

2019 CRS Legislative Advocacy Annual Report

I. Bill to Revise Supreme Court Decision on Independent Contractor vs Employee Status

A 2018 decision by the California Supreme Court (the Dynamex decision) threatens the classification of radiologists as independent contractors. Whether one is an independent contractor largely rests on the ability to control work and independence as a professional. Traditionally, physician groups have classified radiologists as independent contractors and not employees in the case of locum tenens or other types of non-partner/shareholder relationships.

The Dynamex decision assumes one is an employee, unless the relationship meets all three of the following criteria:

1. Worker is free from control and direction of hiring entity in performance of the work
2. Worker performs work that is outside the usual course of the hiring entity's business
3. Worker is customarily engaged in an independently established trade, occupation or business

It is difficult for a radiologist or radiologist group to meet the second requirement as they would be providing radiology services, the usual course of business.

CRS opposed the Dynamex decision.

The CRS obtained exemptions for radiologists/radiation oncologists who contract with a group or radiologists/radiation oncologists that contract with the hospital, thus allowing them to continue being classified as independent contractors.

II. Bill to Alter Fluoroscopy Permit Requirement for Non-Radiologist Physicians

Bill AB-407 allows exemption from the fluoroscopy permit for non-radiologist physicians. The fluoroscopy permit requirement was created in 1985 for both physicians and radiology technologists, requiring these users take and pass a test on radiation and dose safety related to fluoroscopy. Bill AB-407 is largely sponsored by podiatry and orthopedic surgeons who would prefer to only be bound by the new JCAHO standards for facilities that provide fluoroscopy. These JCAHO standards are non-specific and do not even require annual CME or real assessment of competency.

CRS opposed bill AB-407.

This bill did not pass and died in 2019.

III. Bill to Create Radiology Assistance Licensure in California

Bill SB-480 creates a licensing mechanism for radiologist assistants in California. This is already in place in many other states. Licensing allows full recognition of radiology assistants in order to take advantage of their full scope of practice and training. Radiology assistants would be supervised by a radiologist and could not provide interpretation of imaging studies.

CRS supports bill SB-480.

This bill passed the senate and will be heard in the assembly in Spring.

IV. Fixes to Radiologist/Radiation Oncologist Requirement to Consult CURES Database

As of 10/02/2018 any physician who prescribed a schedule II- IV drug must consult the CURES database on the initial prescription and then every 4 months the drug remained part of the patient's treatment plan.

CRS sought revisions:

1. Ordering and providing medication in a facility would now include "imaging centers" and therefore, no duty to consult CURES.
2. Expands the current exemption for dispensing less than or equal to a 7-day supply of medication as part of the patient's treatment or surgery, to now also include "radiotherapeutic" procedures.
3. Expands the exemption for surgical procedures to also include any diagnostic procedure where dispensing was limited to and does not include more than a 7-day supply.

Revisions are to take effect 01/01/2020.

V. Medi-Cal Recoupment of Radiology payments

CRS is actively working on issues regarding reimbursement of radiology services from Medi-Cal FFS and years of erroneous payment corrections.