

STATE ACTS AND REGULATIONS ON IMAGING: HAWAII

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Introduction

APTA supports the ability of physical therapists to order appropriate tests as part of their diagnostic process. This includes ordering imaging studies that are performed and interpreted by other health professionals, as well as performing or interpreting selected imaging or other studies. One aspect of achieving this goal is at the state level, under jurisdictional scope of practice. This includes not only the physical therapist scope of practice, but other provider and facility laws that may come into play. To help identify potential hurdles, APTA conducted an environmental scan of 25 selected states. The purpose is to identify any statutory considerations, as well case law and attorney general opinions that may impact the ability of APTA chapters to pursue legislative efforts on this issue.

Summary

The Hawaii Physical Therapy Practice Act states that the term ‘practice of physical therapy’ includes but is not limited to the use of electromagnetic radiation. Moreover, the practice act states that physical therapy does not include invasive procedures that break or puncture a person’s good skin integrity. Furthermore, physical therapists are not exempted from the license requirements under the radiologic technology statutes. Finally, the physical therapy profession is not included in the term healing arts within the Hawaii Administrative Rules.

Physical Therapy Practice Act and Regulations

The Hawaii Physical Therapy Practice Act states: “[p]hysical therapy’ or ‘physical therapy services’ means the examination, treatment, and instruction of human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction, pain from injury, disease, and any other physical or mental condition as performed by a physical therapist appropriately licensed under this chapter. It includes but is not limited to: (1) Administration, evaluation, modification of treatment, and instruction involving the use of physical measures, activities, and devices, for preventive and therapeutic purposes; provided that should the care or treatment given by a physical therapist or physical therapist assistant contravene treatment diagnosed or

prescribed by a medical doctor, osteopath, or as determined by the board, the physical therapist shall confer with the professional regarding the manner or course of treatment in conflict and take appropriate action in the best interest of the patient; and (2) The provision of consultative, educational, and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction, or pain.”
HRS § 461J-1 (2016)

The act further states: “‘Practice of physical therapy’ includes, but is not limited to, the use of the following: (1) Physical agents, such as heat, cold, water, air, sound, compression, light, electricity, and electromagnetic radiation; (2) Exercise with or without devices, joint mobilization, mechanical stimulation; biofeedback; postural drainage; traction; positioning, massage, splinting, training in locomotion, and other functional activities with or without assisting devices; and correction of posture, body mechanics, and gait; (3) Tests and measurements of: muscle strength, force, endurance, and tone; joint motion, mobility, and stability; reflexes and automatic reaction; movement skill and accuracy; sensation and perception; peripheral nerve integrity; locomotor skill, stability, and endurance; activities of daily living; cardiac, pulmonary, and vascular functions; the fit, function, and comfort of prosthetic, orthotic, and other assisting devices; posture and body mechanics; limb strength, circumference, and volume; thoracic excursion and breathing patterns; vital signs; nature and locus of pain and conditions under which pain varies; photosensitivity; and the home and work physical environments.” *HRS § 461J-1 (2016)*

In addition, the act provides that “[a] physical therapist shall not use invasive procedures. For purposes of this section, an invasive procedure is the breaking or puncturing of a person’s good skin integrity, for example, through surgery or injections.”
HRS § 461J-2.5 (2018)

Non-Physical Therapy Practice Acts and Regulations

Hawaii statutes governing radiologic technology state that “[r]adiologic technologist’ means any person who applies x-rays to human beings for diagnostic purposes, ionizing radiation to human beings for therapeutic purposes, or radiopharmaceuticals for diagnostic or therapeutic purposes.”

The statute further provides that “[r]adiologic technology’ means the application of x-rays to human beings for diagnostic purposes, ionizing radiation to human beings for therapeutic purposes, or radiopharmaceuticals for diagnostic or therapeutic purposes.”
HRS § 466J-1

The statute also states: “[n]o person shall practice or offer to practice as a radiographer, as a radiation therapist, or as a nuclear medicine technologist without an appropriate license previously obtained and maintained in good standing in compliance with this

chapter and the rules of the board. It shall be unlawful for any person not appropriately licensed under this chapter to practice or offer to practice radiologic technology.” *HRS §466J-4 (a) (2018)*

Finally, the statute provides that “[a]ny provision in this chapter to the contrary notwithstanding, a license shall not be required for: (1) A licensed medical practitioner in radiology; (2) A licensed practitioner of nuclear medicine; (3) A licensed physician assistant; (4) A licensed doctor of dentistry; (5) A licensed dental technician; (6) A licensed dental hygienist; (7) A student in an approved school for radiographers, radiation therapists, or nuclear medicine technologists, or in a school of medicine, podiatry, dentistry, or a chiropractic school; provided that the student is operating x-ray machines under the direct supervision of a licensed radiographer, licensed radiation therapist, licensed nuclear medicine technologist, or a qualified person pursuant to this chapter; and (8) A radiologist duly licensed to practice medicine and radiology services in another state who uses telehealth while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed; provided that services provided by telehealth pursuant to this paragraph shall be consistent with all federal and state privacy, security, and confidentiality laws.” *HRS §466J-6(a) (2018)*

Attorney General Opinions

No jurisdictional attorney general’s opinions on point were identified.

Jurisdictional Case Law

No jurisdictional case law on point was identified.

State Law and Regulations Governing Hospitals and Other Facilities and Services

The Hawaii Administrative Rules regulating radiation control state: “‘Healing arts screening’ means the testing of human beings using x-ray machines for the detection or evaluation of health indications when such tests are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to prescribe such x-ray tests for the purpose of diagnosis or treatment. *HAR § 11-45-2 (2018)*

The rules further provide that “[h]ealing arts’ means the medical, dental, chiropractic, podiatric, and veterinary professions. *HAR § 11-45-2 (2018)*