

Tennessee Board of Radiologic Imaging and Radiation Therapy

Tuesday, October 12, 2021

MINUTES

The meeting of the **Tennessee Board of Radiologic Imaging and Radiation Therapy** was called to order at 9:02 a.m. in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Karen Munyon, Board Chair.

Board members present: Kae Fleming, RT(R)
Karen Munyon, BSRT(T) (CT)
Patrick Brazan, CNMT
Pamela Ward, RT(R) (M) (CT) (BD)
Jennifer Thompson, RT (R)(QM)
Gary Podgorski, MD

Board member(s) absent: Chester Ramsey, PhD, DABR

Staff present: Angela Lawrence, Executive Director
Stacy Tarr, Administrative Director
Candyce Wilson, Administrative Director
Peyton Smith, Office of General Counsel
Rene Saunders, M.D., Medical Consultant

Ms. Lawrence initiated a roll call for the Board members. Ms. Munyon called the meeting into order at 9:02 am.

Approval of Minutes

Minutes from the January 26, 2021, were presented for approval. Ms. Thompson requested for her name to be added to the list of present Board members. Ms. Fleming made a motion to approve the minutes with the appropriate correction. Mr. Brazan seconded the motion. The motion passed.

Rulemaking Hearing

Mr. Smith called the Rulemaking hearing into order. Mr. Smith requested the Board members reintroduce themselves for the record. Mr. Smith stated that the purpose of the Rulemaking hearing was to solicit comments on the Rules proposed by the Board.

Mr. Smith instructed the members of the public that wish to speak to sign with the sign-in sheet.

Mr. Smith explicitly stated that only those who signed the sign-in sheet would be permitted to comment when summoned for public commentary.

Mr. Smith expressed that the Rules being read were published online on the administrative website on July 16, 2021.

Ms. Lawrence stated that there were additional notices of the Rulemaking Hearing sent via email to the appropriate Associations and the Board members.

Mr. Smith read the Rules completely and comprehensively in their totality. Afterwards, he asked if there were any public commenters.

Public Comment

The opportunity for public comment was offered.

James Coffin (ARMRIT- President and Executive Director)-

Mr. Coffin thanked the Board members for the open meeting. He also thanked Dr. Saunders for her prompt updates about the Rulemaking Hearing. He expressed discontentment that the Board recognizes the American Society of Radiologic Technologists (ASRT) as a Board approved association. He passionately expressed that the ASRT association is attempting to monopolize medical imaging. He stated that MRI should be a separate profession because it has many specialties. He went on to mention the Board of Labor has a code written as 29-2035 MRI Tech, which explicitly defines magnetic resonance imaging. He stated that in the definition of Code 29-2035 MRI there is no mention of ionizing radiation.

Mr. Coffin stated that ARMRIT is accepted in five (5) states in the United States. He then mentioned that it took four (4) years for ARMRIT to be recognized by New Mexico's Medical Imaging and Radiation Therapy program. He explained that MRI technicians need an associate degree to qualify as an MRI technician, and x-ray technicians are only cross trained in MRI. He stated that for ARMRIT that x-ray technicians can be cross trained but only with 1,700 hours supervised by a doctor and a supervisor. Then, the x-ray technician can sit for the ARMRIT exam.

Ms. Munyon asked Mr. Coffin how many MRI technicians in Tennessee are with ARMRIT. He replied there were seven. He then stated that there are 2,300 MRI technicians in the United States certified with ARMRIT. Ms. Munyon asked Mr. Coffin how many MRI technicians there were practicing in the United States overall. He told Ms. Munyon that he was not aware of the amount of MRI technicians. Ms. Munyon asked him to confirm that ARMRIT has been funded for thirty (30) years and is recognized by five (5) states. Mr. Coffin confirmed that she was correct.

Dr. Podgorski politely requested that Mr. Coffin stay for the rest of the meeting. Dr. Podgorski explained that radiology was a broad term and that it included radiation, but not ionizing radiation. Dr. Podgorski directed everyone to look at pages 2, 4, and 5 and suggested maybe using the term electromagnetic radiation. Dr. Podgorski suggested that ARMRIT could be added

to page 19. Dr. Podgorski asked Mr. Coffin if the definition should be changed. Mr. Coffin stated his issue is that MRI technicians are not being specifically licensed.

Ms. Munyon stated that if the Board added new organizations to the rules, it would change the whole set of Rules and would need to be redone. Ms. Munyon stated that is why the definition “nationally certified organization” was chosen. Dr. Saunders stated that she was not aware ARMRIT was a nationally certified organization. Mr. Coffin stated that the organization was nationally certified.

Dr. Saunders read from the Public Chapter 1029 which established the Board. Mr. Coffin stated that ARMRIT is nationally certified but not by ARRT, Nuclear Medicine Technology Certification Board, nor any equivalent nationally recognized radiologic imaging or radiation therapy organization. Mr. Coffin then stated that his organization was nationally recognized but not in those modalities mentioned.

Dr. Saunders stated that the inclusion of an organization that is not recognized in Public Chapter 1029 is not a decision the Board can make. Dr. Saunders suggested the recourse Mr. Coffin should take is with the State legislature. She then stated the state legislators reconvene in February 2022. Dr. Saunders is asked Mr. Smith could Mr. Coffin’s request be satisfied by a later policy or a state legislative matter. Ms. Munyon stated that on page 4 MRI is present in the definition for Radiologic Imaging.

Dr. Podgorski asked Mr. Coffin is there a possibility of an MRI technician losing their job with these rules. Mr. Smith stated that ARMRIT could possibly be recognized by the Board because of the Radiologic Imaging definition includes MRI. Mr. Smith stated that the options were to include ARMRIT in the definition for nationally certified organization, but there could be an issue of adding additional organizations whenever they come about. Mr. Smith offered a second option which would be to create a Board policy; the Board’s policy will set the standards for which organizations they will recognize as a nationally certified organization. Mr. Smith stated that the Board can review the information submitted by ARMRIT. Mr. Smith then added ARMRIT could be recognized by the Board but only at the Board’s discretion.

Ms. Fleming stated that MRI technicians were not excluded in the Rules. Mr. Coffin stated that ARRT and ARMRIT have different sets of rules and ethics. Mr. Coffin stated that there are MRI technicians in hospitals that may lose employment. Mr. Coffin claimed that some employers discriminate against ARMRIT because it is not endorsed to the magnitude of ARRT.

Mr. Smith asked Mr. Coffin for the spelling of his name and organization before summoning the next public commenter.

Edward Dowrick (MRI Technician- ARMRIT Representative)-

Mr. Dowrick introduced himself to the Board members. He provided personal information about his professional background as an MRI technician. He expressed that he was concerned about losing employment because he is not ARRT certified. He stated that employers exclude MRI technicians who are not certified by ARRT. He then asked if he would need to be licensed by the Board and if ARMRIT would be accepted as a nationally certified organization when applying for licensure.

Mr. Brazan asked Mr. Dowrick if an individual could be an MRI technician without going to school to be a radiologic technologist. Mr. Dowrick answered yes and talked about his MRI program he completed in a different state.

Ms. Munyon asked how many continuing education hours were needed to complete his renewal for his ARMRIT certification. Mr. Dowrick answered that he completed 24 hours within three (3) years to renew his ARMRIT certification. He then added to the statement by saying the hours had to be MRI specific. Ms. Munyon explained that Mr. Dowrick will be licensed in the field that he is certified in.

Ms. Fleming asked for a 5- minute break before summoning the next public commenter. The meeting was briefly adjourned for 10 minutes.

The Rulemaking hearing was called back to order at 11:02 a.m. by Ms. Munyon.

Donna Smith (Radiology Education Seminar)-

Ms. Smith stated that there is a group of radiologic technologists that practice bone densitometry without a bone densitometry endorsement. These radiologic technologists were told they were able to continue practicing bone densitometry without the specialty endorsement because they were licensed prior to July 1, 2007. After July 1, 2007, radiologic technologists had to apply for the bone densitometry endorsement. She added that these individuals maybe licensed, but they will not be licensed to practice bone densitometry with the new rules.

Ms. Munyon asked Ms. Smith for an estimate of the individuals in this category. Ms. Smith replied maybe one or two individuals. Ms. Munyon then asked Dr. Saunders if these individuals had an active state license how would the Board move forward. Dr. Saunders stated that these individuals would have to request bone densitometry be added to their new license, when the new rules go into effect. Dr. Saunders stated that it would be a case-by-case matter. Dr. Saunders stated that these individuals would have to submit proof that they have been performing bone densitometry procedures. Additionally, they would have to provide proof that they were grandfathered in by the Rule 1050-03-.02 (4).

Ms. Ward inquired about an individual that is not certified in bone densitometry and does not have a state license, because it was not required in the hospital setting. Dr. Saunders stated that the individual would need to figure out what is needed to apply for a state license, and then the individual would need to determine if they met the license requirements. She then added that the on-the-job training individuals without a state license and without the appropriate education will not be qualified for licensure. These individuals could be licensed if the Board creates a policy, or the applicant requests a declaratory order to seek licensure.

Ms. Smith mentioned that the International Society for Clinical Densitometry (ISCD) testing is not state specific and is only for the ISCD certification. She went on to explain ISCDs' courses do not meet the Boards' requirements, so their bone densitometry certification will be invalid. The Board requires the course to be twenty-four (24) hours. ARRT does not allow ARRT radiologic technologists to take the ISCD exam to qualify for the ARRT bone densitometry certification. However, an individual can obtain each of the certifications.

Reading of ARRT and ASRT Letters

The ARRT letter asked that International Society for Clinical Densitometry certification be recognized by the Board.

Ms. Fleming asked if each organization had to be listed. Ms. Munyon suggested there be a list of organizations that the Board reviews. Mr. Smith stated that it was a choice the Board could make. Mr. Smith stated that if there were any suggestions of adding or removing words to the Rules a motion should be made.

Ms. Fleming called to motion for a change of wording for the Rule 0080-15-.07 (2) to be changed to any equivalent exam accepted by the Board. Ms. Thompson seconded the motion. The motion was passed by roll call.

Language in Rule 0880-15-.01 (a) and Rule 0880-15-.03 (5)

Dr. Podgorski stated that the Rules Rule 0880-15-.01 (a) and Rule 0880-15-.03 (5) could stand to be more specific, since there are many ways to administer contrast media besides orally and intravenously. Dr. Saunders and Mr. Smith stated that this wording was based on a statute. Dr. Saunders asked Dr. Podgorski if there was a difference between contrast dye and fluorescent media. Dr. Podgorski stated that he does believe there is a difference between the two.

Dr. Saunders proposed the idea of phrasing the Rules to say, “No use of contrast media entirely for limited scope licensees.”

Mr. Smith interjected to inform the Board that this Rule was based on a statutory legislation.

Mr. Smith stated that altering the definition may be out of the range of duties the Board can perform.

Ms. Fleming stated that fluoroscopy is forbidden for limited practitioners. She asked if there was any way that a limited scope operator would be able to inject these contrast medias.

The discussion continued with Dr. Saunders and Dr. Podgorski providing more insight on the situation.

Mr. Smith stated that the Board can go forward with changing the wording if they would like.

Mr. Smith explained to the Board the process of how to propose a Rule with their preferred wording.

The Board decided not to propose a Rule change with the wording of the Rules.

The Rulemaking hearing concluded at 11:35 a.m.

Investigations Report

Ms. Elizabeth Danler introduced herself to the Board. Ms. Danler stated that there are currently seventeen (17) x-ray operators being monitored.

Ms. Danler stated that the Office of Investigations has received and opened eighteen (18) new complaints. She stated that the Office of Investigations has closed thirteen (13) complaints, and that there are nine (9) that are being investigated or reviewed.

Financial Report

Mr. Matt McSpadden introduced himself to the Board and reviewed the fiscal year ending 2021 preliminary financial report. The Board had a total of \$19,689.37 dollars for payroll expenditures. A total of \$861.65 dollars for state professional services. A total of \$20,550.72 dollars for direct expenditures. A total of \$5,222.36 dollars for allocated expenditures. A total of \$25,773.08 dollars for total expenditures. The Board had a total of \$25.00 dollars for the Board Fee revenue. The \$25.00 dollars came from a federal deposit. A total of -\$25,748.08 dollars for the current year net balance. The Board was not charged for technological improvements and had a total of -319,306.86 dollars for the reserve balance. Mr. McSpadden stated that the payroll expenditure total for fiscal year 2021 was significantly lower than fiscal years 2019 and 2020. Mr. McSpadden stated that once the cumulative carry over balance is in the positives it should be two times the three-year balance of the annual operating expenditures. The Board had a total of \$48,957.00 dollars for the three-year average annual operating expenditures. Mr. McSpadden stated that two times that number would be \$97,915.00 dollars.

Legislative Report

Ms. Elizabeth Foy introduced herself to the Board and provided a summary of new legislation passed that could affect this Board.

Public Chapter 37 was important for the Board to review. She summed up that the chapter instructed that Board members to not create Rules that exempt Board members from completing and meeting professional duties because they are Board members.

Public Chapter 153 could possibly apply to the Board. It mentions the parameters for asynchronous interaction between a provider and a patient via telemedicine.

Public Chapter 155 is known as the Business Fairness Act. The act was designed to protect Tennessee businesses in state of emergency Legislation that seeks to protect small business during a state of emergency.

Public Chapter 209 extended the Board until 2025.

Public Chapter 242 is geared more for the Board staff. It provides a limitation for public record requests that an individual can make directly to the Board.

Public Chapter 291 states that the Attorney General cannot approve emergency rule if the rule itself does not meet statutory criteria.

Public Chapter 328 will start in December 2023, and it will require that all State agencies submit a report of their effective Rules every eight (8) years to the Government Operations Committee. The report will include a description of the departments operation and each chapter and rule it impacts. The administrative history for each rule and when the rule was promulgated will be required. Also, if there were any amendments to the rules and if the rule is adherent to any current state, federal or case law. If there are any false statements in the report, there are repercussions.

Public Chapter 513 states the governor is prohibited from requiring individuals to acquire a COVID-19 vaccination or provide vaccination information. This did not apply to students in higher education fields that were in the healthcare setting providing services.

Public Chapter 531 which prohibits a rule from being promulgated without a Public Hearing. There are a few exceptions including emergency rules and rules that are reducing fees.

Public Chapter 532 allows the Government Operation Committee to issue a stay for ninety (90) days of a rule, and the previous law allowed for a seventy-five (75) day stay. Also, additional stays can be granted until the next legislative session.

With no further business to discuss, the meeting was adjourned at 11:03am.