

Oregon Board of Medical Imaging Quarterly Board Meeting January 7th, 2011 MINUTES

State Office Building <> 800 NE Oregon Street, Room 1B <> Portland, Oregon 97232

ATTENDANCE

Members and Staff: Thomas King, Board Chair, Radiography Member; Frank Erickson MD, Radiologist, Physician Member; David Farthing MD, Radiologist, Physician Member; Kimberly Earp, Radiation Therapy Member; William Purnell, MD, Radiologist member; David Howe, RPS Section Manager, Advisory Member; Margaret Lut, RPS Advisory Member; William McMillen, Interim Executive Director; Sarah Anderson, Administrative Licensing Specialist; Vincent Mandina, Administrative LEDS Specialist.

Members present via Teleconference: Jacob Abraham MD, Cardiologist, Physician Member; Shirlee Templeton, Nuclear Medicine Technology Member; Frank Krause, Vice Chair, Sonography Member;

Members Absent: Shaestagir Chowdhury, Public Member.

Also Present: Carol Parks, Senior Assistant Attorney General; Twyla Lawson, Senior Recruitment Consultant, Oregon Department of Administrative Services (DAS).

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

The Executive Session is pursuant to ORS 192.660 (1)(k). Chair Thomas King called the meeting to order at 8:35 AM in Conference Room 1B, at the Portland State Office Building (PSOB), to discuss Board discipline, and investigative cases that are confidential according to ORS 676.175. During the Executive Session the Board conducted interviews with the three finalists for the vacant Executive Director position. The Executive Session was adjourned at 1:32 PM.

PUBLIC SESSION – CALL TO ORDER

Chair Thomas King called the Public Session to order at 1:45 PM. During Public Session the public was given the opportunity to comment on all three of the finalists for the vacant Executive Director position.

APPROVAL OF MINUTES

Chair Thomas King asked if there were any additions or corrections to the October 8th, 2010 Board meeting minutes. Kim Earp made a motion to approve the minutes; seconded by Vice Chair Frank Erickson; vote unanimous.

RATIFICATION OF LICENSES ISSUED

The Board approved the following licenses that have been issued between 9/17/2010 and 12/09/2010:

Permanent / Provisional Initial Radiographer licenses #107895 through #107964.

Permanent / Provisional Radiation Therapist licenses – #270828 through #270833.

Permanent / Provisional Nuclear Medicine licenses – No new license were issued.

Permanent / Provisional MRI licenses #400141 through #400317.

Permanent / Provisional Sonography licenses #600253 through #600645.

Permanent Limited X-Ray Machine Operators (LXMO) licenses #3924 through to #3943

All Temporary Initial Medical Imaging Modality licenses and Temporary LXMO Permits #M04751 through #R04768.

(Motion made by Kim Earp; seconded by Shirlee Templeton; vote was unanimous).

INVESTIGATION CASES

Frank Erickson read the investigative case roster:

10-10-04 Board voted to issue a letter to the applicant and notify them that it has been determined that they performed unprofessional conduct by the action taken to obtain a permit by false representation. The letter will also include a comment that they will be eligible to apply when they meet the requirements. No Civil Penalty will be assessed. Motion made by Kim Earp, seconded by Thomas King, vote unanimous.

10-10-05 Motion to assess a Civil Penalty of \$10,000 pursuant to ORS 688.915 based on ORS 688.415 (1)(a) for practicing without a license. The Board also requested OBMI staff to report the case to the District Attorney of Lane County. Motion made by Kim Earp, seconded by William Purnell, vote unanimous.

No Civil Penalties were issued since the last Board Meeting on October 8th, 2010.

The Board continues to monitor all the probationary cases. The following probationary cases are in compliance. No action was taken with any of them.

07-02-01 **08-09-03** **09-06-01** **09-09-06**

COMMITTEE UPDATES

Chair Thomas King shared that there were no committee updates. Chair King also stated that they were was no current legislation that needed to be discussed. Chair King also noted that the Continued Education Committee has started making a schedule and plans to make school appearances in 2011.

EXECUTIVE DIRECTOR UPDATE

There were no Executive Director updates at this meeting because of the current vacancy in this position.

OLD BUSINESS

First up under old business was additional testimony from the Oregon Urology Clinic concerning approving the use of the Bladder Scan machine in Oregon. Testimony came from Colleen Parker. Carol was also accompanied by the Oregon Urology Clinic's attorney. After hearing the last of the testimony concerning use in Oregon the Board voted that no license was necessary to perform test using the Bladder Scan. Motion was made by Frank Erickson, seconded by Kim Earp, vote unanimous.

Secondly the Board continued the hearing concerning Oregon Health and Sciences University's (OHSU) request to work using MRI machines for research purposes without the need for an Oregon Medical Imaging license. After listening to the addition testimony from OHSU staff, it was opened to public input. The Board's decision was to grant them their request to conduct research without the need for a license from the OBMI. Motion was made by Frank Erickson, seconded by Kim Earp, vote unanimous.

Public comment was heard on the discussion of whether a LXMO permit holder is eligible to apply for a Provisional License in the field of Magnetic Resonance Imaging (MRI). The Statement made was that the Registries require a specific amount of education along with clinical practice in order to be eligible to take the exam. That being the case there would be no reason and there would be no benefit for a LXMO Permit holder to ever hold a Provisional MRI license. The Board decided to table this discussion and take it up at the next Board Meeting.

NEW BUSINESS

The Board voted and approved offering the Executive Director position to finalist Ed Conlow from Des Moines, Iowa. Ed accepted the Board's offer. His first day as acting Executive Director will be February 2nd, 2011.

PUBLIC COMMENT & ADJOURNMENT

Thomas King thanked everyone else for coming and the meeting was adjourned at 3:59 PM. The next Board meeting is scheduled for April 22nd, 2011 at 8:30 AM in Conference Room 1A at the Portland State Office Building.

OREGON BOARD OF MEDICAL IMAGING

April 22, 2011

MINUTES

Attendance: Board members: Bill McMillen, Shirlee Templeton, Dr. William Purnell, Wayne Lemler, Pam Warren, Thomas King, Frank Krause, Dr. Jacob Abraham (10 am to 12:30 pm), Shaestagir Chowdhury (1-4:30 pm), Dr. David Farthing (by phone 9 am – 9:30 am; 9:45-10am)

Others in attendance: David Howe, Radiation Protection Services, advisory board member; Margaret Lut, Radiation Protection Services, advisory board member; Kendall Clawson, Governor's Office; Ed Conlow, Executive Director; Vincent Mandina, Administrative LEADS Specialist; Sarah Anderson, Administrative Licensing Specialist; Carol Parks, Senior Assistant Attorney General.

Convened: 8:45 am by chair Thomas King.

Board members, advisory board members and staff introductions.

Dr. David Farthing joined by telephone at 9 am.

10 am recess. Dr. Farthing signs off the phone. Dr. Abraham arrived in person.

DISCIPLINARY CASE VOTES

11-04-01 – Motion by Krause, seconded by Templeton, to close the case due to no licensure violation. Adopted unanimously.

10-12-01 – Licensee did not show up to the Board meeting as directed. In response, the Board now directs that a letter be sent to the licensee, requiring licensee to explain why licensee did not show up, and requiring licensee to appear before the Board at the next Board meeting. No motion required. (Lemler recused from discussion.)

11-01-01 – Motion is to take no action against applicant and encourage applicant to continue with Al-Anon. Purnell moves; McMillen seconds. Approved unanimously.

11-01-02— Motion is to grant license, with the requirement that the licensee submit information to the board at the time of completion of probation, or else that the licensee will be called back before the Board. Lemler moves; Templeton seconds. Approved unanimously. (King recuses.)

11-02-02 – Motion is to levy a \$500 fine based upon ORS 688.525(1)g and OAR 337-030-0010(3)i. Moved by Purnell; second by McMillen. Approved unanimously.

11-01-04 – Motion is to take no action against the license, with a requirement that the licensee deliver a letter to the Board upon completion of probation, and suggest in the letter that the licensee notify the ARRT of the violation. Moved by McMillen; Abraham seconds. Approved unanimously.

11-02-01 – Mitigating circumstances cited in Board discussion, related to motions #2, #3 and #4, were passage of time since the causal event, creating a greater likelihood that licensee misunderstood that the event was still part of the record.

Motion #1 is to levy a \$500 civil penalty under ORS 688.525(1)g and OAR 337-030-0010(3)i. Motion by Lemler; Tom King seconds. Loses 2-6. Ayes: Lemler, King. No: Abraham, Krause, McMillen, Purnell, Templeton, Warren.

Motion #2: McMillen moves, Templeton seconds. Motion is to levy a \$500 civil penalty but waive the entire \$500 civil penalty. Loses 6-2. Ayes: Abraham, Krause, McMillen, Purnell, Templeton, Warren. Nays: Lemler, King.

Motion #3: Motion by King, second by McMillen. Assess the \$500 civil penalty and waive \$250 of that amount. Loses 5-3. Ayes: King, McMillen, Krause, Warren, Templeton; Nays: Lemler, Abraham, Purnell.

Motion #4: McMillen moves, Purnell seconds, to assess the \$500 civil penalty and then waive the entire \$500. Passed 7-1. Ayes: Abraham, Krause, King, McMillen, Purnell, Templeton, Warren. Nays: Lemler.

Conclusion of disciplinary cases.

Discussion about the clarity of the application:

The Board discussed how to make the OBMI applications more clear with regard to reporting arrests. One suggestion was to put the expungement explanation at the top of the application, so applicants see it clearly. Another suggestion was to encourage applicants to call the office if they are unsure how to answer the question. Carol suggested looking at how other boards word it on their forms, and there seemed to be general agreement on this.

Ratification of Licenses Issued

Board chair King moved ratification of licenses; Abraham seconded. Motion passed unanimously.

Permanent/Provisional initial Radiographer licenses #170965 through 171029.

Permanent/Provisional Radiation Therapy Licenses #

Permanent/Provisional Nuclear Medicine Licenses -- #500174 through 500787.
Permanent/Provisional MRI Licenses -- #400318 through 400360.
Permanent/Provisional Sonography Licenses -- #600646 through 600749.
Permanent Limited X-Ray Machine Operators (LXMO) Licenses -- #3944 through #3967.
All Temporary Initial Medical Imaging Modality Licenses and Temporary LXMO Permits -- #S04769 through #R04814.

Unlicensed Persons Practicing Medical Imaging

Motion by Krause: Letter addressed to all departments reminding them that medical imaging practitioners need to be appropriately licensed and that the grace period (for modalities added by law in July 2010) ended in January, and that as of July 1 we will consider unlicensed persons to be practicing without a license. And put the letter up on the OBMI website. Also, include (in the mailing in which late applicants receive their license), a separate letter to late licensees between now and July 1, indicating that they are granted a license but that they should have applied sooner. Second by McMillen. Motion carried by unanimous vote.

Committee updates: (Thomas King)

- No legislation or administrative rules in process at this time. No OARs currently in the works, but we might look at some OAR changes at the July meeting.
- CE committee: We have had several CE requests come through. St. Charles in Bend has several requests, with outreach into the communities via their grand rounds. We've worked with their medical staff office.
- School inspections: Abdill Career College is due for a routine inspection. We need to work with the board to replenish the school inspections committee. Tom asked if there are any board members who would want to get into the LXMO schools to help with inspections. Need two other board members on this committee. Wayne Lemler expressed interest in helping out.

Old Business

Chairperson King reviewed old business. Should a LXMO permit be eligible to apply for a provisional license in MRI? Tom pointed out that this is an issue that the board needs to deal with in July, or else very soon. There is a current LXMO who would like to apply for a provisional MRI license. The Board needs to decide if we can allow that or not. Carol said she would look into it prior to the next meeting. We'll have further discussion on this item in July.

Wayne Lemler asked Barb Smith (RT instructor from Portland CC and OSRT) to comment on this topic. In terms of temporary permits, she said the OBMI already allows temporary licenses for all modalities for students getting ready to graduate from programs. You don't have anything in your rules for a temporary permits for modalities. According to current rules you let people who are practicing in an area get a license (provisional) but they have to get certified by 2014. She said that, the way you are operating now, you probably should give this person a

provisional license, but this person will need to try to get ARRT-certified and will need to get education in order to take the ARRT test for certification.

Board approval from previous minutes.

Carol pointed out that Dr. Abraham attended the Jan. meeting by teleconference. McMillen moved the minutes as corrected. Shirlee seconded. Unanimous passage.

New Business

Unregulated storefront sonography: Vice-Chair Frank Krause discussed unregulated storefront sonography operations that take baby photographs and images with no medical purpose. There have been statements by the SDMS and the FDA in the fact that this is not a condoned practice. But with no state regulations against it, all we can do is make sure that the sonographers are licensed. Hope it gets looked at by the Legislature in the future. We need to assure that these facilities get the same letters that we are sending to medical institutions regarding unlicensed sonographers. Tom said that we might be able to work with other entities (and develop MOUs) who have investigators (such as nursing board) who can loan us an investigator to go and investigate. If it needs to be investigated, then we need to do it. Frank mentioned there is no licensure for ultrasound equipment at this point, so these folks seem to be able to skate under the radar.

Scope of practice: Can mammographers utilize radiopharmaceuticals in the course of their practice: Shirlee presented a discussion and powerpoint, including a comparison of other states. Tom: If we find there needs to be a rule, then we can initiate a rules process. Shirlee mentioned that there are some rules dealing with operation of CT, and she thought this might be something we need to do for all modalities. Tom suggested that Shirlee get together with RPS and create a draft of what a rule should look like.

Adult cardiac sonographers also doing pediatric exams: Vice-Chair Frank Krause discussed. Pediatrics is a separate registry exam, so when they apply for licensure, they shouldn't get fined for a separate pediatric credential on their license; if they're not they should reapply and make sure that that credential is on there and get credentialed for that by 2014, or they would not be able to do pediatric exams.

Nonlicensed persons assisting with patient positioning: Chairperson King asked Jeff Robins and Dan Scharbach to come to the table. Both are from Providence. They addressed situations in a cardiac catheterization lab while radiation is being applied. Thomas King said those individuals currently need to be a licensed physician or licensed radiologic technologist (RT). Robins and Scharbach indicated that there is always a physician in the room, and sometimes the physician will ask whoever is scrubbed to move the table. The RT is collecting the images; to have the RT go out into the room to move the table could break the sterile field. Robins and Scharbach said they would like to let the other staff person in the room move the table or turn the gantry, allowing the imaging licensee to complete their imaging and post-processing functions. Chair

Thomas King asked Barb Smith to come to the table, to address whether she knows if there are national standards in this area; she said that moving the gantry is part of the imaging machinery and is therefore part of the imaging licensee's role, because the licensee understands the effects of radiation. Thomas King indicated that, a couple years ago, he had seen a cath lab at Good Samaritan in Portland use two RTs, one scrubbed and one not.

Robins and Scharbach indicated they would like to allow non-RTs to move the table under the direct supervision of the physician who is "elbow to elbow" with the non-RT who is scrubbed and directly assisting the physician in the cath lab. They said that typically they would be talking about RNs or Registered Cardiovascular Invasive Specialists (RCIS) doing this work. Carol Parks commented that she thinks this issue could be addressed by amending the definition of "positioning" which is currently in the board rules. Frank Krause said that, under the rule on positioning, if you added "under the direct supervision of the physician," which is the CMS standard, at that point the physician is putting his/her license on the line if it's not positioned correctly, which might be one way to resolve this issue, as far as assigning responsibility to make sure that proper procedures are followed.

Thomas King said we would need to introduce a rule amendment; we're willing to explore that avenue, if there is board consensus. He commented that there may be value to referencing RCIS in the rule somewhere. Thomas King asked if there is a motion to form an exploratory committee; at that point Carol Parks suggested a board motion to commence rulemaking. She said that, once the rule is drafted and filed, there is opportunity for public comment, and then afterwards the board must consider any testimony/comments. The board could then choose to leave the rule alone (withdraw the proposed amendment), go with the original proposed amendment, or change the draft rule amendment based upon comments received. Thomas King asked for a motion to commence the rulemaking process; McMillen moved; Krause seconded. Motion passed unanimously.

Abdill Career College; Issues with federal accreditation agency: Chair Thomas King asked Ki, director of Abdill Career College. She described Abdill's situation and how there typically isn't time under the new LXMO process for Abdill students to meet the requirements of Abdill's national accrediting agency, which requires students to graduate their programs within 1.5x the length of their programs, and it's also a Title IV requirement. It's a six month program, which means the students must graduate in nine months maximum. It takes 6-8 weeks for students to get their temporary permits, which they need in order to begin their externships. Then we're up to about 8 months right there. Then the students are required to complete 180 hours of externship, which takes a minimum of five weeks, which can put them over the nine-month timeframe. Ki suggested a process to allow Abdill students to apply for the LXMO test on the first day of their final book term. Abdill could issue them a certificate on the first day of their last book term that indicated the student has completed every course but one final course, and put "pending" for the final course. Core coursework would have already been completed.

Thomas King moved to have staff look at this and see what the options are. If it's something easy to do, without having to make a rule change, allow the staff to facilitate a process, and move forward without further board action. King motion, seconded by Krause. Approved unanimously.

Chair Thomas King: Defer other agenda items until July meeting, including new member orientation, going paperless.

Can we introduce temporary licenses or permits for modalities other than x-ray? This discussion centered around whether the different modalities regulated by OBMI are able to obtain temporary licenses or permits and be employed while under student status. During the discussion, it was determined that, based upon existing administrative rules, temporary licenses or permits are available to all modalities.

Public Comment

Barb Smith: In the radiography program, students are allowed to apply for the test three months prior to graduation. We have students taking the test the day they graduate. You could consider something like that for LXMOs.

Monica Quintero-DeVlaeminck: Wanted to know when we would address Abdill's issue; staff responded that a meeting could happen the following next week. Also, she asked if a LXMO teacher could be approved even if they don't have a current Oregon license but have had an Oregon license in the past, and have a lot of experience? Thomas King commented that he feels that there isn't a compelling reason to change current policy.

Randy Harp: Wondered if a limited permit committee could look at timelines. We changed the law and requirements for LXMOs but didn't change the timelines.

Adjourned at 4:31 pm.

**OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, FRIDAY, JULY 8, 2011
Room 1A, Portland State Office Building**

APPROVED MINUTES

Attendance: Thomas King, chair; Frank Krause (by phone), vice-chair; Bill McMillen; Wayne Lemler; Kimberly Earp; David Farthing; Shirlee Templeton; David Howe, Advisory Member; Margaret Lut, Advisory Member. Board members absent: Abraham, Purnell, Warren.

Staff in attendance: Ed Conlow, Executive Director; Vincent Mandina, Administrative LEDS Specialist; Sarah Anderson, Administrative Licensing Specialist; Carol Parks, Senior Assistant Attorney General.

Call to order: 8:45 am, by Chair Thomas King.

Pledge of Allegiance, led by Board Member Wayne Lemler.

Executive session convened. Board member Bill McMillen agreed to record the disciplinary cases.

Adjourn executive session at 12:05 pm. Board members are directed to get lunch from the cafeteria to bring back to the committee room, for a working lunch.

Public session convened at 1:05 pm by Thomas King, Board Chair.

Approval of previous meeting minutes, as corrected. Moved by Kim Earp; Seconded by Templeton. Approved unanimously.

Ratification of licenses: Earp motion; Krause seconds. Unanimous approval.

1. Permanent/provisional initial radiographer licenses: 171030 to 171103
2. Permanent/provisional radiation therapy licenses: 270834 to 270842
3. Permanent/provisional nuclear medicine licenses: 500078 to 500197
4. Permanent/provisional MRI licenses: 400361 to 400374
5. Permanent/provisional sonography licenses: 600750 to 600791
6. Permanent limited x-ray machine operator permits: 3968 to 3983
7. All temporary initial medical imaging modality licenses and permits: L04815 to T04865

Investigation Cases:

Case 10-12-01: Motion by McMillen, Earp second: To levy a \$500 fine based upon obtaining a license through misrepresentation, in violation of ORS 688.525(1)(g), with fine based upon OAR 337-030-0010(3)(g). Passed unanimously.

Case 05-06-04A: Motion by McMillen; Earp second: Allow the person to obtain a radiography license with the limitation that he is not authorized to use injectables, and that this limitation will be printed on the license. Approved unanimously.

Case 11-05-01: Motion by McMillen; second by Earp: \$500 fine based upon failure to disclose prior criminal history, in violation of ORS 688.525(1)(g), with fine based upon OAR 337-030-0010(3)(g). Approved unanimously.

Case 11-06-01: Motion by McMillen; second by Earp. The Board requests that the licensee provide the board with documentation of meeting attendance and UA results. Approved unanimously.

Case 11-06-02: Motion by McMillen; second by Earp. No board action against licensee; close the case. Approved unanimously.

Case 11-02-02: Motion by McMillen; second by Earp. To issue a notice of proposed disciplinary action that is consistent with the stipulated agreement. Approved unanimously.

Case 11-06-03: Motion by McMillen; second by Earp. No board action against licensee; Issue a letter of concern to the licensee and place a copy in the licensee's file. Approved unanimously.

Committee updates:

Thomas King discussed membership of committees; reiterated the discussion that was held at the board retreat on July 7. Members in the southern end of the state will handle school inspections in that area; members in the northern end of the state will handle school inspections in Portland and vicinity. Continuing education approvals: We'll have public member involvement but it is moving toward a peer review model. Bill McMullen volunteered to take the lead on the legislative committee; probably more to do with rules than statutes.

Pledge of allegiance: Thomas King announced that the Pledge of Allegiance will be recited at the beginning of each meeting; we will make that information available on our website. Chair King asked for consensus and nobody opposed.

Transparency of records. We could put our public records /board action and put it on a link to the website; it's similar to what the OMB does already. We'll have staff look at the technical aspects and move in that direction.

Election results (from July 7 retreat) announced: Thomas King, chair. Frank Krause, vice-chair.

Board vacancies: We still have two openings on the board: public member and physician member.

Proposed revised criminal history directions on applications and renewals: Following a brief discussion, Carol Parks agreed to take a look at the verbage and make suggestions. Thomas King obtained consensus for staff to work with legal counsel to refine the language and put it into the forms.

Should a LXMO permit holder be eligible to apply for a provisional MRI license? Tom asked if we have the statutory authority to issue a provisional license to a LXMO or a person off the street. Shirlee said she thought that the provisional license was intended for people who work in a modality to have time to meet the qualifications for credentialing by 2014, in compliance with the new law. Tom asked/commented if it was up to staff to investigate an applicant's training, other than the letter from their employer. Tom said that part of the discussion around this area was to help assure rural access to health care (by facilitating the licensure of professionals), but at no point was the intention to allow

untrained individuals to come in off the street and start working while they figured out how to gain the experience. Frank agreed with Tom's statement that the provisional license was not intended for people not already working and with zero training to be allowed to work in the profession, but Frank didn't think there was anything in the statute that actually spelled that out. Carol said she would look at the legislative history and see if we have justification to adopt a rule regarding qualifications for a provisional license. This issue will be carried-over to the October meeting. If we find that we can adopt a rule, Tom said we could call a special board meeting to begin the rulemaking process.

Frank talked about the credentialing statute as it relates to sonography, that the intent was for sonographers to be credentialed in each sub-specialty in which they worked. Carol said that was not what the statute said, and Frank agreed. It was agreed that this would require a legislative concept, which had been discussed at the previous day's retreat, and that it probably won't be addressed by the Legislature until 2013. Ed discussed the possibility of a delayed effective date, if we don't amend this sonography provision until 2013, to give sonographers enough time to get the training in order to gain compliance with the law.

Can mammography technologists utilize radiopharmaceuticals in the course of practice? Shirlee indicated that California and Arizona (and possibly Alaska) have very strict guidelines in which only licensed nuc med techs can be involved in these procedures. She said this issue is coming up because of the growth of breast centers where they do ultrasounds and biopsies and new procedures, in which there aren't enough procedures to justify these facilities having a separate nuc med tech on staff full-time, so they want to incorporate the staff they have. Also there are some issues with positioning the breast that nuc med techs don't necessarily get the training to do, although it's being added to the curriculum. Shirlee didn't find places where mammographers were actually doing injections at this time, although there were quite a few nurses doing injections at these breast centers. We don't have a specific rule that says who can and cannot administer radiopharmaceuticals; it's up to the authorized user at each site. She thinks what was decided was that we would move toward developing some sort of rule to be more specific about who could administer radiopharmaceuticals. She believes that the nuc med community feels that it's the role of nuc med techs to administer radiopharmaceuticals.

Shirlee said she would like to introduce a rule to specify that only credentialed licensed nuclear medicine technologists may administer radiopharmaceuticals and operate the equipment particularly when the isotopes are being used on the camera. Margaret noted that RPS gets their directions from the NRC, and that RPS would need to be involved in the rulemaking process. Bill suggested a joint rulemaking process to make sure that we are properly coordinated. Margaret indicated that their rules specify an "authorized user" to designate who may administer radiopharmaceuticals. Tom asked for OBMI to work with RPS to do some background information-gathering and report back to the Board at the October meeting, with regard to the possibility of moving forward with joint rulemaking.

Administrative rules filing/discussion: Carol indicated that it would not be appropriate to accept public comments at the Board meeting, outside of the statutory rulemaking process that is currently in process. Any public comments made at this meeting will not be admissible as part of the public record regarding the noticed rules. There was discussion of possibly scheduling a special board meeting, after the public comment period closes on July 21, to consider public comment and decide whether or not to amend and/or adopt the rules.

LXMO timeframe update – process to allow Abdill students to apply for exam early: Ed distributed a letter from OBMI to Abdill, to authorize Abdill LXMO students to apply for the LXMO exam prior to completing the final class.

New Business:

Can nurses perform sonography for a biophysical profile and for measuring amniotic fluid? Ed indicated that this is a question that was posed to him and that he had inquired to the Board of Nursing, but had not received a response. Carol Parks indicated that this is an area where OBMI does not have authority, due to our statute (688.435(3)) that exempts from OBMI regulation “specific licensed health care providers...who use sonographic equipment within their lawful scope of practice.” The Board asked if staff could contact the BON and have discussions in this regard, to express our concern. Kim suggested approaching the BON to at least suggest some supplemental training for nurses who do this work, so that they have the proper training to do this work. Discussing measuring amniotic fluid, Frank and David indicated that these are significant procedures that can have serious ramifications in terms of how treatment might proceed. Concern was also expressed that biophysical profiling goes beyond the level of training that nurses typically receive. If staff can contact the various professional societies in this area, and work with Frank, to determine a possible options for moving forward. Staff will contact the BON and get an update at the next board meeting. Frank may go with Ed to the BON.

Continued review of board statutes, rules policies and practices:

- Tom noted that grandfathered RTs, from the 1977 law, status expires on 1-1-14, when they will need a certification in accordance with the new law. We’re going to look at how many are out there; some are probably ready to retire so we don’t know the extent of the problem.

Public comment:

Barbara Smith (Portland Community College; OSRT):

- Regarding the mammography/radiopharmaceuticals issue, somebody has a sonography test just for mammography, and I wonder if something like that might become the norm. She agrees that you need to have that training. She would like to know when we clarify/update our criminal records check language on the forms, so she can relay that information to her students.
- Ultrasound issue: To bolster her belief that nurses should be properly trained in imaging modalities, if they are going to practice in those areas, she pointed to two documents on the BON website that call for nurses to document their competency, including:
 - a. “Complementary and Alternative Modalities and Nursing Practices”, which specifies that RNs and LPNs are required to have documented competency in the application of a modality, and that NPs and CNSs are required to adhere to the statutes and rules of a health related agency, when the NP or CNS is working in a modality regulated by another state health board; and
 - b. “Oregon State Board of Nursing Scope-of-Practice Decision-Making Guideline for RN and LPN practice”, which states that documentation of how competency in a new nursing activity is initially achieved, and how it is maintained, is required.

Chair Thomas King requested Barb Smith to make those documents available to OBMI staff.

Paul Brown, OHSU: Presented comments on behalf of several faculty members or staff at OHSU.

- Should a permit holder be eligible for a provisional MRI license? We would certainly disagree with that.
- Can mammography technologists utilize radiopharmaceuticals in the course of practice? We believe that the public would be very poorly served by allowing untrained people the use of radiopharmaceuticals.
- Tape 5; 14:30: Can nurses perform sonography for a biophysical profile and for measuring amniotic fluid? Our feeling is that nurses who perform sonography should have training acceptable to professional societies such as ARDMS.
- 15:38: Grandfathered RTs. Perhaps we could do an information about this. Then Thomas King suggest a link on our website to the ACR to make it informational for the public.

Peter Chin: Commented on the OBMI application forms and renewal forms. He was concerned that once you check “yes” you need to check it again and again with each renewal. Vincent Mandina indicated that there is a box to check which indicates if this is information that has already been provided to the board. Carol Parks is going to look at this whole issue.

Doug McRaney, licensed sonographer: It’s a great idea to have sonographers tested in each sub-specialty, but it will require sonographers to do 600 breast exams, and most don’t do that many in a year. What happens when a patient comes through the ER and we don’t have a licensed breast sonographer? I studied all this, and review it all the time, but I don’t qualify for that credential. And I think you will find that most sonographers who work in general labs do not have all those credentials. So if that is the intent, they need to know now. Thomas King noted that it would require a legislative concept to amend the statute; if we do that, we will seek to have a collaborative effort and bring in all the stakeholders to be involved in this discussion.

Adjourned at 3 pm.

OREGON BOARD OF MEDICAL IMAGING

APPROVED MINUTES – JULY 28, 2011 SPECIAL BOARD MEETING

Room 445, Portland State Office Building

Public session: Called to order at 12:05 pm

Voting member attendance: Thomas King (in person); Others by phone: Earp, Farthing, Lemler, McMillen, Purnell, Templeton, Warren.

Others in attendance: Carol Parks, Senior Assistant Attorney General (by phone); Margaret Lut, Radiation Protection Services (RPS), OBMI Advisory Member; David Howe, RPS, OBMI Advisory Member; Catherine Hess, RPS.

Chair King opened a discussion of the proposed rules. He recognized RPS regarding the rule. Margaret Lut indicated that the proposed rule change would be in conflict with RPS rules, so the board would need to work with RPS on the rule change and RPS would have to bring the rule before RPS' advisory committee, before a rule change could be made. There is a definition of "operator" in RPS rules, in 333-106-0005(70), including physical positioning of the patient which would include moving the table. So this is covering the same ground as the OBMI rule change.

David Howe noted another consideration for RPS is the level of radiation safety training that a person moving the table would have. Thomas King noted that RCES persons have minimal radiation safety training, but that he understands RCIS persons to have sufficient training. David Howe indicated that RPS is not familiar with the RCIS and RCES training requirements and would need to review them. Kim Earp asked how the RPS rules work with the NRC agreement. Kim asked David that, since Oregon is an NRC agreement state, how is it that other states are using these professionals while many of them are also NRC agreement states? David indicated that he is not aware that NRC has jurisdiction over this type of procedure. In request to a question from Shirlee, David indicated that our first interest is to avoid conflict between RPS and OBMI rules, and then to explore having both rules complement and support one another. Margaret indicated that we would need to explore these credentials that we are talking about today and see if these individuals could be fitted into the rules.

Thomas King indicated that he thinks that the rules as proposed are problematic because they may conflict with RPS rules, and also that we've had notable comments about radiation safety considerations. We've had comments to the effect that there is a fluoroscopy test that ARRT administers that they could successfully pass, similar to what California did – they did a fluoroscopy permit. Thomas King reiterated that our first and foremost requirement is to protect the public from exposure.

Thomas King proposed to not adopt any rule change at this time. He proposed discussing a joint rulemaking process with RPS to get it right. David Howe asks – should persons involved in positioning have some minimal level of training, even though they are under the direct supervision of a supervising physician?

Thomas King motion: Not adopt any changes to the current rule at this time. Second by Kim Earp. Roll call vote – passed unanimously.

Executive Session: Board went into executive session at 12:26 pm, and reconvened the public session at 12:47 pm.

Motion by Thomas King; second by Kim Earp: Motion to cease issuing any provisional licenses until further notice, and direct staff to remove provisional license information from the website, and that board members working with staff will put a statement on the website to notify the public concerning provisional licenses, and that the Board will work with the Legislature to make suitable adjustments to the statute as soon as possible. Passed 8-0.

Public Comment: Barb Smith discussed the proposed administrative rules and then reviewed and reiterated the comments that she had submitted regarding the proposed administrative rules. She said she is opposed to RCES being allowed to move the table because RCES has no radiation safety training in their curriculum.

Adjourned at 12:51 pm.

**OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, FRIDAY, OCTOBER 7, 2011
Room 1A, Portland State Office Building**

APPROVED MINUTES

Board attendance: Thomas King, chair; Frank Krause, vice-chair; Kimberly Earp; Bill McMillen; Pamela Warren; Wayne Lemler; Shirlee Templeton (by phone); David Farthing (arrived 9:40 am); Rick Wendt, advisory member (for David Howe); Margaret Lut, advisory member.

Others in attendance: Carol Parks, Senior Assistant Attorney General; Vincent Mandina, Administrative LEDS Specialist; Sarah Anderson, Administrative Licensing Specialist; Ed Conlow, executive director; John Terpening, Legislative Fiscal Office.

Call to order: 8:55 am

Thomas King immediately convened the board in executive session pursuant to ORS 192.660(2)(k).

Convene public session: Chair Thomas King convened the board in public session at 12:45 pm

Ratification of licenses: King motion; Lemler seconds. Unanimous approval.

1. Radiographer licenses: 171074 to 171151
2. Radiation therapy licenses: 270843 to 270849
3. Nuclear medicine licenses: 500198 to 500207
4. MRI licenses: 400375 to 400387
5. Sonography licenses: 600751 to 600836
6. Limited x-ray machine operator permits: 3984 to 3997
7. All temporary initial medical imaging modality licenses and permits: 04866 to 04891

Investigation Cases:

Case 11-07-01: Motion by Krause, second by Lemler, to take no action. Approved unanimously.

Case 11-08-01: Motion by Krause, second by Lemler, to grant the license to the applicant. Approved unanimously.

Case 11-09-01: Motion by Krause, second by Lemler, to grant the permit to the applicant. Approved unanimously.

Case 11-09-02: Motion by Krause, second by Lemler to take no action against the individual's license, but to request that the licensee provide a letter from the licensee's employer, indicating that the licensee is an employee in good standing. Approved unanimously.

Case 11-09-03: Motion by Krause, second by Lemler, to take no action against the licensee, but to issue a letter to OMA and OHA members, reiterating the necessity for licensure and their obligation to make sure that medical imaging new hires are properly licensed. Approved unanimously.

Case 11-02-02: Motion by Krause, second by Earp, to issue a notice of proposed disciplinary action against the licensee. Approved unanimously.

Case 11-09-04: Motion by Krause, second by Lemler, to issue a notice of revocation to the licensee. Approved unanimously.

Correction and approval of previous meeting minutes:

July 7, 2011 retreat: Farthing moved to approve the minutes as drafted; Earp second. Approved unanimously.

July 8 board meeting: Earp moved to approve the minutes as drafted; Farthing second. Approved unanimously.

July 28 special board meeting: McMillen moved to approve the minutes as drafted; Farthing second. Approved unanimously.

Committee updates:

CE Committee: Kim Earp indicated that the CE committee is current with all the CE requests that have been submitted to date. Thomas King indicated that there is one more CE request that has come in.

Old Business:

Ed Conlow provided an update regarding efforts to get the Legislature to pass legislation in 2012 to correct some provisions of HB 2245 (2009) relating to provisional licensees and licensees who had been grandfathered or state sponsored.

Motion by Krause: to adopt a board policy stating that, if a person with a permanent active license from the Board of Medical Imaging applies for licensure in another modality from the Board, then the Board will consider that applicant to have met the educational requirements of ORS 688.455 requiring graduation from an approved school. Lemler second. Approved unanimously.

Who should be permitted to inject radiopharmaceuticals: Shirlee Templeton presented a discussion (including written material) concerning whether mammographers or RTs in general could inject radiopharmaceutical material for some breast exams that may be high risk (in which the machinery has compression like mammography but it's actually a gamma camera) as well as sentinel node injections – both of these procedures are being performed in outpatient breast centers that typically don't have enough work for a full-time nuclear medicine technologist. We also have situations in Oregon where nurses are occasionally injecting radioactive material, particularly in outpatient cardiac clinics.

On the RPS service side, she said they have an OAR in the 116 division, regarding supervision, which says that the "authorized user" on the radioactive materials license can delegate anybody they consider trained to administer radioactive material, which Shirlee believes is derived from federal regulations. On the OBMI website it says that anyone who operates nuclear medicine equipment or

administers radiopharmaceuticals on a live human body must have a license. Also the OBMI statute says that any person who practices a medical imaging modality must have a license. We discussed previously that we may have a conflict between the OBMI rules and the RPS rules.

Within the nuclear medicine community, Shirlee thinks there is a pretty strong sense that neither nurses nor mammographers are properly trained in the didactic and clinical competencies to be injecting radiopharmaceuticals. She said the board needs to decide whether we should try to get the two agencies together to change the rules or leave them alone.

Shirlee said she went to the ASRT website to find all the states that currently have licensing for nuclear medicine technologists (31 states), and sent queries by email to all the different agencies in states with licensing. The majority of the states with licensing restrict the administration of radiopharmaceuticals to credentialed nuclear medicine technologists (excluding physicians, radiation therapists, students and those with specific exemptions). Shirlee said she wanted to gather the information, present it to the board, and see how the board wishes to proceed.

Tom asked if RPS is basing their rules off the federal code. Tom suggested that OBMI rules might be stricter than RPS in this matter. Shirlee said we have to be as strict as the federal guideline, but as an agreement state, we can be stricter. Tom said we don't want to have conflict between RPS and OBMI rules. Shirlee thinks there may be a conflict with the OBMI statute, 688.415, which requires a license or permit to practice medical imaging technologies.

Tom suggested that the executive director set up a joint meeting (RPS and OBMI). Dr. Farthing suggested we might also need to invite the OMB because the physicians are the ones who are delegating authority. Tom asked Shirlee to coordinate with Ed and provide technical assistance for a meeting.

Adoption of Board Policies: Ed Conlow explained that the board had discussed three board policies during the July 7 retreat, but had neglected to formally adopt them at the July 8, 2011 board meeting. So technically these policies still had not been adopted. Ed handed out copies of the policies, which had been revised to reflect amendments approved during the July 7 retreat. Board policies relate to telephonic attendance of board meetings by board members; criteria for determining which applicants with criminal background must appear before the board; and board policy on staff communication with the board chair and with DAS Human Resources personnel. McMillen motion to adopt all three policies; Earp second. Approved unanimously.

Pledge of Allegiance: Wayne Lemler motion: At the beginning of each quarterly public meeting, that the board would invite board members and the public to stand and recite the Pledge of Allegiance. Second by Farthing. Following discussion, motion was defeated 1-7. Aye: Lemler. Nay: King, Krause, Earp, Farthing, McMillen, Templeton, Warren.

New Business:

Limited x-ray machine operator school panel: Chair Thomas King invited limited x-ray machine operators. Attendees included Bronwyn Ross from Concorde Career College; Ki from Abdill Career College; Katheryn Madison from Pioneer Pacific, Springfield; Monica Quintero-DeVlaeminck from Pioneer Pacific College, Wilsonville; Hank Hirsh and Tim Sellers from Portland School of Radiography. Bronwyn Ross noted that Concorde had added a four-hour Saturday RUS refresher

course, which she indicated had helped with scores. Ki said that Abdill implemented a review for the core program, which she said has worked well for her students. Bronwen Ross commented that the her three-month program is too short, because the students are just starting to put everything together and then the program comes to a sudden end. (Bronwen Ross indicated that Concorde is in the process of discontinuing its limited x-ray program; it is in the process of instructing its final limited x-ray class.) Responding to a question regarding program length: Abdill is six months; Concorde is three months; and Pioneer Pacific is ten weeks. Thomas King commented that he was getting the impression that course review is helpful at improving scores. Frank Krause asked the schools to collaborate to find ways to improve their scores. Thomas King urged the schools work together to arrive at a plan to improve scores, and that the board would revisit this issue at a future meeting.

Proposed amendment to administrative rules: Ed Conlow explained a proposal to amend the Board's administrative rules. He explained that the proposed amendment accomplishes two goals. First, it updates current rules to indicate that a limited x-ray student must pass the examination before doing practicals; this brings the rules in line with current practice.

Second, it maintains current rules that require limited x-ray students to complete all coursework before applying for the examination. But it creates an exception that allows the board to approve a student to enroll for the limited x-ray examination after completing all but the last module of the classroom training. This part of the amendment addresses a problem that Abdill Career College in Medford is having. Abdill has reported to the board at previous meetings that their national accreditation entity (ACCSC—The Accrediting Commission of Career Schools and Colleges) requires students to have completed all program requirements for licensure within one and a half times the normal duration of the program.

Ed related that Abdill has explained the ACCSC requirement this way: because the classroom program is a six month program, then all requirements – schooling, examination and practical experience requirements – must be completed within no more than nine months. But because the application process for the limited x-ray examination (administered through ARRT, the American Registry of Radiologic Technologists) can often take a month or more – that can leave little time within the nine-month window for the Abdill students to complete their practicals. By allowing the Abdill students to submit their applications for the examination prior to their last class starting, it will effectively shorten the exam enrollment process by several weeks and allow them to sit for the exam sooner (but still not before all their coursework is completed) and get into their practical training program sooner. Abdill is the only limited x-ray school in Oregon that has reported that this issue with the national accrediting entity has been a serious problem.

Carol suggested deleting “On a case-by-case basis” on line 14 of the proposed draft rule, based upon the reasoning that it does not provide a concrete standard. Kim Earp made a motion to begin rulemaking, with the rules as originally drafted but striking “On a case-by-case basis.” Bill McMillen seconded. Approved 8-0.

Public comment:

Pam Sprague: Commented in favor of delineating point of care ultrasound from diagnostic ultrasound. She said she had had a conversation with Ed Conlow, who indicated that he planned to work with national organizations to promote accepted national practice standards to delineate who

should and should not be performing either point of care or diagnostic sonography. Carol Parks noted that the OBMI does not have jurisdiction over licensed health providers who perform sonography within the legal scope of practice, in accordance with the OBMI statute. Frank Krause indicated that collaboration with other licensure boards must be part of any plan going forward.

Monica Quintero-DeVlaeminck: Commented on the time it takes for a student to enroll for the ARRT exam for limited x-ray machine operator. She noted that it takes a number of weeks from the time the didactic portion ends until the student actually sits for the exam. She said that the proposed rule amendment discussed today is moving in the right direction, but that maybe more could be done in this regard, to help collapse the time lag between coursework and exam, so that classroom lessons will be fresher in the students' minds when they sit for the exam.

She asked board members to consider the practical evaluations that the students are required to do. She suggested that there are a number of required practical's that are no longer the standard of care, so it can sometimes be very difficult to get the required practice. She also noted that typically the trauma-type cases go straight to the hospitals, not to the clinics where the LXMOs are working. She wonders if, down the road, we could take another look at the practical experience requirements. Dr. Farthing asked if Monica could provide a list of the situations that she feels LXMOs have a hard time getting, to see if we need to look at having them done with a phantom rather than a live body. Thomas King asked if Monica could provide a list to Ed Conlow.

Also, Monica suggested that having hands-on experience beforehand could help with the pass rates. Under the previous system, the LXMO students would get a temporary license and work hands-on with a real live patient, before taking the test. Thomas King said that he appreciated her comments and suggested that this topic will likely be discussed further in the future.

Adjourn: Motion to adjourn by McMillen; second by Krause, at 3 pm.