

STATE ACTS AND REGULATIONS ON IMAGING: NORTH DAKOTA

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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 North Dakota Physical Therapy Practice Act is silent on the use of radiology in the practice of physical therapy. The radiological health rules do not include the practice of physical therapy in the definition of “healing arts,” But they do state that physical therapists and physical therapist assistants qualify for training exceptions. The medical imaging and radiation therapy regulations require that a licensee perform medical imaging or radiation therapy only by prescription of an authorized individual.

Physical Therapy Practice Act and Regulations

The North Dakota Physical Therapy Practice Act state: “Practice of physical therapy’ means: (a) Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement and mobility, and disabilities or other health and movement-related conditions in order to determine a diagnosis for physical therapy, prognosis, and plan of therapeutic intervention, and to assess the ongoing effects of intervention. (b) Alleviating impairments, functional limitations in movement and mobility, and disabilities by designing, implementing and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; neuromuscular education; functional training related to positioning, movement, and mobility in self-care and in-home, community, or

work integration or reintegration; manual therapy; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective, and supportive devices and equipment related to positioning, movement, and mobility; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physiotherapy; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction. (c) Engaging as a physical therapist in reducing the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health, and wellness in populations of all ages. (d) Engaging as a physical therapist in administration, consultation, education, and research.” *ND Cent Code § 43-26.1-01 (9) (2005)*

The act further states: “[i]f the diagnostic process reveals findings that are outside the scope of a physical therapist's knowledge, experience, or expertise, a physical therapist shall so inform the patient or client and refer to an appropriate practitioner.” *ND Cent Code § 43-26.1-11 (2) (2005)*

Non-Physical Therapy Practice Acts and Regulations

The North Dakota Administrative Code governing radiological health states: “‘Healing arts’ means diagnostic or healing treatment of human and animal maladies, including the following which are duly licensed by the state of North Dakota for the lawful practice of medicine and its associated specialties, dentistry, veterinary medicine, osteopathy, chiropractic, and podiatry.” *ND Admin Code 33-10-06-02 (59) (2011)*

The code also provides that “[p]hysician’ means a medical doctor, doctor of osteopathy, doctor of podiatry, or chiropractor licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.” *ND Admin Code 33-10-06-02 (91) (2011)*

The code further states: “[i]ndividuals may not be exposed to the useful beam except for healing arts purposes and when such exposure has been authorized by a licensed practitioner of the healing arts.” *ND Admin Code 33-10-06-03 (8) (2011)*

The North Dakota Chiropractic Practice Act states: “[t]he examination for a license to practice chiropractic in this state must be in the manner and form as prescribed by the board from time to time. It must cover the following subjects:...(12) X-ray and diagnostic imaging.” *ND Cent Code § 43-06-10 (12) (1989)*

The North Dakota Century Code governing medical imaging and radiation therapy states: “[a] licensee’s performance of medical imaging or radiation therapy on humans for diagnostic or therapeutic purposes must be by written, facsimile, electronic, or verbal prescription of an individual authorized by this state to prescribe medical imaging or

radiation therapy and must be under the supervision of a licensed practitioner.” *ND Cent Code § 43-62-15 (3) (2017)*

The code further states: “[a] licensee’s performance of medical imaging and radiation therapy on humans for diagnostic or therapeutic purposes is limited to the scope of the medical imaging and radiation therapy modality of that license as specified under the rules adopted by the board.” *ND Cent Code § 43-62-15 (4) (2017)*

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 North Dakota Administrative Code regulating radiological health states: “[t]he following are individuals that qualify for training exemptions, approved Allied Health professions which qualify for cross-training into diagnostic x-ray as a limited x-ray machine operator and individuals who may order diagnostic x-rays to be taken by a limited x-ray machine operator outside the scope of procedures in appendix I: (1) Individuals exempt from minimum training requirements in subparagraph b of paragraph 2 of subdivision a of subsection 1 of section 33-10-06-03. (a) Medical doctors. (b) Chiropractors. (c) Doctors of osteopathy. (d) Podiatrists. (2) Prerequisite qualification: Individuals who qualify for cross-training as a limited x-ray machine operator. (a) Nurse practitioner, registered nurse, licensed practical nurse. (b) Emergency medical technician paramedic. (c) Physical therapist, physical therapy assistant. (d) Occupational therapist, occupational therapy assistant. (e) Medical technologist, medical lab technician, clinical lab technician. (f) Physician assistant (g) Orthopedic physician assistant. 3. Individuals who may order emergency x-ray examinations outside the scope of procedures in appendix I to be taken by limited x-ray machine operators: a. Medical doctor. b. Doctor of osteopathy. c. Physician assistant. d. Nurse practitioner. e. Chiropractor. *ND Admin Code § 33-10-06 app G (2003)*