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To: CDPH Ofc of Regulations <Regulations@cdph.ca.gov>

Subject: GOV § 11340.6 Petition - Modification of 22 CCR § 70251 definition of Radiological Services to exclude thermography and ultra sound / ultrasound

PETITION FOR RULEMAKING Submitted Pursuant to California Government Code § 11340.6 I. Petitioner Tobias Gilk II. Agency Petitioned California Department of Public Health (CDPH) Licensing & Certification Division III. Purpose of Petition

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PETITION FOR RULEMAKING

Submitted Pursuant to California Government Code § 11340.6

I. Petitioner

Tobias Gilk

II. Agency Petitioned

California Department of Public Health (CDPH)
Licensing & Certification Division

III. Purpose of Petition

Petitioner respectfully requests that CDPH amend **22 CCR § 70251** (“Radiological Service – Definition”) to **remove “thermography” and “ultra sound”** from the definition of radiological services.

In a letter dated November 04, 2025 from Keith Van Wagner, CDPH Assistant Chief Counsel, Office of Legal Services, in response to a citizen petition, Mr. Van Wagner stated the CDPH position that MRI was precluded from inclusion within the 22 CCR § 70251

definition of Radiological Services because existing RCL and RT acts pertain specifically to ionizing radiation. If this is the CDPH policy, then both thermography and ultra sound (ultrasound) should be struck from the existing definition.

IV. Background and Regulatory Context

A. Existing Text

Under **22 CCR § 70251**, *Radiological Service* is presently defined as:

“Radiological service means the use of X-ray, other external ionizing radiation, and/or thermography, and/or ultra sound in the detection, diagnosis and treatment of human illnesses and injuries with appropriate staff, space, equipment and supplies. ”

B. Basis for Amendment

1. Scientific Accuracy

- *Thermography* uses passive infrared sensing of surface heat emission and involves no emission or controlled application of radiant energy.
- *Ultrasound* employs high-frequency sound waves (mechanical energy), not electromagnetic radiation.
- Inclusion of these modalities within “radiological services” while factually correct, is in direct contradiction of CDPH’s stated policy that the definition of radiological services is dependent upon the presence of ionizing radiation.

2. Regulatory Consistency

- The **Radiation Control Law (Health & Safety Code §§ 114960 et seq.)** governs the safe use of **radiation machines and radioactive materials**, not acoustic or infrared devices.
- The **Radiologic Health Branch (RHB)** of CDPH does not regulate thermography or ultrasound under its licensing or inspection authority.

3. Administrative Clarity

- Removing these terms from § 70251 would bring the existing definition into compliance with the CDPH expressed policy that radiological services must make use of ionizing radiation.

4.

5. **Potential Complication**

- The removal of thermography and ultrasound from the definition of radiological services could create very significant jurisdictional ‘blind spots’ within CDPH’s licensure authority, putting patients at greater risk of harm.

V. Proposed Amendment

§ 70251. Radiological Service – Definition (Amended Text)

§ 70251. Radiological Service.

(a) Definition.

"Radiological service means the use of X-ray, other external ionizing radiation, in the detection, diagnosis and treatment of human illnesses and injuries with appropriate staff, space, equipment and supplies."

VI. Legal Authority

- **Gov. Code § 11340.6** – Public right to petition for adoption, amendment, or repeal of a regulation.
- **Health & Safety Code §§ 1254, 1275, 1276, 1280.1–1280.3** – CDPH’s authority to regulate hospital services and enforce patient safety.
- **22 CCR § 70251** – Current regulatory definition of Radiological Service.

VII. Expected Benefits

- **Regulatory Clarity:** Clarifies that oversight of thermography and ultrasound falls outside CDPH’s purview, in accordance with positions expressed by CDPH in 04 November, 2025 letter.
- **Administrative Efficiency:** Reduces interpretive ambiguity for surveyors and hospitals regarding licensure requirements, though potentially at the cost of the introduction of an additional significant regulatory ‘blind spot’ that will inhibit the

CDPH mission of protecting Californians seeking safe and effective care at licensed providers.

VIII. Requested Action

Petitioner respectfully requests that CDPH:

1. Initiate rulemaking under *Gov. Code §§ 11346 et seq.* to amend 22 CCR § 70251 as proposed;
2. Publish notice of proposed rulemaking in the *California Regulatory Notice Register*; and
3. Convene stakeholder review to ensure consistent application across hospital service regulations.