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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 337  
BOARD OF MEDICAL IMAGING

**FILED**  
07/30/2020 12:58 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Includes workplace conduct in the definition of Practicing Medical Imaging and clarifies civil penalties language.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/23/2020 9:00 AM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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Filed By:  
Stacy Katler  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 10/23/2020

TIME: 8:00 AM - 9:00 AM

OFFICER: Stacy Katler

ADDRESS: Stacy Katler

800 NE Oregon St. Suite 1160A

Portland, OR 97232

NEED FOR THE RULE(S):

Language for imposing civil penalties regarding practicing without a current license or permit is confusing and needs revision. Workplace conduct is crucial to the safety of Oregonians undergoing medical imaging studies.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes and Administrative Rules

FISCAL AND ECONOMIC IMPACT:

There is no fiscal impact anticipated for these changes.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

No cost is expected for small businesses or other members of the public. No Expected costs for professional services, equipment supplies, labor or increased administration.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small Businesses are not involved with these rule changes.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The minor changes to the rules did not warrant a Rule Advisory Committee.

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RULES PROPOSED:

337-010-0006, 337-030-0010

AMEND: 337-010-0006

RULE SUMMARY: Adds workplace conduct to the definition of the " Practice of Medical Imaging".

CHANGES TO RULE:

337-010-0006

Definitions ¶¶

For purposes of ORS 688.405 to 688.605 and these rules:¶¶

(1) The "Practice of Medical Imaging" shall be defined as but not limited to the use of ionizing radiation, ultrasound, radio waves or magnetic fields upon human anatomy for diagnostic or therapeutic purposes including the physical positioning of the patient, the determination of exposure parameters, ~~and~~ the handling of the ionizing radiation equipment and workplace conduct.¶¶

(2) "Advanced Practice Registered Nurse" means a person who is licensed in accordance with ORS 678.025¶¶

(3) "Application" means documentation submitted to the Board for a license or permit, including the Board's application form and any required documentation that is specified in the application instructions. An application is considered incomplete if the form or any of the required documentation or fees are not provided. An incomplete application is deemed to be voluntarily withdrawn six months from the date of receipt in the Board office.¶¶

(4) "Approved school" means a school accredited in one of the medical imaging modalities or subspecialties by a national or regional post-secondary accreditation body and whose graduates are qualified to sit for a credentialing examination recognized by the Board of Medical Imaging in the graduate's medical imaging modality or subspecialty.¶¶

(5) "Board" means Board of Medical Imaging.¶¶

(6) "Clinical instructor" means an individual assigned to supervise students in a clinical setting who is:¶¶

(a) A licensed physician who routinely supervises the medical imaging modality being studied by a student; or¶¶

(b) An individual licensed by the board and credentialed by a credentialing organization in the medical imaging modality being studied by a student.¶¶

(7) "Credential" means the recognition awarded to an individual who meets the requirements of a credentialing organization.¶¶

(8) "Credentialing organization" means a nationally recognized organization that issues credentials through testing or evaluations that determine that a person meets defined standards for training and competence in a medical imaging modality.¶¶

(9) "Diagnostic medical sonography" means the use of nonionizing high frequency sound waves with specialized equipment to direct the sound waves into areas of the human body to generate images for the assessment and diagnosis of various medical conditions.¶¶

(10) "Extremity Computed Tomography Machine" (ECT) means a machine that is specifically designed, with a maximum setting of 120kVp at 60 mAs, to perform computed tomography (CT) exams on extremities only. For the purpose of extremity computed tomography only, "extremity" includes the following body parts:¶¶

(a) Lower extremities including: toe; foot; calcaneus; ankle; tibia; fibula; knee; patella; and distal femur.¶¶

(b) Upper extremities including: finger; hand; wrist; forearm; elbow; and distal humerus. ¶¶

- (11) "Fluoroscopy" means a technique for generating X-ray images and for presenting the X-ray images simultaneously and continuously as a visible image.¶
- (12) "Graduate" means an individual who has completed the didactic and clinical education at an approved school, including documented clinical proficiency, but who has not met all requirements for credentialing by a credentialing organization.¶
- (13) "Hybrid imaging or radiation therapy equipment" means equipment that combines more than one medical imaging modality into a single device.¶
- (14) "Ionizing radiation" means alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons or other particles capable of producing ions. "Ionizing radiation" does not include radiation such as radiofrequency or microwaves, visible, infrared or ultraviolet light or ultrasound.¶
- (15) "License" means a license issued by the Board to practice one or more of the medical imaging modalities.¶
- (16) "Licensed nurse practitioner" means a nurse practitioner licensed in Oregon.¶
- (17) "Licensed physician" means a physician or surgeon licensed in Oregon.¶
- (18) "Licensed physician assistant" means a physician assistant licensed in Oregon. ¶
- (19) "Licensed Advanced Practice Registered Nurse" means an advanced practice registered nurse licensed in Oregon.¶
- (20) "Limited X-ray machine operator" means a person other than a licensed physician who performs diagnostic X-ray procedures under the supervision of a licensed physician, a licensed nurse practitioner or a licensed physician assistant using equipment that emits external ionizing radiation resulting in diagnostic radiographic images that are limited to select human anatomical sites.¶
- (21) "Limited X-ray machine operator course of study" means a Board-approved set of didactic and clinical experience elements designed to prepare a person for gaining practical experience and for passing the limited X-ray machine operator examination.¶
- (22) "Magnetic resonance imaging" means the process by which certain nuclei, when placed in a magnetic field, absorb and release energy in the form of radio waves that are analyzed by a computer thereby producing an image of human anatomy and physiological information.¶
- (23) "Medical physicist" is a person who is certified in diagnostic radiological physics or radiological physics by the American Board of Radiology, or in diagnostic imaging physics by the American Board of Medical Physics, or in diagnostic radiology physics by the Canadian College of Physicists in Medicine.¶
- (24) "Medical imaging" means the use of specialized equipment for the production of visual representations of human anatomy, tissues or organs for use in clinical diagnosis and treatment and includes but is not limited to X-ray, single photon emission, positron emission technology, ultrasound, magnetic fields, visible light and radio waves.¶
- (25) "Medical imaging licensee" means a person other than a licensed physician or a limited X-ray machine operator who holds a valid license and operates medical imaging equipment for diagnostic or therapeutic purposes under the supervision of a licensed physician.¶
- (26) "Medical imaging modality" means:¶
- (a) Diagnostic medical sonography and all its subspecialties;¶
  - (b) Magnetic resonance imaging and all its subspecialties;¶
  - (c) Nuclear medicine technology and all its subspecialties;¶
  - (d) Radiation therapy and all its subspecialties; or¶
  - (e) Radiography and all its subspecialties.¶
- (27) "Nuclear medicine technology" means the specialized equipment that measures radiation emitted by radionuclides, including counters and cameras that form medical images for interpretation by a physician, or assists in therapeutic use of radionuclides.¶
- (28) "Physician Assistant" means a person who is licensed in accordance with ORS 677.505 to 677.525.¶
- (29) "Radiographer" means a person other than a licensed physician who performs a comprehensive set of diagnostic radiographic procedures under the supervision of a licensed physician using external ionizing radiation to produce radiographic, fluoroscopic or digital images.¶

(30) "Radiography" means the use of ionizing radiation to produce radiographic, fluoroscopic or digital images of human anatomy for diagnostic purposes.¶

(31) "Radiologist" means a person licensed to practice medicine in the State of Oregon who is certified by or board eligible for certification by the American Board of Radiology, the American Osteopathic Association, the Royal College of Radiologists or the Royal College of Physicians and Surgeons of Canada.¶

(32) "Student" means an individual enrolled in:¶

(a) An approved school, college or university academic training program in medical imaging; or¶

(b) A limited X-ray machine operator course of study.¶

(33) "Supervision" means the act of monitoring and reviewing the performance of medical imaging licensees or limited X-ray machine operators through regular inspections of work produced, regardless of whether the supervising individual is continuously physically present during the performance or use of medical imaging equipment or X-ray equipment. ¶

(34) "Positioning" is the act of placing the patient in the standard or appropriate position for a medical imaging examination or radiation therapy based on the medical condition of patient.

Statutory/Other Authority: ORS 183.310(7), 688.555

Statutes/Other Implemented: ORS 688.415 - 688.605, 688.915

AMEND: 337-030-0010

RULE SUMMARY: Removes confusing language regarding practicing without a current Oregon License

CHANGES TO RULE:

337-030-0010

Imposition of Civil Penalties ¶¶

- (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 ~~due to nonpayment of fees: \$100 per month;~~¶¶
- ~~(b) Practicing medical imaging without a current Oregon license or permit, not related to nonpayment of fees-~~ \$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;¶¶
- (~~k~~) 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;¶¶
- (~~m~~) 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;¶¶
- (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