

Date of Hearing: April 6, 2021

ASSEMBLY COMMITTEE ON HEALTH

Jim Wood, Chair

AB 356 (Chen) – As Introduced February 1, 2021

SUBJECT: Fluoroscopy: temporary permit.

SUMMARY: Authorizes the Department of Public Health (DPH) to issue a physician and surgeon (MD) or a doctor of podiatric medicine (DPM) a one-time, temporary permit authorizing them to operate or supervise the operator of fluoroscopic X-ray equipment if certain conditions are met. Specifically, **this bill:**

- 1) Authorizes DPH to issue a MD or DPM a one-time, temporary permit authorizing them to operate or supervise the operator of fluoroscopic x-ray equipment if:
 - a) The MD or DPM holds a valid California license as a MD or DPM;
 - b) Has submitted an application for a fluoroscopy certificate; and,
 - c) Has used fluoroscopy in another state.
- 2) Requires the application to indicate the locations or facilities where the MD or DPM will be providing fluoroscopy.
- 3) States that a temporary permit issued pursuant to 1) above conveys the same right as a fluoroscopy certificate for the period for which it is issued in the classification for which the MD or DPM is eligible and valid for up to 12 months from the date of issue.
- 4) Prohibits DPH from renewing a temporary permit, and limits an applicant to one temporary permit.
- 5) Requires DPH to charge a fee for a temporary permit to the extent necessary to administer the certificate. Requires the fee to be an amount sufficient to recover DPH's reasonable costs in administering the temporary permit program, but cannot exceed the amount of the fee for the certification to operate or supervise the operation of fluoroscopic X-ray equipment.
- 6) Subjects the temporary permit holder to existing denial, revocation, or suspension requirements.

EXISTING LAW:

- 1) Establishes the Radiologic Health Branch within the DPH which provides for the licensing of radioactive materials, registration of X-ray-producing machines, certification of medical and industrial X-ray and radioactive material users, inspection of facilities using radiation, investigation of radiation incidents, and surveillance of radioactive contamination in the environment.
- 2) Establishes the Radiology Technology Act (RTA) to protect the public and radiation workers from excessive or improper exposure to ionizing radiation.

- 3) Makes it unlawful for any licentiate of the healing arts to administer or use diagnostic, mammographic, or therapeutic X-ray on human beings in this state after January 1, 1972, unless that person is certified, and is acting within the scope of that certification, as specified.
- 4) Specifies continuing education requirements for those that use radiation equipment. Requires for those that hold a fluoroscopy supervisor or operator permit to fulfill four of the 10 continuing education credits in radiation safety for the clinical uses of fluoroscopy.
- 5) States that certificates and permits may be denied, revoked, or suspended by DPH, for any of the following reasons:
 - a) Habitual intemperance in the use of any alcoholic beverages, narcotics, or stimulants to the extent as to incapacitate for the performance of professional duties;
 - b) Incompetence or gross negligence in performing radiologic technology functions;
 - c) Conviction of practicing one of the healing arts without a license, as specified;
 - d) Procuring a certificate or permit by fraud, or misrepresentation, or because of mistake;
 - e) Use of a designation implying certification as a radiologic technologist by one not so certified; or,
 - f) Nonpayment of fees, as specified.

FISCAL EFFECT: Unknown. This bill has not yet been analyzed by a fiscal committee.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, this bill helps patients by allowing MDs and DPMs who have used fluoroscopy in their practice in another state to have a one-time, temporary permit to use fluoroscopy to give them time to complete the requirements for a California fluoroscopy permit. Because California is one of only two states to require doctors and podiatrists to have an additional permit to use fluoroscopy in surgery, many doctors who have practiced in other states do not know they need to get a permit until they get to California. The process to get a permit can take up to nine months. Since patients need their doctors to be able to use fluoroscopy in surgery, this bill will help surgical patients by letting out of state doctors who have used fluoroscopy get a one time temporary permit to use fluoroscopy while they complete the requirements for a California permit.

- 2) **BACKGROUND.**

- a) **Fluoroscopy.** According to the federal Food and Drug Administration, fluoroscopy is a type of medical imaging that shows a continuous X-ray image on a monitor, much like an X-ray movie. During a fluoroscopy procedure, an X-ray beam is passed through the body. The image is transmitted to a monitor so that the movement of a body part or of an instrument or contrast agent ("X-ray dye") through the body can be seen in detail. Fluoroscopy is used in a wide variety of examinations and procedures to diagnose or treat patients. Some examples are: barium X-rays and enemas (to view the gastrointestinal tract); catheter insertion and manipulation (to direct the movement of a catheter through blood vessels, bile ducts or the urinary system); placement of devices within the body, such as stents (to open narrowed or blocked blood vessels); angiograms (to visualize blood vessels and organs); and, orthopedic surgery (to guide joint replacements and treatment of fractures).

Fluoroscopy carries some risks, as do other X-ray procedures. The radiation dose that a patient receives varies depending on the individual procedure. Fluoroscopy can result in relatively high radiation doses, especially for complex interventional procedures (such as placing stents or other devices inside the body) which require fluoroscopy to be administered for a long period of time. Radiation-related risks associated with fluoroscopy include: radiation-induced injuries to the skin and underlying tissues (“burns”), which occur shortly after the exposure; and, radiation-induced cancers, which may occur sometime later in life.

The statistical probability that a person will experience these effects from a fluoroscopic procedure is very small. Therefore, if the procedure is medically needed, the radiation risks are outweighed by the benefit to the patient. In fact, the radiation risk is usually far less than other risks not associated with radiation, such as anesthesia or sedation, or risks from the treatment itself. To minimize the radiation risk, fluoroscopy should always be performed with the lowest acceptable exposure for the shortest time necessary.

- b) **California requirements.** In California, the RTA defines a fluoroscopy as a technique for obtaining, continuously or periodically, a sequence of X-ray patterns and presenting them directly, or through a transfer and optional processing, simultaneously and continuously as visible images. To use fluoroscopy equipment, one must obtain either a radiologic technologist fluoroscopy permit, a fluoroscopy supervisor and operator permit, or a Physician Assistants fluoroscopy permit. One of the requirements to obtain a permit is to pass an examination administered by the American Registry of Radiology Technologists (AART). A fluoroscopy supervisor and operator permit is also issued to a licensee of the healing arts defined as a licensed physician and surgeon, licensed podiatrist, or licensed chiropractor. To supervise a radiologic technologist in the operation of fluoroscopy equipment or to operate fluoroscopy equipment, a physician, podiatrist or chiropractor must pass the examination administered by AART. DPH states that generally applications are processed within 30 days of receipt and on average permits are being issued around 4.5 months. If an application is complete and includes all the required documentation, the applicant receives permission to schedule and register with the AART to take the examination. However, due to the pandemic there has been limited seating at testing sites and is contributing to the delays in the issuance of permits. As of January 1, 2021, there were approximately 2,530 licensed MDs, DPMs or Doctors of Osteopathic Medicine who hold a current and valid fluoroscopy permit.
- 3) **SUPPORT.** According to the sponsors of this bill, the California Orthopaedic Association and the California Podiatric Medical Association, California has the most stringent and burdensome regulations regarding doctors performing fluoroscopy and radiography across the country. Since California’s certification process is unique, when out-of-state practitioners come to California, they often do not anticipate the need for fluoroscopy certification. The certification process is antiquated and takes six to nine months to obtain. During that time, the doctor cannot use fluoroscopy in surgery. They conclude that this bill creates a one-time, temporary permit allowing physicians and doctors of podiatric medicine, who have used fluoroscopy in another state, to use fluoroscopy in California while they go through the process to receive fluoroscopy certification.

The California Radiological Society writes in support that this bill provides a solution by allowing the Radiologic Health Branch to issue a temporary permit for a physician or podiatrist coming to California from another state where they were utilizing fluoroscopy

- 4) **SUPPORT IF AMENDED.** The California Society of Radiologic Technologists (CSRT) states that it has always held the position that the use of fluoroscopy needs to be based on a sound foundation of education and training regarding radiation safety. The current scope of this bill would permit a physician, surgeon, or doctor of podiatric medicine to work under the temporary permit for longer than the CSRT is comfortable with. Additionally, this opens up the potential for the doctor to fail the first attempt at the supervisor and operator certificate exam and still be allowed to use ionizing radiation under their temporary permit for the balance of the 12 months with the full authority of those who passed the exam under the current regulations. The CSRT would request an amendment to change from a 12-month temporary license to a six month temporary license. This would not delay patient care as a doctor moves to California from out of state, however, does not allow enough time to delay the credentialing exam or the potential to repeat the exam a second time while working under the temporary permit.
- 5) **DOUBLE-REFERRAL.** This bill is double-referred. Should it pass out of this committee, it will be referred to Assembly Business & Professions Committee.
- 6) **RELATED LEGISLATION.** AB 278 (Flora) extends to DPMs specific Medi-Cal provider enrollment provisions that current apply to physicians. AB 278 is pending in Assembly Appropriations Committee.
- 7) **PREVIOUS LEGISLATION.** AB 2544 (Santiago) of 2020, would have permitted DPH to issue a MD or DPM a temporary fluoroscopy permit that is valid for up to nine months from the date of issue. AB 2544 was held in the Assembly Health Committee due to the shortened Legislative calendar brought on by the COVID-19 pandemic. AB 407 (Santiago) of 2019 would have authorize a MD or DPM who works in a setting that is in compliance with the Centers for Medicare and Medicaid Services' Conditions for Coverage relating to radiation safety, to provide fluoroscopy services without a fluoroscopy permit or certification. AB 407 was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Orthopaedic Association (cosponsor)
California Podiatric Association (cosponsor)
California Radiological Society

Opposition

None on file

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