

STATE ACTS AND REGULATIONS ON IMAGING: MONTANA

July 2019

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 Montana Physical Therapy Practice Act and the Administrative Rules of Montana both are silent on the use of radiology in the practice of physical therapy. The Montana code regulating radiation technologists requires that the radiation board approve permits for those who do not meet qualifications for use of radiology under the law. The Administrative Rules of Montana also provide that a person licensed as a radiology technologist may perform services under the direction of a person licensed to prescribe x-ray procedures.

Physical Therapy Practice Act and Regulations

The Montana Physical Therapy Practice Act states: “[p]hysical therapy’ means the evaluation, treatment, and instruction of human beings, in person or through telemedicine, to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any bodily or mental conditions by the use of therapeutic exercise, prescribed topical medications, and rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental disability.” *Mont Code Ann § 37-11-101 (7) (2017)*

The act further states: “[n]othing in this chapter shall be construed as authorizing a physical therapist, whether licensed or not, to practice medicine, osteopathy, or chiropractic, dentistry, or podiatry; nor shall Title 37, chapter 11, be construed to limit or regulate any other business or profession or any services rendered or performed in connection with physical therapy.” *Mont Code Ann § 37-11-103 (1979)*

Additionally the act provides that [p]hysical therapy evaluation includes the administration, interpretation, and evaluation of tests and measurements of bodily functions and structures; the development of a plan of treatment; consultative, educational, and other advisory services; and instruction and supervision of supportive personnel. (2) Treatment employs, for therapeutic effects, physical measures, activities and devices, for preventive and therapeutic purposes, exercises, rehabilitative procedures, massage, mobilization, and physical agents including but not limited to mechanical devices, heat, cold, air, light, water, electricity, and sound. (3) The evaluation and treatment procedures listed in subsections (1) and (2) may be performed by a licensed physical therapist without referral.” *Mont Code Ann § 37-11-104 (1987)*

Non-Physical Therapy Practice Acts and Regulations

The Montana Chiropractor Practice Act states: “[l]icensed chiropractors may diagnose, palpate, and treat the human body by the application of manipulative, manual, mechanical, and dietetic methods, including chiropractic physiotherapy, the use of supportive appliances, analytical instruments, and diagnostic x-ray in accordance with guidelines promulgated or approved by state or federal health regulatory agencies.” *Mont Code Ann § 37-12-104 (2) (1989)*

The Montana Code regulating radiation technologists provides the following definitions:

- “‘Licensed practitioner’ means a person licensed or otherwise authorized by law to practice medicine, dentistry, denturistry, dental hygiene, podiatry, osteopathy, or chiropractic.” *Mont Code Ann § 37-14-102 (5) (2005)*
- “‘Permit’ means an authorization that may be granted by the board to perform x-ray procedures on persons when the applicant's qualifications do not meet standards required for the issuance of a license.” *Mont Code Ann § 37-14-102 (8) (2005)*
- “‘Radiologic technologist’ means a person, other than a licensed practitioner, who has qualified under the provisions of this chapter for the issuance of a license to perform diagnostic x-ray procedures on persons and who performs the following functions in connection with the diagnostic procedure: (a) operates x-ray equipment to reveal the internal condition of patients for the diagnosis of fractures, diseases, and other injuries; (b) prepares and positions patients for x-ray procedures; (c) selects the proper radiographic technique for visualization of

specific internal structures of the human body; (d) selects the proper ancillary equipment to be used in the x-ray procedure to enhance the visualization of the desired structure; (e) prepares film processing solutions and develops or processes the exposed x-ray film; and (f) inspects, maintains, and performs minor repairs to x-ray equipment.” *Mont Code Ann § 37-14-102 (9) (2005)*

- “‘Radiologist’ means a person who is licensed to practice medicine under Title 37, chapter 3, who is board eligible or board certified by the American board of radiology, and who resides and practices in Montana.” *Mont Code Ann § 37-14-102 (10) (2005)*

The code further states: “[a] person licensed as a radiologic technologist may perform x-ray procedures on persons for medical, diagnostic, or therapeutic purposes under the specific direction of a person licensed to prescribe x-ray procedures” *Mont Code Ann § 37-14-301 (2) (2005)*

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 Administrative Rules of Montana regulating Medicaid primary care services that are nonhospital laboratory and radiology (x-ray) services state: “[n]onhospital laboratory and radiology (x-ray) services may be provided in an office or similar facility other than a hospital outpatient department or clinic.” *Mont Admin R 37.86.3201 (2) (2012)*

The same subchapter further states: “[p]roviders must meet the following requirements: (a) Providers of laboratory services must be: (i) medicare certified; and (ii) meet licensing requirements of the state in which they are located. (b) Providers of radiology services must: (i) be supervised by a physician who is licensed to practice medicine within the state in which the services are provided; and (ii) meet state facility licensing requirements, if applicable.” *Mont Admin R 37.86.3201 (3) (2012)*

The subchapter also provides that “[i]ndependent laboratory providers must meet the following requirements to receive Medicaid reimbursement: (a) the independent

laboratory provider must be certified by Medicare; (b) the independent laboratory provider must meet any state licensing requirements for laboratory facilities; and (c) the independent laboratory service must have been ordered by a physician, dentist, or other practitioner licensed to practice in Montana. (i) Medicaid does not reimburse services ordered by chiropractors.” *Mont Admin R 37.86.3205 (2) (2017)*

As to x-rays and the healing arts, the rules provide that “[d]eliberate exposure of an individual to the useful beam for training or demonstration purposes shall not be permitted unless there is also a medical or dental indication for the exposure and the exposure is prescribed by a practitioner of the healing arts.” *Mont Admin R 37.14.1003 (4) (e) (2003)*