

OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, January 4, 2013
Room 1-D, Portland State Office Building

APPROVED MINUTES

Board attendance: Thomas King, Wayne Lemler, Shirlee Templeton (by telephone), William McMillen, Kimberly Earp, Pamela Warren, Akshay Gupta. Also Margaret Lut, (RPS; advisory member), Rick Wendt (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; Catherine Hess, OBMI investigator.

Call to order: 8:33 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 8:33 a.m.

Executive session adjourned at 12:20 p.m.

Convene public session: Chair Thomas King convened the board in public session at 1:07 p.m.

Approval of the previous meeting minutes

- Approval of minutes from Board meeting of October 23, 2012: Moved by Earp; seconded by Warren. Approved unanimously, without amendment.
- Approval of minutes from emergency Board meeting of November 8, 2012. Moved by Earp; second by Warren. Approved unanimously, without amendment.

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

1. Radiographer licenses: From 171383 through 171413
2. Nuclear medicine licenses: From 500239 through 500244
3. MRI licenses: From 400447 through 400458
4. Sonography licenses: From 600979 through 601009
5. Limited x-ray machine operator permits: From 4066 through 4078
6. All temporary initial medical imaging modality licenses and permits: From 50051 through 50070.

Investigation Cases:

Case 12-11-01: Issue a stipulated agreement for practicing without a license in violation of 688.415(1)(a), with a penalty of \$500 in accordance with 337-030-0010(3)(b). If the licensee does not sign and comply with the stipulated agreement, staff is authorized to issue a notice of proposed disciplinary action. Motion by Earp; second by Warren. Approved unanimously.

Case 12-11-03: Board takes no action against the person's license. Board requests that the licensee provide access to the results of the drug/alcohol tests that the licensee is required to undertake as part of probation. Motion by Earp; second by Warren. Approved unanimously.

Case 12-11-07: Motion is to take no action against the licensee's license but request that licensee provide results of his drug/alcohol tests related to his current probation for DUII. Motion by Earp; second by Warren. Approved unanimously.

CASE 12-11-04: The Board took no action. The Board asked this person to see if she can get her employer to located the cancelled check that would provide confirmation that she paid for a permit in 2010.

Case 12-11-02: Issue a stipulated agreement for practicing without a license in violation of 688.415(1)(a), with a penalty of \$1,000 in accordance with 337-030-0010(3)(b); note aggravating factor that licensee knew about the licensure law and willfully ignored it for a substantial period of time. If the licensee does not sign and comply with the stipulated agreement, staff is authorized to issue a notice of proposed disciplinary action.

Case 12-11-08: Motion is to issue a letter of concern to the licensee regarding taking X-rays without an order from a physician, and to reiterate in the letter that an X-ray is to only be taken based under the supervision of a licensed practitioner operating within scope of practice. Motion by Earp; second by Warren. Approved unanimously.

Case 12-12-01: Issue stipulated agreement for \$500 civil penalty for violation of ORS 688.415(1)(a) subject to penalty in accordance with OAR 337-030-0010(3)(b). Cover letter should emphasize that the person is not qualified to perform medical imaging. If the person does not sign and comply with the stipulated agreement, staff is authorized to issue a notice of proposed disciplinary action. Motion by Earp; second by Warren. Approved unanimously.

Case 12-09-17: Motion is to issue a final order by default, based upon facts as stated in the notice of proposed suspension approved during an emergency Board meeting on November 8, 2012. Motion by Earp; second by Warren. Approved unanimously.

Case 12-02-04: Based upon discussion regarding Case 12-02-04, motion is that the Board should proceed with disciplinary actions regarding cases 12-02-02 and 12-02-03. Motion by Earp, second by Warren. Approved unanimously.

Case 12-06-09: Motion is to issue a notice of proposed disciplinary action based upon licensee's failure to respond timely to the stipulated agreement and final order for Case 12-06-09 that the Board issued at the July 13, 2012 meeting. Motion by Earp; second by Warren. Approved unanimously.

Committee Updates:

Continuing Education Committee: The Board decided that, if a CE course is proposed and is substantially the same as a course the CE Committee had approved within a reasonable time period in the past, then the OBMI staff is not required to obtain CE committee approval again. The Board agreed that, in these cases, the staff could enter the class based upon prior CE committee approval. Implementation details will be worked out by OBMI staff. Moved by Earp; second by McMillen. Approved unanimously.

Update on budget process: Ed Conlow noted that the Governor has included the OBMI Agency Budget Request for 2013-15, with only minor technical changes, as part of his budget recommendation for 2013-15. This includes policy packages to convert the investigator position to a contract (interagency agreement) position and to fund a scanner.

Update on legislative concept: HB 2104 is the number of the Board's legislative concept. As a House Bill, it will start on the House side. Ed Conlow mentioned that the legislation would give the Board jurisdiction over persons who work on cadavers. He said that he asked the medical examiner's office about this, and that the medical examiner's staff, during a telephone conversation, seemed to be unsupportive of giving the OBMI this jurisdiction, and suggested that it would likely have a fiscal impact on the medical examiner's office.

Thomas King recognized Peter Schork from Echovision in Tigard to address the committee. He indicated that Echovision and some other medical institutions (such as Providence Hospital) provide cardiovascular screening exams which are not ordered by physicians, a practice that HB 2104 would prohibit. He said that research shows that 80 percent of strokes and other cardiovascular incidents occur without any prior symptoms. He said that many will seek this type of screening from a third party, without asking their family doctor. He said these types of screenings are not just done for older persons but also young athletes. He said that research shows that this type of screening saves lives. He also suggested that fire departments sometimes use these types of screening exams to identify if there is an underlying health issue.

Update on efforts to recruit board members: Ed Conlow said that he approached the Governor's office about changing the OBMI statute to reduce the number of physician slots on the Board, because of the difficulty of finding physicians who can fit board membership into their schedules. (This direction was approved by the Board during the October 23, 2012 meeting.) He said that the Governor's office asked the OBMI to hold off on legislation and try to work through existing institutions in order to recruit board members. Ed said that he has been communicating with the Governor's board/commission staff and also with the Board of Medicine and Oregon Medical Association to help try to find some physician members.

Temporary license rule: Ed Conlow presented some issues for consideration regarding the current OBMI rule on temporary licensure (OAR 337-010-0045):

1. Does the Board wish to set a deadline in rule after which someone who has graduated from an approved school cannot qualify for a temporary license? A close reading of the current rule suggests that there is no deadline for graduates to come back and obtain a temporary license.
2. Does the Board wish to establish a process for current licensees to obtain a temporary permit in order to work toward a post-primary credential?

Thomas King asked Barb Smith (OSRT; PCC) if she had any perspective on this issue. She noted that the ARRT registry test costs \$150 and she cautioned that some students coming out of school might delay taking the test if they don't have a job lined up, to avoid having to pay the test fee. She cautioned against a very strict deadline and suggested that three years after graduation might be a reasonable deadline.

She said that MRI is shorter coursework, not as extensive as radiography, and she cautioned against allowing too long of a deadline after school to allow an MRI graduate to sit for the MRI registry

examination (because it's not clear how much of the MRI didactic information can be retained for how long).

Wayne Lemler commented in favor of considering short timeframes/deadlines in order to encourage graduates to seek registry credentialing in as speedy a manner as possible, while they still have a reasonably high proficiency level. Barb Smith concurred, noting that the physics for MRI is very difficult.

Barb also commented that, in some fields, it may be difficult to get all the competencies, which also needs to be considered in setting deadlines.

Ed Conlow asked Board members if they wish to clarify the temporary licensure rule to allow for current licensees to obtain a temporary license in order to pursue a post-primary credential.

Shirlee Templeton commented that, what we've done for nuclear medicine technologists who want to earn a post-primary credential in MRI or CT, is that we can have additional requirements beyond what the ARRT requires, where they would need to have didactic in cross-sectional CT or whatever, and if they haven't had that didactic training within 2 or 3 years or whatever, then maybe they could be required to complete some sort of approved program to get that didactic training.

Thomas King directed staff to draft something for the Board to consider at the April 5, 2013 Board meeting, for a rulemaking process.

Limited permits: Ed Conlow noted that, under current rules, a limited permit holder whose permit has lapsed can come back after any length of time and renew their permit, with the only requirement being to complete CEs for each year since the last renewal. He asked if the Board would like to establish a deadline after which a person whose limited permit has lapsed would need to meet new or enhanced requirements in order to renew the permit.

In response to a question from Thomas King, Barb Smith said that ARRT requires a credential holder to re-test if their credential is lapsed for six months or more. If you don't pass the test, you can re-test a certain number of times to try to pass. If you can't pass within these parameters, then you would have to go back to school.

Thomas King directed staff to work on developing a draft rule to include with the draft rules on temporary licensure, to bring back to the Board to consider initiating rulemaking at the next Board meeting.

Also lump New Business item #6 into this proposed rulemaking – whether to cut off provisional licenses at some point prior to December 31, 2013.

Oregon Society of Physician Assistants (OSPA): Elizabeth Remley, a contract lobbyist representing the OSPA, and Judah Gold Markel, a physician assistant, addressed the committee. Ms. Remley indicated that the OSPA is not advocating a position at this point, but rather is beginning a conversation to explore some possible changes with regard to allowing PA's to utilize fluoroscopy. Mr. Markel said that only 19 states (including Oregon) do not permit PAs to utilize fluoroscopy. Ms. Remley said that the OSPA and the American Society of Radiologic Technologists (ASRT) combined to develop an "educational framework" for PAs to be trained in fluoroscopy. Ms. Remley

distributed a document entitled “Summary of Fluoroscopy Educational Framework for the PA” and “Summary of State Provisions Governing the Use of Fluoroscopy by Physician Assistants.” (Both documents are available from the OBMI office upon request.)

Overview of Guidelines for Limited School Instructors: Ed Conlow told Board members that he convened a work group including limited school directors and others to review the OBMI’s Overview of Guidelines document and update the document as needed. He reviewed proposed edits with the Board. He noted that updating the document will require an amendment to the administrative rules.

Monica Quintero-DeVlaeminck, PPS-Wilsonville and Katheryn Madison, PPS-Springfield, addressed the Board. Ms. Madison indicated that the proposed edit on page five, requiring limited schools to secure clinical sites for students to complete externships, would require PPS to be re-accredited. She said that PPS tries to get externship opportunities for students, but sometimes have trouble securing certain exams for students. Ms. Quintero-DeVlaeminck indicated that this requirement would create certain problems related to the fact that the students have to pass the state exam before they can start an externship. She said it would create problems with student financial aid requirements.

Barb Smith testified against the proposed change on page 7 that would designate doctors to be qualified to operate equipment. She indicated that she knows of few if any physicians who are qualified, and she asked that this new language be removed from the draft. She also suggested adding “using automatic exposure control (AEC)’ under equipment operation on page 13.

Thomas King proposed to initiate rulemaking to update the guidelines document. McMillen so moved; Warren seconded. Approved unanimously to initiate rulemaking to update the overview of guidelines.

Does the Board support the proposed federal CARE Bill? Thomas King recognized Randy Harp, legislative chairman for the Oregon Society of Radiologic Technologists (OSRT), and a contact person for the American Society of Radiologic Technologists. He discussed the history of the CARE Act in Washington, including lobbying efforts. He asked for the OBMI’s endorsement of the CARE Bill, with either a letter of support from the Board and/or by sending a Board member to Washington to help build support for passage. Thomas King asked that, related to any motion regarding this agenda item, that the OBMI follow the letter of the law regarding lobbying and any related issues. Motion by Earp for the Board to provide a letter of support as well as support (including travel expenses) for Thomas King to travel to Washington in March to support passage of the federal CARE Bill; second by McMillen. Approved unanimously.

Public Comment:

Pam Sprague, sonographer: She asked that, regarding lobbying efforts, that correspondence properly indicate the different modalities encompassed under the Board of Medical Imaging. She also addressed the Board’s legislative concept (HB 2104) and indicated that demand for keepsake ultrasound images (which HB 2104 would outlaw) is much more widespread than people understand. She said that the majority of patients who walk into her place of employment ask for keepsake scanning and often ask for a recommendation for a keepsake photo shop. She noted that a new keepsake photo business has opened in the Salem area, with a van that will go to people’s homes. She expressed support for the legislation to outlaw keepsake ultrasound photography.

She also asked that, if a violation is reported to the Board, can the name of the complainant remain confidential? Thomas King assured her that the name of the person filing the complaint can remain private.

Barb Smith, PCC: For CE numbering, she cautioned that the CE number might need to include the name of the presentation, to be sure that licensees do not get credit for attending the same presentation more than once within the year.

Regarding fluoroscopy for PAs, Barb Smith said that she teaches fluoroscopy. She said she is “not real happy” having PAs doing fluoroscopy. She expressed concern that, in essence, it could lead the state toward situations in which radiographers – who understand radiation safety -- are not present during the procedure. She suggested approaching this subject with extreme caution. She said the Board might want to consider the ARRT’s fluoroscopy test for PAs, because the PA curriculum has no radiation safety.

Adjourn: 3:24 p.m.