

OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, JAN. 18, 2019
Portland State Office Building, 800 NE Oregon Street
Conference Room 1-D

APPROVED MINUTES

Board attendance: Brad Betz (by telephone), Chair; Melissa Downer-Valdez, Vice Chair; Vanessa Bennett; Allison Bohlke; Robyn Cole; Ellen Voss; Dr. Ron Boucher; Dr. Nick Branting (by telephone); Dr. Katharine Hopkins; . Also: David Howe (RPS; Advisory Member).

Staff in attendance: Ed Conlow, OBMI Executive Director; Vincent Mandina, Administrative LEADS Specialist; Joanna Tucker Davis, Senior Assistant Attorney General; Thomas King, Health Care Investigator/Advisor; Rick Wendt, RPS Invited Guest; Brianna McGehee, Assistant Policy and Budget Analyst, DAS Chief Financial Office; Meg Bushman Reinhold, Legislative Fiscal Analyst, Legislative Fiscal Office (from 1pm to 1:45pm).

Meeting convened at 8:38 a.m.

Election of chair: Hopkins nominated Betz to serve as board chair; Voss seconded. No other nominations. Betz elected chair unanimously.

Election of vice-chair: Betz nominated Melissa Downer-Valdez to serve as vice-chair; seconded by Hopkins. No other nominations were offered. Approved unanimously.

Investigative committee: Ed Conlow said that Dr. Hopkins emailed him earlier to indicate that she is willing to remain on the committee. Ellen Voss said that she is willing to remain as a member of the investigative committee, as long as her membership doesn't keep someone else from joining the committee, and so long as it doesn't cause all four members to drop off the committee at the same time. Melissa asked Brad Betz if he would be willing to stay on the committee until a replacement could be found, and he agreed.

Policy committee: Brad Betz and Vanessa Bennett agreed to serve. Ed said that he will check with Jeff Kopecky to see if Jeff would be willing to stay on.

Vice-chair Downer-Valdez adjourned executive session at 8:51 a.m. and called the Board into executive session in accordance with ORS 192.660(2)(f); ORS 192.660(2)(L); and ORS 676.165. She noted that there were no members of the media in the room.

Vice-chair Downer-Valdez adjourned executive session at 9:56 a.m. and went into public session.

Approval of meeting minutes from prior Board meeting

- Board minutes from Oct. 18, 2018 executive session minutes. Motion by Hopkins; seconded by Voss. Approved unanimously.
- Board minutes from public session on Oct. 18, 2018. Motion by Hopkins; seconded by Voss. Approved unanimously.

Ratification of licenses issued since previous Board meeting: Motion to ratify new licenses issued since the last Board meeting. Motion by Hopkins; seconded by Voss. Approved unanimously.

1. Radiographer licenses: From 174629-174704
2. Nuclear medicine licenses: 500382-500389
3. MRI licenses: From 401080 - 401097
4. Sonography licenses: From 601740 - 601782

5. Limited x-ray machine operator permits: From 4344-4350
6. Radiation therapy licenses: 270224-270226
7. All temporary initial medical imaging modality licenses and permits: R52553 to R52573

Board votes on disciplinary cases:

Downer-Valdez offered the following motions, seconded by Hopkins, approved unanimously:

18-11-01: Offer a settlement agreement for \$200 civil penalty for practicing before getting a license-- ORS 688.415(1)(a) and OAR 337-030-0010(3)(a)

18-10-05: Issue order under ORS 688.200(2)(f).

18-10-04: Reject settlement offer, and offer a settlement agreement for practicing on an expired license for 6-12 months, ORS 688.415(1); OAR 337-30-0002(10); with \$200 civil penalty based upon pre-Nov. 2018 rule OAR 337-030-0010(3)(a)(B).

18-10-02: Close case with no action.

18-10-07: Close case with no action.

18-06-03 Offer settlement agreement for \$500 civil penalty for performing medical imaging before obtaining a license, in violation of ORS 688.415(1)(a), ORS 688.915(1), and (using pre-Nov. 1998 rule) OAR 337-030-0010(3)(b).

18-06-03A: Offer settlement agreement for \$1,000 civil penalty for employing an unlicensed person to perform imaging; ORS 688.415(1)(d) and using pre-Nov. 2018 rule -- OAR 337-030-0010(3)(f)(A).

18-10-01: Close case with no action.

18-08-01B: Reject settlement offer.

18-08-01: Offer a settlement agreement of suspended civil penalty of \$500 if no violations for five years.

17-08-01: Reject settlement offer and issue a notice of civil penalty for \$40,000 under ORS 688.415(1)(d).

18-04-09: Issue notice of license revocation under ORS 688.525(1)(a) and 688.525(1)(b).

Brad Betz (attending by telephone) left the meeting at 10:40 a.m.

Rulemaking:

- Ed Conlow explained the proposed amendment to OAR 337-030-0045(4) to give the Board the discretion to refuse a request for an extended CT temporary license, if the Board were to determine that the applicant did not have a reasonable chance to earn the CT credential. The Board considered the public comments. Hopkins moved, and Voss seconded, to adopt the rule as a permanent rule, effective February 1, 2019.
- Ed Conlow explained the proposed amendment to add a definition of “application” to OBMI’s rules. The Board considered the public comments. Hopkins moved, and Voss seconded, to adopt the rule as a permanent rule, effective February 1, 2019.

Update on OBMI legislative concepts for 2019: Ed Conlow indicated that OBMI's two legislative concepts have been introduced and are eligible for consideration in the Senate Health Care Committee:

- SB 62 to clarify that a person knowingly violates OBMI's law if the person knows *or reasonably should know* that certain action is illegal.
- SB 63 to allow OBMI to determine temporary permit duration by rule, rather than in statute.

Update on OBMI budget for 2019-21: Ed Conlow explained that the agency's budget proposal for 2019-21 has been revised and approved by the Governor and submitted to the Legislature, including policy packages to reclassify two staff positions and add funding for information technology and legal services. There was discussion of Ed Conlow's impending retirement and the need for OBMI to timely engage DAS Chief Human Resources Office to manage the process of hiring the next executive director. Ed Conlow said that he has been in contact with Human Resources and they are aware of his projected retirement. Committee members discussed if it would be prudent to assign a committee of board members to be involved with the hiring process for the next executive director. It was discussed that Ed Conlow could email board members to determine who would like to serve on the committee to be involved with the hiring process. He said that he would visit with Human Resources to determine the appropriate way that the Board could be involved in the hiring process.

Committee members discussed process and ramifications of enacting a fee increase.

Bone densitometry course: Ed Conlow explained that Kerri Winters-Stone is proposing a bone densitometry course that combines the ASRT 16-hour bone densitometry basics course with an in-person component that she would coordinate. Rick Wendt said that he contacted ASRT and they said that it includes radiation use and safety.

Joanna Tucker-Davis noted that changing and/or restructuring OBMI's bone densitometry course might require an amendment to the rules to update the 2008 bone densitometry teaching guide, which is referenced in the rules. There was discussion of having the policy committee consider this issue and report back to the board. David Howe suggested some rewording (at 1:23:00) of the teaching guide. The Board settled on letting the policy committee consider the issue and report back to the Board.

Dr. Nick Branting (attending by telephone) left the meeting at 11:30 a.m.

Extensions for temporary limited x-ray permits: In relation to OBMI proposed legislation for 2019, Ed Conlow said, when he met earlier with Sen. Monnes Anderson to discuss OBMI's legislative concepts for 2019, she asked if LXMO candidates are able to get an extension on the time limits, for example if a candidate becomes pregnant. There was discussion of possible extensions based upon military service, pregnancy, or certain disabilities. Board members discussed having this issue examined by the policy committee.

Legislation to allow APRNs supervising fluoroscopy (SB 128): The Oregon Nurses' Association has indicated that they will likely ask for an amendment to require OBMI and/or RPS to include a rule that would allow for waivers from didactic or clinical educational requirements for APRNs who can document that they already have training or experience that complies with the educational requirements that OBMI and RPS establish by rule.

Board members discussed the proposed amendment. Dr. Boucher expressed concern that such a waiver would enable APRNs who may already (be illegally) supervising fluoroscopy in Oregon to use their illegally-gotten experience to apply for a waiver. He asked if there is a way to word the amendment to only apply to education and experience obtained after the effective date of the legislation. David Howe stated that it would be very important that any APRN fluoro permit candidate must pass the ARRT exam. There was discussion that, with the ONA's amendment, the Board and/or RPS will have the authority to establish requirements for what would be needed to verify education or experience.

The Board recognized Barbara Smith (ARRT board of trustees), who recommended that OBMI take a look at how California oversees fluoroscopy. She said California doesn't have a "waiver" per se, but rather that California APRN/fluoro candidates must fill out paperwork clearly documenting that they have met the prerequisites to sit for the ARRT exam.

Ellen Voss expressed concern that the wording of the Oregon Nurses' Association's proposed amendment to SB 128 might enable waiver applicants to avoid all prerequisites. There was discussion among board members that the OBMI's intention would be to allow waivers only for specific elements of the prerequisites that a waiver applicant had completed, while requiring an applicant to complete other elements. Board members discussed that the wording in the amendment ("training or experience") coincides with didactic and clinical requirements, and that the Board would insist that these elements be considered separately (in a waiver request situation) and all elements would need to be covered before an applicant would be permitted to sit for the fluoroscopy exam. Dr. Boucher stated that, for clinical experience, an APRN would need to be properly supervised and signed-off Board by a qualified practitioner. And Board members also expressed the position that the examination could never be waived.

It was suggested that the Board's interpretation of the ONA amendment needs to be conveyed to the Legislature, so that there is a legislative record of the Board's interpretation of the amendment. It was suggested that the OBMI executive director may wish to compose a letter to the Legislature to express the Board's position regarding how the ONA's amendment needs to be interpreted by the Board.

In response to a question, Ed Conlow said that he had earlier emailed ARRT to seek clarification from ARRT that, if OBMI were to enroll a waiver recipient to take the fluoro examination, ARRT would not consider that to be a violation of the OBMI-ARRT contract addendum that allows OBMI to enroll APRNs to take the ARRT fluoro examination.

Five year review of rule creating \$52 fingerprint background check fee: Ed Conlow asked the committee to consider whether the rule that created the \$52 fingerprint background fee was still needed and whether the original fiscal estimate was accurate. Board members affirmed that the \$52 fee is still needed and that the original fiscal estimate is accurate.

Public comment: Barbara Smith asked if the Board had decided if a CT credential is needed to operate the O-arm. Ed Conlow responded that this question was raised during a Board meeting within the past two years, and that the Board had ruled that a CT credential is not required.

Budget update: Meg Bushman Reinhold, Legislative Fiscal Office, provided her projection of the agency's budget for the current fiscal biennium and the upcoming 2019-21 fiscal biennium. Her preliminary OBMI budget projection for the current biennium (which closes on 6/30/19) is a \$386,141 ending balance, equal to 10.2 months of spending. Her preliminary projection for the upcoming 2019-21 fiscal biennium is a \$287,000 ending balance on 6/30/21, equal to 6.2 months of spending.

Responding to a question, Meg said that the agency can raise fees at any time, but that the fee increase would need to be approved at the next legislative session. If the fees are implemented and then not subsequently approved by the Legislature, then the agency would need to pay back any amounts collected as a result of the fee increase. Considering the budget projections, she suggested that our license revenue seems to be sufficient at the current time, but that it's something to keep an eye on. She also commented that OBMI has revenue flowing into the agency constantly, because OBMI renews licenses on an ongoing basis, whereas some licensing boards renew only once per year or once per biennium, and that having an ongoing revenue source lessens concerns about exhausting the agency's ending balance.

As part of the budget discussion, there was some discussion regarding the upcoming retirement of the executive director and the hiring of a new executive director. Ed Conlow said that his projected retirement

date is 8/30/19, and that he expects to be available in some capacity to break-in his replacement. Meg said that OBMI could do a double-fill, if Ed expects to work half-time for a period of time. Ed suggested working as a temporary employee, on an hourly basis, to help the new director become familiar with the job.

Adjournment: Board meeting adjourned at 1:45 p.m.

Minutes submitted by Ed Conlow

OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, APRIL 19, 2019
Portland State Office Building, 800 NE Oregon Street
Conference Room 1-D

APPROVED MINUTES

Board attendance: Brad Betz, Chair; Melissa Downer-Valdez, Vice Chair; Vanessa Bennett; Allison Bohlke; Robyn Cole; Ellen Voss; Dr. Ron Boucher; Dr. Nick Branting; Dr. Katharine Hopkins; Jeff Kopecky. Also: David Howe (RPS; Advisory Member).

Staff in attendance: Ed Conlow, OBMI Executive Director; Vincent Mandina, Administrative LEADS Specialist; Joanna Tucker Davis, Senior Assistant Attorney General; Thomas King, Health Care Investigator/Advisor; Rick Wendt, RPS Invited Guest.

Meeting convened at 8:39 a.m. by Chair Brad Betz. Chair Betz immediately recessed public session and convened executive session in accordance with ORS 192.660(2)(f) and 192.550(2)(L). He noted that no members of the media are present in the room. Executive session adjourned at 9:24 a.m. Public session reconvened at 9:38 a.m.

Approval of meeting minutes from prior Board meeting

- Board minutes from January 18, 2019 executive session minutes. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.
- Board minutes from public session on January 18, 2019. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

Ratification of licenses issued since previous Board meeting: Motion to ratify new licenses issued since the last Board meeting. Motion by Hopkins; seconded by Voss. Approved unanimously.

1. Radiographer licenses: From 174705-174799
2. Nuclear medicine licenses: 500390-500398
3. MRI licenses: From 401098-401113
4. Sonography licenses: From 601783-601838
5. Limited x-ray machine operator permits: From 4351-4355
6. Radiation therapy licenses: 270227-270231
7. All temporary initial medical imaging modality licenses and permits: R52574 – R52630

Board votes on disciplinary cases:

Downer-Valdez offered the following motions, seconded by Hopkins, approved unanimously:

18-09-01: Offer a settlement agreement of \$1,000 civil penalty all of which will be waived if no violations within five years under ORS 688.525(1)(a), (c) Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously, with Voss recusing.

19-03-01: Offer a settlement agreement of \$10,000 for knowingly employing unlicensed person or persons under ORS 688.415(1)(d). Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

19-03-01A: Offer a settlement agreement for \$2,500 civil penalty under ORS 688.415(1)(a); waive \$2,000 if no violations for five years. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

19-03-01B: Offer a settlement agreement for \$500 civil penalty civil penalty under ORS 688.415(1)(a); waive \$500 if no violations for five years. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

19-03-01C: Offer a settlement agreement for \$500 civil penalty civil penalty under ORS 688.415(1)(a); waive \$500 if no violations for five years. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

19-03-02: Offer a settlement agreement for \$1,000 civil penalty for practicing outside the scope for which the license or permit is issued under OAR 337-030-0010(3)(h) and failing to provide competent care to a patient, in accordance with OAR 337-030-0002(9). Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

18-07-04: Motion to take no Board action and close the case. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

18-10-05: Motion to take no Board action and close the case. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

19-03-03: Motion to take no Board action and close the case. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

18-11-03: Offer a settlement agreement of a \$500 civil penalty for making a false statement on her renewal application under ORS 688.415(1)(f). Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

18-12-01: Motion to close the case and issue the license. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

18-06-05: Motion to close the case and issue the license. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

18-09-02: Motion to close the case and issue the license. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

19-02-04: Offer a settlement agreement of a \$1,000 civil penalty for practicing without a current Oregon license due to nonpayment of fees under OAR 337-030-0010(3)(a). Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously, with Voss recusing.

18-08-01A: Motion to revise the earlier settlement offer and to offer a settlement of \$1,000 civil penalty for practicing without a license under ORS 688.415(1)(a), with \$500 waived if no violations of OBMI statutes or rules after five years. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

17-08-01: Offer a counter-settlement proposal of \$40,000 civil penalty under ORS 688.415(1)(d), with \$20,000 waived if no violation of OBMI statutes or rules after five years. Payments would be

\$5,000 every 60 days until penalty is paid. Entire remaining penalty balance is due if payment is missed. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

18-04-09: Issue a final order of license revocation under ORS 688.525(1)(a) and 688.525(1)(b). Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

15-04-08: Take no action and close the case without prejudice. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

17-06-03: Take no action and closing the case without prejudice. Motion by Hopkins; seconded by Downer-Valdez. Approved unanimously.

Board ratification of stipulated orders issued for civil penalties for practicing on an expired license in violation of ORS 688.415(1):

- \$100 civil penalty for practicing on an expired license for less than six months, in accordance with 2018 OAR 337-030-0010(3)(a)(A), for the following cases: Case 18-10-03; Case 18-10-06.
- For practicing on an expired license, civil penalty of \$100 per month, in accordance with 2019 OAR 337-030-0010(3)(a):
 - Case 19-01-01 -- \$500 civil penalty;
 - Case 19-02-02 -- \$300 civil penalty;
 - Case 19-02-03 -- \$100 civil penalty.

Motion to ratify stipulated order by Hopkins; seconded by Downer-Valdez. Approved unanimously.

Request for waivers:

- Taylor Winegar requested a third temporary post-primary MRI license. Following Board discussion including a review of the rule that is specific to MRI temporary post-primary licensure, the Board voted to approve the waiver request. Motion by Downer-Valdez, seconded by Hopkins, to approve the request for a third temporary post-primary license, in accordance with OAR 337-010-0045(3)(b). Approved unanimously.
- Tyson Husk requested that his temporary radiography license be made a permanent license based upon his military training, which the Board is required to grant if the applicant provides the Board with documentation of training or experience that is substantially equivalent to what the registry requires (ORS 688.455[1][a][A]). Following discussion, Downer-Valdez made the motion, seconded by Hopkins, to grant the request. Approved unanimously.

Application by Brent Kell to establish a limited x-ray school: Brent Kell presented a request by Pacific Healthcare Training (PHT) to provide provisional approval for his program to provide education for limited x-ray. His application noted that PHT is approved by the Oregon Higher Education Coordinating Commission (HECC). He noted that the program at Abdill Career College is closing, leaving no limited x-ray educational program in southern Oregon. His application included a didactic course outline that complies with Board rules. He said that they will only take students who are currently employed in a medical office, so that there will be supervision available for students who obtain temporary permits following didactic education. He said that, initially, he will be the instructor. He said the goal is to begin classes on Sept. 12, 2019. He said they will offer classes on Friday evening, Saturday and Sunday. He said his coursework will address cultural competency. He said his program will visit the clinical sites once per quarter, to interview site supervisors and look at clinical documentations. He said that he would like to have the Board provide a preliminary statement that the course outline and proposal appears to meet the requirements in OBMI's rules. Thomas King offered to complete a preliminary inspection of the educational site. Downer-Valdez made a motion to approve the

program plan for the Pacific Healthcare Training program for limited x-ray; Hopkins seconded. Approved unanimously.

Public records management policy: Ed Conlow explained the draft public records management policy that had been distributed earlier. He said that all state agencies were being directed to adopt this policy. He said the draft will still need to go through a review by the state archivist, and may require amendments which would need to come back before the Board. Kopecky made a motion to approve the preliminary policy draft; seconded by Hopkins. Approved unanimously.

Process for hiring a new executive director: Ed Conlow introduced Amber Ingram from the Chief Human Resource Office (CHRO), to explain the process for hiring a new executive director, planning for Ed Conlow's announced projected retirement date of August 30, 2019. The Board went briefly into executive session, at 10:24 a.m., to hear advice from AAG Joanna Tucker Davis, to review some written legal advice regarding the executive search process. Chair Betz adjourned executive session and resumed public session at 10:41 a.m.

Amber Ingram provided a draft recruitment plan for Board review. Several Board members indicated that they would be interested in serving on a selection/recruitment committee. Voss made a motion, seconded by Hopkins, to form a committee to help with the process. Agreeing to serve on the committee:

- Jeff Kopecky (public board member)
- David Howe (advisory board member – section manager, RPS)
- Thomas King (Board investigator and former board chair)
- Melissa Downer-Valdez (board vice chair)
- Jennifer Clayton (representing the Oregon Society of Radiologic Technologists)
- Brad Betz (board chair)

Voss made a motion, seconded by Hopkins, to approve the committee membership. Approved unanimously.

Legislative update: Ed Conlow provided an update on two bills in the Oregon Legislature, including SB 62 and SB 63. He said both bills are not controversial and are likely to pass into law. Both bills have passed the Senate and are scheduled for consideration in the House Health Care Committee. He also mentioned that SB 128 (APRNs supervising fluoroscopy) has passed the Senate and is also scheduled for consideration by the House Health Care Committee.

Budget update: Ed Conlow said that, with increased costs for information technology, legal services and personnel reclassifications, the agency's Legislatively Approved Budget (LAB) for the 2019-2021 biennium has a projected ending balance of \$142,000 which is the equivalent of 2.9 months projected operating costs. He said that the Legislature wants agencies to have an ending balance as a cushion in case of a large unexpected expense, such as a court case, and that the Legislature usually considers three months' ending balance as a minimum balance. He said that the Board probably ought to discuss a fee increase for sometime during the next biennium. It was noted that the last fee increase was in 2010. He noted that the Board can adopt a fee at any time, but that the Legislature would need to review and approve the fee at the next legislative session. If the Board raises the license fee and then the Legislature fails to approve it at the next legislative session, then the Board would be required to refund any amounts collected as a result of the fee increase. He suggested that, if the Board initiates rulemaking to raise the license and permit fee, it may be wise to delay the implementation date until January 1, 2020. That way, if the Legislature fails to approve the fee increase during the February 2020 legislative session, the Board would only need to refund new license fee revenue collected during the months of January and February. David Howe suggested raising the fee enough so that the Board does not need to raise the fee again within a relatively short period of time. Ellen Voss made a motion to initiate rulemaking to raise the monthly fee for all temporary and permanent licenses and permits from five dollars to seven dollars, effective January 1, 2020; seconded by Downer-Valdez. Approved unanimously.

Break for lunch at 11:35 and come back into public session at 12:15 for public comment. Public session resumed at 12:11 p.m.

Public comment: No public comment was submitted.

Other business: Ed Conlow was asked about filling the Board member vacancies. He said that the Governor recently appointed Dr. Yama Kharoti of Salem to fill the vacant physician position, and Brody Ferguson from Hillsboro to fill the vacant radiographer position. He said that both appointees are currently under consideration for Senate confirmation, and that both are expected to be active Board members by the next quarterly meeting.

Adjournment: Board meeting adjourned at 12:14 p.m.

Minutes submitted by Ed Conlow

OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, JULY 19, 2019
Portland State Office Building, 800 NE Oregon Street
Conference Room 1-D

APPROVED MINUTES

Board attendance: Brad Betz, Chair; Melissa Downer-Valdez, Vice Chair; Ellen Voss; Dr. Nick Branting; Jeff Kopecky; Dr. Yama Kharoti; Brody Ferguson.. Also: David Howe (RPS; Advisory Member).

Staff in attendance: Ed Conlow, OBMI Executive Director; Vincent Mandina, Compliance Specialist; Joanna Tucker Davis, Senior Assistant Attorney General; Thomas King, Health Care Investigator/Advisor; Rick Wendt, RPS Invited Guest.

Meeting convened at 9:08 a.m. by Chair Brad Betz. Chair Betz immediately recessed public session and convened executive session in accordance with ORS 192.660(2)(f), and 192.550(2)(L) and ORS 676.165. He noted that no members of the media are present in the room. Executive session adjourned at 10:35 a.m. Public session reconvened at 10:48 a.m.

Approval of meeting minutes from prior Board meetings

- Board minutes from special board meeting on June 14, 2019. Voss made a motion to approve the draft minutes; Downer-Valdez seconded. Approved unanimously.
- Executive session Board minutes from April 19, 2019. Voss made a motion to approve the draft minutes; Downer-Valdez seconded. Approved unanimously.
- Board minutes from public session on April 19, 2019. Voss made a motion to approve the draft minutes; Downer-Valdez seconded. Approved unanimously.

Board votes on disciplinary cases:

Vice-chair Downer-Valdez made a motion to accept the recommendation of the Investigative Committee as follows; seconded by Voss, approved unanimously as follows:

18-08-01A: Revise the earlier proposed settlement agreement to require a \$500 civil penalty under ORS 688.415(1)(a), with the entire amount stayed if there are no further violations over the next five years.

19-05-04: offer a settlement agreement with a reprimand from the Board due to the licensee's having been disciplined by her credentialing organization under ORS 688.525(1)(a).

19-05-05: Close the case with no Board action.

18-11-02: Close the case with no Board action.

19-03-01: Offer a revised settlement of \$10,000 civil penalty with \$3,000 stayed if no new violations within five years.

19-02-05: Close case with no Board action.

18-04-09: Close the case without prejudice and reopen the case if he reapplies for a license.

19-06-01: Close case with no Board action.

19-04-02: Close case with no Board action.

19-06-03: Close case with no Board action.

19-05-03: Close case with no Board action.

19-06-02: Close case with no Board action.

Motion by Downer Valdez to ratify already-issued stipulated agreements for cases 19-04-01, 19-05-01, and 19-05-02, each for \$100 civil penalty for practicing on an expired license, in accordance with OAR 337-030-0010(3)(a). Seconded by Voss; approved unanimously.

Military waiver request: Ed Conlow explained that Adrian Mariano requested a radiography license based upon the military waiver in ORS 688.455(1)(b)(A). He noted that Mr. Mariano earned a 68P radiology specialist designation from the military and that, according to the ARRT website, individuals who earn the 68P Army military designation code are eligible to apply for ARRT certification and registration. Voss made a motion; seconded by Ferguson; to approve his application for a radiography license based upon the military waiver statute. Approved unanimously.

Rulemaking for APRNs to supervise fluoroscopy: Ed Conlow explained that legislation (SB 128) was enacted to require that a process be available by January 1, 2020 for advanced practice registered nurses (APRN) to earn a limited permit to supervise fluoroscopy. He said that the statute and draft rules were modeled (with some modifications) on the fluoroscopy legislation and rules that the Board adopted a few years prior. He said that he planned to publish the rulemaking in the September Oregon Bulletin, including a public hearing, and present all public comments to the Board for a decision on permanent rulemaking at the Oct. 18 quarterly Board meeting. The draft rules call for APRN/trainees to complete a device orientation checklist approved by the Board; he said the intention would be to use a checklist developed by Rick Wendt (of Radiation Protection Services) specifically tailored for APRNs who are in training to supervise fluoroscopy. Voss made a motion to initiate rulemaking as presented to the Board; Downer-Valdez seconded. Approved unanimously.

Barbara Smith commented that there might be some other educational programs that she thought might be appropriate, in addition to the AAPA/ASRT course that was under discussion as the preferred course. Ed Conlow said that other courses could be discussed or considered through the public comment process.

Hardship extension for temporary permits and licenses: The Board discussed proposed amendments to allow for extensions of temporary licenses and permits based upon certain hardship reasons. Following discussion, Kopecky moved, and Downer-Valdez seconded, to initiate rulemaking as follows:

Amend OAR 337-010-0030 by adding new numbered paragraph (8):

(8) The board, at its discretion and upon a showing of good cause, upon request submitted to the Board, may extend specific deadlines established in this section to a later specified date, based upon a demonstration of compelling circumstances by the individual making the request for an extension. The Board may grant an extension that is based upon factors including but not limited to pregnancy, military service, or disability. This provision only applies to time limitations established by the board, and cannot be applicable to time limitations governed by entities other than the board or that are otherwise governed by statute. The extension may be provided through authorization for an additional temporary permit for a period of time specified by the board.

Amend OAR 337-010-0045 by adding new numbered paragraph (5):

(5) The board, at its discretion and upon a showing of good cause, upon request submitted to the Board, may extend specific deadlines established in this section to a later specified date, based upon a demonstration of compelling circumstances by the individual making the request for an extension.

The Board may grant an extension that is based upon factors including but not limited to pregnancy, military service, or disability. This provision only applies to time limitations established by the board, and cannot be applicable to time limitations governed by entities other than the board or that are otherwise governed by statute. The extension may be provided through authorization for an additional temporary license for a period of time specified by the board.

Rulemaking to update Bone Densitometry Manual; Ed Conlow explained that the Board had earlier discussed allowing the didactic portion of the bone densitometry course to be completed through an online course. To make this allowance will require the Board to authorize an updated version of the Bone Densitometry Teaching Guide, which is adopted by reference in the rules. The updated teaching guide is amended to allow for instruction to be provided through distance learning. He noted that, once the rules are adopted, the instructor would still need to submit a course outline for approval by OBMI. Voss made the motion, seconded by Downer-Valdez, to initiate rulemaking as follows:

Amend OAR 337-010-0030(a) as follows:

(a) An applicant for a limited permit in x-ray bone densitometry must be at least 18 years of age, pay an application fee set by the Board, and have successfully passed a Board approved 24 hour course of instruction which includes not less than 20 hours of radiation protection, equipment operation and quality control specific to x-ray bone densitometry, and meets the didactic and practical experience requirements stated in the Board's publication "Behavioral Objectives and Teaching Guide Bone Densitometry Equipment Operators dated ~~October 01, 2008~~ October 2019 which is incorporated by reference and made a part of this rule.

Ratification of licenses issued since previous Board meeting: Motion to ratify new licenses issued since the last Board meeting. Motion by Betz; seconded by Downer-Valdez. Approved unanimously.

1. Radiographer licenses: From 174800-174905.
2. Nuclear medicine licenses: 500999-501012.
3. MRI licenses: From 401114-401140.
4. Sonography licenses: From 601839-601886.
5. Limited x-ray machine operator permits: From 4356-4363.
6. Radiation therapy licenses: 270232-270233.
7. All temporary initial medical imaging modality licenses and permits: R52631-L52680.

Recess: Chair Betz recessed public session at 10:43 a.m.

Public Hearing on rulemaking to increase the license fee: Board Chair Brad Betz opened a public hearing on rulemaking to increase the fee for a permanent and temporary license and permit. No persons signed up to testify at the public hearing, and no person stepped forward to testify during the period of the public hearing, from 11:00 a.m. to 12:00 p.m. Chair Betz recessed the Board at 11:17, so that Board members could get lunch. Chair Betz reconvened the public hearing at 11:51 a.m. He asked if anyone wanted to comment on the rulemaking, and he asked if anyone signed-in to testify. There were no additional written comments submitted during the public comment period, and nobody had signed-in to testify. Chair Betz adjourned the public hearing and closed the public comment period at 12:00 p.m. There were no additional written or oral comments submitted during the public hearing.

Chair Betz asked the Board if anyone had any concerns regarding the public comments that were received. No Board member initiated further discussion regarding the public comments. The Board discussed options for when to implement the fee increase. Since the Legislature will need to ratify any fee increase, the Board discussed adopting the rule immediately but picking an implementation date that occurs after the Legislature adjourns in 2020. Motion was offered by Voss to adopt the proposed fee increase rules as filed with the Secretary of State except that the effective date will be July 1, 2020; seconded by Kopecky. Approved unanimously.

Adjournment: Board meeting adjourned at 12:14 p.m.

Minutes submitted by Ed Conlow

OREGON BOARD OF MEDICAL IMAGING
BOARD MEETING, October 18, 2019
Portland State Office Building, 800 NE Oregon Street
Conference Room 1-D

DRAFT SUMMARY

Board attendance: Brad Betz, Chair; Melissa Downer-Valdez, Vice Chair; Ellen Voss; Dr. Nick Branting; Jeff Kopecky; Dr. Yama Kharoti; Vanessa Bennett; Allison Bohlke; Robyn Cole; Dr. Katharine Hopkins; Also: David Howe (RPS; Advisory Member).

Staff in attendance: Stacy Katler, OBMI Executive Director; Vincent Mandina, Compliance Specialist; Joanna Tucker Davis, Senior Assistant Attorney General; Thomas King, Health Care Investigator/Advisor; Rick Wendt, RPS Invited Guest.

Public Hearing on rulemaking concerning APRNs to supervise fluoroscopy, pursuant to SB 128; Hardship extension for temporary permits and licenses; updating Bone Densitometry Teaching Guide: At 8:00 a.m., prior to the Board meeting, Board Chair Brad Betz opened a public hearing on rulemaking referring to the aforementioned rules. 3 persons signed up to testify at the public hearing, and 2 persons stepped forward to testify during the period of the public hearing, from 8:00 a.m. to 9:00 a.m. There were no additional written comments submitted during the public comment period, and nobody had signed-in to testify. Chair Betz adjourned the public hearing and closed the public comment period at 9:00 a.m. There was one additional written comment submitted during the public hearing.

Meeting convened at 9:08 a.m. by Chair Brad Betz. Chair Betz immediately recessed public session and convened executive session in accordance with ORS 192.660(2)(f), and 192.550(2)(L) and ORS 676.165. He noted that no members of the media are present in the room. Executive session adjourned at 10:05 a.m. Public session reconvened at 10:20 a.m. following a short break.

Approval of meeting minutes from prior Board meetings

- Board minutes from special board meeting on July 19, 2019. A motion was made and seconded to approve the draft minutes. Approved unanimously.
- Executive session Board minutes from July 19, 2019 A motion was made and seconded to approve the draft minutes. Approved unanimously.

Ratification of licenses issued since previous Board meeting: Motion to ratify new licenses issued since the last Board meeting. A Motion was made and seconded. Approved unanimously.

1. Radiographer licenses: From 174800-174905.
2. Nuclear medicine licenses: 500999-501012.
3. MRI licenses: From 401114-401140.
4. Sonography licenses: From 601839-601886.
5. Limited x-ray machine operator permits: From 4356-4363.
6. Radiation therapy licenses: 270232-270233.
7. All temporary initial medical imaging modality licenses and permits: R52631-L52680.

Board votes on disciplinary cases:

A motion was made and seconded to accept the recommendation of the Investigative Committee as follows;
All motions were approved unanimously as follows:

19-07-04: (**NOTE: Brad Betz was not present for discussion and recused from vote**) move to issue a notice of revocation for three violations of ORS 688.525(1)(c), violation of ORS 688.525(1)(e) and OAR 337-030-0002(2)(9) and a civil penalty of \$3,000.

19-09-01: Close the case with no Board action.

19-03-01A: reject offer from licensee and counter offer of \$1,000 civil penalty with \$750 stayed so long as there are no new violations for 5 years.

19-08-05: move to issue interim order under ORS 688.600 (2)(f).

19-09-01: offer stipulated agreement of five years probation with treatment and random urine testing under ORS 688.525(1)(b)

19-09-02: move to issue interim order under ORS 688.600 (2)(f).

19-09-02: move to offer an interim consent order to cease practicing while under investigation.

A Motion was made and seconded to ratify already issued stipulated agreements for cases 19-06-04 and 19-07-03 each for \$100 civil penalty for practicing on an expired license and 19-08-01 for \$300 civil penalty for practicing on an expired license, in accordance with OAR 337-030-0010(3)(a). Approved unanimously.

Temporary license extension request: Stacy Katler explained that Coleen Renee Shaw, due to extenuating circumstances, requested an extension on her CT temporary license in order to retake the exam. A Motion was made and seconded. Approved unanimously.

Approval of October 2019 Bone Densitometry Behavioral Objectives and Teaching Guide: Tom King explained that the updated teaching guide is amended to allow for instruction to be provided through distance learning. The instructor would still need to submit a course outline for approval by OBMI. Tom indicated that Kerri Winter's program fits the board's criteria and recommended approving her program. A motion was made and seconded to approve the October 2019 Bone Densitometry Behavioral Objectives and Teaching Guide. Approved unanimously.

Discussion concerning continuing rulemaking regarding increasing licensing fees: Stacy Katler gave an update regarding the process for moving forward with adopting and implementing the rules for increasing licensing fees. As per instruction from the CFO, the Board will publish permanent rules for increasing licensing fees and wait for instruction from the CFO to get permission from the Legislature for the increase. Also, Stacy Katler was instructed by Budget and Management to withdraw the SB333 request, that has been done.

Discussion concerning initiating rulemaking regarding the Military Spouse Temporary Authorization to practice Medical Imaging or as a LXMO: Joanna Tucker-Davis explained that with the SB 688 enactment, licensing Boards are obligated to create a process which provides a temporary authorization for spouses of military members to practice a specific medical imaging modality or as a LXMO. A motion was made and seconded to initiate rulemaking regarding the Military Spouse Temporary Authorization to practice Medical Imaging or as a LXMO. Approved unanimously.

Rule consideration regarding: APRNs to supervise fluoroscopy, pursuant to SB 128; Hardship extension for temporary permits and licenses; updating Bone Densitometry Teaching Guide: Chair Betz asked the Board if anyone had any concerns regarding the public comments that were received. The Board discussed the comments made orally and written from the public concerning these rules. The Board discussed that the word “shall” should replace “may” concerning the Board’s decision to waive some or all of the didactic or clinical requirements once the documentation confirms that an applicant has equivalent experience or education. Additionally, the Board discussed adding the words “or approved waiver” in 4(a) of the rule to clarify the time limitation for those applicants that were granted a waiver. The Board discussed the clarification changes to the Fluoroscopy Rules proposed by Stacy Katler. A motion was made and seconded to adopt permanent rules. Approved unanimously.

Adjournment: Board meeting adjourned at 11:50 a.m.

Summary submitted by Stacy Katler