

STATE ACTS AND REGULATIONS ON IMAGING: KENTUCKY

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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 Kentucky Physical Therapy Practice Act specifically excludes the use of roentgen rays and radium for diagnostic purposes from the scope of physical therapy. Furthermore, the Kentucky Administrative Regulations require that physical therapists refer patients to a licensed health care practitioner when required. Moreover, the Kentucky regulations governing health services and facilities require that orders for diagnostic tests come from “a physician, dentist, or other ordering personnel.”

Physical Therapy Practice Act and Regulations

The Kentucky Physical Therapy Practice Act states: “[p]hysical therapy’ means the use of selected knowledge and skills in planning, organizing, and directing programs for the care of individuals whose ability to function is impaired or threatened by disease or injury, encompassing preventive measures, screening, tests in aid of diagnosis by a licensed doctor of medicine, osteopathy, dentistry, chiropractic, or podiatry and evaluation and invasive or noninvasive procedures with emphasis on the skeletal system, neuromuscular and cardiopulmonary function, as it relates to physical therapy. Physical therapy includes screening or evaluations performed to determine the degree of impairment of relevant aspects, such as but not limited to nerve and muscle function including subcutaneous bioelectrical potentials, motor development, functional capacity,

and respiratory or circulatory efficiency. Physical therapy also includes physical therapy treatment performed upon referral by a licensed doctor of medicine, osteopathy, dentistry, chiropractic, or podiatry, including but not limited to exercises for increasing or restoring strength, endurance, coordination and range of motion, stimuli to facilitate motor activity and learning, instruction in activities of daily living, and the use of assistive devices and the application of physical agents to relieve pain or alter physiological status. The use of roentgen rays and radium for diagnostic or therapeutic purposes, the use of electricity for surgical purposes, including cauterization and colonic irrigations are not authorized under the term "physical therapy" as used in this chapter[.]” *Ky Rev Stat Ann § 327.010 (1) (LexisNexis 2008)*

The Kentucky Administrative Regulations state: “[g]oals of the patient-physical therapy unit include, but are not limited to, maintaining health, preserving functional capacity, and in the presence of impairment, developing or reestablishing function through carefully planned, and implemented programs. In order to reach these objectives, the physical therapist provides consultation, evaluates patients, identifies problems, plans programs, and provides direct treatment.” *201 Ky Admin Regs 22:010 § 1 (1986)*

The regulations further state: “Adequate, effective, and efficient patient care is the ultimate goal of physical therapy. The physical therapist evaluates each patient, and determines those ways in which he can contribute to total health management. He then plans and implements a treatment program, reevaluating and making modifications as necessary. A physical therapist shall refer to a licensed physician or dentist any patient whose medical condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of the physical therapist. When basis for treatment is referral, the physical therapist may confer with the referring physician, podiatrist, dentist, or chiropractor.” *201 Ky Admin Regs 22:010 § 2 (1986)*

In addition, the regulations state: “While engaged in the practice of physical therapy, a physical therapist shall:...(5) Refer the patient to other professionals or services if the treatment or service is beyond the physical therapist's scope of practice[.]” *201 Ky Admin Regs 22:053 § 2 (5) (1990)*

Non-Physical Therapy Practice Acts and Regulations

Provisions in the Kentucky Revised Statutes Annotated governing Medical Imaging, Radiation Therapy, and Related Occupations include the following:

- “Authorized user” means a physician, dentist, or podiatrist identified on a radioactive materials license that authorizes the medical use of radioactive materials if the license was issued by: (a) The Cabinet for Health and Family Services; (b) The United States Nuclear Regulatory Commission; or (c) Another

United States Nuclear Regulatory Commission agreement state[.]” *Ky Rev Stat Ann 311B.020 (4) (LexisNexis 2012)*

- “‘Radiation therapist’ means an individual who: (a) Has completed an accredited educational program in radiation therapy; (b) Is licensed by the board; and (c) Is authorized to utilize ionizing radiation-generating equipment and sources of radiation for the planning, localization, and delivery of therapeutic procedures on human beings[.]” *Ky Rev Stat Ann § 311B.020 (15) (LexisNexis 2012)*
- “‘Radiographer’ means an individual who is authorized to use ionizing radiation generating equipment to perform a comprehensive scope of diagnostic imaging procedures and is responsible for the operation of radiation-generating equipment, protecting the patient and staff from unnecessary radiation, and selecting the appropriate exposure to produce diagnostic images with the lowest reasonable exposure[.]” *Ky Rev Stat Ann § 311B.020 (16) (LexisNexis 2012)*
- “No chiropractor shall: (a) Treat or attempt to treat contagious or communicable diseases; (b) Treat or attempt to treat cancer; (c) Treat by use of x-ray or radiological methods; (d) Perform surgery; (e) Treat or attempt to treat by use of acupuncture; or (f) Administer prescription drugs or controlled substances.” *Ky Rev Stat Ann § 312.017 (1) (LexisNexis 1988)*
- “No person shall engage or attempt to engage in the operation of radiation-producing equipment or the administration of ionizing radiation for the purpose of medical imaging or radiation therapy in Kentucky unless licensed in accordance with the provisions of this chapter.” *Ky Rev Stat Ann § 311B.090 (1) (LexisNexis 2012)*
- “This chapter shall not apply to any individual licensed in the Commonwealth of Kentucky as a licensed practitioner of the healing arts, any student enrolled in an approved educational program in medical imaging technology or radiation therapy, or any employee of the federal government engaged in the performance of official duties within the state.” *Ky Rev Stat Ann 311B.090 (2) (LexisNexis 2012)*
- “The following individuals are required to apply for and receive a license from the Commonwealth of Kentucky before performance of any procedures utilizing radiation for either medical imaging or radiation therapy: (a) Advanced imaging professionals; (b) Medical imaging technologists; (c) Radiographers; (d) Radiation therapists; (e) Nuclear medicine technologists; and (f) Limited X-ray machine operators.” *Ky Rev Stat Ann 311B.100 (1) (LexisNexis 2012)*

The Kentucky Administrative Regulations governing the Board of Medical Imaging and Radiation Therapy state: “[a] licensee shall only perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the direct or indirect supervision as specified by a licensee’s practice standards, by a licensee’s scope of practice, or in the ACR-AAPM [American College of Radiology-American Association of Physicists in Medicine] Technical Standard for the Management of the

Use of Radiation in Fluoroscopic Procedures as listed in Section 3 of this administrative regulation.” *201 Ky Admin Regs 46:035 (1) (2017)*

Attorney General Opinions

No attorney general 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 Kentucky Administrative Regulations governing Health Services and Facilities state: “[e]xcept in a circumstance that requires a verbal order, a medication, diagnostic test, or treatment shall not be given without a written order signed by a physician, dentist, or other ordering personnel acting within their statutory scope of practice. A verbal order for a diagnostic test or treatment order may be given to a licensed practitioner acting within his statutory scope of practice and the hospital's protocols. c. A person receiving a verbal order for medication, a diagnostic test, or treatment shall, at the time the order is received: (i) Immediately transcribe the order; (ii) Repeat the order to the person issuing the order; and (iii) Annotate the order on the patient's medical record, as repeated and verified.” *902 Ky Admin Regs 20:016 § 4 (f) (2) (c) (5) (2011)*

The regulations further provide that “[t]here shall be written policies and procedures governing radiologic services and administrative routines that support sound radiologic practices...2. Radiologic services shall be performed only upon written order of qualified personnel in accordance with their scope of practice and the hospital's protocols and bylaws, and the order shall contain a concise statement of the reason for the service or examination.” *902 Ky Admin Regs 20:016 § 4 (6)(b)(2) (2011)*

In addition, the regulations state: “[t]here shall be written policies and procedures governing radiologic services and administrative routines that support sound radiologic practices...4. Only a certified radiation operator, under the direction of medical staff members, if necessary shall use any x-ray apparatus or material. Uses include application, administration, and removal of radioactive elements, disintegration products, and radioactive isotopes. A certified radiation operator, under the direction of a physician, may administer medications allowed within their professional scope of practice and the context of radiological services and procedures being performed.” *902 Ky Admin Regs 20:016 (6)(b)(4) (2011)*