

STATE ACTS AND REGULATIONS ON IMAGING: MARYLAND

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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 Maryland Physical Therapist Practice Act specifically excludes the act of taking x-rays or using radioactive substances from the definition of both the practice of “limited physical therapy” and “physical therapy.” However, the Physical Therapy Board in Maryland has opined that it is within the scope of practice for physical therapists to refer patients to a radiologist for radiological imaging and testing when appropriate, including x-ray, MRI, and CT scans, provided that the interpretation of such tests are be done by a radiologist. Furthermore, the Maryland Code of Regulations specifically limits the practice of radiation therapy and radiography without a license to practice radiography from Maryland’s State Board of Physicians. Moreover, the Maryland Department of Health allows only attending physicians to order radiological services in comprehensive care facilities and extended care facilities. Furthermore, the Maryland Code of Regulations governs “independent diagnostic testing facilities” and requires that an imaging order come from a physician or nonphysician practitioner who is enrolled in the Maryland Medical Assistance Program.

Physical Therapy Practice Act and Regulations

The Annotated Code of Maryland states: “Practice of limited physical therapy’ does not include: (i) Interpreting measurements; (ii) Planning treatment programs; or (iii) Taking X

rays (iv) Using radioactive substances; or (v) Using electricity for cauterization or surgery.” *Md Code Ann, Health Occ § 13-101 (h) (3) (LexisNexis 2013)*

The code further states: “Practice of physical therapy’ does not include: (i) Taking X rays; (ii) Using Radioactive substances; or (iii) Using Electricity for cauterization or surgery.” *Md Code Ann, Health Occ 13-101 (i) (3) (LexisNexis 2013)*

In August 2012, the Physical Therapy Board (Board) in the State of Maryland stated: “It is within the scope of practice for physical therapists in Maryland to refer patients to a radiologist for radiological imaging and testing when appropriate. The interpretation of such testing must be done by a radiologist.” In 2014, the Board included the following language in its 2012 statement: “Physical therapists can refer patients for radiological tests, including x-ray, MRI and CT scans.” (See *Diagnostic and Procedural Imaging in Physical Therapist Practice, Orthopaedic Section, American Physical Therapy Association (May 20, 2016) citing Curry C. Response to inquiry regarding physical therapists referring for radiological testing. In: Chanoski C, ed: Maryland Department of Health and Mental Hygiene, Board of Physical Therapy Examiners; 2014.*)

Non-Physical Therapy Practice Acts and Regulations

The Radiation Oncologist/Therapy, Medical Radiation, and Nuclear Medicine Technologist Practice Act states: “Practice radiography’ means to use ionizing radiation to: (1) Demonstrate portions of the human body to assist in the diagnosis or localization of disease or injury; or (2) Perform tumor localization radiography.” *Md Code Ann, Health Occ § 14-5B-01 (LexisNexis 2013)*

The act further states: “(1) Except as provided in paragraph (2) of this subsection, the practice of a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant is limited to those procedures, operations, preparations, and practices listed in regulation. (2) A radiologist assistant may not: (i) Interpret images; (ii) Make diagnoses; or (iii) Prescribe medications or therapies.” *Md Code Ann, Health Occ § 14-5B-07 (b) (LexisNexis 2013)*

Additional, the act provides that “(1) Except as otherwise provided in this subtitle, an individual shall be licensed by the Board before the individual may practice radiation therapy, radiography, nuclear medicine technology, or radiology assistance in this State. (2) A radiologist assistant may not: (i) Interpret images; (ii) Make diagnoses; or (iii) Prescribe medications or therapies.” *Md Code Ann, Health Occ § 14-5B-08 (LexisNexis 2013)*

Finally, the act also states: “(a) Radiation therapy. Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice radiation

therapy in this State unless licensed to practice radiation therapy by the Board. (b) Nuclear medicine technology. -- Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice nuclear medicine technology in this State unless licensed to practice nuclear medicine technology by the Board. (c) Radiography. -- Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice radiography in this State unless licensed to practice radiography by the Board. (d) Radiology assistance. -- Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice radiology assistance in this State unless licensed to practice radiology assistance by the Board.” *Md Code Ann, Health Occ § 14-5B-17 (LexisNexis 2013)*

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 Code of Maryland Regulations governing comprehensive care facilities and extended care facilities, regarding laboratory and radiologic services states: “[a]ll services shall be provided only on the orders of the attending physician.” *Md Code Regs 10.07.02.16 (C) (LexisNexis 2013)*

The Code of Maryland Regulations governing independent diagnostic testing facilities states: “[t]he Program covers medically necessary radiology services rendered to a recipient in an IDTF when the services are:...(4) Ordered in writing by the treating physician or non-physician practitioner, in accordance with State law, who is enrolled as a provider in the Program with an active status on the date of service....” *Md Code Regs 10.09.87.04 (A)(4) (LexisNexis 2013)*

In addition, the code defines the following:

- “‘Independent Diagnostic Testing Facility (IDTF)’ means a fixed location or mobile entity independent of a hospital or physician’s office where diagnostic services are performed by licensed certified non-physician personnel under

appropriate physician supervision.” *Md Code Regs 10.09.87.01 (B)(3)*
(LexisNexis 2013)

- “‘Program’ means the Maryland Medical Assistance Program” Md. Code Regs.
10.09.87.01 (B)(9) (LexisNexis 2013)