

Sunset Public Hearing Questions for
Tennessee Radiologic Imaging and Radiation Therapy Board of Examiners
 Created by Section 63-6-110, *Tennessee Code Annotated*
 (Sunset Termination June 2020)

Enabling Statute, Purpose, and Rules and Regulations

- 1. Provide a brief introduction to the board, including information about its purpose, statutory duties, staff, and administrative attachment.**

The Tennessee Radiologic Imaging and Radiation Therapy Board of Examiners (The Board) was created in 2016 by an act of the General Assembly. Its mission is to protect the health, safety, and welfare of people in the State of Tennessee. The Board issues licenses to qualified candidates who have completed appropriate training and national certifications. The Board interprets the laws, rules, and regulations to determine the appropriate standards of practice in an effort to ensure the highest degree of professional conduct. The Board is responsible for the investigation of alleged violations of the Practice Act rules and is responsible for the discipline of licensees who are found guilty of such violations.

Board members are appointed by the Governor, the Speaker of the House of Representatives, and the Speaker of the Senate. The nine member board consists of one licensed radiographer, one licensed nuclear medicine technologist, one licensed radiation therapist, one full-time educator, one licensed magnetic resonance technologist or licensed computed tomography technologist, one radiologist, one public member, one medical physicist, diagnostic or therapeutic, and one licensed physician practicing in a hospital setting.

- 2. Has the board promulgated rules and regulations? If yes, please cite the reference.**

The rules are currently being promulgated.

Board Organization

- 3. Provide a list of current members of the board. For each member, please indicate who appointed the member, statutory member representation, the beginning and end of the member's term, and whether the member is serving a consecutive term.**

Member	Representation	Term Beginning	Term Ending	Consecutive	Appointed By
Matthew Fakes	Radiographer	07-2017	09-2019	No	Governor
Kae Fleming	Educator	06-2017	09-2021	Yes	Governor
Karen Munyon	Radiation Therapist	07-2017	09-2020	Yes	Governor
Pamela Ward	MRI or CT Tech	07-2017	09-2021	Yes	Governor
Patrick Brazen	Nuclear Medicine Tech	10-2018	09-2021	Yes	Governor

Gary Podgoski	Radiologist	08/2017	12/2018	No	House Speaker
Chester Ramsey	Medical Physicist	01-2017	12-2019	No	Senate Speaker
Spencer Madell, MD	Physician	08-2016	12-2019	No	Senate Speaker
Vacant	Consumer				House Speaker

4. Are there any vacancies on the board? If so, please indicate how long the position has been vacant and explain steps that have been taken to fill any vacancies.

Yes, there is one vacancy for a consumer (public) member. The position will be appointed by the House Speaker.

5. How many times did the board meet in Fiscal Years 2018 and 2019? How many members were present at each meeting? Please note meetings where the board did not have a quorum.

The Board met twice: July 24, 2018 with four members present (no quorum); November 27, 2018 with seven members present; and April 16, 2019 with seven members present.

Financial Information

6. What were the board’s revenues and expenditures for Fiscal Years 2018 and 2019? Does the board carry a fund balance? If yes, please provide additional relevant information regarding the fund balance.

For fiscal year 2018, the Board had revenues of \$0.00 and total expenditures of \$113,606.85. The fund balance at June 30, 2018 was (-\$172,075.09). Fiscal year 2019 revenues are \$0.00. The expenditures are being reviewed at this time but are estimated to be \$68,116.41 resulting in an estimated fund balance for FY2019 of (-\$240,191.50).

7. What per diem or travel reimbursements do board members receive? How much was paid to board members in Fiscal Years 2018 and 2019?

Board members do not receive a daily per diem for services. They do receive reimbursement for travel expenses in accordance with the comprehensive travel regulations as promulgated by the Department of Finance and Administration.

Member	FY18 Travel	FY19 Travel
Matthew T Fakes	\$60.16	\$180.48
Kae Fleming	\$0.00	\$132.54
Karen Munyon	\$13.16	\$88.80
Pamela Ward	\$26.32	\$105.28

Patrick Brazan	\$0.00	\$180.48
Gary Podgoski	\$44.18	\$44.18
Chester Ramsey	\$153.22	\$459.66
Spencer Madell, MD	\$0.00	\$0.00

8. Please provide a list of fees collected and indicate whether these fees were established through rule or through state law.

The Board has not established fees at this time but will establish fees through rule.

Sunshine Law, Public Meetings, and Conflict of Interest Policies

9. Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., Tennessee Code Annotated) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of meetings and making minutes available to the public?

The Board is subject to the sunshine law requirements of Tenn. Code Ann. 8-44-101 et seq. A public meeting notice is posted to the Board’s website by the 14th day of the month proceeding the month of the meeting date as well as posting the information on the Public Participation Calendar. The Board’s administrative staff attends all meetings and takes minutes. Those minutes are then prepared for review and ratification by the Board at its next regularly scheduled meeting. After the minutes are ratified, they are then placed on the Board’s website.

10. Does the board allow for public comment at meetings? Is prior notice required for public comment to be heard? If public comment is not allowed, how does the board obtain feedback from the public and those they regulate?

The business meetings of a health related board/committee are conducted in full view of the public pursuant to a sunshine notice which provides information for physical location, a link to remotely view live-streaming of the meeting and notice of agenda items. The meeting is guided by this published agenda. However, the chair of a board/committee will often recognize members of the public who signify a desire to be heard on a matter properly before the board.

Additionally, all health related boards have instituted a sign-in sheet procedure that would permit members of the public to make time limited comments on matters properly noticed and before the board for consideration. Discussion of matters not receiving proper notice would violate the sunshine laws of Tennessee. Therefore, should a member

of the public have a topic or comment that requires discussion, the most effective practice is to make the request known to the board administrator or director in advance to have the matter placed on the monthly sunshine notice. Boards/committees also accept and review letters to the board/committee as another means of addressing questions/concerns raised by the public and stakeholders.

A video recording of the meeting is available on the Department's web site for one month following the meeting. An audio recording of the meeting is also available upon request.

11. Does the board have policies to address potential conflict of interest by board members, employees, or other state employees who work with the board?

Yes. All Board members are educated on the Department of Health's Conflict of Interest Policy and reminded during the course of each meeting of the obligation to strictly adhere to the policy. Board members are required to sign a conflict of interest statement upon appointment or as soon as practicable and annually thereafter. It is the responsibility of the Board Administrator to ensure that the conflict of interest statement is properly and timely signed. Board staff is required to sign a new conflict of interest statement annually. The Board's administrative office keeps signed copies on file in the Central Office of Health Related Boards.

12. Does the board have a website? If so, please provide the web address. What kind of public information is available on the website?

Yes: <https://www.tn.gov/health/health-program-areas/health-professional-boards/xray-board.html>

Information available to the public includes: a listing of board members; the schedule of meetings; meeting minutes; applications; statutes and rules; and a section containing the policies adopted by the Board.

Application and Licensure Process

13. Describe the criteria for issuing a license. How were these criteria determined? How long does the licensing process take? What are the established time goals for obtaining a license? Are those goals being met?

None. The Board's rules are still going through the approval process.

14. How many individuals and/or businesses are currently licensed by the board? Please provide a list by category/type of license.

None. The Board's rules are still going through the approval process.

15. How many applications did the board receive in Fiscal Years 2018 and 2019? By category, how many applications were approved and a license granted? How many applications were rejected? Of those rejected, what was the primary reason for rejection?

None. The Board's rules are still going through the approval process.

16. How many licenses were revoked during the same time period? What were the primary reasons for revocation? Please provide information by type of license.

None. The Board's rules are still going through the approval process.

Complaint Handling and Investigation Process

17. Describe the complaint handling process. Please explain how consumers are made aware of the process for filing a complaint, how complaints are taken and investigated, how complaints are resolved and what actions may be taken as a result.

All complaints are handled through the Office of Investigations. Below is what is provided on the website:

Filing a Complaint

While the Department of Health hopes that you will never have to file a complaint against a health care practitioner, doing so is a simple matter. You may contact the Complaint Divisions of the Department of Health at 1-800-852-2187 to request a complaint form. (PH-3466)

The form must be completed in its entirety. All materials received in connection with the complaint will become property of the Department of Health and cannot be returned.

Please return the complaint to:

Office of Investigations
665 Mainstream Drive, 2nd Floor, Suite 201
Nashville, TN 37243

However, until the Board's rules have been promulgated and licenses issued by the Board, complaints filed regarding medical x-ray operators are addressed by the Board of Medical Examiners.

18. What are the time goals for resolving complaints and are those goals being met? If they are not being met, what are the barriers to meeting established goals.

All complaints are handled through the Office of Investigations. The process is as follows:

Step 1. Report or complaint is received in the Office of Investigations.

Step 2. If the complaint constitutes a violation within the scope of authority of the board/committee, a file is opened and assigned a priority code base on harm or risk of harm.

Step 3. The complaint is reviewed by an attorney and clinical consultant to determine early disposition (Closed no action, Letter of Warning or Letter of Concern) or prepare for a field investigation – First Phase Review

Step 4. Complaint goes out for investigation, if necessary. The Office of Investigations assigns timeliness goals from the date the complaint is assigned to the field to the date the complete investigation is returned from the field. The goals are assigned based upon harm or potential harm and rank as follows:

Immediate Jeopardy – 7 days
Actual Harm Severe – 30 days
Actual Harm Not Severe – 60 days
Potential Harm – 120 days
No Potential Harm – 150 days

Step 5. Complete investigation is reviewed by an attorney and a clinical consultant to determine disposition or further prosecution for disciplinary action – Second Phase Review

Step 6. If the complaint is deemed to require disciplinary action, the complete file is transferred to the Office of General Counsel for further prosecution.

- Next possible steps include: Propose a Consent Order (prior to notice of charges); Propose an Agreed Order (after notice of charges) or Proceed to administrative trial.

Until the Board's rules have been promulgated and licenses issued by the Board, complaints filed regarding medical x-ray operators are addressed by the Board of Medical Examiners.

19. How many complaints were received in Fiscal Years 2018 and 2019? What types of complaints were received? What, if any, enforcement or disciplinary actions did the board take as a result of complaints filed?

Until the Board's rules have been promulgated and licenses issued by the Board, complaints filed regarding medical x-ray operators are addressed by the Board of Medical Examiners. A summary of complaints filed with the Board of Medical Examiners is below.

2016:

- 19 Opened Complaints (type of complaints: drugs, unlicensed practice, unprofessional conduct, violation of board order, CE (continuing education) violation)
- 4 disciplinary actions taken

2017:

- 31 Opened Complaints (type of complaints: unlicensed practice, unprofessional conduct, lapsed license, drug diversion, practice beyond the scope, CE violation, care of services)
- 8 disciplinary actions taken

2018:

- 14 Opened Complaints (type of complaints: drugs, unlicensed practice, unprofessional conduct, lapsed license)
- 12 disciplinary actions taken

2019:

- 13 Opened Complaints (type of complaints: unlicensed practice, lapsed license, CE violation)
- 16 disciplinary actions taken

20. Describe the investigation process, including time goals pertaining to investigations. Are these time goals being met? If not, what are the barriers to meeting established goals. How many and what type of investigations were conducted in Fiscal Years 2018 and 2019?

Until the Board's rules have been promulgated and licenses issued by the Board, complaints and investigations filed regarding medical x-ray operators are addressed by the Board of Medical Examiners. The investigation process will be as follows:

Step 1. After review of the initial complaint by Board attorney(s) and Board consultant in the First Phase Review, the complaint goes out for investigation, if necessary. The Office of Investigations assigns timeliness goals from the date the complaint is assigned to the field to the date the complete investigation is returned from the field. The goals are assigned based upon harm or potential harm and rank as follows:

- Immediate Jeopardy – 7 days
- Actual Harm Severe – 30 days
- Actual Harm Not Severe – 60 days
- Potential Harm – 120 days
- No Potential Harm – 150 days

Step 2. Complete investigation is reviewed by an attorney and a clinical consultant to determine disposition or further prosecution for disciplinary action – Second Phase Review

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Reports, Major Accomplishments, and Proposed Legislative Changes

21. What reports does the board prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in Fiscal Years 2018 and 2019.

No reports are prepared.

22. What were the board's major accomplishments during Fiscal Years 2018 and 2019?

The Board's rules are in progress.

23. Please describe any items related to the board that require legislative attention and your proposed legislative changes.

None at this time.

24. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of the citizens of Tennessee?

Yes, to promulgate the rules and policies related to the practice of radiologic imaging and radiation therapy.

At the request of the Chairman of the House Government Operations Committee, all agencies that provide responses to questions as part of the Q&A process should also provide the following information.

1. Identification of the appropriate agency representative or representatives possessing substantial knowledge and understanding of the responses provided to the sunset review questions.

Angela Lawrence, Board Director
Peyton Smith, Office of General Counsel

2. Identification of the appropriate agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

Angela Lawrence, Board Director
Alexa Witcher, Office of Legislative Affairs
John Tidwell, Division of Health Licensure and Regulation
Butch Jack, Division of Health Licensure and Regulation
Peyton Smith, Office of General Counsel

3. Office address, telephone number, and email address of the agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

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