

**State of California
Office of Administrative Law**

In re:
Department of Public Health

Regulatory Action:

Title 17, California Code of Regulations

Adopt sections:

Amend sections: 30305

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2018-0608-01

OAL Matter Type: Regular Resubmittal (SR)

This rulemaking by the California Department of Public Health modifies the requirements for displaying certificates and permits issued pursuant to the Radiologic Technology Act.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2018.

Date: July 19, 2018



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For: Debra M. Cornez
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Original: Dr. Karen Smith, Director
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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 30305(e)(1) & (e)(2)(A): The text is revised to prevent interpretation that an individual must, or will always, have both a certificate AND a permit. An individual may have a combination of authorizations, described below. It is intended that the user post all required authorizations held by each individual, or provide a list with specific information. When providing a list, the certificate or permit number is entered in the Department's website search tool at <http://rhubxray.cdph.ca.gov/> displaying all authorizations held by that individual.

Under the RT Act, individuals are categorized as either licentiates of the healing arts ("Licentiates") (17 CCR 30400(a)(25)) or non-licentiates (i.e. certified radiologic technologists (CRT) (17 CCR 30400(a)(9)), and limited permit X-ray technicians (XT) (17 CCR 30400(a)(27))). The overall current structure of certification and permitting of individuals under the RT Act is as follows:

1. Certificates & Permits issued to non-licentiates:

- CRTs can obtain up to three certificates and one permit:
 - Certificates in:
 - Diagnostic radiologic technology (17 CCR 30440)
 - Therapeutic radiologic technology (17 CCR 30440)
 - Mammographic radiologic technology (17 CCR 30455.1)
 - Must also possess certificate in diagnostic radiologic technology.
 - Permit:
 - Radiologic technologist fluoroscopy permit (17 CCR 30451)
 - Must also possess certificate in diagnostic radiologic technology.
- XTs only receive permits and can hold any combination of the follow eight categories (17 CCR 30442 & 30443):
 - Chest; Dental X-ray laboratory; Dermatology X-ray therapy; Extremities; Leg-podiatric; Skull; X-ray bone densitometry; and Torso-skeletal radiography.

2. Certificate & Permits issued to licentiates (17 CCR 30466)

- Radiology supervisor and operator (S&O) certificate: Issued only to radiologists and radiation oncologists. (17 CCR 30462.) A certificate grants X-ray use without limitation, so these licentiates will only hold one certificate.
- Non-Radiologist, Non-radiation oncologist physicians, chiropractors and podiatrists will generally hold either one or both of the following:
 - Fluoroscopy S&O permit. (17 CCR 30461(b).)
 - Radiography S&O permit. (17 CCR 30461(c).)
- Dermatology S&O permit: Very limited permit (17 CCR 30461(d)) issued to practicing dermatologists performing radiation therapy of skin lesions.
- X-ray bone densitometry S&O permit: Very limited permit (17 CCR 30461(e)); not required if the licentiate already holds either the radiology certificate or the radiography permit.

Response: This proposal does not apply to dental hygienists, registered dental assistants and dentists, and would not require these individuals to obtain additional authorizations. It requires X-ray facilities performing radiologic technology (e.g. "taking human X-rays") to post documents, or information found on those documents, issued by CDPH under the Radiologic Technology Act (RT Act).

Although the RT Act does apply to the dental industry, it exempts dentists and persons who, under the supervision of a licensed dentist, operate only dental radiographic equipment for the sole purpose of dental radiography, provided these persons have complied with Section 1656 of the Business and Professions Code (BPC). (HCS § 106975(e).) The California Board of Dental Examiners administers BPC § 1656 and issues the X-ray authorizations for purposes of oral radiography. Thus, since those authorizations are not issued under the RT Act, the proposal does not apply to the dental industry. Therefore, no changes to the proposal are made.

- 2.1 Stated that physical posting requirements seem to serve the state more than the public and having a license on the wall goes unnoticed. "Employers are responsible for the verification of credentials not members of the public." Commenter also suggested that the state implement an electronic application and payment system.**

Response: The comments appear to suggest that since employers already verify an employee's credentials, the employer should not be required to post the authorization.

The Department believes that the public should have access to this information, regardless of whether any given member of the public chooses not to review the information. This proposal would provide the public with easily accessible information on whether or not persons exposing people to X-rays are qualified to do so, and additionally improve the public's confidence in the Department's effort to ensure that only those persons who have met specific standards of training, education and experience are deemed qualified to perform X-ray procedures.

The commenter also provides comments on issues not related to this proposal, such as manual vs electronic options for submittal of applications, and the availability of online payments. Though those issues are not related to this proposal, those options are under consideration. Lastly, as indicated in the ISR, the Department's website contains a search tool to verify an individual's authorization. The authorization is verifiable within 48 hours of Department approval. Therefore, no changes to the proposal are made.

California Code of Regulations
Title 17. Public Health
Division 1. Department of Health Services
Chapter 5. Sanitation
Subchapter 4. Radiation
Group 3. Standard for Protection Against Radiation
Article 4. Special Requirements for the Use of X-Ray in the Healing Arts

Amend Section 30305 to read as follows:

§ 30305. General Provisions.

(a) – (d) *No change to text.*

(e) The user shall publically display at each installation where an individual performs, or supervises the performance of, radiologic technology, as defined in section 30400, either:

(1) A copy of each of the individual's applicable current and valid certificate or permit issued pursuant to subchapter 4.5 (commencing at section 30400) of this chapter; or

(2) A list of all such persons containing:

(A) For each individual, the individual's name, the applicable certificate or permit number, and the expiration date as indicated on the Department issued document. This information shall be in a font size no less than 12 points; and

(B) The statement "A copy of the individual's certificate or permit is available for viewing upon request." in a font size no less than 14 points.

(f) If a user elects to post the list specified in subsection (e)(2), the user shall maintain the certificate or permit or a copy thereof for all individuals identified on the list.

Note: Authority cited: Sections ~~100275, 114975, 115000, 115060~~131051, 131052, 131055 and 131200, Health and Safety Code. Reference: Sections 114965, 114970, 115000, ~~and 115060, 131050, 131051 and 131052~~, Health and Safety Code.