

STATE ACTS AND REGULATIONS ON IMAGING: MINNESOTA

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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

Physical therapy includes evaluation other than medical diagnosis, treatment planning, treatment, documentation, performance of appropriate tests and measurement, interpretation of orders or referrals, instruction, consultative services, and supervision of supportive personnel. Physical therapy does not include the practice of medicine or the practice of chiropractic. Moreover, the term “licensed practitioner of the healing arts” does not include physical therapy. Furthermore, under the Health Department Administrative Rules orders for radiation therapeutic treatments provide that radiographic examinations can be made only by licensed practitioners of the healing arts or limited other individuals.

Physical Therapy Practice Act and Regulations

Minnesota statutes governing physical therapists provide that “[a]s used in sections 148.65 to 148.78 the term ‘physical therapy’ means the evaluation or treatment or both of any person by the employment of physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting, or alleviating a physical or mental disability. Physical measures shall include but shall not be limited to heat or cold, air, light, water, electricity and sound. Physical therapy includes evaluation other than medical diagnosis,

treatment planning, treatment, documentation, performance of appropriate tests and measurement, interpretation of orders or referrals, instruction, consultative services, and supervision of supportive personnel. 'Physical therapy' does not include the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01." *Minn Stat 148.65(1) (2013)*

(Section 147.081 defines the practice of medicine. Section 148.01 defines the practice of chiropractic.)

Non-Physical Therapy Practice Acts and Regulations

The Chiropractic Practice Act states: "[c]hiropractic' is defined as the science of adjusting any abnormal articulations of the human body, especially those of the spinal column, for the purpose of giving freedom of action to impinged nerves that may cause pain or deranged function; and means the health care discipline that recognizes the innate recuperative power of the body to heal itself without the use of drugs or surgery by identifying and caring for vertebral subluxations and other abnormal articulations by emphasizing the relationship between structure and function as coordinated by the nervous system and how that relationship affects the preservation and restoration of health; (2) 'chiropractic services' means the evaluation and facilitation of structural, biomechanical, and neurological function and integrity through the use of adjustment, manipulation, mobilization, or other procedures accomplished by manual or mechanical forces applied to bones or joints and their related soft tissues for correction of vertebral subluxation, other abnormal articulations, neurological disturbances, structural alterations, or biomechanical alterations, and includes, but is not limited to, manual therapy and mechanical therapy as defined in section 146.23." *Minn Stat 148.01(1) (2014)*

Minnesota statutes governing the unlawful practice of medicine provide that "[f]or purposes of this chapter, a person not exempted under section 147.09 is 'practicing medicine' or engaged in the 'practice of medicine' if the person does any of the following (1) advertises, holds out to the public, or represents in any manner that the person is authorized to practice medicine in this state; (2) offers or undertakes to prescribe, give, or administer any drug or medicine for the use of another; (3) offers or undertakes to prevent or to diagnose, correct, or treat in any manner or by any means, methods, devices, or instrumentalities, any disease, illness, pain, wound, fracture, infirmity, deformity or defect of any person; (4) offers or undertakes to perform any surgical operation including any invasive or noninvasive procedures involving the use of a laser or laser assisted device, upon any person; or (5) offers to undertake to use hypnosis for the treatment or relief of any wound, fracture, or bodily injury, infirmity, or disease." *Minn Stat § 147.081 (2018)*

(Section 147.09 exempts certain professions from section 147.081.)

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 Minnesota Health Department Administrative Rules include the following definitions:

- “‘Healing arts’ means health professions for diagnostic or healing treatment of human and animal maladies that are regulated under Minnesota Statutes, chapter 147, 153, or 156; or section 148.01, 148.106, or 150A.05, subdivision 1, clause (4), for the lawful practice of medicine, dentistry, veterinary medicine, osteopathic medicine, chiropractic, and podiatry.” *Minn Admin Code 4732.0110 (76) (2018)*
- “‘Healing arts screening’ or ‘screening’ means the testing of individuals with x-ray equipment to detect or evaluate health conditions when the tests are not specifically and individually ordered by a licensed practitioner of the healing arts who is legally authorized to prescribe the tests for the purpose of diagnosis or treatment.” *Minn Admin Code 4732.0110 (77) (2018)*
- “‘Licensed practitioner of the healing arts’ means health professionals for diagnostic or healing treatment of human and animal maladies, which are licensed under Minnesota Statutes, chapter 147, 153, or 156; or section 148.01, 148.106, or 150A.05, subdivision 1, clause (4), for the lawful practice of medicine, dentistry, veterinary medicine, osteopathic medicine, chiropractic, and podiatry.” *Minn Admin Code 4732.0110 (101) (2018)*

The Minnesota Health Department Administrative Rules regulating the ordering of diagnostic radiologic or therapeutic procedures provide that “[t]he order for a radiographic examination can be made only by a licensed practitioner of the healing arts, a certified clinical nurse specialist, certified nurse midwife, certified nurse practitioner, or physician assistant. The physician assistant must show eligibility to order radiographic procedures through the physician assistant's written physician-physician assistant agreement with a copy on site at the facility.” *Minn Admin Code 4732.0560 (2) (A) (2018)*

The rules further state: “[t]he order for radiation therapeutic treatments can be made only by a licensed practitioner of the healing arts or a physician assistant supervised by a therapeutic radiologist or a radiation oncologist. The physician assistant must show eligibility to order therapeutic procedures through a written delegation agreement with a copy on site at the facility.” *Minn Admin Code 4732.0560 (4) (A) (2018)*