

## STATE ACTS AND REGULATIONS ON IMAGING: OREGON

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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 Oregon Physical Therapy Practice Act and the Oregon Administrative Rules are silent on the use of radiology in physical therapy. However, the Oregon Administrative Rules require physical therapists to refer patients if treatment is outside the scope of practice of physical therapy. Furthermore, the Oregon Administrative Rules include “[a]ny system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition,” in the definition of “healing arts.” Moreover, the Oregon Administrative Rules state that exposure to “the useful beam,” except for healing art purposes, will be authorized by a physician or dental professional.

### Physical Therapy Practice Act and Regulations

The Oregon Physical Therapy Practice Act states: “[the] ‘[p]ractice of physical therapy’ means: (a) Examining, evaluating and testing for mechanical, physiological and developmental impairments, functional limitations and disabilities or other neuromusculoskeletal conditions in order to determine a physical therapy diagnosis or prognosis or a plan of physical therapy intervention and to assess the ongoing effects of physical therapy intervention. (b) Alleviating impairments and functional limitations by

designing, implementing, administering and modifying physical therapy interventions. (c) Reducing the risk of injury, impairment, functional limitation and disability by physical therapy interventions that may include as a component the promotion and maintenance of health, fitness and quality of life in all age populations. (d) Consulting or providing educational services to a patient for the purposes of paragraphs (a), (b) and (c) of this subsection.” *Or Rev Stat § 688.010 (6) (2005)*

The Oregon Administrative Rules governing the Physical Therapist Licensing Board state: “[p]hysical therapy intervention’ means a treatment or procedure and includes but is not limited to: therapeutic exercise; gait and locomotion training; neuromuscular reeducation; manual therapy techniques (including manual lymphatic drainage, manual traction, connective tissue and therapeutic massage, mobilization/manipulation of soft tissue or spinal or peripheral joints, and passive range of motion); functional training related to physical movement and mobility in self-care and home management (including activities of daily living (ADL) and instrumental activities of daily living (IADL)); functional training related to physical movement and mobility in work (job/school/play), community, and leisure integration or reintegration (including IADL, work hardening, and work conditioning); prescription, application, and, as appropriate, fabrication of devices and equipment (assistive, adaptive, orthotic, protective, or supportive); airway clearance techniques; integumentary repair and protective techniques; electrotherapeutic modalities; physical agents and mechanical modalities; and patient related instruction and education.” *Or Admin R 848-040-0100 (8) (2015)*

The rules further state: “[a] physical therapist must immediately refer a patient to an appropriate medical provider if signs or symptoms are present that require treatment or diagnosis by such provider or for which physical therapy is contraindicated or if treatment for the signs or symptoms is outside the knowledge of the physical therapist or scope of practice of physical therapy.” *Or Admin R 848-040-0105 (2) (2014)*

Additionally, the rules provide that “[a] physical therapist shall immediately refer a patient to a provider of care if the patient exhibits symptoms: (A) That require treatment or diagnosis by a provider of medical care; (B) For which physical therapy is contraindicated; (C) For which the treatment is outside that therapist's knowledge, skill and abilities; or (D) For which treatment is outside the scope of practice of physical therapy.” *Or Admin R 848-040-0117 (1) (e) (2014)*

### **Non-Physical Therapy Practice Acts and Regulations**

The Oregon Administrative Rules governing X-rays in the healing arts state: “[n]on-radiologist practitioner’ means an individual who practices medicine as a medical doctor (MD), doctor of osteopathic medicine (DO), doctor of chiropractic medicine (DC), doctor of podiatric medicine (DPM) or doctor of veterinary medicine (DVM); and (a) Are not

specifically certified in diagnostic or therapeutic use of X-rays; and (b) Are currently licensed by their respective Oregon licensing board.” *Or Admin R 333-106-0005 (65) (2016)*

The rules further provide that “[o]perator’ means an individual who, under the supervision of a practitioner of the healing arts, handles ionizing radiation equipment, physically positions patients or animals, determines exposure parameters or applies the radiation for the diagnostic or therapeutic purposes intended.” *Or Admin R 333-106-0005 (66) (2016)*

The rules also state: “‘Radiologist’ or ‘Oral Radiologist’ means a physician or dentist trained in the diagnostic use of X-rays and who is; (a) Currently licensed by their respective Oregon licensing board; and (b) Board certified by the American Board of Radiology (ABR) or American Osteopathic Board of Radiology (AOBR) or American Chiropractic Board of Radiology (DACBR) or Royal College of Physicians and Surgeons of Canada (RCPSC) or the American Board of Oral and Maxillo-Facial Radiology (ABOMFR) and currently licensed to practice medicine or dentistry in Oregon; or (c) ABR board eligible after successfully completing the Accreditation Council for Graduate Medical Education accredited diagnostic radiology residency program.” *Or Admin R 333-106-0005 (87) (2016)*

Finally, the rules provide that “[d]iagnostic medical X-ray operators who meet the following requirements are considered to have met the requirements of section (1) of this rule: (a) Holds a current license from the Oregon Board of Medical Imaging; or (b) Holds a current limited X-ray machine operator permit from the Oregon Board of Medical Imaging; or (c) Is a student in an approved school of Radiologic Technology as defined in ORS 688.405 while practicing Radiologic Technology under the direct supervision of a radiologist who is currently licensed with the Oregon Medical Board or a radiologic technologist who is licensed with the Oregon Board of Medical Imaging; or (d) Is a student in an Oregon Board of Medical Imaging approved limited permit program under a radiologic technologist who is licensed by the Oregon Board of Medical Imaging.” *Or Admin R 333-106-0055 (4) (2015)*

The Oregon Administrative Rules governing X-Rays in the healing arts state: “ ‘[h]ealing 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 an Oregon licensed practitioner of the healing arts legally authorized to prescribe such X-ray tests for the purpose of diagnosis or treatment.” *Or Admin R 333-106-0005 (44) (2016)*

## 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 Oregon Revised Statutes governing health care facilities state: “[t]he rules of a hospital that govern patient access to previously performed X-rays or diagnostic laboratory reports shall not discriminate between patients of chiropractic physicians and patients of other licensed medical practitioners permitted access to such X-rays and diagnostic laboratory reports.” *Or Rev Stat § 441.059 (1979)*

The Oregon Administrative Rules governing the control of radiation in Oregon include the following statements:

- “‘Healing arts’ means: (a) The professional disciplines authorized by the laws of this state to use X-rays or radioactive material in the diagnosis or treatment of human or animal disease. For the purposes of this division they are Medical Doctors, Osteopaths, Dentists, Veterinarians, Chiropractors, and Podiatrists; or (b) Any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.” *Or Admin R 333-100-0005 (59) (2015)*
- “No person shall intentionally apply or allow to be applied, either directly or indirectly, ionizing radiation to human beings except by, or under the supervision of, persons licensed by the State of Oregon to practice the healing arts and who are authorized to use radiation on humans. Notwithstanding this restriction, the Authority recognizes practitioners of the healing arts to be as outlined in ORS 676.110, that is: (a) Podiatrists, Chiropractors, Dentists, Naturopath, Osteopaths, Medical Doctors, and Veterinarians; (b) Nurse Practitioners and Physician Assistants may prescribe X-ray when doing so within the bounds of their independent rules; (c) Dental Professionals are permitted to prescribe and review intraoral radiographs, in accordance with the Oregon Board of Dentistry administrative rules, chapter 818. (d) No person shall be allowed to use X-ray producing equipment without first meeting the requirements of OAR 333-106-0045(16) or 333-106-0055.” *Or Admin R 333-100-0020 (5) (2014)*
- “Persons shall not be exposed to the useful beam except for healing art purposes until the patient has been evaluated, and a medical need for the X-ray/s is determined, and has been authorized by a physician or Dental Professional licensed to practice the healing arts.” *Or Admin R 333-106-035 (2016)*

- “Computed Tomography (CT) X-ray systems shall be operated by individuals who are authorized to operate CT in accordance with the statutes and rules of the Oregon Board of Medical Imaging.” *Or Admin R 333-106-0370 (1) (2013)*
- “A CBCT scanner shall be operated by a dentist, hygienist, dental assistant or an individual that meets the requirements in section (1) of this rule after completing a machine specific manufacturer operator training program.” *Or Admin R 333-106-0370 (2) (2013)*
- “A mini-CT machine shall be operated by an ear, nose and throat physician or individual who meets the requirements of section (1) of this rule for otolaryngology imaging after completing a machine specific manufacturer operator training program.” *Or Admin R 333-106-0370 (3) (2013)*