
**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Richard Roth, Chair
2021 - 2022 Regular

Bill No:	AB 356	Hearing Date:	June 21, 2021
Author:	Chen		
Version:	February 1, 2021		
Urgency:	No	Fiscal:	Yes
Consultant:	Sarah Mason		

Subject: Fluoroscopy: temporary permit

SUMMARY: Authorizes a licensed physician and surgeon or doctor of podiatric medicine who has used fluoroscopy in another state to receive a one-time temporary permit authorizing them to operate or supervise the operation of fluoroscopic x-ray equipment.

- 1) Provides the Radiologic Health Branch (RHB) within the California Department of Public Health (CDPH) with responsibility for administering and enforcing the Radiologic Technology Act. (Health and Safety Code (HSC) §§ 106955 *et seq.*)
- 2) Requires the RHB to provide for the certification of radiologic technologists, as well as physicians and surgeons, to use certain radiologic technology. (HSC § 114870)
- 3) Requires the RHB to issue a fluoroscopy permit to a qualified licensee of the healing arts. (HSC § 114872)
- 4) Authorizes only a licensed physician and surgeon, podiatrist, chiropractor, or any person practicing a licensed healing art, or any technician working under the direct and immediate supervision of those persons, to operate or maintain any X-ray fluoroscope, or other equipment or apparatus employing roentgen rays, in the fitting of shoes or other footwear or in the viewing of bones in the feet. (HSC § 106955)
- 5) Prohibits any healing arts licensee from administering or using diagnostic, mammographic, or therapeutic X-rays on human beings unless that person is certified and acting within the scope of that certification. (HSC § 107110)
- 6) Allows the RHB to grant limited-term special permits to persons exempting them from certification requirements if there is substantial evidence that the people in the locality in which the exemption is sought would be denied adequate medical care because of unavailability of certified radiologic technologists. (HSC § 114885)
- 7) Requires those holding a fluoroscopy permit, in the two years immediately preceding the expiration date of that permit, to earn approved continuing education (CE) credits, including credits in radiation safety for the clinical uses of fluoroscopy. (Title 17, CCR § 30403 (b))

This bill:

- 1) Authorizes CDPH to issue a physician and surgeon or a doctor of podiatric medicine a one-time, temporary permit authorizing them to operate or supervise the operation of fluoroscopic x-ray equipment if the individual holds a valid California license, applies application for a fluoroscopy certificate, and has used fluoroscopy in another state.
- 2) Specifies that a temporary permit conveys the same rights as a fluoroscopy certificate for the period for which it is issued in the classification for which the physician and surgeon or the doctor of podiatric medicine is eligible and that the temporary permit is valid for up to 12 months from the date of issue.
- 3) Requires CDPH to charge a fee for a temporary permit in an amount sufficient to recover the reasonable costs in administering the temporary permit program, not to exceed the amount of the fee for the certification to operate or supervise the operation of fluoroscopic x-ray equipment.
- 4) Specifies that the temporary permit may be denied, revoked, or suspended for the same reasons as other certificates issued by the RHB.

FISCAL EFFECT: This bill is keyed fiscal by Legislative Counsel. According to the Assembly Committee on Appropriations, the bill will result in costs to CDPH in the hundreds of thousands of dollars for the first two to three years to develop regulations establishing the new permit and application forms and ongoing costs, likely in the \$100,000 to \$200,000 range, to process additional permits.

COMMENTS:

1. **Purpose.** This bill is sponsored by the California Orthopaedic Association and California Podiatric Medical Association. According to the Author, "...doctors and podiatrists need a license to use fluoroscopy in their practice. If they do not have that license to practice fluoroscopy, they cannot use it on their patients...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 6 to 9 months to obtain. During that time, the doctor cannot use fluoroscopy in surgery." According to the Author, "this bill would create a one-time temporary certification for doctors coming into California who have used fluoroscopy in their home state, allowing them to use fluoroscopy to help patients while they wait to take the test and to get their results."
2. **Fluoroscopy.** According to the 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). Like most other forms of radiologic procedures, use of this technology is regulated through the CDPH, and healing arts licensees must meet certain training and certification requirements to perform fluoroscopy services.

In California, a radiologic technologist fluoroscopy permit, a fluoroscopy supervisor and operator permit, or a Physician Assistants fluoroscopy permit is required to operate fluoroscopy equipment. To obtain such a permit, an applicant must currently pass an examination administered by the American Registry of Radiology Technologists. According to the CDPH, close to 8,800 physicians and podiatrists currently hold valid fluoroscopy permits.

3. **Related Legislation.** AB 2544 (Santiago, 2020) would have allowed CDPH to issue a temporary fluoroscopy permit to a licensed physician and surgeon or doctor of podiatric medicine that is valid for up to nine months from the date of issue. (Status: *The bill was never heard in a policy committee of the Legislature.*)

AB 407 (Santiago, 2019) would have authorized a licensed physician and surgeon or doctor of podiatric medicine 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. (Status: *The measure was held under submission in the Senate Appropriations Committee.*)

4. **Arguments in Support.** The sponsors write that “This simple 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. California has the most stringent and burdensome regulations regarding doctors performing fluoroscopy and radiography across the country. In fact, only California and Alaska require additional certification to use fluoroscopy. 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 6 to 9 months to obtain. During that time, the doctor cannot use fluoroscopy in surgery.”

The California Radiological Society writes that they “support the need for the education and training to obtain the Fluoroscopy Permit but recognize the problems with delays in obtaining the permit due to testing opportunities. We believe that AB 356 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. The permit is good for up to one year and is not renewable.”

5. **Concerns.** The California Society of Radiologic Technologists (CSRT) writes that is 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 AB 356 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 AB 356 to change from a 12-month temporary license to a 6-month temporary license.”

SUPPORT AND OPPOSITION:Support:

California Orthopedic Association
California Podiatric Medical Association
California Radiological Society

Opposition:

None received

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