

Enrolled House Bill 2104

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Board of Medical Imaging)

CHAPTER

AN ACT

Relating to medical imaging; amending ORS 688.405, 688.415, 688.435 and 688.557.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 688.405 is amended to read:

688.405. As used in ORS 688.405 to 688.605:

(1) "Approved school" means a school accredited in one of the medical imaging modalities or subspecialties by a national 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.

(2) "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.

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

(4) "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.

(5) "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.

(6) "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.

(7) "Hybrid imaging or radiation therapy equipment" means equipment that combines more than one medical imaging modality into a single device.

(8)(a) "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.*]

(b) "Ionizing radiation" does not include nonionizing radiation.

(9) “License” means a license issued by the board to practice one or more of the medical imaging modalities.

(10) “Licensed nurse practitioner” means a nurse practitioner licensed in Oregon.

(11) “Licensed physician” means a physician or surgeon licensed in Oregon.

(12) “Licensed physician assistant” means a physician assistant licensed in Oregon.

(13) “Limited X-ray machine operator” means a person [*other than a licensed physician, licensed nurse practitioner or licensed physician assistant*] who performs diagnostic X-ray procedures under the supervision of a licensed physician, licensed nurse practitioner or licensed physician assistant using equipment that emits external ionizing radiation resulting in diagnostic radiographic images that are limited to select human anatomical sites.

(14) “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.

(15) “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.

(16)(a) “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*].

(b) “**Medical imaging**” includes but is not limited to X-ray, single photon emission, positron emission technology, ultrasound, magnetic fields, visible light and radio waves.

(17) “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.

(18) “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.

(19) “**Nonionizing radiation**” includes radiation such as radiofrequency or microwaves, visible, infrared or ultraviolet light or ultrasound.

[(19)] (20) “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.

[(20)] (21) “Radiation therapy” means the use of ionizing radiation on a human being for therapeutic purposes.

[(21)] (22) “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.

[(22)] (23) “Radiography” means the use of ionizing radiation to produce radiographic, fluoroscopic or digital images of human anatomy for diagnostic purposes.

[(23)] (24) “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.

[(24)] (25) “Student” means an individual enrolled in:

(a) An approved school; or

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

[(25)] (26) “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 use of medical imaging equipment or X-ray equipment.

SECTION 2. ORS 688.415, as amended by section 4, chapter 1, Oregon Laws 2012, is amended to read:

688.415. (1) A person may not:

[(a) Practice any of the medical imaging modalities, use X-ray equipment or purport to be a medical imaging licensee or a limited X-ray machine operator if the person is not licensed in accordance with the provisions of ORS 688.455 or is not the holder of a limited X-ray machine operator permit issued under ORS 688.515;]

(a) Practice a medical imaging modality or purport to be a medical imaging licensee unless the person is licensed in accordance with the provisions of ORS 688.405 to 688.605;

(b) Operate an X-ray machine as described in ORS 688.515 (1) and (2) or purport to be a limited X-ray machine operator unless the person holds a valid limited X-ray machine operator permit in accordance with the provisions of ORS 688.405 to 688.605;

[(b)] (c) Practice any medical imaging modality or as a limited X-ray machine operator under a false or assumed name;

[(c)] (d) Knowingly employ [any] a person for the purpose of practicing [any] a medical imaging modality or as a limited X-ray machine operator if [that] the person is not licensed or does not hold a valid permit in accordance with the provisions of ORS 688.405 to 688.605;

[(d)] (e) Obtain or attempt to obtain a license or permit or a renewal of a license or permit by bribery or fraudulent representation; [or]

[(e)] (f) Knowingly make a false statement on an application for a license or permit or a renewal for a license or permit[.]; or

(g) Perform a medical imaging procedure on a person unless the procedure:

(A) Serves a medical purpose;

(B) Is ordered by a licensed physician, licensed physician assistant, licensed nurse practitioner, certified registered nurse anesthetist, as defined in ORS 678.245, or other registered nurse licensed under ORS chapter 678 who has been authorized by the Oregon State Board of Nursing to order a medical imaging procedure; and

(C) Is interpreted by a licensee described in subparagraph (B) of this paragraph who is acting within the scope of the licensee's authority.

[(2) A person may not practice a medical imaging modality or purport to be a medical imaging licensee unless the person is licensed in accordance with the provisions of ORS 688.405 to 688.605 or holds a permit issued by the Board of Medical Imaging.]

(2) Subsection (1)(g) of this section does not apply to screening mammography. As used in this subsection, "screening mammography" means a radiologic procedure performed on a woman for the early detection of breast cancer.

SECTION 3. ORS 688.435 is amended to read:

688.435. The provisions of ORS 688.405 to 688.605 do not apply to the following persons:

(1) Persons who operate dental X-ray equipment for the sole purpose of oral radiography.

(2) Students in approved schools, while practicing one of the medical imaging modalities or subspecialties under the supervision of the school's assigned clinical instructor.

(3) Specific licensed health care providers, other than physicians, who use sonographic equipment within their lawful scope of practice.

(4) Licensed physicians.

(5) Persons who use radiation for the purpose of research or education. As used in this subsection:

(a) "Education" means a program of study or training:

(A) In which a student, trainee or health care practitioner learns to practice or improve skills for a profession regulated by a health professional regulatory board, as defined in ORS 676.160; and

(B)(i) That is accredited by a national or regional post-secondary accrediting body or organization; or

(ii) That is approved or recognized by a health professional regulatory board, as defined in ORS 676.160, for purposes related to being authorized to practice a profession.

(b) "Research" means systematic investigation, including research development, testing and evaluation, designed to develop or contribute to general knowledge and that has been approved by an institutional review board that provides for the protection of human research subjects in accordance with federal regulations.

SECTION 4. ORS 688.557 is amended to read:

688.557. For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Board of Medical Imaging may require the fingerprints of a person who:

(1) Is applying for a license, or renewal of a license, under ORS [688.415] **688.445 and 688.455;**

(2)(a) Is employed or applying for employment by the board or provides services or seeks to provide services to the board as a contractor, vendor or volunteer; and

(b) Is, or will be, working or providing services in a position in which the person has or will have access to information that is confidential under state or federal laws, rules or regulations; or

(3) Is under investigation by the board pursuant to ORS 688.525.

Passed by House March 19, 2013

.....
Ramona J. Line, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate April 30, 2013

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

.....
Kate Brown, Secretary of State