

OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, July 22, 2013
Good Samaritan Regional Medical Center, Corvallis, Oregon
Conference Room "B"

APPROVED MINUTES

Board attendance: Thomas King (Chair), Wayne Lemler, Kelly Solberg, Shirlee Templeton, William McMillen, Kimberly Earp, Pamela Warren. Frank Krause (Vice-Chair) attended by telephone. 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.

Call to order: 8:45 a.m. by board chair Thomas King.

Election of Board Officers:

Nominations for Board Chair: McMillen nominates Thomas King; seconded by Lemler. No other nominations were offered. Thomas King approved unanimously.

Nomination for Board Vice-Chair: Earp nominates Frank Krause; seconded by Warren. No other nominations were offered. Frank Krause approved unanimously.

Executive session: Thomas King convened the board in executive session pursuant to ORS 192.660(2)(k) at 8:52 a.m.

Convene public session: Upon completion of executive session, 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 April 5, 2013: Motion 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 171456 through 171563
2. Nuclear medicine licenses: 500246 through 500258
3. MRI licenses: From 400472 through 400487
4. Sonography licenses: From 601025 through 601056
5. Limited x-ray machine operator permits: From 4085 through 4094
6. All temporary initial medical imaging modality licenses and permits: From 51024 through 51196.

Committee updates:

Case 13-02-01: Motion by Earp, Second by Templeton, to issue a notice of proposed discipline with the sanction being revocation of license in accordance with ORS 688.525(1)(c), based upon the Board's judgment that the licensee is guilty of unethical or unprofessional conduct in the practice of medical imaging. Approved unanimously.

Case 13-06-01: Motion by Earp, second by Warren, to close the case with no action by the Board. Approved unanimously.

13-03-01: Motion by Earp, second by Warren, to close the case with no action. Passed unanimously.

Case 13-01-04: Motion by Earp, second by Templeton, to issue a letter of concern to the licensee, copied to the file. Approved unanimously.

Case 13-06-07: Motion is to take no action and close the case. Earp motion; second by Warren. Approved unanimously.

Case 13-07-01: Carol noted that the issue is failure to report. David noted that this is not a brand new person. Carol didn't see any mitigating circumstances. Motion is \$500 civil penalty for obtaining a license by material misrepresentation, in violation of ORS 688.525(1)(g). Motion by Earp; second by Warren. Approved unanimously.

Case 12-06-09: Motion is to ratify the stipulation agreement. Motion by Earp; second by Templeton. Approved unanimously.

Case 13-03-04: Motion by Earp, second by King, to close the case with no Board action. Approved unanimously.

Committee Updates:

Continuing Education Committee: Kim Earp indicated that the CE committee is current. Some suggestions were submitted for improvements to the CE form and those changes have been accomplished.

School inspections Committee: Thomas King indicated that Pat Williams may be interested in continuing to assist the Board with completing inspections of limited schools.

Old Business:

Update on budget process: Ed Conlow reported that the agency's 2013-15 budget request went through the legislative process in the same form as the Governor submitted it, which is essentially the same way that the OBMI submitted it to the Governor. He noted that the budget includes funding for a scanner, to begin to reduce paper in the office and digitally store licensee records. He noted that the OBMI would proceed with caution to assure that the system works properly and that the OBMI would proceed in consultation with the DAS information security people as well as the Secretary of State's Archives people, to make sure we handle documents in a secure method that preserves them

as required by state laws and regulations. He noted that several other agencies already utilize this technology, and that the OBMI would use these other agencies as resources, as OBMI implements this system.

Thomas King commented that a discussion down the road, consistent with the Governor's transparency efforts, is to put public records, such as final orders by the Board, on the website, similar to what the Oregon Medical Board is already doing. Bill McMillen discussed the possibility of having licensee applications submissions solely through electronic format.

Update on 2013 legislative session: Ed Conlow noted that the legislation sponsored by the Board, HB 2104, has been signed into law and goes into effect on January 1, 2014. He distributed a document listing other legislation of possible interest to the Board.

Current rulemaking -- for expired limited permits and temporary licenses: At the previous Board meeting, the Board voted to initiate rulemaking as follows:

1. A Limited X-Ray Machine Operator (LXMO) permit holder whose permanent permit has been expired or inactive for a period in excess of 24 continuous months, in order to re-obtain a permanent limited permit, will need to follow the same process as a applicant who has not previously had a permit, including graduating from an approved school, passing the ARRT examination, obtaining a temporary permit, and completing clinical requirements.
2. Persons who have graduated from an approved school and who wish to apply for a temporary license must submit their initial temporary license applications to the Board office no later than 24 months following completion of the approved school's program.

Ed Conlow noted that the Board received several comments on the rulemaking, and that the comments had been distributed in advance to the Board and that copies were printed and available for the public to review. There was discussion regarding the comments and the proposed rulemaking. Ed Conlow said that he had an amendment to the rulemaking to respond to one of the comments; the amendment would allow an expired LXMO the opportunity to re-pass the ARRT limited examination, before having to go back to school and start again. He distributed the draft to the Board, for their consideration. He asked if they would be willing to delay the effective date of the permanent rule for six months or a year, in light of the fact that the Board would be placing a new restriction on permits.

Bill McMillen moved to adopt the amendment as the permanent rule, including the requirement that persons subject to this rule would need to re-pass CORE in addition to specific anatomic areas, and that the implementation date of the rule be delayed until January 1, 2014. Earp seconded the motion. Approved unanimously. (The second part of the rulemaking, to require graduates to apply for a temporary license within 24 months of graduation, was not enacted because it was not included in the motion.)

Update on transition to credentialing requirement: Ed Conlow pointed out that, on January 1, 2014, when the OBMI's national credentialing mandate goes into effect and the OBMI's provisional licensure is discontinued, there will be no way for a licensed technologist working in Oregon to complete clinical requirements necessary to qualify under a post-primary pathway currently available nationally through the American Registry of Radiologic Technologists (ARRT). (ARRT currently offers post-primary pathways for credentialed technologists to earn an additional credential in either sonography or MRI. Several other registries also offer credentials through post-primary pathways.)

For Board review and consideration, Ed Conlow distributed a draft of a proposed administrative rule to amend OAR 337-010-0045, to create a new category of “post-primary temporary” license. During discussion of the prescribed duration of the proposed license, there was some concern expressed as to whether technologists in rural facilities would be able to get the necessary repetitions within a specified licensure timeframe. Another concern was expressed that a hard time limit might differ from what a national registry allows, possibly resulting in the state cutting off a person’s post-primary temporary license while the person may still be eligible under the registry’s guidelines.

Following Board discussion, Thomas King suggested that the Board could initiate rulemaking, take public comment, and bring the comments back before the Board in October to consider, and to decide whether or not to move forward with a post-primary temporary license rule. Earp moved, and McMillen seconded, to initiate rulemaking to establish a new category of post-primary temporary license. The new licensure category would be for current licensees who wish to complete clinical competencies to earn a post-primary national registry credential that would enable the licensee to qualify for a state license in the same modality for which the person earned the national registry credential. The duration of this license would be for 24 months maximum. The supervision level requirement would be the same as for current temporary licensees. As part of the application process, the approved draft specifies that the Board could require verification that the applicant can qualify for a post-primary registry credential, and may specify clinical supervision and a clinical practice site for the post-primary temporary licensee. Approved unanimously.

Update on recent request to the OMBI to revisit whether persons with RCES or RCIS credential could be permitted to move the table during fluoroscopic procedure. Rick Wendt, Operations Manager at RPS and an OMBI advisory board member, addressed the Board on this agenda item. He indicated that Dan Sharbaugh of Providence had recently approached the OMBI about revisiting this topic. Dan Sharbaugh had approached the Board in 2011, on this same request, but the Board did not adopt rules based upon the request. In preparing for this discussion, Rick said he reviewed educational requirements for RCES and RCIS credentials. He noted that the RCIS credential requires much more imaging background than the RCES. Rick said that persons wanting to discuss this topic are welcome to come and visit with RPS about this. It would require a variance from current RPS rules. Rick indicated that RPS recently made an offer to a facility to create a temporary variance and that the facility declined to accept RPS’ offer for a variance. Rick said that RPS is willing to continue negotiations with the facility to see if the facility would be willing to try the variance.

Dan Scharbaugh was in attendance and commented that the concept was originally discussed at the April 2011 OMBI quarterly meeting, and that the OMBI started a rulemaking process. He noted that, at a July meeting of the OMBI, it was pointed out that there is a likely conflict with OMBI and RPS rules on this topic. At that time, Dan said that OMBI and RPS were supposed to enter a conversation to align the rules, and then bring it back for consideration. Dan noted that there has been no action since that time.

Dan said that a temporary variance, which RPS is offering to Providence, does not necessarily help him. He said that the goal is to change the system on a permanent basis. But if we can only do that for a short period of time, and then potentially have to change back, it actually makes the situation even worse than where we are at now. Dan said that, speaking for Providence, we would not be interested in a variance for one or two facilities, but rather to pursue something that is a permanent change from which we can make changes within the Providence structure and know that the changes would be for the long term.

Rick said that Dan's request would require a full rules change. Rick offered for Dan to come in and visit with RPS to continue the discussion and try to reach a conclusion that works for both RPS and Providence. Rick said that one key concern is to make sure that whoever is authorized to perform these functions is properly trained in radiation safety. Dan said that he would meet with RPS.

Update from RPS on CT operator rules that RPS is proposing: Margaret Lut, RPS and OBMI advisory member, presented an update on RPS' project to update CT rules. She said she would discuss operator requirements, since that is what mainly impacts the OBMI. We have run into problems trying to identify the qualifications for CT operators. Trying to figure out training requirements for rural facilities. We would prefer that CT operators be ARRT (CT) credentialed; but in talking to some of the rural hospitals, they don't have the patient load to meet the clinical requirements. Some hospitals do 5-15 CTs per week; pretty low -- they don't do many complicated exams, but we want them to meet a certain level of training. In these situations, typical training for staff that will be doing CT is to send them to an original equipment manufacturer's training program. The staffer comes back to the facility with an applications person and there is some on-site training. There is also some clinical work done under supervision. With RPS not regulating operators as much as OBMI, RPS is having a hard time figuring out clinical requirements—what we should institute for that. RPS will be looking to the Board to help draft this rule. Ultimately RPS would like OBMI to take this part of the rules (dealing with operators) away from RPS.

Catherine Hess asked if the Board would be willing take on CT operator requirements. Thomas King indicated that this would be a question that could be pursued. Maybe we could have a task force look into it. Margaret noted that CT training requirements vary widely among different facilities. Thomas King indicated that we could have an interagency working group to work on some of the details between now and the next meeting, and see if we need to do a statute or rule. He said that he would like to involve some of the smaller hospitals in the discussion. Margaret said that RPS has a CT rules committee, including some small and large facilities; this could be a group that could be tapped to help with any sort of discussion relating to transitioning of operator rules to OBMI. Thomas King indicated that, if this change could be accomplished in rules, then the OBMI could look at a rules draft at the October Board meeting, to decide if we want to initiate rulemaking.

Board clarification regarding how many times a person can sit for a limited exam within a one-year time period: Ed Conlow asked the Board for clarification regarding OBMI rule 337-010-0030(5) which specifies that “students are allowed three attempts to pass an ARRT exam” within the one year time-frame. In interpreting and enforcing this rule, he asked if it is appropriate to allow a limited permit applicant to sit for the ARRT limited examination more than three times within a year, so long as the person didn't take any one particular section of the exam more than three times in one year. He noted that ARRT charges \$100 for each time a person sits for an exam, so there is a natural financial incentive to complete the exam in as few attempts as possible. Also, Randy Harp noted that ARRT won't let a person apply to re-take the ARRT until 90 days after the person's previous attempt, effectively creating a limitation on the number of times a person can sit for the exam within the one-year timeframe. Ed Conlow said that, until the Board indicates otherwise, Board staff will interpret the rule to mean that a person cannot sit for any one section of the exam more than three times within a 12-month period. Thomas King indicated that the Board may wish to continue discussion on this topic, at a later meeting, to determine if a clarifying rulemaking is required.

Can the Board approve an amendment to Board Policy 0008 to reflect recent Board-approved changes in LXMO instructor manual – limited permit instructor’s license must be current and in good standing for at least ~~one year~~ two years. Ed Conlow asked if it would be appropriate to update Board Policy 0008 to say that a limited permit instructor must be licensed for at least two years, reflecting the change made to the LXMO instructor’s manual at an earlier Board meeting. Carol Parks said that a policy change would need to be ratified by the Board at the next meeting.

Should we do FBI checks on new applicants? Ed asked the Board if the OBMI should require new applicants to undergo a national FBI criminal records check. He noted that the OBMI currently conducts a LEDS records check, but LEDS only covers Oregon, and the OBMI gets an increasing number of travelers and other applicants coming in from other states. Board discussion was to bring something back to the Board at the next meeting.

Fluoroscopy: Thomas King said that the OBMI has received inquiries by people wanting to operate fluoro equipment. He asked if it is time to look at establishing a fluoro permit similar to what California has done, to help assure uniform competency and to provide a mechanism for enforcement of competency requirements. Margaret noted that RPS was recently approached by the physician assistants’ association regarding an effort to authorize operation of fluoro. Thomas King asked for gathering of more information to bring back to the October meeting.

Public Comment:

Pam Sprague: She thanked the Board for passing HB 2104. She had a question – what will this legislation do for pregnancy resource centers? If this comes up, some board comments suggested that the Board should be contacted to see if there is a violation of statutes or rules. She also commented that some of the equipment manufacturers have done a lot of work to provide quality educational resources to technologists that will meet requirements of the national credentialing agencies. Also, she asked if LXMOs who had voluntarily put their permits on inactive status would be notified of the rule change that was approved earlier in the Board meeting.

Randy Harp: Randy serves as a lobbyist with OSRT and ASRT. He gave the Board an update on federal legislation, including the Medicare Access to Radiology Care Act (MARCA) to get Medicare reimbursement for RPAs and RAs who serve as physician extenders for radiologists. He commented that RTs that go through training to become RPAs are much more qualified to operate fluoro equipment than PAs. Margaret mentioned that RPS is forming a committee to see if PAs should be approved to operate fluoro, and she offered for Randy to serve on that committee.

Meeting Adjourned: at 3:18 p.m.