

Oregon State Board of Radiologic Technology (OBRT)

January 12, 2001 MINUTES

State Office Building □ 800 NE Oregon Street, Suite 407 □ Portland, Oregon

ATTENDANCE

Members and Staff: Brian Buckingham, LRT, Chairman; Barbara Agrimson, LRTT; Darrell Hocken, RT, Advisory Member; Erica Hovet, LCSW, Public Member; Matt Lang, LRT; Edna Marr, LRT; Christopher Griffin, MD; Frank Mussell, AAG; Lianne Thompson, Executive Officer; Chris W. Stewart, Staff; Linda Russell, Staff

Members Absent: Jerry Thomas, LRT, due to resignation letter received 01/08/01.

Also Present: Randy Harp, AMXI, OSRT; Barbara Smith, PCC, OSRT; Bob Olsen, Consultant for Limited Permit Examination Revision; Ray Lindley, Oregon Department of Education.

Public Sessions: 12:30PM – 4:00PM

Executive Sessions: 9:30AM – 12:00 PM

MINUTES APPROVAL [Attachment 1]

Mr. Lang moved to approve the minutes of the 10/13/00 Board meeting. Ms. Agrimson seconded; the Board approved unanimously.

EXECUTIVE SESSION for EXECUTIVE OFFICER EVALUATION

Executive Session, pursuant to ORS 192.660, was called to order at approximately 9:30 AM. Board members assembled in room 445 to discuss the annual appraisal of Executive Officer, Lianne Thompson.

At 10:50AM, Mr. Buckingham asked staff to join the meeting. He called the meeting back into Executive Session, pursuant to ORS 192.660, to discuss investigation matters. .

INVESTIGATIONS

NOTE: In accordance with ORS 688.605(2), the identities of some individuals and facilities are confidential and withheld from public disclosure during the period of investigation

Committee Members: Matt Lang, Chair; Brian Buckingham, Edna Marr.

Executive Session, pursuant to ORS 192.660(1)(k). 10:50-11:30AM.

Case 99-03-03: The board had approved the consent order on 10/13/00. A proposed settlement has been received. Ms. Marr asked what type of treatment the licensee had had. Ms. Thompson, answered that the licensee has been in a substance abuse program. The licensee received an early release as a model prisoner and will request that the record be expunged. Ms. Hovet would like to see the treatment spelled out. Ms. Hovet feels that four urine analyses isn't good enough due to 150

diversion counts of prescription abuse. Mr. Mussell recommended that the Board approve the settlement based on the licensee's volunteering to stay in treatment and report as needed, and the fact that she is not in a mandated program but accountable. Mr. Mussell requested that a copy of the consent order be sent to RSS Testing and telephone verification made, to assure that the licensee has signed a contract with them. **Recommendation: Investigative Committee approved 01/12/01 OBRT approved settlement with a signed consent order 01/12/01.**

Case 99-04-04: On 12/11/00, a disciplinary letter was sent to the licensee. A report has been received in the office of the OBRT from the licensee. **The licensee has signed the Consent Order. Monitoring continues until December 15, 2002.**

Case 99-12-02: The licensee has refused paperwork from the Board. On 01/12/01, the Board recommended sending this case to the AAG's office. They will be working with the processor to serve the paperwork at a new address and move forward with the case. **Recommendation, 01/12/01: send to Mr. Mussell for service of documents on licensee by the local sheriff's office.**

Case 00-01-04: The licensee still has not paid the civil penalty. **Recommendation, 01/12/01: send to Mr. Mussell for collection.**

Case 00-04-01: The licensee's attorney has lost track of his client. Hearing requested for January 2001. **Recommendation, 01/12/01: Investigative Committee and Board advised to continue with the scheduled hearing.**

Case 00-08-01: On 11/3/00, the permittee paid the \$100 civil penalty. The limited-permit (LP) application was denied and the LP course of instruction (because of the one-year student status) has expired. **Recommendation, 01/12/01: Investigative Committee and Board approved the consent order/civil penalty and consider the case closed.**

Case 00-09-02: Operating without a license < two years and lying about it. MD was aware of licensure status of employee. **Recommendation: Investigative Committee and OBRT approved consent order and \$2000 (\$250 monthly) civil penalty for lapsed license. Investigative Committee and OBRT approved consent order and \$1000 civil penalty for MD – Employer.**

Case 00-09-03: The Investigative Committee approved the consent order. It has been signed; the \$100 civil penalty has been paid by the employer. **Recommendation: OBRT approved the consent order and civil penalty and considers the case closed.**

Case 00-09-03B: The Investigative Committee approves the consent order and \$1000 civil penalty. **Recommendation: OBRT approved the consent order and \$1000 civil penalty.**

Case 00-10-02: Investigation continues – working while unlicensed <6 mo. 12/18/00: Investigative Committee recommends consent order with \$1600 civil penalty. **Recommendation: OBRT approves consent order and payment of a \$1600 fine (\$250/month). Mr. Mussell's staff will prepare the legal documents.**

Case 00-10-03: During discussion of this case, Mr. Mussell asked as policy matter: what constitutes appropriate qualifications for teachers of LP courses of instruction? He advised revision of the statutes to give the Board leverage over approved trainers who are qualified to teach course of instruction. Mr. Lang, committee chair, agreed with Mr. Mussell that the OBRT should address this issue. Ms. Marr asked if this was pursuant to the standards of the Board. Ms. Hovet urged that the

Board be flexible, announcing that the OBRT would be hearing from Mr. Lindley later. Mr. Hocken asked how this would refer to the law. Mr. Mussell affirmed that the OBRT has to take the position that this is the law and must be followed precisely. All LP courses of instruction, instructors and licensees must comply with the law. At some point, the Board has to face the situation if they do not correct it legislatively. Mr. Lang expressed that the OBRT should not collaborate with these programs & schools. He feels that the OBRT needs to change the statute now. Then the Board can set specific standards to correct the old statutes, creating more control. *Mr. Mussell reiterated these issues: **1. Comply with the law: to all LP courses** **2. Do not discipline the school at this time but urge them to comply with how the Board interprets the statute and requirements to teach LP courses of instruction.** **3. Develop collaboratively standards specific to the qualifications needed to teach & train these programs in the various schools, etc. Then change the ORS 688.515 (3)(e) later, after due consideration.*** Ms. Thompson commented that this school would be able to comply at this time. Mr. Hocken agreed, explaining that in his opinion they could come into compliance without a penalty for the period of non-compliance. Mr. Lang said that on the last night of the legislative session these schools (stake holders) could go in and try to change the statute to suit their desires. The majority of the Board did not support this concept. Ms. Hovet indicated again that we should wait and hear from Mr. Lindley and requested that this investigation be tabled for now. Ms. Marr voiced her support with Mr. Mussell's recommendation. **Case was tabled for further review.**

Case 00-10-04: Need final approval—consent order signed & civil penalty paid. **Recommendation: Investigative Committee and OBRT approved the consent order and fine and closed the case.**

Case 00-10-05: (Has been needing final approval, now that the consent order has been signed and the civil penalty paid. **Recommendation: Investigative Committee and OBRT approved consent order and fine and closed the case.**

Case 00-10-06: The Investigative Committee and OBRT approved the consent order and fine and closed the case.

Case 00-10-07: The Investigative Committee and OBRT approved the consent order and fine and closed the case.

Case 00-10-08: The Investigative Committee and OBRT approved the consent order and fine and closed the case.

Case 00-10-09: The Investigative Committee and OBRT approved the consent order and fine and closed the case.

Case 00-11-01: The Investigative Committee and OBRT approved the consent order and fine and closed the case.

Case 00-11-02: The Investigative Committee and OBRT approved the consent order and fine and closed the case.

Case 00-11-03: The Investigative Committee and OBRT approved the consent order and fine and closed the case.

Case 00-11-04: Working without a license (LP Reciprocity), she was given incorrect information by Chelsea Vela. **Recommendation: Reciprocal LP applicant operated in good faith. The**

Investigative Committee voted 2 to 1 to dismiss. Mr. Lang said that he wanted it on record that the wrong information was given by Ms. Vela to the applicant. OBRT voted to dismiss and close the case.

Case 00-11-05: The RN took a radiograph while unqualified or unlicensed. The Board of Nursing will be issuing disciplinary action after their investigator is finished with the case. Ms. Thompson recommended that a \$1000 civil penalty be imposed for operating outside the scope of his/her license (\$100 for not being licensed with the OBRT). Mr. Lang questioned whether the \$100 fine was enough. Mr. Buckingham reviewed the statutes with Ms. Thompson and recommended that the Board increase the civil penalty to \$2100. **Case held over-- recommendation to impose a \$2100 civil penalty pursuant to 337-010-0060 (3)(a)(A) \$100, (b) \$1000, (m) \$100.**

Case 00-11-06: Licensee was working unlicensed for <6 mo., purporting to be licensed to her employer and knowingly falsifying statements to OBRT staff. **The Investigative Committee approved a civil penalty of \$1600 (\$250 monthly). Licensee must sign a consent order admitting the infractions and shared with her employers. Both parties confirming the shared information must also sign the report from the employer.**

Case 00-12-01: Working without a license for < 6 mo. **The Investigative Committee and OBRT approved the consent order and \$100 civil penalty and closed the case.**

Case 00-12-02: Working without a license for < 6 mo. **The Investigative Committee and OBRT approved the consent order and \$100 civil penalty and closed the case.**

Case 00-12-03: Taking unauthorized radiographs (“Acted as a Radiologic Technologist independently of the supervision of a licensed practitioner of the healing arts”). **Case held over for further investigation.**

Case 00-12-04: “Has been convicted of any crime where the crime bears relationship to the practice of Radiologic Technology”. The Investigative Committee approved issuing a consent order that would grant a license but add specifics that must be reported to the Board. Ms. Thompson remarked that this person’s living condition present problems. These conditions could lead to non-compliance with the law resulting in future violations. **OBRT voted to continue with licensing and insure that the consent order spells out specific requirements needed for license retention.**

Mr. Mussell clarified that we do not include names of the investigative cases in the Board meeting minutes.

Mr. Buckingham moved the meeting into Public Session to announce case decisions and continue with the meeting. **Mr. Buckingham moved that the recommendations of the Investigative Committee be accepted. Ms. Marr seconded; the vote was unanimously favorable.**

Lunch Break (Board members are entitled to meals as they work.)

LIMITED PERMIT EXAMINATION REVISION

Committee Members: Ms. Hovet, Chair; Ms. Agrimson, Mr. Hocken.

Ms. Hovet reported that the LP Examination Revision Committee met on December 15, 2000, from 12:30 to 4:00 PM. The second meeting will be February 05, 2001.

Mr. Hocken, questioned the output/outcome of the meeting. "It was a work session," replied Ms. Hovet. Ms. Marr asked about a job survey of attending individuals. Ms. Hovet replied that the 30 individuals who attended represented a wide selection of industry professionals. They actively participated, seemed very interested and agreed to return in February to continue discussing revisions.

"The current test is not defensible; it may need more knowledge," alleged Ms. Hovet. She also let everyone know that in the future, others may attend if they would like-- along with those who attended the December meeting. She summarized that this is an opportunity for licensees to provide opinions as to what qualifying curriculum is needed for future exams.

Mr. Hocken asked if increased hours to take the exam, *etc.*, were discussed. "Not yet," remarked Ms. Hovet. Ms. Agrimson affirmed that the meeting was successful in eliciting opinions concerning specific qualifications (course outline, curriculum, *etc.*).

At the December meeting, consultant Mark Endsley started with benchmarks and outlines and allowed the participants to evaluate and recommend those requirements needed to improve the present exams. Ms. Hovet mentioned that OBRT does not have to limit these meetings to the Portland area. Ms. Agrimson pointed out that there were many conversations between the schools about what and how they run their programs. Ms. Hovet stated that all exams need to be the same as far as difficulty and content.

Ms. Thompson explained how the testing process operates to assure security, validity and reliability. Accessibility is of great concern to Ms. Hovet and the internet and OBRT web site might be used to address this matter.

Mr. Harp declared that he wants help from the OBRT when his students don't do well. Ms. Smith said that pass rates may be impacted by having students forced to take radiographs and go to the schooling. Mr. Harp followed up by saying that the OBRT is doing well in its direction. Radiation Use and Safety first is good; maybe in the future, peer positioning. He declared that it takes a year to get ready to take radiographs.

BOB OLSEN- Consultant for LP Exam Revision

At approximately 1:05 PM, Mr. Olsen, consultant for the LP Exam Revision provided the Board with a report. Mr. Olsen proposed that the LP Exam Revision Committee decide what applicants specifically need to know for the exam(s), by the conclusion of the February 2, 2001 meeting.

He announced that by the April Board meeting, his target is for a test blueprint on what should be on the exams. This will include the number of items for each area. It is necessary to achieve framework

for each of the tests so that various items can be put into the exams so they are never the same. Dr. Griffin and Ms. Marr seemed interested in writing items for the exam.

Mr. Olsen distributed frequency tables and explained how such relate to an exam. (The frequency table had been actually taken from the previous OBRT exams.) He explained that a foil equals an item response choice, while a distracter is an incorrect but appealing foil. There need to be four foils (rather than three) if an exam contains fewer items. Three foils are acceptable if more items are used, *i.e.*, “quickly & well or well & quickly?” In terms of the quickest way to get an acceptable exam: more or fewer items, more or fewer foils/items.

Mr. Olsen then asked the Board what they noticed about the first item. Ms. Marr answered his question and said that it had one distracter but should have had three. The third distracter is very hard to write, according to Mr. Olsen. He explained that these types of tables allow those questions to be analyzed. “Are the questions too easy, are they confusing, or not clear; are the verbiage and content correct?” There should be a loading on the correct answer.

The State of Oregon/Board of Education pays \$65 - \$85 per item. So if there are 500 items or questions, the expense is appreciable. You can generate what the value is on the items used. Mr. Harp feels that 30 questions with four choices is not acceptable. Mr. Olsen revealed that at least 50 questions are needed. Mr. Hocken asked about true & false questions. “You need to look at them in the same view as multiple choice,” replied Mr. Olsen.

He advised having an item-writing meeting and begin with examining our record of responses. He explained that **what you want students to know and be able to do** is the number one achievement to accomplish, then teaching will follow. There are four goals or outcomes to consider: 1) Are the questions equally important? 2) The answer will be “No,” so the questions need to be weighted. 3) All identified areas have to have items in them. 4) Contingent answers are horrible and seductive and are often about trickery.

Mr. Buckingham remarked that the revision process Mark Endsley gave him to work on is more difficult to execute than he imagined. Mr. Olsen commented that we have to come up with enough items first and then re-written items can take place.

As an assessment in education, the OBRT needs to know how to ask questions. We must realize how a student could logically be confused about the material in order to produce a viable distracter. It is the responsibility of educators to prepare students to go forward to meet standards.

Ms. Hovet asked Mr. Harp to express again how valuable the “Limited Permit Exam Revision” process and meeting had been. Again he concluded that he is very pleased with the progress that is being made. Mr. Olsen said that he would see us in February.

NOVEMBER EXAM RESULTS:

Ms. Thompson announced that Doug Van Fleet, OBRT staff, sent out data on the results of the exam to the Board members before the January 12, 2001 meeting.

Mr. Harp told the Board he wants to know why his students are or are not reaching the percentage needed to pass the various exams so that he can make improvements at his facility. Ms. Smith, said that she would shoot herself if her students did not pass with a high percentage. Ms. Smith also warned that there are many other factors besides just the schools’ instruction to achieve a passing

score. Ms. Marr said that apathy is a very hard thing to deal with and affects the exam results. Mr. Harp stated that the Board is headed in a good direction and their thinking process is outstanding. He said that the LP Exam meeting was a great success and very beneficial.

LEGISLATIVE (“How an Idea Becomes a Law”)

Committee Members: Dr. Griffin, Chair; Ms. Hovet, Mr. Buckingham.

Ms. Thompson told the Board that the information in the booklet “How an Idea Becomes a Law” is very sobering, as lobbyists are ever-present to promote the interests of the professionals. “Who speaks for the protection of the public?”

Mr. Lang complained that he did not get the gray booklet or Board packet. Ms. Thompson gave him another copy.

Ms. Thompson explained that Hardy Meyers, Attorney General, ruled that legislators can take monies during the legislative session. This publication is a tool to be utilized; Ms. Thompson does not want the Board to have a misconception about how the legislative process works.

RAY LINDLEY – OREGON DEPARTMENT OF EDUCATION (ODE)

Mr. Lindley explained that his department regulates schools that teach courses of instruction, *i.e.*, Apollo & ConCorde. Whereas the OBRT sets training requirements for the profession, the ODE monitors and enforces the required curriculum. They also enforce other educational program requirements.

A school that applies for Workforce Investment Assistance (WIA) - federal assistance - needs to be licensed with the ODE. Site inspection can be charged by the ODE but not by the OBRT. ORS 345.010(4) states that “school” is any instruction leading to “something.” Ms. Marr asked Mr. Lindley if the OBRT would have more enforcement power with the ODE.

Mr. Lindley explained that his job is to protect the students and keep the schools out of court. OAR 581-045-0012 (3) says that the teacher must hold an Oregon license in the field they are teaching or higher. This rule sets minimum standards that the OBRT can build beyond, *i.e.*, a licensed RT needs to teach LP students. ODE works with other agencies to meet similar requirements. Standards may not be less than ODE standards but they may be greater.

Mr. Lang asked why Mr. Lindley had come to the meeting; had someone reported our LP courses to him? He replied that Mr. Harp had contacted ODE to get WIA funding assistance.

Mr. Harp inquired if any exemptions exist for small schools? “Yes if these four points are met: 1) Curriculum is adequately regulated, 2) Curriculum is updated, 3) A State Board (which we have) monitors what is going on (including in the school), 4) There’s an assessment process for instruction and student achievement,” (Mr. Lindley).

Ms. Thompson asked Mr. Lindley whether there’s a way for schools in rural areas to be legal. Mr. Lang followed by asking who would be sponsoring the cost of putting a program into effect that would keep these rural schools open? Mr. Lindley replied that when a facility opens its doors to the public then they will not fall under the third exemption. Conversation ensued concerning how the OBRT can be perceived by the Legislature.

Mr. Buckingham asked Mr. Lindley to clarify student protection. The ODE has established fund liability based on gross annual tuition income for specific liability limits. The licensed school pays into this fund twice yearly for seven years and then they pay only their yearly license fee. Most schools want to be licensed with the ODE so that they have credibility.

Ms. Thompson inquired whether the OBRT has options to offer education electronically. Mr. Lang was concerned that it might add extra cost to providers. Mr. Harp warned that rural areas will be hurt. He said, "Outside-Portland schools will go broke and out of business if they have to meet ODE standards." Mr. Lindley reiterated that an exemption exists for employers to train their employees: "It's when you open the door for the public that the ORS applies."

Mr. Lang suggested that OBRT staff should survey all LP applicants for their impression of their LP courses of instruction. Ms. Thompson indicated that it would take extra time for staff to do and would slow the licensing process. She believes that there are limits on the time and energy of both volunteer and paid staff.

Mr. Lindley pointed out that the ODE is fee-generated. The schools pay the fees for being regulated. Schools not operating in compliance with the law can be fined.

Ms. Thompson explained Mr. Lindley's visit as an opportunity to hear and ask questions from concerning licensing requirements for schools with the ODE. It is the beginning of the process in helping the schools who are presently not licensed come into compliance. Ms. Marr pointed out that there are two choices: 1) Let the schools take their chances with the ODE licensing process. 2) Offer to monitor and therefore exempt them.

Ms. Smith warned that the schools can sue the OBRT for knowing about ODE's requirements and not telling them.

Mr. Lindley assured the OBRT that he wants to be patient. The Board needs to have a plan and start working on it. He reminded the Board that they are appointed by the Governor to uphold the law and move forward. He also advised the OBRT and staff that they are exempt from any litigation process by law.

Mr. Buckingham explained that the OBRT needs time to digest this information. He requested that Board members read the rules and statutes and information provided by Mr. Lindley so they can come back and discuss a developing plan. This plan will offer a solution to how the OBRT can respond: Request Exemption for LP courses and OBRT monitors, or OBRT develops standards, delegates monitoring, and enforcement.

BUDGET ADVISORY / OUTREACH & COLLABORATION COMMITTEE

Committee Members: Dr. Griffin and Brian Buckingham.

Ms. Thompson explained where we are now with the budget. Currently, we must hand-count the database. She showed how LP licensure has made a big revenue increase. We are the only Board that does birth-month renewals. The intent was to give the licensees Cadillac service on a monthly prorating. Mr. Hocken suggested that prior to any fee increase in the future, we should talk with the stakeholders to see how they would like renewals sent, annually or whatever. Our

current projection shows that the OBRT has revenue to currently run the agency, provide outreach and keep our three “add” packages. At the end of the budget, if all goes well, the OBRT should have three months of operating capital.

Ms. Marr moved to approve new licenses and permits. The motion seconded by Mr. Lang. OBRT unanimously voted to approve the new licenses and permits.

INITIAL & CONTINUING COMPETENCE COMMITTEE

Committee Members: Ms. Marr, Ms. Agrimson.

Doug Van Fleet, OBRT staff, prepared the Initial & Continuing Competence Report for the OBRT Board.

Mr. Buckingham asked Ms. Marr, Committee Chair, whether any continuing-education requests had been denied in the last quarter. She replied “no.” The committee met on November 30, 2000 and has been working on revision of the forms. Ms. Marr gave Ms. Thompson, some examples this morning for review.

As a continuing-education (CE) policy, the OBRT will except an ARRT card that is current and in good standing for a RT renewal.

Ms. Marr proposed changes in continuing-education policies. The Committee believes that “independent reading” should be taken out, as there is no accountability for it. Ms. Marr remarked that “presentation” also has no accountability. She and the committee will continue to work on this issue.

Mr. Buckingham advised the OBRT that **notice in advance** must be given to RT & LP technologists if “free reading” is being disallowed.

Ms. Smith, asked the committee to look at the one-year ARRT card and how it could correlate with the two-year renewal and continuing education.

OFFICE REPORT

Ms. Thompson advised the OBRT that the new database is still in test mode. John Tobey will be in next week to review the database status.

Ms. Thompson explained that there have been the following personnel changes:

Board: Resignation letter received January 8, 2001 and dated effective December 27, 2000 for Jerry Thomas; Board position #5105.

Staff: Linda Russell, effective 11/27/2000; hired as part-time for now. Chris Stewart is staying on to help train Ms. Russell. Ms. Thompson announced to the Board that she was going to try to keep Doug Van Fleet. She stated that he is a tremendous asset to the OBRT.

PUBLIC COMMENT

Mr. Harp expressed to the OBRT members and staff “to hang in there and keep up the good work.”

The meeting was adjourned at 4:00 PM