

FINAL STATEMENT OF REASONS

The information contained in the Initial Statement of Reasons (ISR) at the time of Public Notice remains unchanged with the exception of the following modifications.

Section 30456.2(a)(1)(A) was to be amended to require applicants to include their date of birth (DOB) with information submitted for determining the applicant is eligible for the specified permit. The DOB is used as an additional identifier of the individual who arrives at the testing facility to take the examination. The Department sends applicant information that includes the DOB to the testing facility. The applicant contacts the testing facility and schedules the examination. When the individual arrives, they must present a government-issued identification card that includes the DOB. Thus, the DOB provides additional confidence that the individual who is allowed to enter the testing facility to take the required examination is the individual who applied for the permit and was determined to be qualified to take the examination. Without such verification, an individual could fraudulently take an examination and obtain a permit for which they are not eligible. Further, because the Department already administers X-ray certification and permitting programs that require applicants to submit the DOB this proposal ensures consistent and uniform processes.

Section 30456.4(b)(1) was proposed to be amended to delete the internet web links to obtain a copy of the incorporated document. The links were deleted because the document is easily obtainable through internet searches including the Department's website. This is a change without regulatory effect.

Incorporation by Reference: The document incorporated by reference in section 30456.4 contain extensive curriculum outlines and objectives for imparting knowledge about the safe use of fluoroscopy equipment for medical purposes making it cumbersome, unduly expensive and impractical to publish the documents in the California Code of Regulations. Further, the document has been available to the public since the Notice of Proposed Action was published. Lastly, the document is readily available from internet sources at:

- (1) http://www.aapa.org/images/stories/Advocacy-state-summaries/fluoroscopy_educational_framework_ASRT_AAPA_12-09.pdf; or
- (2) https://www.asrt.org/media/pdf/educators/ed_fluoroscopy_framework_ASRT_AAPA_12-09.pdf.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF NOVEMBER 30, 2012 THROUGH JANUARY 14, 2013.

This regulation (DPH-10-006) was made available to the public from November 30, 2012 through January 14, 2013, ending at 5:00 p.m. A request for a public hearing was not received and, thus, no public hearing was held. The written proceeding produced comments from those noted below.

List of Commenters during Initial 45-day Proceeding

(Written testimony)

1. Gerald J. Laursen, Orthopedics Department, Kaiser Permanente
2. Jim Cotton, Department of Orthopedics, Kaiser Permanente
3. Valley Imaging Partnership, West Covina, CA (comment letter signed by Donald Kaiserman, MD, Kevin Kaiserman, MD, Edward Cefala, MD, Peter Chow, MD, Adil Mazhar, MD, Roben Ahdoot, MD, and David Lin, MD)
4. Jay Haischer
5. Roxanne Munyon, San Francisco, CA
6. Adam Marks, President, California Academy of Physician Assistants (CAPA) - (Teresa Anderson, Public Policy Director, CAPA, emailed support letter from Mr. Marks)
7. Aarti Kumari
8. Stacey Duncan
9. BJ Bartleson, Vice President, Nursing & Clinical Services, California Hospital Association, Sacramento, CA

Summary of comments and responses

Note: The first digit of the number designation identifies the Commenter as listed above. The digit(s) after the decimal point indicate the identified comment from that commenter.

1.1 Commenter concurs with fluoroscopy permits for physician assistants.

Response: The Department appreciates the indication of support for adoption of the proposed regulations.

2.1 Commenter indicates support for adoption of the proposed regulations.

Response: The Department appreciates the indication of support for adoption of the proposed regulations.

3.1 Commenter indicates support for adoption of the proposed regulations.

Response: The Department appreciates the indication of support for adoption of the proposed regulations.

4.1 Feels experienced CRTs who hold fluoroscopy permits should be authorized to conduct the procedures that this legislation proposes. Objects to allowing additional non-radiology trained personnel into the environment.

Response: The legislation these proposals are implementing does not identify any procedures. Further, the commenter disagrees with the legislation; however, this

comment is outside the scope of this proposal. Therefore, no change is made to this proposal due to this comment.

5.1 Objects to Physician Assistants (PA) doing the work of educated and trained Radiologic Technologists. Feels the additional 55 hours that is proposed is not nearly enough.

Response: This proposal implements the wishes of the people of California through their elected representatives of the Legislature. As proposed and discussed in the Initial Statement of Reasons, a PA would have to complete 80 hours of training and education. It appears the commenter is confusing this proposal with the 55 hour requirement specified in section 30423 regarding education requirements for the radiologic technologist fluoroscopy permit. Therefore, no changes to the proposal are made.

6.1 Commenter indicates support for adoption of the proposed regulations.

Response: The Department appreciates the indication of support for adoption of the proposed regulations.

7.1 Feels it should be at the discretion of the PA to obtain the fluoroscopy permit and not a standardized requirement.

Response: It is within the discretion to obtain or not to obtain the proposed permit. A PA who wants to use fluoroscopy equipment must meet the proposal. Therefore, no changes to the proposal are made.

7.2 Healing arts licentiates such as MD, DO, DC, DPM have to pay a one-time application fee of \$85 and a renewal fee of \$70 after two years, which totals to \$155 after three years. PAs have to pay a one-time fee of \$98 and then \$52 each year, which totals to \$202 for three years. Does not agree that PAs have to pay more for the same licensure or permit.

Response: The proposed fees are based on Department costs as presented and discussed in the Initial Statement of Reasons. The fees for healing arts licentiates were also based on Department costs in 2003 because these were adopted in 2005. Thus, fees are based on the Department cost and not the ability of a person to pay. Therefore, no changes to the proposal are made.

8.1 Commenter concurs with fluoroscopy permits for physician assistants.

Response: The Department appreciates the indication of support for adoption of the proposed regulations.

9.1 Commenter concurs with fluoroscopy permits for physician assistants.

Response: The Department appreciates the indication of support for adoption of the proposed regulations.

COMMENTS RECEIVED DURING THE PERIOD THE MODIFIED TEXT WAS AVAILABLE TO THE PUBLIC

This modified text was made available to the public from May 14, 2013 through May 28, 2013. The Department did not receive any comments on the modified text.

ALTERNATIVES DETERMINATION: In accordance with Government Code Section 11346.9(a)(4), the Department has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

IMPOSITION OF LOCAL MANDATE

The Department has determined that the regulation would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with Section 17500) of division 4 of the Government Code, nor are there any other nondiscretionary costs imposed.

IMPACT ON BUSINESS

The Department has determined that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.