

**OREGON BOARD OF MEDICAL IMAGING**  
BOARD MEETING, October 17, 2014  
Portland State Office Building, 800 NE Oregon Street  
Conference Room "1-D"

**APPROVED MINUTES**

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

Staff in attendance: Ed Conlow, Executive Director; Carol Parks, Senior Assistant Attorney General; Catherine Hess, OBMI Investigator; Michelle Van Kleeck, OBMI investigator; Vincent Mandina, Administrative LEDS Specialist.

Call to order: 8:42 a.m. by board chair Frank Krause.

Executive session: Frank Krause convened the board in executive session pursuant to ORS 192.660(2)(k) at 8:44 a.m.

Convene public session: Upon completion of executive session at 12:50 p.m., Chair Frank Krause adjourned executive session and directed Board members to get lunch and return for public session, which reconvened at 1:15 p.m.

Approval of the previous meeting minutes

Approval of minutes from Board meeting of July 18, 2014: Earp made a motion to approve the minutes, as amended to indicate board votes by those board members who were present during the July 18 meeting. Seconded by McMillen. Approved unanimously.

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

1. Radiographer licenses: From 171835 through 171939
2. Nuclear medicine licenses: 500283 through 500291
3. MRI licenses: From 400543 through 400554
4. Sonography licenses: From 601169 through 601206
5. Limited x-ray machine operator permits: From 4159 through 4178
6. Radiation therapy licenses: 270109 through 270116
7. All temporary initial medical imaging modality licenses and permits: 51288 through 52207

Investigative Case Vote:

Case 14-08-02: Motion to issue a letter of concern to the licensee, recommending that the licensee inform the licensee's employer regarding the arrest, due to the nature of the statements made during the arrest, and also expressing concern regarding the licensee's ability to deal with stressful situations in a professional manner. Motion by Earp; second by McMillen. Approved unanimously.

Case 14-08-01: Motion to issue a letter of concern. Motion by Earp; second by McMillen. Approved unanimously.

Case 14-07-05: Motion: no action; close case. Motion by Earp; second by McMillen. Approved unanimously.

Case 14-09-02: Motion: Motion: no action; close case. Motion by Earp; second by McMillen. Approved unanimously.

Case 14-09-01: Motion: no action; close case. Motion by Earp; second by McMillen. Approved unanimously.

Case 14-09-03: Motion: no action; close case. Motion by Earp; second by McMillen. Approved unanimously.

Case 14-07-01A: Motion is to levy \$1,000 civil penalty for employing an unlicensed operator and to issue a letter of concern related to allowing the unlicensed practice of medical imaging.

Case 14-07-01: Issue a Letter of concern regarding practicing magnetic resonance imaging without obtaining a post-primary license.

Case 14-06-07A: Motion by Earp; second by McMillen, to levy a \$1,000 civil penalty in accordance with ORS 688.415(1)(d), ORS 688.915(1), and OAR 337-030-0010(3)(f). Motion is also to issue a letter of concern regarding violation of licensure laws relating to medical imaging. Approved unanimously.

Case 14-06-07: Motion by Earp; second by McMillen, to issue a letter of concern regarding the practice of medical imaging without proper licensure. Approved unanimously.

Case 14-09-04: Motion by Earp; second by McMillen, to take no action against the person's license and close the case. Approved unanimously.

Case 14-04-01: Motion by Earp; second by McMillen, to take no action and to close the case. Approved unaniomously.

Case 14-04-07: Motion by Earp; second by McMillen, to issue a stipulated order for the licensee to voluntarily surrender licensure, based upon the determination that the licensee engaged in unethical or unprofessional conduct in the practice of medical imaging, a violation of ORS 688.525(1)(c) and OAR 337-030-0002(6). Approved unanimously.

Case 14-11-01: Motion by Earp; second by McMillen, to send a letter asking to review their new policy regarding the ordering of x-rays. Approved unanimously.

Case 13-02-01: Motion by Earp; second by McMillen, to issue a stipulated order to place licensee on probation for two years with terms as follows: 1) for the first six months, licensee may not practice obstetric ultrasound; 2) Licensee must complete a Board-approved boundary course; 3) following completion of the initial 6-month probation period and completion of the boundary course, and for the remainder of the probationary period, licensee may practice obstetric ultrasound only with a chaperone present; and 4) licensee must provide a copy of the Board's stipulated agreement to his current employer and to all employers during the probationary period. In addition to the conditions

during the probationary period, licensee is forever prohibited from performing an obstetric ultrasound procedure that involves placing the patient on hands and knees. Approved unanimously.

**Board ratification of civil penalties for practicing on expired license, with no Board appearance:**

Board ratification of civil penalties for violation of ORS 688.415(1) with civil penalties based upon OAR 337-030-0010:

- Motion to ratify \$100 civil penalty related to case 14-08-03. Motion by Earp, second by McMillen. Approved unanimously.

**Proposed waiver to perform computed tomography:**

Ed Conlow indicated to the Board that it had recently come to the attention of the OBMI that current rules require persons performing CT to have an ARRT credential. He said that he knows of two grandfathered radiographers (without an ARRT credential) who are currently performing CT in rural hospitals. He asked the Board if the Board wishes to adopt a waiver provision in rule, applicable to non-credentialed licensees who can document CT experience, who work in a state-designated rural hospital, and who can pass the ARRT examination for computed tomography. Under the proposed waiver, the OBMI would offer ARRT's CT exam through state sponsorship, and the hospital would need to demonstrate that it needs the grandfathered radiographer to be able to perform CT. He said that the Board could adopt the rule to apply only to grandfathered licensees or could make the rule more general to apply to any licensee (now and in the future) who does not have the proper credentials to perform CT. He asked the Board if the Board would be willing to adopt a temporary rule so that the waiver could be immediately available, because of two grandfathered radiographers working in rural hospitals who say they need to apply for the waiver immediately.

Lawrence Kuzmaul, a grandfathered licensed radiographer who works at Providence Seaside Hospital, was recognized to address the Board. He said that, the way the rule was presented to the Board, he would not be able to work, because the draft rule requires all waiver pre-requisites to be completed before the waiver could be granted, and he said he needs to work the following day, and would not be able to get the waiver in time. He said he needs 60 days to meet all the waiver requirements. (He said his Oregon license was first approved through state reciprocity with California.)

Peggy Keith, Board Chair of the Oregon Society of Radiologic Technologists (OSRT), was recognized by the Board to comment. She discussed a provision of the draft temporary rule that would require a waiver applicant to document a minimum of five CT exams in any area that the waiver will allow them to practice in. She said that the rule should require the supervisor of the exams to be CT-certified.

The Board discussed action to adopt the more expansive version of the CT waiver provision, to apply not just to grandfathered licenses (without a basic ARRT credential) but to apply to any licensee going forward (including—after 1-1-17—those *with* an ARRT credential but *without* a CT) who meets the Board's waiver requirements, with a 60-day preliminary waiver available, and with the proviso that supervised exams will need to be supervised by a CT-certified technologist. The vote is to adopt the waiver rule initially as a temporary rule, to go into effect immediately, and to jointly begin the rulemaking process to make this temporary rule a permanent rule. Earp moved; McMillen seconded. Approved unanimously.

### **Permanent Rulemaking to Require CT Credential in 2017:**

Earp moved, McMillen seconded, to adopt a permanent rule to require that, on or after January 1, 2017, a technologist would need to have a CT sub-specialty credential in order to perform CT. (The waiver provision, previously adopted as a temporary rule, will become part of this larger CT permanent rule, if the temporary waiver rule is adopted as a permanent rule.) Permanent rule to require a CT credential on or after January 1, 2017 was adopted unanimously.

### **GE's Automated Breast Ultrasound System (ABUS):**

Mary Savage, Statewide Director of Diagnostic Imaging, Providence Health and Services, addressed the Board and said that she does not work for GE. She brought some people from GE who brought an ABUS ultrasound machine. She said that she thinks that "licensed mammographers" should be authorized to operate this machine. She said that it would be helpful and beneficial with regard to exams where dense breast tissue is identified.

Some representatives from GE handed out some information on the ABUS machine and explained how the machine works. Angie Seal from GE said that the FDA has approved the ABUS as an adjunct to mammography, not to replace mammography, for purposes of non-diagnostic screening for breast cancer, and that it is reimbursable. She said it has one-button operation. She said that the training program that GE has developed for the ABUS meets American College of Radiography (ACR) requirements for mammographers to operate the device; she said that the ACR position is that an operator would need to have 1) a diagnostic medical sonography credential from ARDMS; or 2) a breast sonography sub-specialty credential from ARRT; or 3) have an ARRT credential or unrestricted state license and meet federal MQSA requirements for mammography and have at least five CE units specific to breast ultrasound. She said that GE provides six CE units for breast ultrasound.

Frank Krause said that his recommendation would be that training requirements and credentialing requirements (to operate this type of system) would be more properly developed and overseen by the credentialing registries, to avoid any perceived or real commercial biases. Following a presentation from the GE representatives, Frank Krause said that, under current state law and regulations, an operator of the ABUS system would need to have a sonography license, and the OBMI needs to research how to possibly adjust the statutes and/or rules so that a properly-licensed imaging breast-certified technologist can operate the ABUS system. Ed Conlow said that the staff can do some research and bring something back to the Board, for Board consideration at the next meeting.

### **Pioneer Pacific College's new radiography program:**

Katheryn Madison, Program Director, and Fred Osborne, Vice-President of Academics, Pioneer Pacific College, appeared before the Board, at Ed Conlow's suggestion, to discuss an issue regarding PPC's new radiography program. Ed Conlow said that his opinion is that PPC students will not be able to do clinicals because PPC does not yet meet the definition of an "approved school," because PPC is not yet recognized by the national credentialing entity, as the OBMI statute requires. Mr. Osborne said that he disagrees with Mr. Conlow's analysis because, he said, the OBMI website lists approved schools, and he said that PPC is listed as an approved school. (Some Board members pointed out that the OBMI's approval is for limited x-ray schools.) Mr. Osborne said that our

website's list of approved school includes Clark College, which has clinical sites in Oregon that have never been approved by the OBMI. Katheryn Madison said that PPC has Oregon degree authorization approval and national accreditation with ACICS. She said that, "when starting this process, I brought it before several board members, in the past, making sure there were no requirements" and that "if we move forward doing an RT program in Springfield, was there any other requirements? As long as we were seeking the JRCERT certification, I was told that there was support." Ed Conlow asked her who told her that. She said she was talking to Thomas King. Ed Conlow asked Katheryn Madison if she asked Thomas King if students can do clinicals (without licensure) under the supervision of a school that does not yet have the JRCERT accreditation. Katheryn Madison responded that, "as students they said in the program, I was told that they would be." Ed Conlow expressed the opinion that her conversation with Thomas King does not constitute a Board decision or Board approval for PPC's students to do clinicals without licensure and without PPC's recognition as an approved school.

David Howe noted that the Board can levy sanctions for failure to comply with state licensure laws. Katheryn Madison said that they have talked to JRCERT and are complying with the JRCERT process so far. She said that PPC must enroll students and have them on clinical sites for JRCERT to observe, as part of JRCERT's process. David Howe said that it's a "catch-22" situation, and Katherine Madison agreed with his statement. Ms. Madison said that PPC needs to have students on clinical sites for JRCERT to observe, "so our students, when they graduate, are eligible to take the ARRT exam." Ed Conlow said that, the way our statute is written, the students cannot do clinicals until JRCERT finishes their review process. Katherine Madison said that PPC will never get through that process if the students are not doing clinicals for JRCERT's site visit.

Ed Conlow said that, in his discussions about PPC's situation with the ARRT (the credentialing registry), a person at ARRT suggested that some states might have statutory recognition of a school that is working in good faith toward accreditation. Conlow said that PPC could do something in the statute that allows for students to do clinicals if enrolled in a school that is working toward accreditation, as determined by the Board. Ed Conlow said that PPC would need to propose the legislation, because the deadline for state agencies to propose legislation for 2015 has passed. William McMillen said that PPC could approach some legislators to amend the statute to include some statutory language to address this situation. Mr. McMillen suggested that the OBMI could help PPC develop the necessary language, to give PPC the latitude to do their work.

David Howe said that right now, absent legislative action, PPC's students would be violating the law if they do clinicals without a license. Other Board members noted that a facility that is training the students would also be in violation of state law, and subject to civil penalties. Ed Conlow said that the OBMI can work with PPC on this, but that PPC needs to approach legislators, because OBMI's deadline for proposing legislation has passed. Ed Conlow asked Board members who are present if they have any objection if OBMI staff were to work with PPC; nobody expressed an objection. Board response seemed to be generally sympathetic to PPC's situation, while urging them to seek a way to correct the situation. Ed Conlow said that the OBMI would need a green light from the Governor's office to support legislation offered by PPC. But if asked by the Governor, the OBMI would probably support legislation to address this situation. William McMillen said that the OBMI could help develop language and that the OBMI would likely not stand in the way of passing the legislation. Neither Katheryn Madison nor Fred Osborne made any comment regarding possible legislation, and did not comment further, following the Board's discussion of the need for legislation.

**Updates on legislation and rules:** Ed Conlow provided updates:

- Implementation of fingerprint background checks for initial license and permit applicants: OBMI is aiming to require new licenses to submit to fingerprint background checks beginning January 1, 2015, using the state's contract with Fieldprint, which will require electronic fingerprint capture in most cases.
- Update on 2015 legislation:
  - Legislation to provide a pathway for physician assistants to practice fluoroscopy: This legislative concept (LC 644) is under review in the Governor's office.
  - Legislation to restructure the board membership to make it easier to fill physician vacancies on the board: This legislative concept (LC 643) is under review in the Governor's office. He said that he would also ask the Governor's office if we could clarify that imaging technologists who serve as board members do not have to be specifically "practicing" as the current statute requires, but only that each imaging technologist must be licensed.

**Proposed rule to recognize an ISCD credential:**

(Background: At the July 18, 2014 Board meeting, the Board directed OBMI staff to draft a rule to recognize the bone densitometry credential of the International Society for Clinical Densitometry--ISCD.) Ed Conlow told the Board that the ISCD would need to pursue legislation, because our current statute for bone densitometry is tied to a process using the American Registry of Radiologic Technologists (ARRT). He said that the OBMI cannot submit legislation for 2015, due to (expired) deadlines placed on state agencies, so ISCD will need to submit the legislation. He said that he had informed ISCD of this situation, as soon as he confirmed it with legal counsel, and that he would be willing to cooperate with ISCD to draft legislation, but that ISCD would need to initiate the action and identify a sponsor.

**Does OBMI wish to regulate advanced estheticians:**

Ed Conlow addressed the Board to say that he was contacted by House Majority Leader Val Hoyle, who asked if the Board would be willing to assume regulatory oversight of advanced estheticians who utilize laser technology for cosmetic purposes. Dr. Gupta commented that nobody on the board has knowledge of lasers. Conlow said that he was told that, under this proposal, the OBMI might be given one new board member who is an advanced esthetician. Conlow said that there are different ways it could be modeled, and he wasn't sure of all the details yet. Kimberly Earp commented that esthetics is not imaging. Conlow said that its possible the proposal would be to just have OBMI oversee the use of lasers, and leave other aspects of licensing and regulation to the board of cosmetology or some other board. Wayne Lemler asked RPS advisory members if RPS has any authority over lasers. David Howe commented that RPS has statutory authority to regulate the use of lasers, but that RPS has no budget to regulate lasers. Board members expressed non-support for this proposal, since esthetics is not imaging and board members don't know anything about lasers.

**Adjourn at 3:10 p.m.**

Minutes submitted by Ed Conlow