

## **STATE ACTS AND REGULATIONS ON IMAGING: NEBRASKA**

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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 Nebraska Physical Therapy Practice Act is silent on the use of radiology in the practice of physical therapy. However, the Nebraska Administrative Code states that the use of roentgen rays and radium for diagnostic and therapeutic purposes are not within the scope of the practice of physical therapy. The Nebraska Administrative Code provisions regulating health care facilities and services also requires that radiology services be under the direction of a physician.

### **Physical Therapy Practice Act and Regulations**

The Nebraska Physical Therapy Practice Act states: “[p]hysical therapy’ or ‘physiotherapy’ means: (1) Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations, and disabilities or other conditions related to health and movement and, through analysis of the evaluative process, developing a plan of therapeutic intervention and prognosis while assessing the ongoing effects of the intervention; (2) Alleviating impairment, functional limitation, or disabilities by designing, implementing, or modifying therapeutic interventions which may include any of the following: Therapeutic exercise; functional training in home, community, or work integration or reintegration related to physical movement and mobility; therapeutic massage; mobilization or manual therapy;

recommendation, application, and fabrication of assistive, adaptive, protective, and supportive devices and equipment; airway clearance techniques; integumentary protection techniques; nonsurgical debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction; but which does not include the making of a medical diagnosis; (3) Purchasing, storing, and administering topical and aerosol medication in compliance with applicable rules and regulations of the Board of Pharmacy regarding the storage of such medication (4) Reducing the risk of injury, impairment, functional limitation, or disability, including the promotion and maintenance of fitness, health, and wellness; and (5) Engaging in administration, consultation, education, and research.” *Neb Rev Stat Ann § 38-2914 (LexisNexis 2006)*

It further states: “For each patient under his or her care, a physical therapist shall: (a) Be responsible for managing all aspects of physical therapy services provided to the patient and assume legal liability for physical therapy and related services provided under his or her supervision; (b) Provide an initial evaluation and documentation of the evaluation; (c) Provide periodic reevaluation and documentation of the reevaluation; (d) Provide documentation for discharge, including the patient's response to therapeutic intervention at the time of discharge; and (e) Be responsible for accurate documentation and billing for services provided. (2) For each patient under his or her care on each date physical therapy services are provided to such patient, a physical therapist shall: (a) Provide all therapeutic interventions that require the expertise of a physical therapist; and (b) Determine the appropriate use of physical therapist assistants or physical therapy aides.” *Neb Rev Stat Ann § 38-2928 (LexisNexis 2006)*

The Nebraska Administrative Code states: “[t]hese regulations govern the credentialing of Physical Therapy under Neb Rev Stat §§ 38-2901 to 38-2929 and the Uniform Credentialing Act (UCA). Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, including cauterization.” *172 Neb Admin Code 137-001 (2012)*

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

The Nebraska Chiropractic Practice Act states: “[p]ractice of chiropractic’ means one or a combination of the following, without the use of drugs or surgery: (a) The diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders, and disease by the use of diagnostic X-ray, physical and clinical examination, and routine procedures including urine analysis; or (b) The science and art of treating human ailments, disorders, and disease by locating and removing any interference with the transmission and expression of nerve energy in the human body by chiropractic adjustment, chiropractic physiotherapy, and the use of exercise, nutrition, dietary guidance, and colonic irrigation. (2) The use of X-rays beyond the axial skeleton as

described in subdivision (1) (a) of this section shall be solely for diagnostic purposes and shall not expand the practice of chiropractic to include the treatment of human ailments, disorders, and disease not permitted when the use of X-rays was limited to the axial skeleton.” *Neb Rev Stat Ann § 38-805 (LexisNexis 2012)*

The Nebraska Medical Radiography Practice Act states: “[l]icensed practitioner’ means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician. *Neb Rev Stat Ann § 38-1905 (LexisNexis 2007)*

Further, Nebraska statutes governing limited radiographers provide that “[a] person licensed by the department, with the recommendation of the board, as a limited radiographer may practice medical radiography on limited regions of the human anatomy, using only routine radiographic procedures, for the interpretation by and under the direction of a licensed practitioner, excluding computed tomography, the use of contrast media, and the use of fluoroscopic or mammographic equipment.” *Neb Rev Stat Ann § 38-1916 (1) (LexisNexis 2008)*

### **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 Radiation Control Act states: “[u]sers of sources of radiation’ means: (a) Physicians using radioactive material or radiation-generating equipment for human use; (b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes; (c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes; (d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and (e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose[.]” *Neb Rev Stat Ann § 71-3503 (15) (LexisNexis 2012)*

The Act further provides that “[l]icensed practitioner’ means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician[.]” *Neb Rev Stat Ann § 71-3503 (28) (LexisNexis 2012)*

The Nebraska Administrative Code regulating health care facilities and services licensure states: “[r]adiology services must be under the direction of a physician, preferably a radiologist, and must comply with the provisions of Neb Rev Stat §§ 71-3501 to 71-3520, the Radiation Control Act, and the regulations promulgated thereunder.” *175 Neb Admin Code 9-006.09F1 (2005)*

This title of the Nebraska Administrative Code further provides that “[e]ach health clinic that provides radiology services must be under the direction of a physician and must comply with the provisions of Neb Rev Stat §§ 71-3501 to 71-3520 of the Radiation Control Act and the regulations promulgated thereunder.” *175 Neb Admin Code 7-006.11 (1994)*