

OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, July 24, 2015
Portland State Office Building, 800 NE Oregon Street
Conference Room "1-D"

APPROVED MINUTES

Board attendance: Bill McMillen; Wayne Lemler; Pamela Warren; Kelly Karraker; Dr. Ron Boucher (by phone until 11:55 a.m.); Dr. Cloe Shelton; Dr. Ken Hirasaki; Brad Betz; Rick Hoylman. Also David Howe (RPS; advisory member), Rick Wendt (RPS; advisory member).

Staff in attendance: Ed Conlow, Executive Director; Carol Parks, Senior Assistant Attorney General; Michelle Van Kleeck, OBMI investigator; Hillary Haskins, OBMI investigator; Sarah Anderson, Administrative Licensing Specialist; Vincent Mandina, Administrative LEDS Specialist.

Call to order: 8:38 a.m. by board member Bill McMillen.

Election of Board Officers:

- Lemler nominated Frank Krause to serve as chair; Warren seconded. Approved unanimously.
- Karraker nominated Bill McMillen to serve as vice-chair; Warren seconded. Approved unanimously.

Executive session: Bill McMillen convened the board in executive session pursuant to ORS 192.660(2)(k) at 8:40 a.m. Executive session adjourned at 11:55 a.m.

At the close of executive session, Dr. Boucher exited the meeting and did not return.

Recess to get lunch: Vice-chair McMillen recessed public session at 11:55 a.m. and directed Board members to get lunch from the cafeteria and return for public session.

Public Session convened: Vice-chair McMillen convened public session at 12:25 p.m.

Carol Parks, Senior Assistant Attorney General, announced that she will retire at the end of the calendar year. She said she has enjoyed representing this board, but that she is very excited for retirement to begin. Vice-chair McMillen thanked Carol for "keeping the board on the straight and narrow." Wayne Lemler said that Carol has been a "wonderful resource" to him and that she was very instrumental in providing helpful guidance to him, when he was a new board member.

Investigative Case Vote: (note: Dr. Boucher exited the meeting prior to the investigative case vote.)

Case 15-02-05: The Board discussed the fact that the unreported arrest was within a reasonable timeframe for the applicant to recall the event and to properly report it. Motion by Karraker, seconded by Warren, to issue a \$500 civil penalty, in accordance with ORS 688.525(1)(g) and OAR 337-010-0010(3)(i). Approved unanimously.

Case 15-03-06: Board discussion noted that the licensee was correct that the incident that was not reported on her application was in fact a citation rather than an arrest, which does not constitute a

violation of Board statutes and rules concerning applying for a license. Motion by Karraker, second by Warren, to close the case with no action. Approved unanimously.

Case 15-06-05: Board discussion noted that there was no evidence to corroborate the incident that the Board had investigated. Motion by Karraker, seconded by Warren, to close the case. Approved unanimously.

Case 15-06-04: The Board discussion noted that the licensee's version of events seemed truthful and not warranting a disciplinary action. Motion by Karraker, seconded by Warren, to close the case. Approved unanimously.

Case 15-04-08: Comments during Board discussion noted that the arrest was serious enough and within a reasonable time period that there would be no excuse for not reporting on the license application. Motion by Karraker, seconded by Warren, to issue a \$500 civil penalty, in accordance with ORS 688.525(1)(g) and OAR 337-010-0010(3)(i). Approved unanimously.

Case 15-04-09: Board members noted that this person only reported partial criminal background, and that applicants were not empowered to pick and choose which arrests they report, because the application calls for all arrests to be reported. Motion by Karraker, seconded by Warren, to issue a \$500 civil penalty, in accordance with ORS 688.525(1)(g) and OAR 337-010-0010(3)(i). Approved unanimously.

Case 15-05-01: The Board noted that the undisclosed incident was not an arrest and that the applicant had properly disclosed two other arrests. Board members directed OBMI staff to clarify the license application form to require all criminal offenses to be reported. Motion by Karraker, seconded by Warren, to close the case. Approved unanimously.

Case 15-06-01: The Board discussed that the nature of the offense was serious enough that the applicant should have known to report it on the application. Motion by Karraker, seconded by Warren, to issue a \$500 civil penalty, in accordance with ORS 688.525(1)(g) and OAR 337-010-0010(3)(i). Approved unanimously.

Case 15-07-05: The Board accepted the licensee's explanation that the offense was of a minor nature and could be perceived as something less than an arrest. Motion by Karraker, seconded by Warren, to close the case. Approved unanimously.

Case 15-07-04: The licensee wrote that he did not report the arrests because he thought they would not show because he was not convicted. Board members noted that the application clearly states that all arrests must be reported, even if later dropped or dismissed. Motion by Karraker, seconded by Warren, to issue a \$500 civil penalty, in accordance with ORS 688.525(1)(g) and OAR 337-010-0010(3)(i). Approved unanimously.

Case 15-04-10: The Board noted that the license applicant self-reported his arrest history, as required. Motion by Karraker, seconded by Warren, to close the case. Approved unanimously.

Case 15-06-06: The Board noted that the licensee has not responded to Board requests to make payment on the license application fee overdraft. Motion by Karraker, seconded by Warren, to issue a notice of proposed disciplinary action to suspend the license, based upon ORS 688.525(1)(g),

obtaining a license by misrepresentation, and also based upon unprofessional conduct (failing to respond to a Board inquiry), in accordance with OAR 337-030-0002(7). Approved unanimously.

Case 15-03-03: The Board noted that the licensee has not responded to repeated Board efforts to get the licensee to respond to the proposed stipulated agreement approved at the April 17, 2015 Board meeting. Board discussion was that the licensee's action constitutes unprofessional conduct, as defined in OAR 337-030-0002(7), failure to respond to the Board, and that a notice of licensure suspension would be more likely to elicit a response. Motion by Karraker, seconded by Warren, to issue a notice of proposed disciplinary action to suspend the license, based upon ORS 688.525(1)(g), obtaining a license by misrepresentation, and also based upon unprofessional conduct (failing to respond to a Board inquiry), in accordance with OAR 337-030-0002(7). Approved unanimously.

Case 15-07-06: The Board noted that this licensee had fully reported the arrests. Motion by Karraker, seconded by Warren, to close the case. Approved unanimously.

Case 15-07-07: The Board discussed that the arrest was of a serious enough nature that his failure to report it on the license application could not be overlooked, despite the number of years since the arrest. Motion by Karraker, seconded by Warren, to issue a \$500 civil penalty, in accordance with ORS 688.525(1)(g) and OAR 337-010-0010(3)(i). Approved unanimously.

Approval of minutes from previous board meetings:

- April 17, 2015 minutes: Lemler made the motion, seconded by Warren, to approve without amendment the draft minutes from the April 17, 2015 board meeting. Motion adopted unanimously.
- June 16, 2015 special meeting minutes: Lemler made the motion, seconded by Warren, to approve without amendment the draft minutes from the June 16, 2015 board meeting. Motion adopted unanimously.

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

1. Radiographer licenses: From 171066 through 172951
2. Nuclear medicine licenses: 500298 through 500309
3. MRI licenses: From 400580-400597
4. Sonography licenses: From 601297 through 601340
5. Limited x-ray machine operator permits: From 4208 through 4219
6. Radiation therapy licenses: 270133
7. All temporary initial medical imaging modality licenses and permits: N52299 through L52172

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:

- To ratify \$100 civil penalty related to cases 15-04-05, 15-04-07, 15-06-03, and 15-07-03, based upon OAR 337-030-0010(3)((a)(A); Motion by Lemler, seconded by Warren. Approved unanimously.

Old Business:

Legislative update: Ed Conlow indicated that he had previously distributed a 2015 legislative summary to Board members, and that copies were available for the public.

Bill Number and Sponsor	Subject	Status
<i>SB 280 by OBMI</i>	<i>Change the composition of the Board of Medical Imaging to make it easier for the Governor to fill Board vacancies. Under SB 380, three of the four physician slots could be filled by non-physician members, but only if qualified physician applications are not available.</i>	<i>Signed by the Governor</i>
<i>HB 2880 by Or. Society of Physician Assistants</i>	<i>Create a pathway for physician assistants to obtain a limited permit from OBMI to perform fluoroscopy (originally sponsored by OBMI)</i>	<i>Signed by the Governor</i>
<i>HB 5023</i>	<i>Budget bill for six health boards (including OBMI) that are located at the Portland State Office Building.</i>	<i>Signed by the Governor</i>
<i>HB 5031</i>	<i>Provides for legislative ratification of the \$52 fingerprint fee that the OBMI instituted by rule in 2014, and which went into effect on 1-1-15. The OBMI now conducts fingerprint background checks on all initial license applicants. Background checks on renewal applicants will continue to be through the state police, without a fingerprint check and with no added fee. Most of the \$52 fingerprint fee on initial applicants goes to pay the state police and FBI to conduct the background check. (The reason for HB 5031 is that any fee created between legislative sessions must be reviewed and approved when the Legislature next meets.)</i>	<i>Signed by the Governor</i>
<i>SB 289 by Governor/ DAS</i>	<i>Creates a joint legislative standing committee to conduct periodic performance reviews of state boards and commissions. In an apparent effort to assure that the reviews take place, the legislation includes delayed repealers for various state boards and commissions. OBMI's repeal (sec. 175) would be June 30,2020. In a recent hearing before the Senate Rules Committee, the Governor's staff referred to this bill as a "place-holder", suggesting that the bill is not in its final form.</i>	<i>Dead</i>
<i>SB 230</i>	<i>Requires health boards including OBMI to submit health workforce demographic data to OHA. Data is collected at the time of license renewal. Renewal applicants would need to pay a fee (probably \$5 per renewal) established by OHA, to be collected by OBMI (at time of renewal) and forwarded to OHA. This law has already been in place for a few boards; SB 230 expands the law to include many other boards. OBMI will probably need to initiate rulemaking to establish the fee.</i>	<i>Signed by the Governor</i>
<i>HB 2164</i>	<i>Oregon Dept. of Revenue to require tax compliance to renew a license. For agencies such as OBMI with more than 5,000 licensees, implementation is on 1-1-17.</i>	<i>Dead</i>

Bill Number and Sponsor	Subject	Status
<i>HB 2683 by Gilliam and Clem</i>	<i>HB 2683 would require the Board of Dentistry to remove a disciplinary action from the website if requested and if certain conditions are met. This legislation has been deferred to allow the health licensing boards to try to develop a workable approach that is consistent across all boards.</i>	<i>Died in committee. A workgroup of health boards will work on a recommendation for next session.</i>
<i>HB 2475 by Vet Med Board</i>	<i>Authorizes the Veterinary Medical Board to impose a fine of up to \$100 for an administrative or clerical violation, if the violation poses no risk to the public; such action would not be reportable as a disciplinary action.</i>	<i>Signed by the Governor</i>
<i>HB 2611</i>	<i>The Oregon Health Authority (OHA) will make a list of approved cultural competency CE classes. It doesn't appear that licensees will be required to complete cultural competency CE, but boards and agencies will be required to collect data on cultural competency CE activity, and report the data to OHA. Collecting this information may require updating the OBMI database. (OBMI has asked whether cultural competency CE courses approved by reputable national organizations--such as ASRT--would be approved by OHA; not sure if this will happen or not.)</i>	<i>Enacted in 2013—OHA is in the process of developing a list of approved CEs</i>

Budget Update: Ed Conlow said that he doesn't have a budget update at this time, because he doesn't have final numbers for the 2013-15 biennium yet, and he doesn't have the final numbers that the Legislature adopted for the 2015-17 biennium yet. He said the 2015-17 budget was approved in about the same form that it was originally submitted by OBMI and the Governor. Of interest in this budget, the Legislature has given OBMI and other boards in the Portland State Office Building the authority to hire an accountant to work in Portland, as an alternative to using DAS' Shared Financial Services. He said that four other boards and OBMI were jointly working toward hiring an accountant who is qualified to manage accounts under the state accounting system. He said that the boards were consulting with DAS and with the Legislative Fiscal Office throughout this process.

New Business:

Proposed rules for physician assistants to obtain a limited permit to practice fluoroscopy:

Referencing draft rules that had been previously distributed to board members and others who had been involving in discussions related to the legislation (HB 2880), Ed Conlow asked the Board how many hours, and what type, of continuing education courses should be required to renew a PA/fluoro permit. It was noted that physician assistants already have heavy CE requirements. Following discussion, the Board decided to require 12 hours of continuing education per renewal biennium, including six hours of radiation use and safety curricula and six hours of fluoroscopy-related curricula. Also, the Board expressed support for language to require PAs who allow their permits to expire for 24 consecutive months to be required to again pass the ARRT fluoroscopy examination (similar to what limited x-ray permit holders are required to do) as a prerequisite to obtaining a permit. Rick Hoylman asked if it would be possible to get the rules draft to the radiation safety officers (RSO) around the state, to invite public comment from the RSOs. Ed Conlow said that he

would see if RPS can provide an e-mail list of RSO contacts, which could be used to forward the draft rules and rulemaking announcement.

Moved by Lemler, seconded by Warren, to initiate rulemaking to create a permit for physician assistants to perform fluoroscopy, including the provisions discussed above. Adopted unanimously.

RPS waiver for cardiovascular technologists to assist in the fluoro room: Rick Wendt said that RPS was approached by a cardiovascular lab to allow cardiovascular technologists (CVT) to pan the table during fluoroscopic procedures. Under RPS rules that would make them an “operator” and the CVTs don’t have the formalized training. Rick said that RPS discussed a trial run to collect information on CVT/fluoro practice, to see if CVT/fluoro practice changes patient outcomes, or if procedure times are extended or shortened, and ultimately whether it is safe for staff and patients. He said that RPS is discussing a 6-month temporary waiver, from which RPS would look at the data to evaluate whether allowing CVTs to pan the table should be made generally available in the rules. Rick said that, if RPS decides that having CVTs pan the table is workable, the next step would be to look at OBMI rules to see if any changes would be required.

Public Comment

Brock Price, Assistant Director of Diagnostic Imaging, OHSU. He introduced several clinical supervisors from OHSU who accompanied him, including Wayne Smith, Amy Harker and Grant Mooney. Commenting on the RPS trial to allow CVTs to pan the table, Mr. Price asked what the motivation is -- is it patient safety or is it merely convenience for one group or one individual?

Mr. Price also said he is having some discussions with Portland Community College (PCC) to develop a PET/MR training program, because PET/MR is a new hybrid imaging technique that is emerging.

Mr. Price proposed the idea of an Oregon-only state license for PET/MR. He said there could be an effort (jointly between OHSU and PCC) to establish a PET/MR training program within the next year or so. He also alluded to the possibility of developing a CT training program. He said he will have more information at the October board meeting, and will have some PCC people on hand.

Brock Price said he has a difference of opinion regarding the level of training that NMTCB registrants need for the CT subspecialty credential, that only requires 500 hours of consult time with no competencies required, for doing diagnostic CT. He said he contacted the ACR and the ACR told him that they would not recognize the NMTCB/CT credential for doing diagnostic CT. He said that, if OBMI is going to offer a license for NMTCBs to perform diagnostic CT, then it should be done in concert with the Joint Commission and ACR.

Adjourn at 1:20 p.m.

Minutes submitted by Ed Conlow