

**North Dakota Medical Imaging and Radiation Therapy Board of Examiners
November 9, 2017
Special Board Meeting
Public Hearing on Administrative Rules 114 Draft – 10 am
Peace Garden Rm, ND State Capitol
Minutes**

Call to Order

The meeting was called to order by Board President, Shirley Porter, at 9:00 am.

Present

Board Members – Shirley Porter, Dr. Aaron Garman (by phone), Brent Colby (by phone), Donna Newman (by phone), Cynthia Milkey, and Tara Wagner.

Others - Jacinda Simmons, Board Staff; Edward Erickson, Legal Counsel; Connie Kalanek, Board Consultant; Tim Blasl, ND Hospital Association; Danielle Goetz, NDSRT Vice President; Dale Patrick, ND Dept. of Health; Melissa Seelye, CHI St. Alexius; Jenni Horton, CHI St. Alexius; Pete Knell, St. Alexius; and Bruce Hilzendager, St. Alexius.

{Dr. Ted Fogarty and Kathleen Jalbert absent}

{Public member position vacant}

Minutes

9/14/2017 - A motion was made to approve the minutes. (Dr. Garman/Milkey/carried) [Jalbert & Dr. Fogarty absent; public member position vacant] [Roll Call Vote – Porter (y), Dr. Garman (y), Colby (y), Newman (y), Milkey (y), Wagner (y)] **[Bd. Office]**

License Application Review

Mark Phillips - A motion was made to grant the license pending the receipt of the ARRT ethics letter. (Milkey/Newman/carried) [Jalbert & Dr. Fogarty absent; public member position vacant] [Roll Call Vote – Porter (y), Dr. Garman (y), Colby (y), Newman (y), Milkey (y), Wagner (y)] **[Bd. Office]**

A. Gianfortone - A motion was made to grant the license. (Dr. Garman/Milkey/carried) [Jalbert & Dr. Fogarty absent; public member position vacant] [Roll Call Vote – Porter (y), Dr. Garman (y), Colby (y), Newman (y), Milkey (y), Wagner (y)] **[Bd. Office]**

License Renewal Update

In September 2017, 1344 renewal notices were mailed. As of November 8, 2017, 398 licenses have been renewed. Licenses not renewed expire December 31, 2017.

Public Hearing on ND Administrative Rules 114 Draft

Tim Blasl expressed his appreciation to the Board and his support of the Administrative Rules Draft.

Bruce Hilzendager asked questions about continuing education.

Oral and written testimony was received and reviewed for the proposed rules. All oral and written testimony received was considered.

Review of Comments from Public Hearing

Respond to commenters about renewal fees that the Board would like to reduce renewal fees at some point in future, maybe after the next renewal cycle. Initial license fees will remain the same.

Also respond that statute, ND43-62-16(1), sets the biennial renewal.

Cardiovascular Interventional Radiography (CV) was removed from the definitions because it is not using the word anywhere else in the rules, so it is not necessary to define it.

A motion was made to continue to recognize those individuals doing cardiovascular interventional because, even though the term is retired, it is recognized by the Board and those individuals would still need to meet the continuing education requirements.

(Milkey/Wagner/carried) [Jalbert & Dr. Fogarty absent; public member position vacant] [Roll Call Vote – Porter (y), Dr. Garman (y), Colby (y), Newman (y), Milkey (y), Wagner (y)] **[Bd. Office]**

Legal counsel states the title could still be used on the license until the term fades away.

Legal counsel will ask Vonette Richter if the new name for the Dept. of Health should be used.

[Legal Counsel]

{Dr. Garman absent}

Comments from Warren Freier – On page 5, question about breast ultrasound. Refer to the scope of practice standards.

Public Comment period closes 11/20/2017.

Consultation Contract with Connie Kalanek

Kalanek will send a proposal to Porter to extend her contract to the end of December 2017.

Conversation with ND Dept. of Health (Cone Beam CT)

Porter met with Warren Freier, James Lawson, and Dale Patrick of the ND Dept. of Health. They were questioning if cone beam CT done in dental offices was an x-ray performed by Registered Dental Assistants who are not licensed with this Board. Porter spoke with Rita Sommers, Executive Director of the ND State Board of Dental Examiners. She said the RDAs are trained by the manufacturer training. The Dept. of Health is looking to change the rules and require licensure for non-dental personnel doing cone beam CT.

Porter also presented at the ND Board of Nursing meeting on the bone density license and the limited x-ray operator license for nurses who wish to perform those tests.

Financial Report

The report is for 21 months into the two-year budget. Total revenue was \$252,312, which is about \$86,000 over the projected budgeted revenue. Total expenditures are at \$130,876, which is about \$57,200 under the projected budgeted expenses. The CD balance is at \$100,257.

The Board would like to know how much other Boards of similar size have in CDs. The Board would like to possibly reduce the fees in the future.

A motion was made to approve the financial report. (Milkey/Wagner/carried) [Jalbert & Dr. Fogarty absent; public member position vacant] [Roll Call Vote – Porter (y), Dr. Garman (y), Colby (y), Newman (y), Milkey (y), Wagner (y)] **[Bd. Office]**

Budget

The Board office will find out more about the Risk Management and WSI insurance. The Board will have to do the full audit because they make over the amount allowed by the state audit.

The Board requests a website presentation from Albertson Consulting for the February meeting.

A motion was made to approve the budget. (Newman/Milkey/carried) [Jalbert & Dr. Fogarty absent; public member position vacant] [Roll Call Vote – Porter (y), Dr. Garman (y), Colby (y), Newman (y), Milkey (y), Wagner (y)] **[Bd. Office]**

Disciplinary Action Update

Thomas Mohr – He signed the settlement agreement.

Updates from Legal Counsel

Sarah Nasset – She has been sent the settlement agreement. She has questions on how to proceed with an Administrative Hearing. Legal counsel will offer her to attend a future Board meeting.

Proximal 50 – The use of the machine was denied by the ND Dept. of Health. They may sell it to the University of Mary. The Dept. of Health did check in and they were not using it. Legal Counsel and Dale Patrick will continue to monitor the situation. No further discussion needed.

NDCC 43-62 – Legal counsel will discuss the error in the law under Limited X-ray machine operator with Vonette Richter. He said it may fall under the Technical Corrections Act and would not require a law change to correct. Tabled to next meeting.

Cath Labs – Applications are coming in after clarification statement was sent out with license certificates.

Review of ARRT Contract for State Exam

Milkey spoke with several states. Oregon has very few people who take the state exam. New Mexico hasn't had anyone take the state exam for the last 10 years. The consensus she found among the states was that it is an option, but it's not used because they cannot go to another state to practice.

The state exam would be for radiography, bone densitometry, LXMO, nuclear medicine, Radiation Therapy, and maybe sonographer. It would not be offered for Radiologist Assistants. Nuclear medicine no longer has an on-the-job training option to take the exam. The state exam could also be used for radiographers to be registered in nuclear medicine.

Legal counsel states the Board should have specific language on the Board's application for state exam about the SSN being required by a 3rd party (ARRT) for identification purposes.

The Board will need to decide on the pass/fail rate. The rate for the ARRT national exam is 75%. The Board will also need to determine how many attempts to pass the exam can be made. Applicants should pay directly to ARRT and not be paying the Board to send a check to ARRT. The fees for the exam are \$125 for LXMO and bone density and \$140 for primary modalities.

The contracts are acceptable to legal counsel with a reminder to pay directly to the ARRT. There are no violations of open records except for the SSN request. The contract does state that ARRT may contract with testing agencies, such as Pearsonview Testing. The Board will not add on another fee for Administrative fees to the Board. Milkey believes the test for nuclear medicine will be the most popular for the primary modalities.

The Board may want to copy Montana's process and application for the LXMO exam. It has a required core exam and then more specific questions to the area of practice. For example, a LXMO in a podiatry office could take the core exam and the podiatry exam and become a LXMO in podiatry.

General Diagnostic Operators and Grandfathered CE Policy

Porter will write up a draft continuing education policy for grandfathered licenses and General Diagnostic Operators. Tabled to next meeting.

Board Appointments

The Board is still waiting for the Governor's office to appoint a public member.

Next Meeting Date

12/6/2017 Noon Conference Call

Adjourn

1:35 pm

Respectfully submitted,

**Shirley Porter
President**

**Jacinda Simmons
Administrative Assistant**