

**OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, FRIDAY, JULY 8, 2011
Room 1A, Portland State Office Building**

APPROVED MINUTES

Attendance: Thomas King, chair; Frank Krause (by phone), vice-chair; Bill McMillen; Wayne Lemler; Kimberly Earp; David Farthing; Shirlee Templeton; David Howe, Advisory Member; Margaret Lut, Advisory Member. Board members absent: Abraham, Purnell, Warren.

Staff in attendance: Ed Conlow, Executive Director; Vincent Mandina, Administrative LEDS Specialist; Sarah Anderson, Administrative Licensing Specialist; Carol Parks, Senior Assistant Attorney General.

Call to order: 8:45 am, by Chair Thomas King.

Pledge of Allegiance, led by Board Member Wayne Lemler.

Executive session convened. Board member Bill McMillen agreed to record the disciplinary cases.

Adjourn executive session at 12:05 pm. Board members are directed to get lunch from the cafeteria to bring back to the committee room, for a working lunch.

Public session convened at 1:05 pm by Thomas King, Board Chair.

Approval of previous meeting minutes, as corrected. Moved by Kim Earp; Seconded by Templeton. Approved unanimously.

Ratification of licenses: Earp motion; Krause seconds. Unanimous approval.

1. Permanent/provisional initial radiographer licenses: 171030 to 171103
2. Permanent/provisional radiation therapy licenses: 270834 to 270842
3. Permanent/provisional nuclear medicine licenses: 500078 to 500197
4. Permanent/provisional MRI licenses: 400361 to 400374
5. Permanent/provisional sonography licenses: 600750 to 600791
6. Permanent limited x-ray machine operator permits: 3968 to 3983
7. All temporary initial medical imaging modality licenses and permits: L04815 to T04865

Investigation Cases:

Case 10-12-01: Motion by McMillen, Earp second: To levy a \$500 fine based upon obtaining a license through misrepresentation, in violation of ORS 688.525(1)(g), with fine based upon OAR 337-030-0010(3)(g). Passed unanimously.

Case 05-06-04A: Motion by McMillen; Earp second: Allow the person to obtain a radiography license with the limitation that he is not authorized to use injectables, and that this limitation will be printed on the license. Approved unanimously.

Case 11-05-01: Motion by McMillen; second by Earp: \$500 fine based upon failure to disclose prior criminal history, in violation of ORS 688.525(1)(g), with fine based upon OAR 337-030-0010(3)(g). Approved unanimously.

Case 11-06-01: Motion by McMillen; second by Earp. The Board requests that the licensee provide the board with documentation of meeting attendance and UA results. Approved unanimously.

Case 11-06-02: Motion by McMillen; second by Earp. No board action against licensee; close the case. Approved unanimously.

Case 11-02-02: Motion by McMillen; second by Earp. To issue a notice of proposed disciplinary action that is consistent with the stipulated agreement. Approved unanimously.

Case 11-06-03: Motion by McMillen; second by Earp. No board action against licensee; Issue a letter of concern to the licensee and place a copy in the licensee's file. Approved unanimously.

Committee updates:

Thomas King discussed membership of committees; reiterated the discussion that was held at the board retreat on July 7. Members in the southern end of the state will handle school inspections in that area; members in the northern end of the state will handle school inspections in Portland and vicinity. Continuing education approvals: We'll have public member involvement but it is moving toward a peer review model. Bill McMullen volunteered to take the lead on the legislative committee; probably more to do with rules than statutes.

Pledge of allegiance: Thomas King announced that the Pledge of Allegiance will be recited at the beginning of each meeting; we will make that information available on our website. Chair King asked for consensus and nobody opposed.

Transparency of records. We could put our public records /board action and put it on a link to the website; it's similar to what the OMB does already. We'll have staff look at the technical aspects and move in that direction.

Election results (from July 7 retreat) announced: Thomas King, chair. Frank Krause, vice-chair.

Board vacancies: We still have two openings on the board: public member and physician member.

Proposed revised criminal history directions on applications and renewals: Following a brief discussion, Carol Parks agreed to take a look at the verbage and make suggestions. Thomas King obtained consensus for staff to work with legal counsel to refine the language and put it into the forms.

Should a LXMO permit holder be eligible to apply for a provisional MRI license? Tom asked if we have the statutory authority to issue a provisional license to a LXMO or a person off the street. Shirlee said she thought that the provisional license was intended for people who work in a modality to have time to meet the qualifications for credentialing by 2014, in compliance with the new law. Tom asked/commented if it was up to staff to investigate an applicant's training, other than the letter from their employer. Tom said that part of the discussion around this area was to help assure rural access to health care (by facilitating the licensure of professionals), but at no point was the intention to allow

untrained individuals to come in off the street and start working while they figured out how to gain the experience. Frank agreed with Tom's statement that the provisional license was not intended for people not already working and with zero training to be allowed to work in the profession, but Frank didn't think there was anything in the statute that actually spelled that out. Carol said she would look at the legislative history and see if we have justification to adopt a rule regarding qualifications for a provisional license. This issue will be carried-over to the October meeting. If we find that we can adopt a rule, Tom said we could call a special board meeting to begin the rulemaking process.

Frank talked about the credentialing statute as it relates to sonography, that the intent was for sonographers to be credentialed in each sub-specialty in which they worked. Carol said that was not what the statute said, and Frank agreed. It was agreed that this would require a legislative concept, which had been discussed at the previous day's retreat, and that it probably won't be addressed by the Legislature until 2013. Ed discussed the possibility of a delayed effective date, if we don't amend this sonography provision until 2013, to give sonographers enough time to get the training in order to gain compliance with the law.

Can mammography technologists utilize radiopharmaceuticals in the course of practice? Shirlee indicated that California and Arizona (and possibly Alaska) have very strict guidelines in which only licensed nuc med techs can be involved in these procedures. She said this issue is coming up because of the growth of breast centers where they do ultrasounds and biopsies and new procedures, in which there aren't enough procedures to justify these facilities having a separate nuc med tech on staff full-time, so they want to incorporate the staff they have. Also there are some issues with positioning the breast that nuc med techs don't necessarily get the training to do, although it's being added to the curriculum. Shirlee didn't find places where mammographers were actually doing injections at this time, although there were quite a few nurses doing injections at these breast centers. We don't have a specific rule that says who can and cannot administer radiopharmaceuticals; it's up to the authorized user at each site. She thinks what was decided was that we would move toward developing some sort of rule to be more specific about who could administer radiopharmaceuticals. She believes that the nuc med community feels that it's the role of nuc med techs to administer radiopharmaceuticals.

Shirlee said she would like to introduce a rule to specify that only credentialed licensed nuclear medicine technologists may administer radiopharmaceuticals and operate the equipment particularly when the isotopes are being used on the camera. Margaret noted that RPS gets their directions from the NRC, and that RPS would need to be involved in the rulemaking process. Bill suggested a joint rulemaking process to make sure that we are properly coordinated. Margaret indicated that their rules specify an "authorized user" to designate who may administer radiopharmaceuticals. Tom asked for OBMI to work with RPS to do some background information-gathering and report back to the Board at the October meeting, with regard to the possibility of moving forward with joint rulemaking.

Administrative rules filing/discussion: Carol indicated that it would not be appropriate to accept public comments at the Board meeting, outside of the statutory rulemaking process that is currently in process. Any public comments made at this meeting will not be admissible as part of the public record regarding the noticed rules. There was discussion of possibly scheduling a special board meeting, after the public comment period closes on July 21, to consider public comment and decide whether or not to amend and/or adopt the rules.

LXMO timeframe update – process to allow Abdill students to apply for exam early: Ed distributed a letter from OBMI to Abdill, to authorize Abdill LXMO students to apply for the LXMO exam prior to completing the final class.

New Business:

Can nurses perform sonography for a biophysical profile and for measuring amniotic fluid? Ed indicated that this is a question that was posed to him and that he had inquired to the Board of Nursing, but had not received a response. Carol Parks indicated that this is an area where OBMI does not have authority, due to our statute (688.435(3)) that exempts from OBMI regulation “specific licensed health care providers...who use sonographic equipment within their lawful scope of practice.” The Board asked if staff could contact the BON and have discussions in this regard, to express our concern. Kim suggested approaching the BON to at least suggest some supplemental training for nurses who do this work, so that they have the proper training to do this work. Discussing measuring amniotic fluid, Frank and David indicated that these are significant procedures that can have serious ramifications in terms of how treatment might proceed. Concern was also expressed that biophysical profiling goes beyond the level of training that nurses typically receive. If staff can contact the various professional societies in this area, and work with Frank, to determine a possible options for moving forward. Staff will contact the BON and get an update at the next board meeting. Frank may go with Ed to the BON.

Continued review of board statutes, rules policies and practices:

- Tom noted that grandfathered RTs, from the 1977 law, status expires on 1-1-14, when they will need a certification in accordance with the new law. We’re going to look at how many are out there; some are probably ready to retire so we don’t know the extent of the problem.

Public comment:

Barbara Smith (Portland Community College; OSRT):

- Regarding the mammography/radiopharmaceuticals issue, somebody has a sonography test just for mammography, and I wonder if something like that might become the norm. She agrees that you need to have that training. She would like to know when we clarify/update our criminal records check language on the forms, so she can relay that information to her students.
- Ultrasound issue: To bolster her belief that nurses should be properly trained in imaging modalities, if they are going to practice in those areas, she pointed to two documents on the BON website that call for nurses to document their competency, including:
 - a. “Complementary and Alternative Modalities and Nursing Practices”, which specifies that RNs and LPNs are required to have documented competency in the application of a modality, and that NPs and CNSs are required to adhere to the statutes and rules of a health related agency, when the NP or CNS is working in a modality regulated by another state health board; and
 - b. “Oregon State Board of Nursing Scope-of-Practice Decision-Making Guideline for RN and LPN practice”, which states that documentation of how competency in a new nursing activity is initially achieved, and how it is maintained, is required.

Chair Thomas King requested Barb Smith to make those documents available to OBMI staff.

Paul Brown, OHSU: Presented comments on behalf of several faculty members or staff at OHSU.

- Should a permit holder be eligible for a provisional MRI license? We would certainly disagree with that.
- Can mammography technologists utilize radiopharmaceuticals in the course of practice? We believe that the public would be very poorly served by allowing untrained people the use of radiopharmaceuticals.
- Tape 5; 14:30: Can nurses perform sonography for a biophysical profile and for measuring amniotic fluid? Our feeling is that nurses who perform sonography should have training acceptable to professional societies such as ARDMS.
- 15:38: Grandfathered RTs. Perhaps we could do an information about this. Then Thomas King suggest a link on our website to the ACR to make it informational for the public.

Peter Chin: Commented on the OBMI application forms and renewal forms. He was concerned that once you check “yes” you need to check it again and again with each renewal. Vincent Mandina indicated that there is a box to check which indicates if this is information that has already been provided to the board. Carol Parks is going to look at this whole issue.

Doug McRaney, licensed sonographer: It’s a great idea to have sonographers tested in each sub-specialty, but it will require sonographers to do 600 breast exams, and most don’t do that many in a year. What happens when a patient comes through the ER and we don’t have a licensed breast sonographer? I studied all this, and review it all the time, but I don’t qualify for that credential. And I think you will find that most sonographers who work in general labs do not have all those credentials. So if that is the intent, they need to know now. Thomas King noted that it would require a legislative concept to amend the statute; if we do that, we will seek to have a collaborative effort and bring in all the stakeholders to be involved in this discussion.

Adjourned at 3 pm.