

## STATE ACTS AND REGULATIONS ON IMAGING: MAINE

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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 Maine Physical Therapy Practice Act states that the practice of physical therapy includes the administration, interpretation, and evaluation of tests and measurements of bodily functions and structures for the purpose of treatment planning and the use of physical agents and procedures, activities, and devices for preventive and therapeutic purposes. Physical therapy is not included within the term “licensed physician” or “licensed practitioner” under the Medical Radiation Health and Safety Act.

### Physical Therapy Practice Act and Regulations

The Maine Physical Therapy Practice Act provides that “[p]hysical therapy’ is the practice the scope of which is set forth in section 3111-A.” *32 MRS §3111 (5) (2007)* Section 3111-A defines the scope of practice included within the term “physical therapy.”

The act states: “[p]ractice of physical therapy’ means the rendering or offering to render any service involving physical therapy for a fee, salary or other compensation, monetary or otherwise, paid directly or indirectly.” *32 MRS §3111 (6) (2007)*

The act further states: “[t]he practice of physical therapy includes the evaluation, treatment and instruction of human beings to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction and pain from injury, disease and any other bodily condition; the administration, interpretation and evaluation of tests and measurements of bodily functions and structures for the purpose of treatment planning; the planning, administration, evaluation and modification of treatment and instruction; and the use of physical agents and procedures, activities and devices for preventive and therapeutic purposes; and the provision of consultative, educational and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction and pain.” *32 MRS §3111-A (2007)*

Additionally, the act provides that “[a] person licensed as a physical therapist under this chapter may, as part of an evaluation of a person in preparation for treatment by the physical therapist, perform a finger stick blood test in the person's home to assess blood clotting levels of that person. If a person licensed as a physical therapist performs a finger stick blood test pursuant to this section, that person shall communicate the test results to the prescribing health care practitioner. Only the health care practitioner may interpret the test results, determine whether a change is needed in the person's plan of care and make decisions with respect to medication adjustments.” *32 MRS §3111-A (2017)*

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

The Maine Revised Statutes state: “[c]hiropractic’ means the art and science of identification and correction of subluxation and the accompanying physiological or mechanical abnormalities. The term subluxation, as utilized within the chiropractic health care system, means a structural or functional impairment of an intact articular unit. “Chiropractic” includes chiropractic acupuncture. Chiropractic recognizes the inherent recuperative capability of the human body as it relates to the spinal column, musculo-skeletal and nervous system.” *32 MRS §451 (1) (1999)*

Additionally, the statutes provide that: “Chiropractic methodologies’ utilized for the identification or correction of subluxation and the accompanying physiological or mechanical abnormalities include diagnostic, therapeutic, adjustive or manipulative techniques utilized within the chiropractic profession, excluding prescriptive medication or surgery. *32 MRS §451 (3) (1999)*

Within the statutes, the Medical Radiation Health and Safety Act provides that [a] person may not practice or profess to be authorized to practice after September 1, 1984, as a radiographer, a nuclear medicine technologist or a radiation therapist unless that person is licensed in accordance with the provisions of this chapter.” *32 MRS §9854 (1) (2009)*

The statutes further state: “[t]he requirement of a license shall not apply to: A. A dentist, dental hygienist or dental radiographer licensed under chapter 143...C. A resident physician or a student enrolled in and attending a school or college of medicine, osteopathy, chiropractic, podiatry, dentistry or radiologic technology or an individual who is concurrently obtaining the education and clinical training required by the board by rule who applies ionizing radiation to a human being while under the supervision of a licensed practitioner; or D. Any person serving in the United States Armed Services or public health service or employed by the Veterans' Administration or other federal agency performing his official duties, provided that the duties are limited to that service or employment.” *32 MRS §9854 (3) (A,C,D) (1983)*

(Chapter 143 of the Maine Revised Statutes, also known as the “Dental Practice Act,” governs the practice of dentists, dental radiographers, dental hygienists, and denturists in the state of Maine.)

### **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 Maine Revised Statutes, in particular the Medical Radiation Health and Safety Act, states: “[i]onizing radiation’ means gamma rays and x rays; alpha and beta particles, high-speed electrons, neutrons, protons and other nuclear particles; but not ultrasound, sound or radio waves, magnetic fields or visible, infrared or ultraviolet light.” *32 MRS §9852 (3) (2005)*

The Medical Radiation Health and Safety Act includes the following terms:

- “‘License’ means a certificate issued by the board authorizing the licensee to use radioactive materials or equipment emitting ionizing radiation on human beings for diagnostic or therapeutic purposes in accordance with the provisions of this Act. *32 MRS §9852 (4) (1983)*
- “‘Licensed physician’ means a person licensed to practice medicine or osteopathy in this State.” *32 MRS §9852 (4-A) (2005)*

- “‘Licensed practitioner’ means a person licensed to practice medicine, dentistry, chiropractic, podiatry or osteopathy in this State. 32 MRS §9852 (5) (2005)
- “‘Radiography’ means the use of ionizing radiation on human beings for imaging purposes, excluding the administration of radiopharmaceuticals, under the supervision of a licensed practitioner. For purposes of this subsection, "use" means all activities involved in the application of ionizing radiation. These activities include, but are not limited to, adjusting equipment settings, positioning the patient, positioning the equipment and positioning the image receptor. 32 MRS §9852 (11) (2005)