

# Oregon Board of Radiologic Technology (OBRT) Quarterly Board Meeting

## APRIL 18, 2008 MINUTES

State Office Building      800 NE Oregon Street, Room 1B      Portland, Oregon

### ATTENDANCE

**Members and Staff:** Ernest Wick, LRT, Board Chair; Richard Fucillo, LRT, Vice Chair; Carrie Whitlock, LRT, LRTT; Lorraine Bevacqua, LRT; Frank Erickson, MD; Peter-Jon Chin, CNMT; Rayberta Jenkins, LPH; Doug Cech, LRT; Terry Lindsey, Manager, RPS (Advisory Member); Margaret Lut, RPS (Advisory Member); Linda Russell, Executive Director; Bernice Fox, Administrative LEADS Specialist; Heidi Park, Administrative Licensing Specialist

**Members Absent:** None.

**Also Present:** Carol Parks, Senior Assistant Attorney General; Barbara Smith, RTR, Portland Community College

### EXECUTIVE SESSION – CALL TO ORDER – ORS 192.660 (1) (K)

The Executive Session is pursuant to ORS 192.660 (1)(K). Chair Ernest Wick called the meeting to order at 8:33 AM in Conference Room 1B, Portland State Office Building (PSOB), Portland, OR to discuss confidential Board discipline and investigative cases that are confidential according to ORS 676.175. Chair Wick informed the Board he was resigning from his position as Chair as of today after six years of valuable service to the Board. He announced an election would be held during Public Session to select a new Chair and Vice Chair.

The following cases were reviewed and the licensees or applicants were asked or requested to appear before the Board regarding disciplinary action taken by the Board, alleged violations or criminal history: Case #05-06-03, Case #07-02-01, Case #08-01-01, Case #08-02-02.

### PUBLIC SESSION – CALL TO ORDER

Board Chair, Ernest Wick called the Public Session to order at 1:05 PM and welcomed guests. He asked for any thoughts or comments from the public.

Barbara Smith opened a discussion about the timeframe for submission of Continuing Education credits for Limited Scope Permit Holders when their renewal is due. The

renewal is due 30 days before the expiration of the permit along with the required amount of Continuing Education credits.

## **APPROVAL OF MINUTES**

Chair Wick asked if there were any other additions or corrections to the January 11, 2008 Board meeting minutes. Hearing none, Doug Cech made a motion to approve the minutes for the meeting; seconded by Richard Fucillo; vote unanimous.

## **RATIFICATION OF LICENSES ISSUED**

The Board approved the following licenses that have been issued: Permanent Initial Radiologic Technologist licenses 106937 to 306996 (Motion made by Lorraine Bevacqua; seconded by Richard Fucillo; vote was unanimous; Permanent Limited Permit Holder licenses 3769 to 3778 (Motion made by Lorraine Bevacqua; seconded by Rayberta Jenkins; vote was unanimous; Temporary Initial Radiologic Technologist licenses and Temporary Initial Limited Permit licenses L03892 to R04009 (Motion made by Lorraine Bevacqua; seconded by Doug Cech; vote was unanimous).

## **INVESTIGATIONS CASE**

Richard Fucillo read the investigative case roster:

**05-06-03** Licensee did not appear before the Board. The Board moved to issue a new Consent Order in violation of 688.525(1)(b) as defined by 337-010-0060(2)(i) for monitored probation for 5 years until 4/18/2013 with monthly UA's and a civil penalty of \$1000. The Board will stay \$500 of the civil penalty as long as licensee is in compliance. Licensee cannot request a review of the case for at least 2 years, which is non-negotiable, at which time licensee is to reappear before the Board. Licensee is required to provide a copy of the court order for the diversion program. (Motion made by Doug Cech; seconded by Frank Erickson; vote unanimous).

**07-02-01** Licensee appeared before the Board. The Board moved to issue a notice of disciplinary action for violation of 688.525(1)(a) as defined by 337-010-0060(3)(g) with a civil penalty of \$500. The civil penalty will be stayed as long as licensee is in compliance. Licensee will be on monitored probation for 5 years until 04/18/2013, concurrent with an agreement from another Board. Licensee will sign a release of information to obtain urinalyses results from that Board for 2 years. If the UA's remain clean after two years, the urinalyses can be done quarterly for the remaining 3 years. If, for any reason, the other Board's agreement is no longer applicable, licensee will be subject to the Oregon Board of Radiologic Technology (OBRT) urinalyses. (Motion made by Richard Fucillo; seconded by Rayberta Jenkins; vote unanimous).

**07-10-03** Licensee did not appear before the Board. The Board moved to issue a Notice of Disciplinary Action in violation of 688.525(1)(b) as defined by 337-010-0006(b)

with a civil penalty of \$1000 and suspend licensure for 30 days. A letter will be sent to Radiation Protection Services describing the problem and requesting them to notify the Federal Drug Administration (FDA). The Board will send a letter to the licensee's institution. (Motion made by Doug Cech; seconded by Lorraine Bevacqua; vote unanimous).

**07-11-03** Licensee did not appear before the Board. The Board moved to issue a Notice of Disciplinary Action based on 688.525(1)(f) as defined by 337-010-0060(3)(m) to suspend licensure for 30 days and assess a civil penalty of \$1000 with an option to waive \$500 if the licensee demonstrates successful proof of completion of a Board approved course in Radiation Use and Safety to be completed within one year. The course must be in person and not online. (Motion made by Lorraine Bevacqua; seconded by Doug Cech; vote unanimous).

**07-12-02** Licensee did not appear before the Board. The Board moved to issue a Notice of Disciplinary Action in violation of 688.525(1)(b) as defined by 337-010-0006(2)(b) and 688.525(1)(g) and 688.525(1)(b) as defined by 337-010-0006(2)(h) and 688.525(1)(g). (Motion made by Lorraine Bevacqua; seconded by Rayberta Jenkins; vote unanimous).

**07-12-03** Licensee did not appear before the Board. The Board moved to issue a Notice of Revocation of licensure in violation of 688.525(1)(c). (Motion made by Lorraine Bevacqua; seconded by Rayberta Jenkins; vote unanimous).

**08-01-01** Licensee appeared before the Board. The Board moved to issue a Notice of Disciplinary Action in violation of 688.525(1)(a) and 688.525(1)(b) as defined by 337-010-0006(2)(a). The Board assessed a civil penalty of \$1000 as defined by 337-010-0060(3)(c). Licensee is also in violation of 337-010-0006(2)(h) and 337-010-0060(3)(g) for which the Board assessed a civil penalty of \$500. Licensee will be on monitored probation for 7 years with monthly urinalyses for the first 2 years. After 2 years, licensee will be reevaluated regarding monthly urinalyses with an appearance before the Board. (Motion made by Lorraine Bevacqua; seconded by Frank Erickson; vote unanimous).

**08-02-02** Licensee appeared before the Board. The case will be tabled pending further investigation. (Board members Carrie Whitlock and Richard Fucillo recused themselves from discussion due to conflict of interest).

The following cases involved operating without licensure. Consent Orders were signed and Civil Penalties were paid. Board approved closure of cases: (Motion made by Rayberta Jenkins; seconded by Lorraine Bevacqua; vote unanimous).

**08-01-04**      **08-03-01**      **08-03-02**      **08-03-03**

The following case involved failure to disclose criminal history on application. A signed Stipulated Agreement and Final Order were signed and a Civil Penalty was paid. Board approved closure of case: (Motion made by Lorraine Bevacqua; seconded by Rayberta Jenkins; vote unanimous).

**07-12-04**

The Board moved to approve and close the following Civil Penalty case: (Motion made by Lorraine Bevacqua; seconded by Frank Erickson; vote unanimous).

**07-04-03**

The Board moved to approve and close the following cases: (Motion made by Frank Erickson; seconded by Lorraine Bevacqua; vote unanimous).

**07-10-04      07-11-02**

No action was taken by the Board on the following monitored probationary cases: (Motion made by Richard Fucillo; seconded by Frank Erickson; vote unanimous).

**03-05-01      05-06-04      07-04-04**

No action was taken by the Board on the following monitored Civil Penalty case: (Motion made by Rayberta Jenkins; seconded by Richard Fucillo; vote unanimous).

**06-03-03**

**COMMITTEE UPDATES**

Carrie Whitlock, Chair of the Education Committee, reported there is an upcoming American Registry of Radiologic Technologists (ARRT) Continuing Education (CE) Consensus Meeting on September 19, 2008. If the Board members have any questions or want clarification on anything, please let Carrie know and she will have those items added to their agenda. Linda Russell noted that ARRT states in their newsletter, "When in doubt, call ARRT". This is what we tell our licensees. In other words, don't rely on your co-worker or somebody else's word, call us and get the correct information. Linda said she would like to put a similar statement on our website. This message needs to get out to our licensees. Richard Fucillo did a very good job at the Oregon Society of Radiologic Technologists (OSRT) Conference this month of getting that idea across to everyone to call us if you have any questions.

Lorraine Bevacqua thought it was a good idea. She asked how we could make sure to impress upon licensees, especially new applicants, they are responsible for knowing

what the laws and rules are regarding their profession. The perception out there is applicants think if they have ARRT registration, they don't need to be licensed by the OBRT. There is a misunderstanding of the difference between credentialing and licensure; you can't have a license without a credential and you must be licensed in this state in order to practice.

Peter Chin commented on the difficulties of deciding what is rigorous enough in the selection of CE seminars that are approved by the CE Committee. Lorraine Bevacqua questioned the possible difficulty in maintaining our position with the Recognized Continuing Education Evaluation Mechanism (RCEEM) when we begin licensing the other modalities such as Sonography, MRI and Nuclear Medicine. Carrie Whitlock stated the ARRT has added the American Registry for Diagnostic Medical Sonography (ARDMS), and the other modalities will be on board. Peter commented that all nuclear medicine CE courses have to go through the Society of Nuclear Medicine.

Lorraine Bevacqua, Chair of the Legal Committee, informed the Board that the statute changes were submitted for the new legislation. She complimented Linda on putting together a timeline that helps clarify the legislative process. Lorraine has had no feedback for further revisions.

Richard Fucillo, Chair of the Inspection Committee, commented there were no updates for the committee.

## **OLD BUSINESS**

Terry Lindsey asked if there was a quorum during the Board conference call of April 2, 2008 under current rules. Linda Russell stated that since the Board currently has only 8 members, the four members present at the conference call constituted a simple majority, which makes the vote valid. At the advice of the Assistant Attorney General, Carol Parks, the Board needs to ratify the Board Legislative Concepts for 2009. Option 2 was chosen during the Board's conference call on April 2, 2008 to be included into ORS 688.545(1)(a)(b), "State Board". A motion to ratify was made by Richard Fucillo; seconded by Rayberta Jenkins: motion was passed with one abstention.

AAG Parks reminded the Board not to discuss confidential matters. This comment was based on a lawsuit filed against the Chair of another board for disclosing confidential material. An example would be if the Board is conducting a private conference call and other people can hear the information. If it is an accidental release of confidential information, the Department of Justice will still represent the Board but if someone goes out and purposefully discloses confidential information, the Department of Justice may not defend that person and they may be subject to personal liability. She emphasized the seriousness of the situation for all boards.

There was discussion that current ARRT registration is required for someone to be licensed as a radiologic technologist regardless of how long someone has been practicing radiologic technology or radiation therapy. There are schools and classes

available for radiologic technologists to complete courses to obtain their ARRT credentialing.

Linda Russell included a copy of the Legislative Concepts in the Board packet and mentioned she had sent a copy to Claudia Black, Health Policy Advisor for the Governor's Office. She stated that Michael Kaplan, the Board's Budget and Management (BAM) analyst was unable to make it to the meeting today but said he would be meeting with Claudia Black on May 5, 2008. Marjorie Taylor, who is handling the DAS/BAM notifications, acknowledged receipt of our Legislative Concepts.

Linda gave an overview of the Board's budget and discussed the expenditures, revenues and overages. She commented on the amount of expenditures that would take place if the Board were to expand to 15 members; it costs about \$1500 to \$2000 per meeting for costs. She discussed the increase in pay the Governor's office had given to the Board, but on the other hand, they have not allotted any funds for that increase. She met with Michael Kaplan to look at what's going to happen in the next biennium. The Board is proposing a one-time application fee, which most agencies already have. Michael Kaplan suggested that OBRT ask for input from the licensees regarding the possibility of a fee increase and let them know we haven't had a fee increase for 10 years - since 1998. He said that reaching out to the community for their input is very important.

Linda indicated there would be a new format for the licenses that includes a card that could be carried in a wallet; a positive change that will be discussed in more detail at our next Board meeting in July.

## **NEW BUSINESS**

Chair Wick announced his resignation as Board Chair and discussed the circumstances of his choice to resign at this time. He offered his help and assistance to the new Chair as he transitions off the Board, which will become final and effective June 30, 2008, at the end of his second term. He felt his decision would be in the best interest of the Board. He commented on the strength, determination and expertise of the Board and that every Board member really looks out for the public. He said that Linda Russell and the staff have done a top-notch job, referring to the Board receiving a Gold Star Certificate for fiscal year 2007 due to the efforts of the staff. He shared that his goal when he came on the Board in 2002 was to change how the radiological sciences are viewed in the state; he encouraged the Board to continue with that work. He thanked the Board for giving him the opportunity to be part of these changes over the last six years and the honor of working with the other Board members. He asked the Board members to consider serving as the new Chair and Vice Chair.

Linda Russell noted the time and effort Bernice Fox put into transcribing the minutes for the March 17, 2008 Legislative Update Meeting which came to 95 pages of minutes. She was diligent in making sure the minutes were transcribed verbatim, and reflected actual comments and discussion that took place. The minutes are now posted on our

website for review. Chair Wick stressed the importance of how the minutes have become an historical record of what has transpired over the years within the OBRT.

Chair Wick then asked the Board members to comment on their future vision of the Board and if they would like to serve as Chair or Vice-Chair before the Board votes on those positions. The Board members casted their ballots and elected Carrie Whitlock as the new Board Chair and Richard Fucillo as the continuing Vice Chair.

Terry Lindsey made a recommendation concerning the composition of the new Board that if it exceeds eleven members, it would become impractical in terms of coming to a consensus on issues. He suggested a possible rotation of 1 or 2 Board members who may not be represented on the Board but would have an opportunity to voice their opinion and vote. He stated it's very difficult to get any business done with a huge Board. The positive side of an increase in Board size is that committee work can be assigned to more people. He also suggested increasing the number of advisors coming from different communities; the Board could bring in someone from the education community as an advisor to the Board. They could sit through the meetings and provide advice in that area with recommendations for improvement, but they wouldn't have voting rights. The public members can be public advisors instead of being voting public members. Linda said we could address this issue at our next strategic planning meeting in July, 2008. She asked the Board members to look at where we are and what needs to be done.

## **PUBLIC COMMENT & ADJOURNMENT**

Board Chair Ernest Wick asked if there was any other business or public comment. Hearing none, he thanked everyone for coming and adjourned the meeting at 2:15 PM.

The next Board meeting is scheduled for July 11, 2008 at 8:30 AM in Conference Room 1-A at the Portland State Office Building.