



Tennessee Board of Radiologic Imaging and Radiation Therapy

Tuesday, July 24, 2018

MINUTES

The meeting of the **Tennessee Board of Radiologic Imaging and Radiation Therapy** was called to order at 9:57 a.m. in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243.

Board members present: Matthew Fakes, RT(R)
Kae Brock Fleming, EdD, RT(R)
Karen Munyon, RT(T)(CT)
Pamela Ward, RT(R)(M)(CT)(BD)

Board member(s) absent: Gary Podgorski, MD
Chester Ramsey, PhD, DABR
Spencer Maddell, MD

Staff present: Stacy Tarr, Administrative Director
Rene Saunders, M.D., Medical Consultant
Candyce Waszmer, Administrative Director
Tammy Davis, Administrator
Peyton Smith, Office of General Counsel

The meeting was called to order at 9:57am.

Approval of Minutes

There was not a quorum to approve the minutes so this item will be moved to the agenda for the October 2, 2018 meeting. However, Dr. Fleming pointed out that there is a typographical error: the numbers for the sections is off starting at .03. Ms. Davis will correct the numbering error prior to the next Board meeting and approval of minutes.

Discussion of the Rules:

W0880-X-1 – Scope of Practice

The Board began a discussion regarding scope of practice for full licenses under nuclear medicine technologist. Mr. Smith stated that this discussion began at the last meeting regarding what the scope of practice should look like. As currently written, the question is whether or not for full licensees, are those trained in, for example, nuclear medicine, able to do all other types

of radiography or should we somehow limit them to only the modality for which they are certified.

Another question was how to deal with people who are doing “on the job training”. They are licensed in one area, but are training while working in another modality. Both a provisional license and an exemption were discussed.

After a lengthy discussion, it was decided that there will be an exemption period for those who are cross-training to upgrade their license in some way. The exemption period will be for two years under the supervision of the individual providing training with the availability of an additional one year extension. It will be required that there is a letter from the supervisor and licensee notifying the Board that such training is taking place. The exemption period starts on receipt of the letter. It was agreed that a form will be used for this purpose.

Ms. Munyon brought page 3, 0880-X-.03 (1) to the Board’s attention. It references “radiographs”. Ms. Munyon stated that this should read “...for the types of *imaging or procedures* specified...”. The Board agreed. Mr. Smith will add this language.

There was no further discussion of this section.

Legislative Update

Patrick Powell, Legislative Liaison, presented information regarding the legislation that was passed in the most recent legislative session that will affect this Board in some way. That information included the following:

Public Chapter 611 - This law requires an agency holding a public hearing as part of its rulemaking process, to make copies of the rule available in “redline form” to people attending the hearing. This took effect July 1, 2018.

Public Chapter 675 - This act requires the department of health to accept allegations of opioid abuse or diversion and for the department to publicize a means of reporting allegations. Any entity that prescribes, dispenses, OR handles opioids is required to provide information to employees about reporting suspected opioid abuse/diversion. That notice is to either be provided individually to the employee in writing and documented by the employer OR by posting a sign in a conspicuous, non-public area of minimum height and width stating: “NOTICE: PLEASE REPORT ANY SUSPECTED ABUSE OR DIVERSION OF OPIOIDS, OR ANY OTHER IMPROPER BEHAVIOR WITH RESPECT TO OPIOIDS, TO THE DEPARTMENT OF HEALTH'S COMPLAINT INTAKE LINE: 800-852-2187.”

Whistleblower protections are also established. An individual who makes a report in good faith may not be terminated or suffer adverse licensure action solely based on the report. The individual also is immune from any civil liability related to a good faith report. This act takes effect January 1, 2019.

Public Chapter 744 - This statute allows a licensing entity the discretion to not suspend/deny/revoke a license in cases where the licensee has defaulted or become delinquent on student loans IF a medical hardship significantly contributed to the default or delinquency. This act takes effect January 1, 2019.

Public Chapter 745 and 793 - These public chapters work together to create and implement the “Fresh Start Act.” Licensing authorities are prohibited from denying an application or renewal

for a license/certificate/registration due to a prior criminal conviction that does not directly relate to the applicable occupation. Lays out the requirements on the licensing authorities as well as the exceptions to the law (ex: rebuttable presumption regarding A and B level felonies).

Public Chapter 754 - This chapter prevents any board, commission, committee, etc. created by statute from promulgating rules, issuing statements, or issuing intra-agency memoranda that infringe on an entity member's freedom of speech. Freedom of speech includes, but is not limited to, a member's freedom to express an opinion concerning any matter relating to that governmental entity, excluding matters deemed to be confidential under TCA 10-7-504. Violations as determined by a joint evaluation committee may result in recommendations to the general assembly concerning the entity's sunset status, rulemaking authority and funding. This act took effect April 18, 2018.

Public Chapter 929 - This act redefines policy and rule and requires each agency to submit a list of all policies, with certain exceptions, that have been adopted or changed in the previous year to the chairs of the government operations committees on July 1 of each year. The submission shall include a summary of the policy and the justification for adopting a policy instead of a rule. This act also prohibits any policy or rule by any agency that infringes upon an agency member's freedom of speech. Finally, this act establishes that an agency's appointing authority shall have the sole power to remove a member from a board, committee, etc. This act took effect July 1, 2018 and applies to policies adopted on or after that date.

Public Chapter 954 - This legislation requires the initial licensure fee for low-income persons to be waived. Low income individuals per the statute are defined as persons who are enrolled in a state or federal public assistance program including but not limited to TANF, Medicaid, and SNAP. All licensing authorities are required to promulgate rules to effectuate the purposes of this act. This act takes effect January 1, 2019.

Public Chapter 1021 - This act allows for appeals of contested case hearings to be in the chancery court nearest the residence of the person contesting the agency action or at that person's discretion, in the chancery court nearest the place the action arose, or in the Chancery Court of Davidson County. Petitions seeking review must be filed within 60 days after entry of the agency's final order. This act took effect July 1, 2018.

0880-X-.08 (04) – Examinations for Licensure

At the last meeting, the Board discussed what the passing score for the examination(s) should be. Today's discussion resumed at this point. Currently, the passing score is 65%. The passing score is set by the Board. Ms. Donna Smith from the Examination Processing Center was present at today's meeting to answer any questions the Board has. Prior to today's meeting, the Board received the pass rate analyses for 2011-2018 to aide in making an informed decision regarding the passing score. Ms. Smith was able to answer the questions the Board had regarding this data. After a lengthy discussion, the Board agreed that the passing score will be set at 70%.

The next item for discussion was the Section 05. – the number of unsuccessful attempts at passing the examination that are acceptable before the applicant is no longer exam eligible. Ms. Munyon stated that, as currently written, (5) is confusing. It was decided that it would be changed to read "For limited license applicants, after the fourth (4th) unsuccessful attempt at passing any section of an examination, the applicant is no longer exam eligible in supervised limited radiography. ***The applicant must show documentation of repeating a board***

approved course that includes classroom instruction in the specialty area(s) provided by a Board-approved Course Provider in order to reestablish eligibility.

There was no further discussion and the Board continued to Section .09.

0880-X-.09 – Obtaining and Upgrading Full and Limited Licensure

The Board discussed the requirements outlined for both obtaining and upgrading full and limited licensure. There was specific discussion regarding the need for a photograph.

Discussion Regarding Fees

At the April 25, 2018 meeting, the Board requested that administrative staff gather information regarding licensure fees and that the financial office attend this meeting to discuss license renewal fee structure and to give insight into the Board's financial future. Ms. Noranda French, Division of Licensure and Regulation, appeared before the Board to present this information. Ms. French informed the Board that they have already begun accruing expenditures (salaries, employee benefits, communications, etc.). The Board has a balance as of FY 2017 in a negative carry-over amount. Carry-over is the difference between the year's expenditures and revenue. The amount left over after expenditures and revenue are subtracted is the annual net. Currently, the Board has a negative net because there is currently no revenue due to the fact that no fees are currently being collected. Once the Board begins to collect fees and generate revenue, anything that falls into the annual net will go into carry-over. Carry-over is very difficult to access. Ms. French cautioned the Board that, when determining fees, make sure to make them so that the Board does not run in the red, but do not set them high enough to have large amounts of carry-over due to very limited access to these funds. There are very stringent criteria for the uses of this money. Ms. French explained that there is an internal policy requiring the Division of Licensure and Regulation to meet with the Board to discuss fee reductions if there is an excessive amount of carryover. Also, if the Board runs in the red for two years, you are subject to scrutiny by Government Operations and will be required to explain why this is occurring and how to prevent it in the future. Ms. French presented various scenarios with renewal costs varying from \$60-\$150 dollars and shared estimated revenues based on each renewal fee. The Board asked for more information pertaining to initial licensure fees, renewal fees, and expected expenditures. Ms. French will gather this information and present it at the October, 2018 meeting.

After Ms. French's presentation, the Board continued discussing the fee structure, specifically the difference between limited and full licensure fees. The Board requested to know the number of new limited licensees per year. Ms. Tarr will bring this information to the next meeting.

After continued discussion of the fees for both limited and full licensure, the Board decided that the fee for both full and limited will be the same. They did not decide on the amount of the fee. The fee amount will be decided after the requested information is discussed at the next meeting. At the end of this discussion, the conclusion thus far is that the fees for both full and limited will be the same and that there will be no endorsement fee for full scope licensees.

0880-X-.09 – Obtaining and Upgrading Full and Limited Licensure

The discussion continued regarding whether or not a photograph should be required. It was decided that a valid, current, government-issued photo id will be required instead of a passport-type photo.

It was agreed that the language for (c) (2) will be updated to include modality endorsements.

The Board discussed editing (3) Upgrading License in order to eliminate confusion. Mr. Smith suggested making two different sections "Upgrading Full Licensure" and "Upgrading Limited Licensure". After receiving the Board's input, he will edit this section and present it at the next meeting for Board approval.

The meeting adjourned at 3:13 p.m.