

RESUBMITTAL

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS

NOTICE FILE NUMBER per agency request

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OFFICE OF ADMINISTRATIVE LAW

John Bowen
JOHN BOWEN
SECRETARY OF STATE

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
California Dept. of Public Health

AGENCY FILE NUMBER (if any)
DPH-10-006

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE
				2012 48-2	11-30-2012

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) DPH 10-006: Fluoroscopy Permits for Physician Assistants		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2013-0314-01S		
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)				
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 30456; 30456.1; 30456.2; 30456.4; 30456.6; 30456.8; 30456.10; 30456.12		
		AMEND		
TITLE(S) 17		REPEAL		
3. TYPE OF FILING				
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn non-emergency filing (Gov. Code §§11349.1-11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only				
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) 15-Day Notice of Public Availability: Day 1: 5/14/2013; Day 15: 5/28/2013				
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)				
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____				
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY				
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____				
7. CONTACT PERSON Rosalie Dvorak-Remis		TELEPHONE NUMBER (916) 327-4310	FAX NUMBER (Optional) (916) 319-9821	E-MAIL ADDRESS (Optional) rosalie.dvorak-remis@cdph.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE
Belinda Whitsett
TYPED NAME AND TITLE OF SIGNATORY
Belinda Whitsett, Acting Deputy Director and Chief Counsel

DATE
7-8-13

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ENDORSED APPROVED

AUG 12 2013

Office of Administrative Law

**TITLE 17. PUBLIC HEALTH
DIVISION 1. STATE DEPARTMENT OF HEALTH SERVICES
CHAPTER 5. SANITATION (ENVIRONMENTAL)
SUBCHAPTER 4.5. Radiologic Technology**

Designate new Group 4.6 to read as follows:

GROUP 4.6. Use of Fluoroscopy Equipment by Physician Assistants.

Designate new Article 1 to read as follows:

Article 1. Authorization for Physician Assistants to Use Fluoroscopy Equipment.

Adopt Section 30456 to read as follows:

§ 30456. General Provisions.

(a) Provisions found in Group 1 of this subchapter apply to this article unless otherwise specified in this article.

(b) Sections 30456.1 and 30456.10 shall not be construed to restrict an individual who holds, pursuant to section 30451, a current and valid radiologic technologist fluoroscopy (RTF) permit from performing a procedure otherwise authorized by the RTF permit.

(c) Section 30456.4 does not apply to individuals who possess a current and valid RTF permit issued pursuant to section 30451.

Note: Authority cited: Sections 114872 and 131200, Health and Safety Code. Reference: Sections 106995, 114872, 131050, 131051 and 131052, Health and Safety Code.

Adopt Section 30456.1 to read as follows:

§ 30456.1 Authorization for Physician Assistants to Use Fluoroscopy Equipment.

(a) Any individual holding a current and valid physician assistant (PA) license issued under the Physician Assistant Practice Act (PAP Act) (Business and Professions Code, section 3500 et seq.) may use fluoroscopy on people only if, and only for so long as, the individual:

(1) Holds a current and valid:

(A) Physician Assistant fluoroscopy permit issued pursuant to section 30456.2; or

(B) Radiologic Technologist fluoroscopy permit issued pursuant to section 30451;

(2) Is performing only those fluoroscopy procedures:

(A) That the PA's supervising physician has previously determined the PA can competently perform and for which written guidelines have been established pursuant to the PAP Act and its accompanying regulations;

(B) That are identified on the PA's Delegation of Services Agreement (DSA) in accordance with applicable provisions of the PAP Act and its accompanying regulations;

(C) That have been delegated by, and that are performed under the supervision of, the PA's supervising physician who is identified on the PA's DSA and who holds, pursuant to section 30466, a current and valid radiology supervisor and operator certificate or a fluoroscopy supervisor and operator permit. A PA may use fluoroscopy X-ray equipment while assisting a licensed podiatrist only if the PA is in compliance with the PAP Act and its accompanying regulations and the licensed podiatrist holds, pursuant to section 30466, a current and valid fluoroscopy supervisor and operator permit; and

(3) Keeps on file at each practice site, and makes available to the Department upon request, copies of:

(A) Each DSA under which the PA provides services, with the DSA to include documentation of competency determination as well as the written guidelines specified in subsection (a)(2)(A) for each procedure listed on the DSA; and

(B) For each supervising physician identified on the PA's DSA, a copy of the physician and surgeon's current and valid radiology supervisor and operator certificate or fluoroscopy

supervisor and operator permit. If the PA performs fluoroscopy while assisting a licensed podiatrist as specified in subsection (a)(2)(C), a copy of the podiatrist's fluoroscopy supervisor and operator permit shall also be maintained and made available upon Department request.

Note: Authority cited: Sections 114872 and 131200, Health and Safety Code. Reference: Sections 106995, 114872, 131050, 131051 and 131052, Health and Safety Code.

Adopt Article 2 to read as follows:

Article 2. Application Process and Administration of Physician Assistant Fluoroscopy Permits.

Adopt Section 30456.2 to read as follows:

§ 30456.2. Eligibility for and Renewal of a Physician Assistant Fluoroscopy Permit.

(a) To be eligible for a Physician Assistant (PA) fluoroscopy permit, an applicant shall:

(1) Submit all of the following to the Department:

(A) The legal name, date of birth, mailing address, and telephone number of the applicant;

(B) The applicant's social security number. (Pursuant to the authority found in sections 114872, 131055 and 131200 of the Health and Safety Code and as required by section 17520 of the Family Code, providing the social security number is mandatory. The social security number will be used for purposes of identification);

(C) A copy of the applicant's PA license, as issued by the Department of Consumer Affairs, Physician Assistant Committee;

(D) Documentation that the applicant has completed the coursework and clinical training specified in section 30456.4 through a provider specified in section 30456.4(d). This documentation shall include the name of the provider and its Department-issued identification number, and the signature of the school's official attesting that the student satisfactorily

completed both the coursework and clinical training, with the date that coursework and clinical training was completed; and

(E) The application fee specified in section 30456.8; and

(2) Pass a Department-approved examination in fluoroscopy radiation protection and safety, and the use of fluoroscopy and ancillary equipment.

(b) Notwithstanding section 30403.5, to renew a PA fluoroscopy permit issued pursuant to this section, the holder shall:

(1) At least 30 calendar days prior to the permit's expiration date, submit to the Department the applicant's name, mailing address, telephone number, fluoroscopy permit number, and PA license number and expiration date;

(2) Every two years, submit to the Department the following information regarding approved continuing education credit as required by section 30456.6:

(A) The identity of the group(s) listed in section 30456.6(b) that accepted the instruction;

(B) The provider of the instruction and the provider's contact information;

(C) A description of the instruction; and

(D) The date(s) of the instruction; and

(3) Pay the renewal fee as specified in section 30456.8.

(c) Subsection (b) does not apply to PAs authorized to use fluoroscopy equipment under this Article by holding the radiologic technology fluoroscopy (RTF) permit as specified in section 30456.1(a)(1)(B). For purposes of renewing the RTF permit, the PA shall comply with section 30403.5.

(d) The Department may deny a PA fluoroscopy permit, or deny permit renewal, on the basis of any the reasons set forth in section 107070 of the Health and Safety Code which pertain to denial of certificates and permits, notwithstanding the fact that the individual has otherwise satisfied the requirements of this section.

Note: Authority cited: Sections 114872 and 131200, Health and Safety Code. Reference: Sections 106995, 114872, 131050, 131051 and 131052, Health and Safety Code.

Adopt Section 30456.4 to read as follows:

§ 30456.4. Fluoroscopy Coursework, Clinical Training, and Providers.

(a) For purposes of section 30456.2(a)(1)(D), the fluoroscopy coursework and clinical training specified in subsection (b) shall be completed through a provider specified in subsection (d).

(b) Fluoroscopy coursework and clinical training shall include:

(1) Coursework comprising no less than 40 hours of instruction that fully covers the subject matter in the didactic content section of the "Fluoroscopy Educational Framework for the Physician Assistant" published by the American Society of Radiologic Technologists and dated December 2009, which is hereby incorporated by reference; and

(2) Supervised clinical training of at least 40 hours in duration during which fluoroscopic procedures are performed. Procedures may be performed only if a holder of a current and valid radiology supervisor and operator certificate issued pursuant to section 30466, a fluoroscopy supervisor and operator permit issued pursuant to section 30466, or a radiologic technologist fluoroscopy permit issued pursuant to section 30451 is physically present to observe, verify, and correct as needed the performance of the individual operating the fluoroscopy equipment during the procedures. Performance, for purposes of this subsection, means, and is limited to, the individual's competence to effectively and safely use fluoroscopy equipment; and

(c) Documentation of clinical training as specified in subsection (b)(2) shall include an orientation check-off of each fluoroscopic room or portable fluoroscopy device prior to initial use. The document "Fluoroscopic Device Orientation Check-off" as found in the publication identified in subsection (a)(1) shall be used. Documentation of procedures performed shall include the name of the procedure, the date and time of day the procedure was performed, the facility, including location, where performed, and the name and certificate or permit number of the person observing and verifying performance.

(d) The coursework and clinical training specified in subsection (b) shall be obtained through a Department-approved:

(1) Diagnostic radiologic technology school; or

(2) Radiologic technologist fluoroscopy permit school.

Note: Authority cited: Sections 114872 and 131200, Health and Safety Code. Reference: Sections 114872, 131050, 131051 and 131052, Health and Safety Code.

Adopt Section 30456.6 to read as follows:

§30456.6. Requirements for Continuing Education in Fluoroscopy for Physician Assistants.

(a) Notwithstanding section 30403, physician assistants permitted pursuant to section 30456.2 shall, in the two years immediately preceding the expiration date of the permit, earn no less than ten approved continuing education credits as defined in subsection (b), with at least four of the credits addressing radiation safety for the clinical uses of fluoroscopy.

(b) Notwithstanding section 30400.5, for purposes of subsection (a), "approved continuing education credits" means one hour increments of instruction received in subjects related to the application of X-ray to the human body, which have been accepted for purposes of licensing, credentialing, assigning professional status, or certification, by any of the following entities:

- (1) American Registry of Radiologic Technologists;
- (2) California Physician Assistant Committee;
- (3) Medical Board of California;
- (4) Osteopathic Medical Board of California;
- (5) California Board of Chiropractic Examiners; or
- (6) Board of Podiatric Medicine.

Note: Authority cited: Sections 114872 and 131200, Health and Safety Code. Reference: Sections 106995, 114872, 131050, 131051 and 131052, Health and Safety Code.

Adopt Section 30456.8 to read as follows:

§30456.8. Fees.

(a) Notwithstanding section 30408:

(1) The initial application fee, payable to the Department, for a physician assistant (PA) fluoroscopy permit shall be \$98;

(2) The examination fee, or reexamination fee if retaking an examination due to failure to pass the examination, shall be as specified by, and paid to, the entities or organizations designated by the Department to administer Department-approved examinations;

(3) For purposes of section 30456.2(b), the annual renewal fee, payable to the Department, shall be \$52. The renewal fee shall be collected biennially and such fee shall be twice the annual renewal fee;

(4) The fee for a duplicate permit shall be \$1.09, payable to the Department;

(5) Subject to subsection (a)(6), the penalty fee for renewal of an expired permit shall be \$5.44 and shall be in addition to the fee for renewal and payable to the Department; and

(6) Failure to pay the annual fee for renewal on or before the expiration date of the permit shall automatically suspend the permit. If the annual renewal fee is not paid within six months following such date, the permit shall be revoked. A permit revoked for nonpayment of the renewal fee may be reinstated within five years from the time of revocation upon payment of the penalty fee specified in subsection (a)(5) plus twice the annual renewal fee specified in subsection (a)(3). If the application for reinstatement is not made within five years from the date of suspension of the permit, the permit shall be canceled and shall not be subject to reinstatement.

(b) Fees required by this section are:

(1) Subject to adjustment pursuant to section 100425 of the Health and Safety Code; and

(2) Nonrefundable.

Note: Authority cited: Sections 114872 and 131200, Health and Safety Code. Reference: Sections 100305, 100425, 106995, 107080, 107085, 114872, 131050, 131051 and 131052, Health and Safety Code.

Adopt Article 3 to read as follows:

Article 3. Unauthorized Activities and Validity.

Adopt Section 30456.10 to read as follows:

§ 30456.10. Physician Assistant Fluoroscopy Permits: Unauthorized Activities and Validity.

(a) A physician assistant (PA) fluoroscopy permit issued pursuant to section 30456.2 does not authorize the holder of the permit to:

(1) Act as a certified supervisor or operator as defined in section 114850(i) of the Health and Safety Code;

(2) Perform any procedure utilizing ionizing radiation except as authorized pursuant to section 30456.1;

(3) Perform mammography as defined in section 114850(l) of the Health and Safety Code;
and

(4) Perform radiography as defined in this subchapter.

(b) A PA fluoroscopy permit is valid up to and including the expiration date stated on the permit, provided that the permit holder's PA license issued under the Physician Assistant Practice Act (Business and Professions Code, section 3500 et seq.) is current and valid. If the holder's PA license expires prior to the expiration date on the PA fluoroscopy permit, the PA fluoroscopy permit shall be invalid and the permit holder may not perform fluoroscopy procedures pending renewal or reinstatement of the holder's PA license.

Note: Authority cited: Sections 114872 and 131200, Health and Safety Code. Reference: Sections 106995, 114872, 131050, 131051 and 131052, Health and Safety Code.

Adopt Article 4 to read as follows:

**Article 4. Grounds for Suspension, Revocation, Amendment, or Restriction of
Physician Assistant Fluoroscopy Permits.**

Adopt Section 30456.12 to read as follows:

**§ 30456.12. Grounds for Suspension, Revocation, Amendment, or Restriction of
Physician Assistant Fluoroscopy Permits.**

(a) Physician assistant fluoroscopy permits may be revoked, suspended, amended, or restricted for any of the following reasons:

(1) Those reasons as specified in sections 107070 and 107085 of the Health and Safety Code.

(2) Violation of any provision of the Radiologic Technology Act (Health and Safety Code, section 27), any regulation promulgated pursuant to that Act, or any order of the Department.

(3) Violation of any provision of the Radiation Control Law (Health and Safety Code, section 114960 et seq.), any regulation promulgated pursuant to that Law, or any order of the Department.

(4) Loss of licensure as a physician assistant (PA), or suspension or restriction of a PA license by the California Physician Assistant Committee.

Note: Authority cited: Sections 114872 and 131200, Health and Safety Code. Reference: Sections 114872, 131050, 131051 and 131052, Health and Safety Code.