date. (The duration of a temporary license remains six months.)
- To obtain a temporary license, the student will need to have the school director sign a statement on the temporary license application form that indicates that the student is in good standing and is competent to work under supervision.
- Clarify current OBMI practice that a six-month temporary license may be renewed one time for an additional six month period.
- Clarify the definition of supervision to indicate that having the licensee's supervisor physically present in the building and available to assist the licensee is defined as "indirect" supervision. (There is no substantive change to the level of supervision required.)

Krause moved to adopt the revised draft; McMillen seconded; approved unanimously. There was discussion regarding the definition of temporary licensee "supervision" in 337-010-0045(2). Frank Krause suggested that it might be appropriate to have that definition be as consistent as possible with the CMS definition. Ed suggested that a substantive amendment to the definition of supervision in the rule might require a separate rulemaking.

Proposed legislative concepts for 2013:

1. To give the OBMI authority to adopt administrative rules establishing specific credentialing requirements for medical imaging licensees to practice in areas of subspecialization. Motion by Krause to adopt this legislative concept; second by Lemler. Approved unanimously.
2. To outlaw "keepsake ultrasound" businesses in Oregon and restrict who can buy and sell ultrasound equipment. The Board decided to NOT include California's proposed language to regulate sale and transfer of ultrasound equipment, and to adopt language to restrict non-medical use of radiation as proposed by Don Kerns of the Society of Diagnostic Medical Sonographers. Board motion by Krause, second by Templeton, is to approve the following language for a legislative concept:

"No person shall perform an imaging procedure using ionizing or nonionizing radiation on a person unless such procedure is (1) ordered by a licensed health care provider, acting within the scope of such provider's authority, and (2) for a medical or diagnostic purpose. Violations may result in civil penalties as determined by the board by rule. This section does not apply to imaging procedures performed for research or educational purposes as determined by the board by rule."

Process to deal with certain disciplinary cases: Following discussion, McMillen made a motion, seconded by Krause, to delegate to the executive director the authority to levy civil penalties, as specified in OAR 337-030-0010(a), for practicing medical imaging on an expired license. As a result

of this motion, these cases will not be called before the Board, but each will be issued a stipulated agreement and final order. As part of the motion, the executive director is instructed to provide a report to the Board, during Board meeting executive session, regarding all actions taken (in accordance with this motion) since the previous Board meeting.

The motion also directed the executive director to revise Board policy 833-426-007 to exclude first-time DUII offenders, whose arrest resulted in diversion or probation, from being automatically required to appear before the Board to explain the arrest.

The motion was approved unanimously.

Provisional licenses to be set to expire on December 31, 2013: Following Board discussion, Earp made a motion to specify that all provisional licenses, issued to licensees who do not have a national credential as required beginning January 1, 2014, will henceforth have an expiration date of December 31, 2013. Krause seconded. Approved unanimously.

Bone densitometry classes: Ed Conlow indicated that Oregon Health Sciences University (OHSU) recently discontinued its bone densitometry class. Ed Conlow indicated that OSU is the other institution with a Board-approved bone densitometry program, and that OSU is also currently not offering classes. So currently there are no approved bone densitometry class offerings in Oregon, and the office has received several inquiries from individuals who want to take the class.

Thomas King asked Randy Harp, director of Allied Medical X-Ray Institute, to address the committee. Mr. Harp explained that he is looking at the possibility of setting up a bone densitometry program at Allied, and may come back to the Board with a proposal for Board approval. Mr. Harp indicated that he may be able to offer a class in the fall of 2012.

OBMI budget: Ed Conlow explained to the Board that the 2013-15 budget process is about to get underway. He explained that the Board can move forward with a hold-even budget that looks pretty close to the current 2011-13 budget. He asked if the Board wanted to try to include a request for the \$10,934 scanner support package that was included in the Agency Request Budget (ARB) for 2011-13, but which was not approved or funded. Ed noted that state leaders were not encouraging new budget packages for 2013-15.

Thomas King spoke in favor of the scanner package, to provide a back-up for agency records and to provide greater flexibility through electronic formatting and to free-up space. Mr. King suggested that the scanner package would provide a long-term saving as a result of space spaced and other saving factors.

Bill McMillen indicated that state leaders are looking for ways to cut down on paper, which is an argument in favor of scanning. Bill said that a scanner system could be operated in-house, by OBMI staff scanning, or by shipping paper off to a commercial entity to do the scanning on contract with OBMI, without taking up OBMI staff time. In response to Bill's comments, Carol Parks expressed concern about taking disciplinary files out of the office for scanning, because it could compromise confidentiality requirements. Kim Earp noted that some copy machines include scanning functions. Earp moved for a budget for the 2013-15 biennium to include the policy package for scanner support and to continue to fund the part-time investigator. Krause seconded. Approved unanimously.

Public Comment:

Randy Harp: introduced himself as the legislative delegate for the Oregon Society of Radiologic Technologists. He thanked the Board Chair for issuing a letter in support of the federal CARE bill, HR 2104. He indicated that the bill picked up three new co-sponsors from Oregon, Reps. Blumenauer, DeFazio and Walden.

Barbara Smith from PCC and OSRT: Barb thanked Ed for attending the OSRT meeting in Salem, and for presenting to the OSRT. She said that Ed had discussed an idea at the OSRT meeting to replace the current Board practice of mailing renewal applications to all current licensees with an email reminder. She indicated that the OSRT members expressed a preference for a mailed post-card reminder over an email reminder. Kim Earp noted that people change their email addresses and have trouble remembering all the places where they need to change their email. Bill McMillen noted an advantage to first class mail is that, if a resident has moved, the mail will be returned with a forwarding address, if there is one. Barb Smith and Randy Harp noted that first-class post-cards will be returned with forwarding address.

Barb indicated that the OSRT fully supports the OBMI proposed legislation to outlaw imaging procedures unless ordered by a medical professional for a medical or diagnostic purpose. She noted that OHA Radiation Protection Services has similar policies in place relating to radiography procedures, which should be an argument in support of the proposed legislation.

Responding to a question from Thomas King, Barb Smith indicated that the newly-reconstituted state sonography organization has been designated as a committee within the OSRT.

Doug Roberts: He introduced himself as a sonographer who works for Kaiser Permanente, commenting on proposed sonography legislation. He thinks that requiring sonographers to pass the exam in each area of subspecialization will harm his ability to hire from out-of-state. He said they sometimes need to hire from out of state and this would likely make it more difficult.

Meeting adjourned at 3:48 p.m.