

# OREGON BOARD OF MEDICAL IMAGING

## April 22, 2011

### MINUTES

Attendance: Board members: Bill McMillen, Shirlee Templeton, Dr. William Purnell, Wayne Lemler, Pam Warren, Thomas King, Frank Krause, Dr. Jacob Abraham (10 am to 12:30 pm), Shaestagir Chowdhury (1-4:30 pm), Dr. David Farthing (by phone 9 am – 9:30 am; 9:45-10am)

Others in attendance: David Howe, Radiation Protection Services, advisory board member; Margaret Lut, Radiation Protection Services, advisory board member; Kendall Clawson, Governor's Office; Ed Conlow, Executive Director; Vincent Mandina, Administrative LEDS Specialist; Sarah Anderson, Administrative Licensing Specialist; Carol Parks, Senior Assistant Attorney General.

**Convened:** 8:45 am by chair Thomas King.

Board members, advisory board members and staff introductions.

Dr. David Farthing joined by telephone at 9 am.

10 am recess. Dr. Farthing signs off the phone. Dr. Abraham arrived in person.

#### DISCIPLINARY CASE VOTES

11-04-01 – Motion by Krause, seconded by Templeton, to close the case due to no licensure violation. Adopted unanimously.

10-12-01 – Licensee did not show up to the Board meeting as directed. In response, the Board now directs that a letter be sent to the licensee, requiring licensee to explain why licensee did not show up, and requiring licensee to appear before the Board at the next Board meeting. No motion required. (Lemler recused from discussion.)

11-01-01 – Motion is to take no action against applicant and encourage applicant to continue with Al-Anon. Purnell moves; McMillen seconds. Approved unanimously.

11-01-02— Motion is to grant license, with the requirement that the licensee submit information to the board at the time of completion of probation, or else that the licensee will be called back before the Board. Lemler moves; Templeton seconds. Approved unanimously. (King recuses.)

11-02-02 – Motion is to levy a \$500 fine based upon ORS 688.525(1)g and OAR 337-030-0010(3)i. Moved by Purnell; second by McMillen. Approved unanimously.

11-01-04 – Motion is to take no action against the license, with a requirement that the licensee deliver a letter to the Board upon completion of probation, and suggest in the letter that the licensee notify the ARRT of the violation. Moved by McMillen; Abraham seconds. Approved unanimously.

11-02-01 – Mitigating circumstances cited in Board discussion, related to motions #2, #3 and #4, were passage of time since the causal event, creating a greater likelihood that licensee misunderstood that the event was still part of the record.

Motion #1 is to levy a \$500 civil penalty under ORS 688.525(1)g and OAR 337-030-0010(3)i. Motion by Lemler; Tom King seconds. Loses 2-6. Ayes: Lemler, King. No: Abraham, Krause, McMillen, Purnell, Templeton, Warren.

Motion #2: McMillen moves, Templeton seconds. Motion is to levy a \$500 civil penalty but waive the entire \$500 civil penalty. Loses 6-2. Ayes: Abraham, Krause, McMillen, Purnell, Templeton, Warren. Nays: Lemler, King.

Motion #3: Motion by King, second by McMillen. Assess the \$500 civil penalty and waive \$250 of that amount. Loses 5-3. Ayes: King, McMillen, Krause, Warren, Templeton; Nays: Lemler, Abraham, Purnell.

Motion #4: McMillen moves, Purnell seconds, to assess the \$500 civil penalty and then waive the entire \$500. Passed 7-1. Ayes: Abraham, Krause, King, McMillen, Purnell, Templeton, Warren. Nays: Lemler.

Conclusion of disciplinary cases.

#### **Discussion about the clarity of the application:**

The Board discussed how to make the OBMI applications more clear with regard to reporting arrests. One suggestion was to put the expungement explanation at the top of the application, so applicants see it clearly. Another suggestion was to encourage applicants to call the office if they are unsure how to answer the question. Carol suggested looking at how other boards word it on their forms, and there seemed to be general agreement on this.

#### **Ratification of Licenses Issued**

Board chair King moved ratification of licenses; Abraham seconded. Motion passed unanimously.

Permanent/Provisional initial Radiographer licenses #170965 through 171029.

Permanent/Provisional Radiation Therapy Licenses #

Permanent/Provisional Nuclear Medicine Licenses -- #500174 through 500787.  
Permanent/Provisional MRI Licenses -- #400318 through 400360.  
Permanent/Provisional Sonography Licenses -- #600646 through 600749.  
Permanent Limited X-Ray Machine Operators (LXMO) Licenses -- #3944 through #3967.  
All Temporary Initial Medical Imaging Modality Licenses and Temporary LXMO Permits -- #S04769 through #R04814.

### **Unlicensed Persons Practicing Medical Imaging**

Motion by Krause: Letter addressed to all departments reminding them that medical imaging practitioners need to be appropriately licensed and that the grace period (for modalities added by law in July 2010) ended in January, and that as of July 1 we will consider unlicensed persons to be practicing without a license. And put the letter up on the OBMI website. Also, include (in the mailing in which late applicants receive their license), a separate letter to late licensees between now and July 1, indicating that they are granted a license but that they should have applied sooner. Second by McMillen. Motion carried by unanimous vote.

Committee updates: (Thomas King)

- No legislation or administrative rules in process at this time. No OARs currently in the works, but we might look at some OAR changes at the July meeting.
- CE committee: We have had several CE requests come through. St. Charles in Bend has several requests, with outreach into the communities via their grand rounds. We've worked with their medical staff office.
- School inspections: Abdill Career College is due for a routine inspection. We need to work with the board to replenish the school inspections committee. Tom asked if there are any board members who would want to get into the LXMO schools to help with inspections. Need two other board members on this committee. Wayne Lemler expressed interest in helping out.

### **Old Business**

Chairperson King reviewed old business. Should a LXMO permit be eligible to apply for a provisional license in MRI? Tom pointed out that this is an issue that the board needs to deal with in July, or else very soon. There is a current LXMO who would like to apply for a provisional MRI license. The Board needs to decide if we can allow that or not. Carol said she would look into it prior to the next meeting. We'll have further discussion on this item in July.

Wayne Lemler asked Barb Smith (RT instructor from Portland CC and OSRT) to comment on this topic. In terms of temporary permits, she said the OBMI already allows temporary licenses for all modalities for students getting ready to graduate from programs. You don't have anything in your rules for a temporary permits for modalities. According to current rules you let people who are practicing in an area get a license (provisional) but they have to get certified by 2014. She said that, the way you are operating now, you probably should give this person a

provisional license, but this person will need to try to get ARRT-certified and will need to get education in order to take the ARRT test for certification.

### **Board approval from previous minutes.**

Carol pointed out that Dr. Abraham attended the Jan. meeting by teleconference. McMillen moved the minutes as corrected. Shirlee seconded. Unanimous passage.

### **New Business**

Unregulated storefront sonography: Vice-Chair Frank Krause discussed unregulated storefront sonography operations that take baby photographs and images with no medical purpose. There have been statements by the SDMS and the FDA in the fact that this is not a condoned practice. But with no state regulations against it, all we can do is make sure that the sonographers are licensed. Hope it gets looked at by the Legislature in the future. We need to assure that these facilities get the same letters that we are sending to medical institutions regarding unlicensed sonographers. Tom said that we might be able to work with other entities (and develop MOUs) who have investigators (such as nursing board) who can loan us an investigator to go and investigate. If it needs to be investigated, then we need to do it. Frank mentioned there is no licensure for ultrasound equipment at this point, so these folks seem to be able to skate under the radar.

Scope of practice: Can mammographers utilize radiopharmaceuticals in the course of their practice: Shirlee presented a discussion and powerpoint, including a comparison of other states. Tom: If we find there needs to be a rule, then we can initiate a rules process. Shirlee mentioned that there are some rules dealing with operation of CT, and she thought this might be something we need to do for all modalities. Tom suggested that Shirlee get together with RPS and create a draft of what a rule should look like.

Adult cardiac sonographers also doing pediatric exams: Vice-Chair Frank Krause discussed. Pediatrics is a separate registry exam, so when they apply for licensure, they shouldn't get fined for a separate pediatric credential on their license; if they're not they should reapply and make sure that that credential is on there and get credentialed for that by 2014, or they would not be able to do pediatric exams.

Nonlicensed persons assisting with patient positioning: Chairperson King asked Jeff Robins and Dan Scharbach to come to the table. Both are from Providence. They addressed situations in a cardiac catheterization lab while radiation is being applied. Thomas King said those individuals currently need to be a licensed physician or licensed radiologic technologist (RT). Robins and Scharbach indicated that there is always a physician in the room, and sometimes the physician will ask whoever is scrubbed to move the table. The RT is collecting the images; to have the RT go out into the room to move the table could break the sterile field. Robins and Scharbach said they would like to let the other staff person in the room move the table or turn the gantry, allowing the imaging licensee to complete their imaging and post-processing functions. Chair

Thomas King asked Barb Smith to come to the table, to address whether she knows if there are national standards in this area; she said that moving the gantry is part of the imaging machinery and is therefore part of the imaging licensee's role, because the licensee understands the effects of radiation. Thomas King indicated that, a couple years ago, he had seen a cath lab at Good Samaritan in Portland use two RTs, one scrubbed and one not.

Robins and Scharbach indicated they would like to allow non-RTs to move the table under the direct supervision of the physician who is "elbow to elbow" with the non-RT who is scrubbed and directly assisting the physician in the cath lab. They said that typically they would be talking about RNs or Registered Cardiovascular Invasive Specialists (RCIS) doing this work. Carol Parks commented that she thinks this issue could be addressed by amending the definition of "positioning" which is currently in the board rules. Frank Krause said that, under the rule on positioning, if you added "under the direct supervision of the physician," which is the CMS standard, at that point the physician is putting his/her license on the line if it's not positioned correctly, which might be one way to resolve this issue, as far as assigning responsibility to make sure that proper procedures are followed.

Thomas King said we would need to introduce a rule amendment; we're willing to explore that avenue, if there is board consensus. He commented that there may be value to referencing RCIS in the rule somewhere. Thomas King asked if there is a motion to form an exploratory committee; at that point Carol Parks suggested a board motion to commence rulemaking. She said that, once the rule is drafted and filed, there is opportunity for public comment, and then afterwards the board must consider any testimony/comments. The board could then choose to leave the rule alone (withdraw the proposed amendment), go with the original proposed amendment, or change the draft rule amendment based upon comments received. Thomas King asked for a motion to commence the rulemaking process; McMillen moved; Krause seconded. Motion passed unanimously.

Abdill Career College; Issues with federal accreditation agency: Chair Thomas King asked Ki, director of Abdill Career College. She described Abdill's situation and how there typically isn't time under the new LXMO process for Abdill students to meet the requirements of Abdill's national accrediting agency, which requires students to graduate their programs within 1.5x the length of their programs, and it's also a Title IV requirement. It's a six month program, which means the students must graduate in nine months maximum. It takes 6-8 weeks for students to get their temporary permits, which they need in order to begin their externships. Then we're up to about 8 months right there. Then the students are required to complete 180 hours of externship, which takes a minimum of five weeks, which can put them over the nine-month timeframe. Ki suggested a process to allow Abdill students to apply for the LXMO test on the first day of their final book term. Abdill could issue them a certificate on the first day of their last book term that indicated the student has completed every course but one final course, and put "pending" for the final course. Core coursework would have already been completed.

Thomas King moved to have staff look at this and see what the options are. If it's something easy to do, without having to make a rule change, allow the staff to facilitate a process, and move forward without further board action. King motion, seconded by Krause. Approved unanimously.

Chair Thomas King: Defer other agenda items until July meeting, including new member orientation, going paperless.

Can we introduce temporary licenses or permits for modalities other than x-ray? This discussion centered around whether the different modalities regulated by OBMI are able to obtain temporary licenses or permits and be employed while under student status. During the discussion, it was determined that, based upon existing administrative rules, temporary licenses or permits are available to all modalities.

### **Public Comment**

Barb Smith: In the radiography program, students are allowed to apply for the test three months prior to graduation. We have students taking the test the day they graduate. You could consider something like that for LXMOs.

Monica Quintero-DeVlaeminck: Wanted to know when we would address Abdill's issue; staff responded that a meeting could happen the following next week. Also, she asked if a LXMO teacher could be approved even if they don't have a current Oregon license but have had an Oregon license in the past, and have a lot of experience? Thomas King commented that he feels that there isn't a compelling reason to change current policy.

Randy Harp: Wondered if a limited permit committee could look at timelines. We changed the law and requirements for LXMOs but didn't change the timelines.

**Adjourned at 4:31 pm.**