

OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, October 11, 2013
Portland State Office Building, 800 NE Oregon Street
Conference Room "1-D"

APPROVED MINUTES

Board attendance: Thomas King (Chair), Frank Krause (Vice-Chair), Wayne Lemler, Kelly Solberg, Shirlee Templeton, William McMillen, Kimberly Earp, Pamela Warren, Dr. Akshay Gupta. Also Margaret Lut, (RPS; advisory member), Rick Wendt (RPS; advisory member), David Howe (RPS; advisory member).

Others in attendance: Ed Conlow, Executive Director; Carol Parks, Senior Assistant Attorney General; Catherine Hess, OBMI Investigator, Sarah Anderson, Vincent Mandina.

Call to order: 8:35 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 8:36 a.m.

Convene public session: Upon completion of executive session at 11:09 a.m., Chair Thomas King adjourned executive session and directed Board members to get lunch and return for public session, which convened at 12:54 p.m.

Approval of the previous meeting minutes

Approval of minutes from Board meeting of July 22, 2013: Motion by Earp; second by McMillen. Approved unanimously, without amendment.

Ratification of licenses: Motion to ratify by Earp; second by Lemler. Approved unanimously.

1. Radiographer licenses: From 171564 to 171645
2. Nuclear medicine licenses: 500258 to 500265
3. MRI licenses: From 400487 to 400500
4. Sonography licenses: From 601057 to 601087
5. Limited x-ray machine operator permits: From 4095 to 4126
6. All temporary initial medical imaging modality licenses and permits: From S51097 to L51124.

Investigative Case Vote:

Case 13-09-04: Motion by Krause to take no action against the person's limited permit. Second by Earp. Approved unanimously.

Case 13-08-02: Motion by Krause to levy a \$500 civil penalty for falsification of information on the application, in accordance with ORS 688.525(1)(g) and OAR 337-030-0010(3)(i). Second by Earp. Approved Unanimously.

Case 13-09-07: Motion by Krause is to issue the license to the applicant with no adverse action by the Board.

Case 13-09-06: Motion by Krause is issue a notice of proposed disciplinary action to revoke license under the authority of ORS 688.525(1)(c) for unprofessional conduct, and OAR 337-030-0002(2) for falsifying records. Second by Earp. Approved unanimously.

Case 13-10-01: Motion by Krause to close the case. Second by Earp. Approved unanimously.

Case 13-06-02: Motion by Krause to issue a \$500 civil penalty for practicing without a license, in accordance with ORS 688.415(1)(a) and to issue a letter of concern to the employer. Earp second. Approved unanimously.

Case 13-09-05: Motion by Krause to close the case. Second by Earp. Approved unanimously.

Board ratification of civil penalties for practicing on expired license, with no Board appearance: Motion to ratify civil penalties for violation of ORS 688.415(1) with civil penalties based upon OAR 337-030-0010: Motion by Earp; second by Lemler. Approved unanimously.

Case Number	Civil Penalty	Case Number	Civil Penalty	Case Number	Civil Penalty
12-12-02	\$500	13-06-05	\$100	13-09-01	\$100
13-04-01	\$100	13-06-06	\$100	13-09-02	\$100
13-05-02	\$100	13-07-02	\$100	13-09-03	\$100
13-06-03	\$100	13-07-03	\$100		
13-06-04	\$100	13-08-01	\$100		

Committee Updates:

Continuing Education Committee: Following discussion, the Board agreed with the OBMI staff’s suggestion to establish a two-year cycle for course numbering and validation, to more closely align with the OBMI two-year license cycle. Accordingly, beginning January 1, 2014, CE courses approved by OBMI will be validated and numbered for a two calendar year duration – 2014 and 2015.

Also, the Board agreed with the OBMI staff’s suggestion to approve CE credit for the same course offered more than once within a two-year cycle, but that the course would retain the same number. An attendee could only claim CE credit for the same course once within a two-year cycle.

Old Business:

Temporary post-primary license (PPL) rulemaking: Following discussion and consideration of comments that were submitted during the public comment period, the Board approved permanent administrative rules to allow a current medical imaging licensee to obtain a temporary “post-primary license” (PPL) in a separate licensure modality, for the purpose of completing clinical requirements to sit for a post-primary registry examination. This new temporary license category will become available beginning on January 1, 2014. Under the PPL regulations, the Board will be able to require confirmation of an applicant’s clinical supervision while practicing under the post-primary license, as

well as the applicant's eligibility for a post-primary registry credential. An OBMI-issued PPL will be valid for six months, with one six-month renewal allowed, for a maximum of 12 months. There is a \$30 license fee for each six month PPL. Applicants will be required to show completion of 16 category "A" content-related credit hours prior to applying. During the initial six months of a PPL, direct (in-the-room) supervision will be required. A PPL may be extended beyond the 12-month maximum upon demonstrating that the credentialing registry's clinical requirements cannot be completed within 12 months, due to limitations of the clinical practice site. Motion to approve this permanent rule by Earp; second by McMillen. Approved unanimously.

Update: physician assistants doing fluoroscopy: Rick Wendt from RPS said that that PAs don't get much radiology in their normal PA educational program. He said that PAs do have a optional track available that is a good education program, that covers everything that we would be interested in. He is still waiting for the PAs to come back to RPS to continue the discussion. Margaret said that RPS was thinking that the OBMI might want to adopt a fluoro license, and that might be an effective way to approach this issue. Rick Wendt said that in California anybody who wants to do fluoro must pass a California fluoro exam, including physician or RT or anyone else. Ed said that California uses the ARRT fluoro exam, and that an Oregon statute could be modeled after the current statute authorizing limited permits. Tom asked if the Board would like staff to put together a rough draft of a separate fluoroscopy license for non-radiologist physicians and PAs. Thomas King asked if the Board would like to have staff develop a legislative concept to look at in January. Gupta moved; McMillen seconded. Ayes: King; Krause; Solberg; Templeton; McMillen; Earp; Warren; Gupta. Nay: Lemler.

Troy Juniper from Grande Ronde Hospital (GRH): He said that GRH has one fully licensed nuclear medical technician and two long-term employees who are RTs but will not have their nuclear medicine credentials by January 1, and will not be able to practice nuclear medicine. They cross trained into nuclear medicine. He said they cover a couple days per week and cover vacation and leave. These two individuals have been through radiation safety training but they don't have enough to sit for the exam either from ARRT or NMTCB. He said GRH does about 60 exams per month. He said his nuclear medicine staff have trained over the past ten years. He said the hospital does not have the resources to staff the program in any other way. He asked if the Board has any options available to help GRH. He said these employees will not have a way to comply with the prerequisites to sit for a registry exam.

Frank Krause suggested that GRH try to find an alternate pathway to meet the credentialing/licensure requirements, and approach the registries to see if they would do something to revise requirements for critical access hospitals.

Troy asked if his people would be able to qualify for the post primary license that the Board approved earlier in the meeting. Ed Conlow responded that the OBMI rules will only allow issuance of a PPL if a technologist can demonstrate that he/she is on a valid path to obtain a credential.

Thomas King suggested that GRH send a letter to the registries expressing their concerns and seeking some accommodation for rural access hospitals. Board members suggested that GRH try to partner with other hospitals to address some of their staffing issues or for their technologists to gain clinical experience necessary to sit for a registry exam. Board members suggested that GRH approach the registries to see if GRH could be granted some sort of exception to enable GRH's technologists to earn the registry credential. Shirlee Templeton reminded the Board that NMTCB's post primary

pathway is scheduled to be phased-out in 2016. (Currently ARRT does not offer a post-primary track for nuclear medicine.)

Troy Juniper asked for a formal response from the Board. Kim Earp suggested that OBMI staff address a letter to the credentialing registry, requesting registry assistance in resolving the concerns expressed by GRH; Thomas King concurred.

The Board took a brief break to go get lunch and come back into the room (at 12:17 p.m.).

OBMI sonography legislation – panel discussion with interested persons: Ed Conlow opened this part of the agenda by explaining that the Board had previously submitted, for consideration during the 2013 legislative session in Salem, a legislative concept to give the Board general authority to regulate subspecialties of licensure categories under the Board’s jurisdiction. Once the legislation is enacted, it would enable the Board to begin rulemaking to require sonographers to have passed at least one exam in whatever area of sub-specialization they practice in. Back in 2012, after the legislative concept was submitted to the Governor’s office for consideration, the Governor’s staff asked the Board to hold off on the legislation, due to some letters the Governor had received from sonographers who claimed that getting credentialed in subspecialties would be a burdensome requirement, particularly in rural communities where there may be only sonographer serving as a jack-of-all-trades. At that point in the Board discussion, members of the public who attended the Board meeting for this agenda item were asked to approach the table to participate in a discussion of the legislation.

Frank Krause, vice-chair and sonography member, noted that the Board’s intention regarding last year’s legislative concept was to require registry credentialing in broad categories of subspecialties, including general, cardiac and vascular. He said that currently the Board is not looking to regulate “microcategories” below those three categories, although regulation of microcategories could evolve at some point in the future.

- Peter Cheng, pediatric cardiologist: He said he works with several hospitals and clinics through telemedicine, reading pediatric echocardiograms. He said he is happy that the OBMI is not going to regulate microcategories, which would be a real hardship for ultrasound and limiting for physicians doing telemedicine and oversee how pediatric ultrasounds are done. He noted that he works with staff at Legacy and St. Vincent, and he does training in ultrasound. He said his organization has been able to do direct communication with telemedicine partners to dictate how the ultrasound is being done. He said he realizes that some sonographers do not have the training in pediatric sonography. He hopes that the board will recognize that in telemedicine the physician can dictate and oversee the exam. The AHA and AAT have come out with a strong recommendation for pediatric heart screenings of newborns. He said that, if sonographers are required to be credentialed in microcategories, then the outlying hospitals will have to transfer the patients. The screenings uncover a lot of false negatives, resulting in the transferral of a substantial numbers of well patients to facilities that have the properly-credentialed sonographers. He said that even though a technologist may not know how to produce the image that the physician wants, the physician knows and can direct the sonographer to get the correct image.
- Randy Jarigese, licensed sonographer: He said the testing requirements have changed, including a new general physics exam plus specialty exam, and the new requirements would create a hardship for many sonographers. He said that, to his knowledge, there have not been complaints about sonographers not being able to practice in certain areas. He said that some sonographers

would not object to a new law if they were grandfathered-in. Some say that if they are required to earn an RVT, then the Board needs to provide adequate time for preparation. Frank Krause indicated that, if the legislation is passed, then the Board would seek further input regarding how to implement any new regulatory requirements, through the rulemaking process.

- Peter Schork, with *Medical Testing Now*: Proposed a solution – allow the physician to mentor the sonographers who are cross training. Let’s not leave the physician out of this. He also noted that the growth of telemedicine is changing the dynamics of the delivery of health care, particularly in rural areas, and needs to be considered as we craft regulations.
- Spencer Hammond: Wants to reiterate what Dr. Cheng stated with regard to not regulating microspecialties.
- Dan Scharbach: If you add a quality component to the prerequisites, rather than just focus on volume of exams, it can provide a pathway that smaller sites might be better able to achieve compliance.

Can bone densitometry limited permit holders use CT dexa scanners: In the course of conducting inspections of health facilities, Radiation Protection Services (RPS) inspectors have recently come across computed tomography (CT) dexa scanners. Accordingly, RPS asked if the Board would rule on whether limited bone densitometry permit holders could operate these CT devices. Board discussion noted that, even though these devices emit a substantially lower dosage than conventional CT machines, the dosage is still significantly higher than conventional X-ray. In response to RPS’ inquiry, the Board expressed a position that is essentially consistent with current administrative rules (OAR 337-010-0011) which state that only fully-licensed technologists with appropriate CT training are authorized to operate CT equipment for diagnosis.

Should OBMI take over RPS’ rules relating to operators of CT? After discussion it was determined that CT falls within the OBMI’s statutory definition of “radiography” because it emits ionizing radiation. The consensus of the Board is for staff to start working on a draft of what the CT rules would look like, to take over the CT operator rules for radiographers and nuclear medicine technologists. RPS indicated that they would work with OBMI in this effort. Ed Conlow said that he would work to bring a rules draft to the Board at the January meeting, to look at and to determine next steps.

Policy on LXMO instructors: Ed Conlow noted that, at a previous meeting, the Board approved a revised version of the limited permit instructor’s manual, including a provision that specified that an instructor must have a state OBMI license in good standing for at least two years. Ed asked the Board to approve an amendment to Board Policy #8 to reflect the two-year licensure requirement in the instructors’ manual. Thomas King moved to amend Board policy #8 to specify that an instructor needs to have an OBMI license in good standing for at least two years. Frank Krause second; unanimously adopted.

Legislative update: Ed Conlow indicated that he is following several pieces of legislation that were enacted by the Oregon Legislature in 2013. He said he was monitoring the rulemaking of two pieces of legislation, watching for any problematic impacts that the legislation might have on medical imaging. He said that if any Board members wish to see the rules or monitor the process or express concerns, to let him know and he would keep them informed. Those two pieces of legislation he mentioned are:

- SB 420, dealing with mandatory notification of patients if a mammogram shows dense breast tissue. The notification must indicate concern regarding possible increase risk of cancer and

suggests that the patient may wish to consult with the patient’s physician and possibly do some follow-up tests.

- SB 683, dealing with disclosure of patient choice (regarding where to be referred for diagnostic testing) and disclosure of a referring practitioner’s financial interest in a facility where the referral is made.

Revisit 2012 effort to pursue legislation to restructure the Board: Ed Conlow asked the Board if they wanted to pursue legislation for the 2015 session to restructure the Board to address the problem of vacancies among the physician members. Current law requires four board members to be physicians, and currently three of those four slots are unfilled. Filling physician slots on the board has been a chronic problem. Following discussion, the Board directed that a legislative concept be drafted, to bring back to the Board at the next meeting, to revise the Board membership as follows:

	Current Members	Proposed Members
Physicians	4 -- with at least one being a radiologist	1 – must be radiologist
Licensees	5	5
Public members	3	3
Any combination of: <ul style="list-style-type: none"> • Physician licensed in <u>any</u> specialty area • OBMI licensee • public member • limited permit holder 	0	3
TOTAL	12	12

Office update: Ed Conlow provided an office update. He said that he was working with Vincent Mandina and Sarah Anderson to look at purchasing new workstations for them, including desks that can be adjusted to a standing or sitting position. He said they are getting quotes from SmithCFI and Harris Worksystems and that he is accompanying office staff (Vincent Mandina and Sarah Anderson) to go out to look at the furniture before we purchase.

Regarding the document scanner that was approved by the Legislature, as part of the 2013-15 budget, Ed Conlow noted that he has been in contact with the state archives staff regarding electronic document storage, and has also visited with the Department of Consumer and Business Services, which utilizes electronic document storage and management technology. Later in November he and Thomas King have a meeting scheduled with Michelle Gaines, executive director of the Mortuary Board, and Grant Moyle, the OBMI’s IT contractor, to discuss electronic document storage and management options.

Thomas King said that it’s time to start working on a business continuity plan for the OBMI. Ed Conlow said that the OBMI actually has a business continuity plan, developed in conjunction with other health boards in the Portland State Office Building, and that he needs to take the necessary steps to implement the plan.

Board members discussed the customer survey results that were provided to the Board. While overall ratings were mostly over 80 percent positive, availability of information was lowest at 68 percent positive; Ed Conlow said this measure might suggest that the OBMI can do more to improve its

website and other means of communication and outreach to the OBMI clientele and the public. Pam Warren asked if the questions could be changed. In response, Ed Conlow said that he thinks the questions could be revised, and that the current questions are there to comply with the data requirements of the state's key performance measures.

Public Comment:

No public comment.

Meeting Adjourned: at 2:25 p.m.