

OFFICE OF THE SECRETARY OF STATE

SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 337

BOARD OF MEDICAL IMAGING

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FILING CAPTION: Adopt rules for applicants with reinstated credentials; amend licensure and unprofessional conduct rules

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CONTACT: Stacy Katler
971-673-0216
stacy.l.katler@OBMI.oregon.gov

800 NE Oregon St. Suite 1160A
Portland, OR 97232

Filed By:
Stacy Katler
Rules Coordinator

RULES:

337-010-0051, 337-010-0052, 337-030-0002, 337-030-0010

AMEND: 337-010-0051

RULE TITLE: Expedited Licensure Process During an Emergency

NOTICE FILED DATE: 07/25/2022

RULE SUMMARY: This change corrects a scrivener's error; removes may where may and shall are both in the original rule.

RULE TEXT:

- (1) When an emergency has been declared, a person who does not hold a license issued by the Board but does hold a Board recognized national medical imaging credential that is current and in good standing, may apply for a Permanent Initial License from the OBMI. Under a declared emergency, the Board chair and Executive Director may modify established initial licensing processes to assist with the healthcare response to the emergency circumstances.
- (2) An Emergency may be declared by the Governor or Board chair.
- (3) With the exception of any modified licensure process established pursuant to subsection (1) of this rule, this license is subject to all other statutes and rules regarding applications and licensure, including fees.
- (4) Regarding any modification of the initial licensing processes related to fingerprint background checks, an initial license may be issued prior to review of the fingerprint background check results only if:
 - (a) The applicant has submitted fingerprints as part of the initial application process for a full background check;
 - (b) The applicant has never been convicted of any crime; and
 - (c) Board staff runs a LEDS check before issuing the license.
- (5) If an initial license is issued pursuant to subsection (4) of this rule and after review of the fingerprint background check results it is determined that the applicant has been convicted of any crime or provided inaccurate attestations or declarations to questions on the initial licensure application, licensee may be disciplined, up to revocation of licensure and including issuance of civil penalties.
- (6) Failure to comply with any modified licensure procedure established pursuant to subsection (1) of this rule will result in an application being processed based on established licensure processes.

STATUTORY/OTHER AUTHORITY: ORS 688.555, ORS 688.455, ORS 688.557

STATUTES/OTHER IMPLEMENTED: ORS 688.455, ORS 688.557, ORS 688.520(8)

ADOPT: 337-010-0052

RULE TITLE: Initial Applicants with a Reinstated Credential from Revoked Status or a Reinstated License from Revoked Status from Another State

NOTICE FILED DATE: 07/25/2022

RULE SUMMARY: This rule provides for a process for Initial Applicants with a Reinstated Credential from Revoked Status or a Reinstated License from Revoked Status from Another State to apply for a license.

RULE TEXT:

(1) When an initial applicant has had a credential reinstated from revoked status or a license from another state reinstated from revoked status, the Board will require that the applicant provide as part of their application the following:

- (a) A copy all documents relating to the revocation and reinstatement of the applicants' credential or license;
- (b) A written statement describing the events that occurred that lead to the revocation of the credential or license;
- (c) Proof that all requirements imposed on the applicant by the credentialing or licensing authority have been completed.

(2) An application that does not include the required documentation in subsection (1) will be considered incomplete. An incomplete application is deemed to be voluntarily withdraw six months from the date of receipt of the application in the Board office.

(3) The Board will review completed applications and will make a determination of if the Board will issue a new license under these circumstances on a case-by-case basis.

(4) The Board will not issue a new license to an applicant with a reinstated credential or reinstated license from another state that is on probation or under any requirements with the applicants credentialing or licensing authority related to the reinstated credential or license.

STATUTORY/OTHER AUTHORITY: ORS 688.555

STATUTES/OTHER IMPLEMENTED:

AMEND: 337-030-0002

RULE TITLE: Unprofessional Conduct

NOTICE FILED DATE: 07/25/2022

RULE SUMMARY: Removes language that is provided in ORS 676.525

RULE TEXT:

Unprofessional Conduct includes but is not limited to the following:

- (1) Engaging in the practice of medical imaging technology while under the influence of intoxicating liquor, controlled substance, or any other drugs which impair consciousness, judgment, or behavior to the extent that normal physical or mental faculties are impaired. For purposes of this definition, a person is "under the influence" of intoxicating liquor if either the person has 0.08 % or above of alcohol in the blood as shown by a chemical analysis of breath or blood or other evidence establishes that the person's normal physical or mental faculties are impaired after having consumed intoxicating liquor; or
- (2) Making or filing false reports or records impeding or obstructing the proper making and filing of reports or records, or failing to file the proper report or record in the practice of medical imaging technology or during the licensure process; or
- (3) Accessing, disclosing, misusing or altering information in violation of state and federal law; or
- (4) Discrimination in the practice of medical imaging against any person on account of sex, race, religion, creed, color, gender identity or national origin; or
- (5) Repeatedly failing to abide by city, state, and federal regulations or laws pertaining to the practice of medical imaging; or
- (6) Engaging in sexual harassment or misconduct in the practice of medical imaging or otherwise. Sexual harassment or misconduct includes but is not limited to: comments or gestures of a sexual nature or touching of a person when the recipient states expressly or it can be reasonably inferred, that the comment, gesture or touching is unwanted by the recipient; Physical or verbal behavior that is sexually exploitative or demeaning; seductive commentary or gestures; or
- (7) Failing to provide competent care to a patient. Competent care requires the technical knowledge, skill, thoroughness, and preparation reasonably necessary for the care; or
- (8) Failure, assisting or permitting others to fail to protect client confidentiality or manage patient records in accordance with state or federal privacy laws; or
- (9) Failure to report pursuant to ORS 676.150, a known or probable violation of Oregon Statutes or Rules.

STATUTORY/OTHER AUTHORITY: ORS 688.555(1)

STATUTES/OTHER IMPLEMENTED: ORS 688.525(1)(b)

AMEND: 337-030-0010

RULE TITLE: Imposition of Civil Penalties

NOTICE FILED DATE: 07/25/2022

RULE SUMMARY: This modification will separate the fines for failing to provide the Board contact updates or providing the Board with incorrect or incomplete information from other fines

RULE TEXT:

- (1) When a civil penalty is imposed it does not preclude the imposition of any other disciplinary sanction against the licensee or permittee.
- (2) The civil penalty shall be payable to the Board by cash, cashier's check, or money order.
- (3) Civil penalties shall be imposed per violation according to the following schedule in the absence of a finding of aggravating or mitigating circumstances:
 - (a) Practicing medical imaging without a current Oregon license or permit — \$500 per month;
 - (b) Unprofessional conduct by a licensee or permittee — \$1,000;
 - (c) Violation of ORS 688.405 to 688.605 or any rule of the Board of Medical Imaging unless otherwise provided in this schedule, \$1,000;
 - (d) Gross negligence in the practice of medical imaging, \$1,000;
 - (e) Employing an individual to practice medical imaging when the individual does not have a current, valid Oregon license or permit: \$500 per day;
 - (f) Making a false statement to the Board, \$500;
 - (g) Practicing medical imaging outside the scope for which the license or permit is issued, \$500;
 - (h) Obtaining or attempting to obtain a license or permit or a renewal of a license or permit by false representation, \$500;
 - (i) Purporting to be a licensee or permit holder when the person does not hold a valid license or permit, \$1,000;
 - (j) Practice medical imaging under a false or assumed name, \$500;
 - (k) Conviction of a crime where such crime bears a demonstrable relationship to the practice of medical imaging, \$1,000;
 - (l) Has undertaken to act as a medical imaging licensee or as a LXMO without the required supervision under ORS chapter 688, \$1,000.
 - (m) Employing or allowing an individual to practice medical imaging outside the scope of the license or permit, \$1,000;
 - (n) Failure to notify the board within 30 days any changes to the contact information, \$100;
 - (o) Providing incorrect or incomplete information, \$100;
- (4) The Board must report to the appropriate credentialing organizations all Board disciplinary actions and all cases where the Board issues a conditional license.

STATUTORY/OTHER AUTHORITY: ORS 688.555(1)

STATUTES/OTHER IMPLEMENTED: ORS 688.415; ORS 688.915