



STATE OF WISCONSIN

Department of Safety and Professional Services
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Madison WI 53703

Governor Scott Walker

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PHYSICAL THERAPY EXAMINING BOARD
Room 121C, 1400 E. Washington Avenue, Madison
Contact: Tom Ryan 608-261-2378
June 28, 2012

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.

FULL BOARD MEETING
8:30 A.M.

- A. **Call to Order – Roll Call**
- B. **Declaration of Quorum**
- C. **Introduction of New Board Member(s)**
- D. **Recognition of Board Member(s)**
- E. **Adoption of Agenda (1-4)**
- F. **Approval of Minutes – March 8, 2012 (insert) (5-12)**
- G. Case Presentations
- H. Secretary Matters
- I. **Executive Director Matters**
 - 1) Status of Public Member Appointment (**insert**) (13-14)
 - 2) Other
- J. **Items Received After Mailing of Agenda**
 - 1) Presentation of Proposed Stipulations and Final Decisions and Orders
 - 2) Presentation of Proposed Decisions
 - 3) Presentation of Interim Orders
 - 4) Petitions for Re-hearing
 - 5) Petitions for Summary Suspension
 - 6) Petitions for Extension of Time
 - 7) Petitions for Assessments
 - 8) Petitions to Vacate Orders
 - 9) Requests for Disciplinary Proceeding Presentations
 - 10) Motions
 - 11) Appearances from Requests Received or Renewed
 - 12) Speaking Engagement, Travel and Public Relation Requests
 - 13) Application Issues
 - 14) Examination Issues
 - 15) Continuing Education Issues
 - 16) Practice Questions
- K. **Board Discussion Items including any received after printing of agenda**
 - 1) **FSBPT Matters**
 - a. September Meeting Appearance by FSBPT Representative (**insert**) (15-16)

- 2) **Credentialing Matters**
 - a. Review of Equivalency Programs – APPEARANCE 8:40 AM. – AMY BOOTH, CREDENTIALING (insert) (17-18)
- 3) **Dry Needling – APPEARANCE - 8:55 A.M. – MATT O’NEILL, MIDWEST COLLEGE OF ORIENTAL MEDICINE (insert) (19-50)**
- 4) **Division of Enforcement Matters**
 - a. DOE Administrative Complaint Closure Policy – APPEARANCE 9:25A.M. – CHAD KOPLIEN, DOE (insert) (51-54)
- 5) **Education and Examination Matters**
 - a. Consideration of aPTitude as Accepted Health-Related or Other (Credentialing) Organization (insert) (55-56)
- 6) **Practice Questions and FAQ’s/Issues**
 - a. FAQ – Prescribing Devices (insert) (57-60)
 - b. Review of FAQ’s (insert) (61-72)
- 7) **Website Updates (insert) (73-74)**
- 8) **Legislation/Administrative Rule Matters**
 - a. PT 7 Update Draft (insert) (75-76)
 - b. CR 12-002 Proposed Rule Order Regarding PT 1 – PT 9 (insert) (77-88)
- 9) Liaison Reports
- 10) Speaking Engagement, Travel, Public Relation Requests

- L. Informational Items
- M. New/Other Business
- N. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)

O. Case Closings (insert) (89-90)

P. Examination of 3 Candidates for Licensure (insert) (91-92) – 12:30 P.M.

Q. Deliberation of other items received after printing of agenda

- 1) Case Closings
- 2) Case Status Report
- 3) Proposed Decisions
- 4) Proposed Interim Decisions and Orders
- 5) Summary Suspensions
- 6) Objections and Responses to Objections
- 7) Complaints
- 8) Administrative Warnings
- 9) Matters Relating to Costs
- 10) Monitoring Cases
- 11) Appearances from Requests Received or Renewed
- 12) Examination Issues
- 13) Application Issues
- 14) PAP Cases
- 15) Motions

R. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

S. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

T. New/Other Board Business

ADJOURNMENT

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**PHYSICAL THERAPY EXAMINING BOARD
MARCH 8, 2012
MINUTES**

PRESENT: Lori Dominiczak, PT; Mark Shropshire, PT; Jane Stroede, PTA; Michele Thorman, PT

STAFF: Tom Ryan, Executive Director; Sandy Nowack, Legal Counsel; Shawn Leatherwood, Paralegal; Karen Rude-Evans, Bureau Assistant; other DSPS staff

GUEST: Kip Schick and Michael Edwards, WPTA

CALL TO ORDER

Michele Thorman, Chair, called the meeting to order at 8:30 a.m. A quorum of four (4) members was present.

ADOPTION OF AGENDA

Amendments:

- Item G – REVIEW OF CLEARINGHOUSE REPORT... replace pages 65-76 with the new insert
- Item I3a – BOARD DISCUSSION OF REQUIREMENTS FOR TEMPORARY LICENSURE AND EDUCATION EQUIVALENCY, is moved to closed session to Item Q13.
- Item N1 is moved to CASE CLOSINGS as Item O1
- Case Status Report (closed session) – insert after page 94

MOTION: Lori Dominiczak moved, seconded by Mark Shropshire, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF DECEMBER 8, 2011

Corrections:

- On page 3, under BOARD APPOINTMENTS, Education Liaisons, add Lori Dominczak (alternate)

- On page 6, in the first motion, in the third line, change “complete” to “completed”
- On page 8:
 - Under DEFINITION OF DEVICE, change the sentence to read, “The Board requested a review by Legal Counsel.”
 - Under SCREENING RUBRIC, change the second sentence to read, “Chad Koplien, Division of Enforcement Administrator, and Ms. Nowack will be working to further develop the screening rubric.”
- On page 9, under OTHER BUSINESS, change the sentence to read, “Lori Dominiczak will draft a practice question related to documentation standards.”

MOTION: Mark Shropshire moved, seconded by Lori Dominicak, to approve the minutes of December 8, 2011 as corrected. Motion carried unanimously.

SECRETARY MATTERS

There was no report.

EXECUTIVE DIRECTOR MATTERS

Annual Policy Review and Board Member Guidebook

Tom Ryan reviewed the annual policies and the Board Member Guidebook with the Board. Board members were asked to complete and return the signature page.

Delegation Motion

MOTION: Lori Dominiczak moved, seconded by Mark Shropshire, that in order to facilitate the completion of assignments between meetings, to delegate authority to the Chair of the Board, highest ranking officer, or highest ranking member on the Board, to appoint liaisons to the Department where knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

Physical Therapy Examining Board 2011 Annual Report

Tom Ryan reviewed the PTEB 2011 Annual Report with the Board and corrections were made.

MOTION: Mark Shropshire moved, seconded by Lori Dominiczak, to approve the 2011 Annual Report as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

There were no cases to present.

FSBPT MATTERS

2012 Jurisdiction Board Member and Administrator Workshop, June 21-24, 2012, Alexandria, VA

The Board reviewed this information and no action was taken on this matter.

2012 Annual Meeting and Delegate Assembly, September 20-22, 2012, Indianapolis, IN

The Board discussed the importance of the 2012 FSBTP Annual Meeting and Delegate Assembly.

MOTION: Mark Shropshire moved, seconded by Lori Dominiczak, to authorize Lori Dominiczak as the Board's delegate and Jane Stroede as the alternate delegate to attend the 2012 FSPBT Annual Meeting and Delegate Assembly in Indianapolis, Indiana on September 20-22, 2012. The Board Chair may authorize another Board member to attend the meeting in the event that either the delegate or alternate delegate are unable to attend. Motion carried unanimously.

MOTION: Mark Shropshire moved, seconded by Lori Dominiczak, to authorize Tom Ryan to attend the 2012 FSPBT Annual Meeting and Delegate Assembly in Indianapolis, Indiana on September 20-22, 2012. Motion carried unanimously.

Michele Thorman would like to invite Jeff Rosa, the FSBPT Liaison for Wisconsin, to a future meeting of the Board.

REVIEW OF CLEARINGHOUSE REPORT OF PT 1-9 AND RULE DRAFTING

Review and Discuss Public Comments and Clearinghouse Report

The Board reviewed this information with Kip Schick, WPTA, legal counsel Sandy Nowack and paralegal Shawn Leatherwood. The Board made some revisions to the rule.

Approve Proposed Rule Draft for Filing With the Legislature

MOTION: Lori Dominiczak moved, seconded by Mark Shropshire, to authorize Michele Thorman to approve and sign the final version of Clearinghouse Rule 12-002. Motion carried unanimously.

PRACTICE QUESTIONS/FAQ's

Direct Access and Issuing Orders

The Board reviewed the practice questions. Michele Thorman and Sandy Nowack will work on a FAQ regarding prescription devices. There will be no FAQ on documentation standards.

BOARD DISCUSSION ITEMS

Division of Enforcement Matters

Lori Dominiczak inquired about receiving a report on the number of disciplinary cases in relation to the number of licensees for PTEB, and how this compares to other Boards.

Education and Examination Matters

➤ **WPTA Continuing Education Program Approval Procedures – Mike Edwards, WPTA**

Mike Edwards reviewed and discussed the WPTA continuing education approval procedures with the Board.

MOTION: Jane Stroede moved, seconded by Mark Shropshire, to ask the WPTA to report back to the Board at the first meeting in 2013 regarding the CE approval process and the audit outcome. Motion carried unanimously.

Legislation/Administrative Rules Matters

None.

Liaison Reports

None.

Speaking Engagement, Travel and Public Relation Requests

None.

INFORMATIONAL ITEMS

There were no informational items.

NEW BUSINESS

There was no new business.

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

MOTION: Mark Shropshire moved, seconded Lori Dominiczak, to convene to closed session to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation with administrative warning (Wis. Stat. § 19.85 (1) (b), and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll call vote: Lori Dominiczak-yes; Mark Shropshire-yes; Jane Stroede-yes; and Michele Thorman-yes. Motion carried unanimously.

The Board convened into closed session at 11:24 a.m.

**RECONVENE INTO OPEN SESSION IMMEDIATELY
FOLLOWING CLOSED SESSION**

MOTION: Lori Dominiczak moved, seconded by Jane Stroede to reconvene into open session. Motion carried unanimously.

The Board reconvened into open session at 1:03 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED IN CLOSED SESSION

VALIDATION OF EXAMINATION SCORE

MOTION: Mark Shropshire moved, seconded by Lori Dominiczak, to validate the score for the oral examination candidate. Motion carried unanimously.

CASE CLOSING(S)

MOTION: Lori Dominiczak moved, seconded by Mark Shropshire, to close case **11 PHT 008** for compliance gained. Motion carried unanimously.

MOTION: Mark Shropshire moved, seconded by Jane Stroede, to close case **11 PHT 007** for prosecutorial discretion (P5) with a flag should the license be renewed.

OTHER BUSINESS

Michele Thorman asked about the possibility of a Board retreat.

Mark Shropshire and Lori Dominiczak attended the WPTA legislation day yesterday.

Jane Stroede asked about PT's taking the PTA exam and how this impacts the practice act. This item will be on the next agenda.

The Board members reviewed their tasks from this meeting.

Board members should submit all agenda items to Michele Thorman at least 14 business days prior to the board meeting date.

PUBLIC COMMENTS

None.

ADJOURNMENT

MOTION: Lori Dominiczak moved, seconded by Jane Stroede, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:31 p.m.

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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted:	
		Items will be considered late if submitted after 4:30 p.m. and less than: ■ 10 work days before the meeting for Medical Board ■ 14 work days before the meeting for all others	
3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: June 28, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Status of Public Member Appointment	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Update.			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

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3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: June 28, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? September Meeting Appearance by FSBPT Representatives	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Discuss the planned visit of FSBPT Representatives Leslie Adrian and Jeff Rosa.			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

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4) Meeting Date: June 28, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Board Review of Equivalency Programs	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <u>Yes</u> who is appearing? (name) Amy Booth <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Board Review			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

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Ryan, Thomas - DSPS

From: Matthew O'Neill [mwoneill@foslaw.com]
Sent: Wednesday, May 02, 2012 2:54 PM
To: Ryan, Thomas - DSPS
Cc: Patrick J. Osborne (osborne@hamilton-consulting.com); Berndt, Michael - DSPS
Subject: Physical Therapists Affiliated Credentialing Board Meeting 6/28/12
Attachments: Nowack, 11-07-11, MWO, re matter.pdf

Mr. Ryan:

I represent the Midwest College of Oriental Medicine. Attached is a copy of a November 7, 2011 letter I submitted to Attorney Sandra Nowack setting forth my client's demand for the removal of a specific FAQ posted by the Physical Therapist Affiliated Credentialing Board ("PT Board") approving the practice of "dry needling" by physical therapists.

As I indicated on the phone, we would like to be added to the Agenda for the Board's June 28, 2012 meeting to address the issues set forth in my letter, and the additional legal issue that we view the Board's actions in this regard as improper rule-making, in violation of Chapter 227. We discussed these issues in a meeting last week with the Department's counsel, Michael Berndt. We request that the November 7, 2011 letter to be distributed to the Board members in advance of the meeting.

Please confirm whether my request will be granted, and the specific time of the meeting.

Thanks,

Matthew W. O'Neill
Fox, O'Neill & Shannon, S.C.
622 North Water Street, #500
Milwaukee, WI 53202
Telephone: 414-273-3939
Fax: 414-273-3947
Email: mwoneill@foslaw.com



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WILLIAM FITZHUGH FOX
BRUCE C. O'NEILL
Court Commissioner
THOMAS P. SHANNON +
WILLIAM R. SODERSTROM
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FRANCIS J. HUGHES
MICHAEL J. HANRAHAN
MATTHEW W. O'NEILL
LAURNA A. JOZWIAK
PETER J. WHITE

Of Counsel -
KENNETH P. BARCZAK

+ ALSO ADMITTED TO PRACTICE IN ILLINOIS

November 7, 2011

SENT BY EMAIL AND MAIL
Sandra.nowack@wisconsin.gov

Attorney Sandra Nowack
Wisconsin Department of Regulation
and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

RE: Challenge to DSPTS FAQ Approving Practice of "Dry Needling" by
Physical Therapists

Dear Ms. Nowack:

We represent the Midwest College of Oriental Medicine, Wisconsin's only fully accredited institution for the education of acupuncturists and practitioners of oriental medicine. The purpose of this letter is to formally object to, and demand the removal of, the following statement included on the website of the Department of Safety and Professional Services ("DSPTS") with respect to physical therapists practicing in Wisconsin:

"3. IS DRY NEEDLING WITHIN THE SCOPE OF PRACTICE OF A PHYSICAL THERAPIST IN WISCONSIN?"

Wis. Stat. s. 448.50(6) allows for "therapeutic intervention" within the scope of physical therapy. As this process uses sterile techniques, the surface skin is cleaned, it does not draw blood, and the physical therapists are trained in blood-body precautions, the Board considers this within the realm of therapeutic intervention. Dry needling is within the scope of physical therapy practice and may be performed provided the licensed physical therapist is properly educated and trained."

According to materials contained on the Department's website, this FAQ was approved, in substance, at a July 9, 2009 meeting of the Physical Therapists Affiliated Credentialing Board ("PT Board").

The Midwest College objects to this FAQ on several grounds. *First*, the term “dry needling” is undefined on the Department’s website or in the statutes or administrative rules regarding physical therapy, or even in PT Board’s minutes approving the FAQ. *Second*, as my client understands the practice, “dry needling” is the equivalent of acupuncture, meaning the FAQ purports to authorize untrained and unlicensed individuals to practice acupuncture, in violation of § 451.04(1), Wis. Stats. *Third*, physical therapists are encouraged by the FAQ to use needle insertion techniques on patients without a corresponding requirement of any training in needle sterilization or other safety techniques that are mandated by Wisconsin for licensed acupuncturists. *Fourth*, the FAQ is incorrect that the use of “dry needling,” even in its undefined state, could fall within the definition of “therapeutic intervention” in § 448.50(6), Wis. Stats. *Fifth*, to the extent Wisconsin intends to allow physical therapists to use needling techniques, which puncture the skin of patients and which carry substantial blood-related and infection risks, such decision should be made by the legislature and appropriate educational requirements should be reflected in the statutes and administrative rules requiring similar training as that required for licensed acupuncturists.

1. The Term “Dry Needling” is Undefined.

Our initial objection to the FAQ is that the approved practice is completely undefined. Reading the FAQ, it is anyone’s guess as to what constitutes “dry needling.” It borders on the irresponsible for the PT Board to approve an invasive treatment technique without any definition of what is being approved.

According to the answer to the FAQ, the dry needling process “uses sterile techniques, the surface skin is cleaned, it does not draw blood, and the physical therapists are trained in blood-body precautions....” This description lacks any discernible basis in law or fact. While there may be some physical therapists who use “sterile techniques” and who clean the surface of the skin before inserting needles into a patient, there is no legal definition, no required training in this regard, and no enforceable means to ensure that such precautions are taken.

This issue is not new, however. Chiropractors and physical therapists across the country have increasingly been attempting to incorporate acupuncture techniques into their practice despite the lack of any training in needling technique, needle sterilization, or blood safety. In Oregon, for example, “dry needling” was recently defined as “a technique used to evaluate and treat myofascial trigger points that uses a dry needle, without medication, that is inserted into a trigger point ... with the goal of releasing/inactivating the trigger points, relieving pain and/or improving function” OAR 811-015-0036. Notably, the Oregon Court of Appeals issued an order staying this administrative rule pending the Court’s review of the Board’s authority, because the Court concluded “dry needling is substantially the same as the insertion of needles treatment modality of acupuncture.” *Oregon Assoc. of Acupuncture and Oriental Medicine v. Board of Chiropractic Examiners*, Or. Ct. App. No. A148924 (July 29, 2011).

If the PT Board is intent on allowing “dry needling,” it must at a minimum define precisely what it is approving.

2. "Dry needling" is the equivalent of the practice of acupuncture.

By contrast with the above, the statutory definition of "acupuncture" explicitly includes the practice of "inserting acupuncture needles" to certain "points or meridians" of the human body in order to promote, maintain or restore health. Regardless of how one attempts to define "dry needling," it falls directly within this definition of acupuncture.

As stated in the enclosed October 8, 2007 letter from the American Association of Acupuncture and Oriental Medicine:

We consider "dry-needling" to fall squarely within the range of acupuncture practice. Moreover, as licensed acupuncturists typically receive at least 3000 hours of education, the 54 hour course that allows physical therapists to use needles on patients is not only insufficient, but constitutes a public health hazard.

Regardless of how one attempts to shoehorn the undefined concept of "dry-needling" into the definition of physical therapy (discussed below), the practice falls directly within the Wisconsin statutory definition of acupuncture. As such, it is illegal for anyone other than a licensed acupuncturist to engage in such practices, under current law. Section 451.04(1), Wis. Stats., is clear: "No person may engage in the practice of acupuncture . . . unless the person is certified as an acupuncturist by the department."

3. The FAQ recklessly allows insertion of needles without any safety precautions.

The Wisconsin Legislature was careful to protect public safety in the context of needle treatments by acupuncturists. Section 451.12, Wis. Stats., states:

The department shall promulgate rules relating to the prevention of infection, the sterilization of needles and other equipment or materials capable of transmitting infection and the safe disposal of potentially infectious materials. The rules shall require acupuncture needles to be thoroughly cleansed with an antiseptic solution prior to sterilization by autoclave and shall permit an acupuncturist to use needles that are pre-sterilized, pre-wrapped and disposable.

The Department complied with this directive, creating Wis. Admin. Code Ch. RL 72, entitled "Safe Practice," which sets forth detailed regulations concerning "Sterilization" (RL 72.02), "Treatment Procedures" (RL 72.03), "Disposal of Needles" (RL 72.04), "Procedure for Exposure to Blood" (RL 72.05), "Precautionary Procedures" (RL 72.06), and "Safe Practices" (RL 72.07). As but one example of the importance of such protections, RL 72.07(3) requires an acupuncturist to request a consultation or written diagnosis from a licensed physician "prior to commencing acupuncture treatment" on any patient with a "potentially serious disorder" such as a cardiac condition, uncontrolled hypertension, acute abdominal symptoms, or acute respiratory distress.

Contrast this with the PT Board-approved application of “dry-needling” by physical therapists, which includes *no* patient safeguards. Physical therapists could use (and re-use) any needles, could ignore sterilization altogether, could dispose of used needles as they saw fit, and could treat blood exposure as they saw fit. The PT Board’s suggestion that the (undefined) “dry-needling” procedure “uses sterile techniques” and “does not draw blood” has no basis in any law or regulation, and has no binding effect on any physical therapist.

4. “Dry-Needling” is not “therapeutic intervention.”

The PT Board ignores the statutory prohibition in § 451.04(1), Wis. Stats., on the unauthorized practice of acupuncture, and attempts to equate the undefined practice of “dry-needling” with “therapeutic intervention,” as defined in § 448.50(6), Wis. Stats. The Board is wrong. Section 448.50(6) provides:

“Therapeutic intervention” means the purposeful and skilled interaction between a physical therapist and a patient, and, if appropriate, individuals involved in the patient’s care, *using physical therapy procedures or techniques* that are intended to produce changes in the patient’s condition and that are consistent with diagnosis and prognosis.

The insertion of needles through the skin of a patient does not fall within the broad category of “physical therapy procedures or techniques,” any more than would the insertion of a needle for the injection of drugs. The mere fact that the procedure may be intended for therapeutic purposes does not transform it into a physical therapy procedure or technique. The fact that “dry-needling” is not within the curriculum for physical therapy education, but rather is taught through unlicensed for-profit seminars (the leading proponent appearing to be Myopain Seminars, at www.myopainseminars.com), confirms this fact.

5. The Legislature should decide whether physical therapists can perform “dry-needling” on patients.

The decision of whether physical therapists should be allowed to insert needles through a patient’s skin should be made by the Legislature, not the PT Board. That Board’s charter is to implement the existing laws, not to expand the scope of allowable physical therapy procedures and techniques. *See* § 15.085(5)(b), Wis. Stats.; Wis. Admin. Code § PT 1.01.

As demonstrated by the careful restrictions on needle use set forth in § 451.12, Wis. Stats., and Chapter RL 72 of the Wisconsin Administrative Code, Wisconsin takes very seriously the obligation to protect patients from harm in the context of invasive treatments involving “dry” needles inserted through the skin. If physical therapy practitioners or the PT Board believe that “dry-needling” is an appropriate treatment for physical therapists, the appropriate course is to seek legislative approval to amend Subchapter III of Chapter 448 to specifically authorize the practice and require appropriate education and safety precautions. In this context all interested parties could be heard, and could introduce proper evidence into the public record.

As it stands, an unelected Board has, by motion, dramatically expanded the allowable scope of practice of physical therapists, and has encouraged such practitioners to engage in the unlicensed practice of acupuncture, with no definitions, no restrictions, and no protection for the public.

For these reasons, we respectfully request that the PT Board immediately remove the challenged FAQ for the Department's website, and in its place post a notice that "dry-needling" is not an approved practice by physical therapists in Wisconsin.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew W. O'Neill", written in a cursive style.

MATTHEW W. O'NEILL

cc: Midwest College of Oriental Medicine

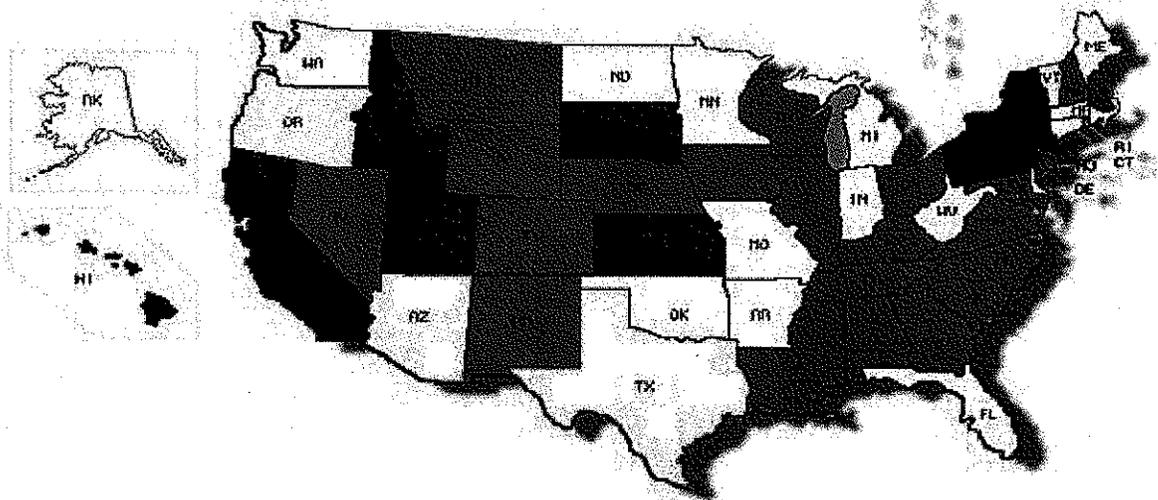
What other states/jurisdictions allow the utilization of this technique? How many other states are in the process of determining if this technique will be allowed to be utilized/practiced in their state?

Dry needling is accepted within the scope of physical therapy practice in many countries, including but not limited to: Australia, Belgium, Canada, Chile, Denmark, Ireland, the Netherlands, New Zealand, Norway, South Africa, Spain, and the United Kingdom.

In the USA, there are 26 jurisdictions that have definitively ruled dry needling is allowed by PTs, and 7 that have ruled definitively that it is not in the scope of practice of PTs. The states in yellow have some questions surrounding their status; some have been identified in other resources as allowing PTs to do dry needling, however this is either under scrutiny (OR), ambiguous when the PT Board was directly contacted (AZ, TX) or unable to be substantiated by this author (VT).

DRY NEEDLING IN USA

- - ALLOWED
- - CAUTION
- - PROHIBITED



STATE	ALLOWS (Y) DOES NOT ALLOW (N)	Other Information
AL	Y	Board minutes October 23, 2007: Acupuncture & Dry Needling does fall within the scope of practice for physical therapy.

AZ	-	Claimed by some resources to have approved dry needling for PTs, discussion with the Board reports no official position is taken as the Board is unable to provide advisory opinions.
CA	N	
CO	Y	In rules
DC	Y	In rules
GA	Y	2011 Dry needling added to GA PT Practice Act; only state to have in statute
HI	N	Physical Therapists, by statute, are not allowed to puncture the skin of a patient for any purpose
IA	Y	From 9/2010 Board of PT meeting minutes: In answer to a licensee's question regarding whether PTs may perform dry needling. Board determines that it does not appear to be prohibited.
ID	N	
IL	Y	Aug 2010 verbal opinion from the IL Dept. of professional regulation legal counsel that dry needling was not prohibited by the IL physical therapy practice act
KS	N	<p>Kansas Board of Healing Arts Board Minutes</p> <p>C. Dry Needling: Mr. Anshutz and Mr. Riley stated that they believe Dry Needling is another name for acupuncture and the Board only regulates acupuncture in the ND practice act. Several acupuncturists came before the Board at the August 8, 2010, meeting and it is expected they will go the legislature to become regulated. Dry needling does not fit any of the modalities that are included in the PT practice act and could only be included as an experimental treatment if done through one of the teaching universities and based on research</p>
KY	Y	<p>March 18, 2010 Opinion and Declaratory ruling regarding state law governing dry needling therapy by the Kentucky Board of Physical Therapy.</p> <p>The Board is of the opinion dry needling is within the scope of the practice of "physical therapy" as defined in Kentucky law by the General Assembly at KRS 327.010(1). Dry needling is a treatment used to improve neuromuscular function. As such it falls within the definition of physical therapy as defined under KRS 327:010 (1) "Physical therapy" means the use of selected knowledge and skills ...invasive or noninvasive procedures with emphasis on the skeletal system, neuromuscular, and cardiopulmonary function, as it relates to physical therapy. There is nothing in KRS Chapter 327 to prohibit a licensed physical therapist from performing dry needling so long as the physical therapist is competent in performing this intervention.</p> <p>While dry needling is within the scope of practice of physical therapy, a physical therapist must practice only those procedures that the physical therapist is competent to perform.</p>

		The Board can discipline a physical therapist for “engaging or permitting the performance of substandard patient care by himself or by persons working under their supervision due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established.” KRS 327.070(2).
LA	Y	Within the Scope of Practice of PT; Board regulations
MD	Y	In January 2011, the Board of physical therapy began the rule making process for dry needling specifics in the state of Maryland. Regulations are still in proposed stage. Aug 27, 2010 MD Attorney General’s opinion was that dry needling could fall within the scope of physical therapy as use of a mechanical device, however, the “Maryland Physical Therapy Board’s informal statement that dry needling is consistent with the practice of physical therapy does not carry the force of law, as it is not a regulation adopted pursuant to the State Administrative Procedure Act.” Dry needling had been allowed to be performed by PTs since 1985 and there had been no disciplinary cases brought before the Board.
MS	Y	Board Minutes 2/2012: The Mississippi State Board of Physical Therapy considers that intramuscular manual therapy techniques are within the physical therapist scope of practice and is in the process of developing more specific competence requirements.
MT	Y	The Montana Board of Physical Therapy has determined that trigger point dry needling is within the scope of practice for physical therapists. The Board has formed a committee to begin the process of setting rules for trigger point dry needling which met for the first time June 30, 2011 and their work continues presently.
NH	Y	PT Board MINUTES of October 19, 2011: PTs can do dry needling if they have been trained to do so.
NJ	Y	Sept 2009, Board of PT determined dry needling is within the scope of practice of PTs. Currently being looked at by the Division of Consumer Affairs which may alter the opinion. No written documentation
NM	Y	March 2000, In a letter dated March 21, 2000, the PT Board determined that the PT Act does not prohibit dry needling and that Section 61-12D-3, Paragraph 1, Number 2 describing the practice of physical therapy supports that decision.
NC	Y	In 2010, NC PT Board voted to reverse previous policy which did not allow dry needling by PTs. Dec 9, 2010 Board Position Statement. Position: Based on currently available resource information, it is the position of the North Carolina Board of Physical Therapy Examiners that intramuscular manual therapy is within the scope of practice of physical therapists.
NE	Y	Within the Scope of Practice of PT June 2011 Board meeting minutes
NV	Y	Dry needling is within the SOP of PTs as ruled by NV Board of PT on March 20, 2012. As of April 19, 2012, the PT Board legal counsel is writing up the new Board Policy on dry needling and once signed by Chairman, Kathy Sidener, dry needling will be permissible by PTs in NV.
NY	N	Early 1990s (1992?) and affirmed in 2007 NY State Board issued an opinion at the time that it was not an entry level skill and therefore could not be done.

OH	Y	In a letter dated January 5, 2007, the OH OT, PT, and ATC Board affirms the position of the PT Section of the Board that nothing in the OH PT Practice Act prohibits a PT from performing dry needling. The letter goes on to read that the PT must demonstrate competency in the modality.
OR	Y	November 2009: Upon further discussions the Physical Therapist Licensing Board believes that the dry needling of trigger points is likely within the physical therapist scope of practice (excluding PTAs). The Board acknowledges that the dry needling of trigger points is an advanced intervention requiring post physical therapy graduate training and education. Further, the Board recommends that the acupuncture committee, physical therapist and medical Boards work in partnership with their professional associations to define a minimum competency by which a physical therapist can safely practice the intervention of dry needling of trigger points. In the interest of public safety, until training and education can be determined, the Board strongly advises its licensees to not perform dry needling of trigger points.
PA	N	PA PT Board was advised by legal counsel that dry needling is not within the scope of practice of a PT
RI	Y	Feb 14, 2012 PT Board minutes: Board members revisited the matter of dry needling for intramuscular therapy. A board member questioned if it pertained to other professions, including Acupuncturist. The board administrator related guidance from Atty. Tom Corrigan stating the use of a needle by one profession does not preclude a different profession from having a different use for a needle. Board members comment dry needling is within their scope of practice provided the licensed professional is comfortable trained and has appropriate background knowledge. For licensed physical therapists that are not qualified there are educational seminars they may sign up for and gain the required background and training.
SC	Y	In an e-mail written in October 2004 in response to a licensee's question regarding scope of practice and dry needling, the Chairperson affirmed that dry needling appears to fall within the SOP of a licensed PT in SC if they are fully trained in its use and comply with all legal and ethical requirements for professional practice in physical therapy.
SD	N	The South Dakota Board of Medical and Osteopathic Examiners considers procedures involving the breaking or altering of human tissue for diagnostic, palliative or therapeutic medical purposes to be the practice of medicine. The Board determines that dry needling is significantly different from "electromyography (EMG)", which the Board previously opined was an activity within the scope of practice for a physical therapist. Decision: The South Dakota Board of Medical and Osteopathic Examiners determined that the procedure known as "dry needling" does not fall within the physical therapist scope of practice as defined in SDCL ch. 36-10. This opinion issued by the Board of Medical and Osteopathic Examiners is advisory in nature. It does not constitute an administrative rule or regulation and is intended solely to serve as a guideline for persons registered, licensed, or otherwise regulated by the Board of Medical and Osteopathic Examiners.
TN	Y	Yes, dry needling is within the SOP August 12, 2011- overturned previous policy that it was not within scope

TX	-	Texas does not have an official position and is legally not allowed to offer advisory opinions; however, the Board has made no determination that dry needling is outside the scope of practice for PTs
UT	N	The Utah board determined that the addition of dry needling would require a change in the statute and further defining in the rule.
VA	Y	Updated Board Policy Guidance Document on Aug 26, 2010
VT	-	Reported by one resource that in February 2012, the Vermont Office of Professional Regulation issued a statement that dry needling is within the scope of physical therapy in that state. Unable to substantiate this claim.
WI	Y	<p>BOARD MINUTES JULY 2009:</p> <p style="text-align: center;">BOARD DISCUSSION OF DRY NEEDLING</p> <p>Statute 448.50 (6) allows for "therapeutic intervention" within the scope of physical therapy. Larry Nosse discussed the use of dry needling as a therapeutic technique. This process uses sterile techniques, the surface skin is cleaned, it does not draw blood, and the physical therapists are trained in blood-body precautions. Mark Shropshire noted that the American Academy of Orthopedic and Manual Physical Therapists has made a position statement that dry needling is within the scope of practice of physical therapy. California, Nevada, Tennessee, and Florida do not allow this technique within the scope of practice within physical therapy because these states have language noting that PTs cannot puncture the skin.</p> <p>MOTION: Otto Cordero moved, seconded by Jane Stroede, that the Board considers trigger point dry needling as within the scope of practice of physical therapy provided that the licensed physical therapist is properly educated and trained. Motion carried unanimously.</p>
WY	Y	In a letter dated Aug 18, 2009 the Wyoming Board of Physical Therapy affirmed that nothing in the current Practice Act would preclude PTs performing dry needling with proper credentials.

What are the recommended training requirements for acquiring this treatment technique?

There are currently no consistent profession-wide standards/competencies defined for the performance of dry needling. Each state has defined what the requirements will be in that state.

STATE	TRAINING REQUIREMENTS
CO	<p>COLORADO PHYSICAL THERAPY LICENSURE RULES AND REGULATIONS</p> <p>4 CCR 732-1 RULE 11 - REQUIREMENTS FOR PHYSICAL THERAPISTS TO PERFORM DRY NEEDLING</p> <p>A. Dry needling is a physical intervention that uses a filiform needle to stimulate trigger points, diagnose and treat neuromuscular pain and functional movement deficits; is based upon Western medical concepts; requires an examination and diagnosis, and treats specific anatomic entities selected according to physical signs. Dry needling does not include the stimulation of auricular or distal points.</p> <p>B. Dry needling as defined pursuant to this rule is within the scope of practice of physical therapy.</p> <p>C. A physical therapist must have the knowledge, skill, ability, and documented competency to perform an act that is within the physical therapist's scope of practice.</p>

	<p>D. To be deemed competent to perform dry needling a physical therapist must meet the following requirements:</p> <p>1. Documented successful completion of a dry needling course of study. The course must meet the following requirements:</p> <p>a. A minimum of 46 hours of face-to-face IMS/dry needling course study; online study is not considered appropriate training.</p> <p>b. Two years of practice as a licensed physical therapist prior to using the dry needling technique.</p> <p>E. A provider of a dry needling course of study must meet the educational and clinical prerequisites as defined in this rule, D(1) (a) &(b) and demonstrate a minimum of two years of dry needling practice techniques. The provider is not required to be a physical therapist.</p> <p>F. A physical therapist performing dry needling in his/her practice must have written informed consent for each patient where this technique is used. The patient must sign and receive a copy of the informed consent form. The consent form must, at a minimum, clearly state the following information:</p> <p>1. Risks and benefits of dry needling</p> <p>2. Physical therapist's level of education and training in dry needling</p> <p>3. The physical therapist will not stimulate any distal or auricular points during dry needling.</p> <p>H. When dry needling is performed this must be clearly documented in the procedure notes and must indicate how the patient tolerated the technique as well as the outcome after the procedure.</p> <p>I. Dry needling shall not be delegated and must be directly performed by a qualified, licensed physical therapist.</p> <p>J. Dry needling must be performed in a manner consistent with generally accepted standards of practice, including clean needle techniques, and standards of the center for communicable diseases.</p> <p>K. The physical therapist must be able to supply written documentation, upon request by the Director, which substantiates appropriate training as required by this rule. Failure to provide written documentation is a violation of this rule, and is prima facie evidence that the physical therapist is not competent and not permitted to perform dry needling.</p> <p>L. This rule is intended to regulate and clarify the scope of practice for physical therapists.</p>
DC	<p>District of Columbia Municipal Regulations Title 17, Chapter 67, Physical Therapy</p> <p>6715 SCOPE OF PRACTICE A physical therapist may also perform intramuscular manual therapy, which is also known as dry needling, if performed in conformance with the requirements of section 6716.</p> <p>6716 REQUIREMENTS FOR PHYSICAL THERAPISTS TO PERFORM INTRAMUSCULAR MANUAL THERAPY</p> <p>6716.1 Intramuscular manual therapy may be performed by a licensed physical therapist who meets the requirements of this section.</p> <p>6716.2 Intramuscular manual therapy shall be performed directly by the licensed physical therapist and shall not be delegated.</p> <p>6716.3 Intramuscular manual therapy shall be performed in a manner that is consistent with generally accepted standards of practice, including clean needle techniques, and other applicable standards of the Centers for Disease Control and Prevention.</p> <p>07-01-11 16 Title 17 District of Columbia Municipal Regulations</p> <p>6716.4 Intramuscular manual therapy is an advanced procedure that requires specialized training. A physical therapist shall not perform intramuscular manual therapy in the District of Columbia unless he or she has documented proof of completing:</p> <p>(a) A Board-approved professional training program on intramuscular manual therapy. The training program shall require each trainee to demonstrate cognitive and psychomotor knowledge and skills. The training program shall be attended in person by</p>

the physical therapist, shall not be attended online or through any other means of distance learning, and shall not be a self-study program

(b) A professional training program on intramuscular manual therapy accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE). The training program shall require each trainee to demonstrate cognitive and psychomotor knowledge and skills. The training program shall be attended in person by the physical therapist, shall not be attended online or through any other means of distance learning, and shall not be a self-study program; or

(c) Graduate or higher-level coursework in a CAPTE-approved educational program that included intramuscular manual therapy in the curriculum.

6716.5 A physical therapist shall only perform intramuscular manual therapy following an examination and diagnosis, and for the purpose of treating specific anatomic entities selected according to physical signs.

6716.6 A physical therapist who performs intramuscular manual therapy shall obtain written informed consent from each patient who will receive intramuscular manual therapy before the physical therapist performs intramuscular manual therapy on the patient.

6716.7 The informed consent form shall include, at a minimum, the following:

(a) The patient's signature;

(b) The risks and benefits of intramuscular manual therapy;

(c) The physical therapist's level of education and training in intramuscular manual therapy; and

(d) A clearly and conspicuously written statement that the patient is not receiving acupuncture.

6716.8 A physical therapist who performs intramuscular manual therapy shall maintain a separate procedure note in the patient's chart for each intramuscular manual therapy. The note shall indicate how the patient tolerated the intervention as well as the outcome after the intramuscular manual therapy.

6716.9 A physical therapist who performs intramuscular manual therapy shall be required to

07-01-11 17 Title 17 District of Columbia Municipal Regulations

produce documentation of meeting the requirements of this section immediately upon request by the Board or an agent of the Board.

6716.10 Failure by a physical therapist to provide written documentation of meeting the training requirements of this section shall be deemed prima facie evidence that the physical therapist is not competent and not permitted to perform intramuscular manual therapy.

GA

Currently drafting rules for the statute.

LA

Subchapter B. General Provisions

§123. Definitions

A. As used in this Title, the following terms and phrases, defined in the Practice Act, La. R.S.37:2401–2424, shall have the meanings specified here.

Dry Needling—a physical intervention which utilizes filiform needles to stimulate trigger points in a patient's body for the treatment of neuromuscular pain and functional movement deficits. Dry Needling is based upon Western medical concepts and does not rely upon the meridians utilized in acupuncture and other Eastern practices. A physical therapy evaluation will indicate the location, intensity and

persistence of neuromuscular pain or functional deficiencies in a physical therapy patient and the propriety for utilization of dry needling as a treatment intervention. Dry needling does not include the stimulation of auricular points.

§311. Treatment with Dry Needling

A. The purpose of this rule is to establish standards of practice, as authorized by La. R.S. 37:2405 A.(8), for the utilization of dry needling techniques, as defined in §123, in treating patients.

B. Dry needling is a physical therapy treatment which requires specialized physical therapy education and training for the utilization of such techniques. Before undertaking dry needling education and training, a PT shall have no less than two years experience working as a licensed PT. Prior to utilizing dry needling techniques in patient treatment, a PT shall provide documentation to the executive director that he has successfully completed a board-approved course of study consisting of no fewer than 50 hours of face-to-face instruction in intramuscular dry needling treatment and safety. Online and other distance learning courses will not satisfy this requirement. Practicing dry needling without compliance with this requirement constitutes unprofessional conduct and subjects a licensee to appropriate discipline by the board.

C. In order to obtain board approval for courses of instruction in dry needling, sponsors must document that instructors utilized have had no less than two years experience utilizing such techniques. Instructors need not be physical therapists, but should be licensed or certified as a healthcare provider in the state of their residence.

D. A written informed consent form shall be presented to a patient for whom dry needling is being considered, telling the patient of the potential risks and benefits of dry needling. A copy of a completed form shall be preserved in the patient treatment record and another copy given to the patient.

E. Dry needling treatment shall be performed in a manner consistent with generally accepted standards of practice, including sterile needle procedures and the standards of the U.S. Centers for Disease Control and Prevention. Treatment notes shall document how the patient tolerated the technique and the outcome of treatments.

MD	Currently drafting
MS	Currently drafting
MT	Currently drafting
NC	<p>As of December 2010:</p> <p>Intramuscular manual therapy is an advanced skill that requires additional training beyond entry-level education and should only be performed by physical therapists who have demonstrated knowledge, skill, ability, and competence, in one of the following two ways: (1) Completion of an Intramuscular Manual Therapy course of study at a program approved by the Board with a minimum of 54 hours of classroom education, an additional forty hours of clinical instruction under an experienced Intramuscular Manual Therapy practitioner and two years of practice as a licensed physical therapist prior to using Intramuscular Manual Therapy; or (2) Evidence of practice experience in the use of intramuscular manual therapy techniques ("experienced intramuscular manual therapy practitioner") which consists of using the technique for a least 100 hours per year for a period of 2 years. Since Intramuscular Manual Therapy requires ongoing re-evaluation and reassessment, it is not in the scope of work for physical therapist assistants or physical therapy aides.</p>

NE	<p>A physical therapist who wished to perform tissue penetration for the purpose of dry needling must meet the following requirements:</p> <ol style="list-style-type: none"> 1. Complete pre-service or in-service training. The pre-service or in-service training must include: <ol style="list-style-type: none"> a. Pertinent anatomy and physiology; b. Choice and operation of supplies and equipment; c. Knowledge of technique including indications and contraindications; d. Proper technique of tissue penetration; e. Sterile methods, including understanding of hazards and complications; and f. Post intervention care; and g. Documentation of application of technique in an educational environment. 2. The training program shall require training to demonstrate cognitive and psychomotor skills. Also, the training program must be attended in person by the physical therapist. 3. Maintain documentation of successful completion of training.
OH	11/2011 Currently working to identify general guidelines for determining competence.
TN	Clinical proficiency and competency in this particular clinical field area of treatment and examination
VA	<p>Guidance Document 112-9 Board of Physical Therapy Guidance on Dry Needling in the Practice of Physical Therapy Upon recommendation from the Task Force on Dry Needling, the Board voted that dry needling is within the scope of practice of physical therapy but should only be practiced under the following conditions:</p> <ul style="list-style-type: none"> • Dry needling is not an entry level skill but an advanced procedure that requires additional training. • A physical therapist using dry needling must complete at least 54 hours of post professional training including providing evidence of meeting expected competencies that include demonstration of cognitive and psychomotor knowledge and skills. • The licensed physical therapist bears the burden of proof of sufficient education and training to ensure competence with the treatment or intervention. • Dry needling is an invasive procedure and requires referral and direction, in accordance with § 54.1-3482 of the Code of Virginia. Referral should be in writing and specific for dry needling; if the initial referral is received orally, it must be followed up with a written referral. • If dry needling is performed, a separate procedure note for each treatment is required, and notes must indicate how the patient tolerated the technique as well as the outcome after the procedure. • A patient consent form should be utilized and should clearly state that the patient is not receiving acupuncture. The consent form should include the risks and benefits of the technique, and the patient should receive a copy of the consent form. The consent form should contain the following explanation: <p>Dry needling is a technique used in physical therapy practice to treat trigger points in muscles. You should understand that this dry needling technique should not be confused with a complete acupuncture treatment performed by a licensed acupuncturist. A complete acupuncture treatment might yield a holistic benefit not available through a limited dry needling treatment.</p>

FEDERATION OF STATE BOARDS OF PHYSICAL THERAPY

Intramuscular Manual Therapy (Dry Needling)
2nd edition

Resource Paper

Federation of State Boards of Physical Therapy
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The Federation of State Boards of Physical Therapy would encourage review of the information in this resource paper in order to determine whether intramuscular manual therapy (dry needling) is within the scope of practice for a physical therapist for the jurisdiction in question. The information presented in this paper will provide some background and evidence on which the state licensing authority may wish to base the decision regarding scope of practice.

Intramuscular Manual Therapy (Dry Needling) Resource Paper

Preface

The volume of activity in the states from March 2010 thru March 2011 regarding Intramuscular Manual Therapy or Dry Needling, for now, terms which may be used synonymously, has necessitated an updated version of the FSBPT original resource paper. Many Boards have been approached to give an opinion as to the ability for physical therapists in that jurisdiction to legally perform dry needling. As each state is independent to determine its own laws and rules, the Boards opinions and actions have varied widely creating inconsistent requirements for physical therapy practice from state to state.

Introduction

It is not unusual for a state licensing board to be asked for an opinion as to whether or not an evaluative technique, treatment, or procedure is within the scope of practice for that given profession. It is as important to base regulation on evidence, when possible, as it is to base practice on evidence. The Federation of State Boards of Physical Therapy would encourage review of the information in this resource paper in order to determine whether intramuscular manual therapy is within the scope of the physical therapist for the jurisdiction in question. The information presented in this paper will provide some background and evidence on which the state licensing authority may wish to base the decision regarding scope of practice. Of course, the Practice Act in the state is the final authority on what is included in the scope of practice of a profession. Physical Therapy Practice Acts are by design non-specific and ambiguous; the details of the law are fleshed out with the applicable regulations. The Practice Act is written is rarely written with a laundry list of procedures, tests, or measures that a Physical Therapist is allowed to perform, thus making it very susceptible to different interpretations. The respective State Board writes rules and regulations based on that statutory authority to give practical meaning to the law. As many specifics are not found in law, many State Boards of PT have been approached for a judgment as to whether or not a certain intervention or procedure is within the scope of PT practice in that jurisdiction. Certainly, new and evolving procedures are rarely, if ever, specifically addressed in the Practice Act.

State Boards are often faced with opposition when another professional group claims the activity in question as their own. However, it is very clear that no single profession owns any procedure or intervention. Overlap among professions is expected and necessary for access to high quality care.

One activity does not define a profession, but it is the entire scope of activities within the practice that makes any particular profession unique. Simply because a skill or activity is within one profession's skill set does not mean another profession cannot and should not include it in its own scope of practice.¹

The Federation of State Boards of Physical Therapy (FSBPT) collaborated with five other healthcare regulatory organizations to publish ***Changes in Healthcare Professions Scope of Practice: Legislative Considerations***. These organizations present the argument that if a profession can provide supportive evidence in the four foundational areas: Historical Basis, Education and Training, Evidence, and Regulatory Environment, then the proposed changes are likely to be in the public's best interest. A more developed investigation of the four foundational areas is found below.²

¹ *Changes in Healthcare Professions Scope of Practice: Legislative Considerations*. Revised 10/2009, page 9.

² *Ibid*, page 12-13.

1. ***Is there a historical basis for adding the activity in question to the scope of practice?***
 - a. Has there been an evolution of the profession towards the addition of the new skill or service?
 - b. What is the evidence of this evolution?
 - c. How does the new skill or service fit within or enhance a current area of expertise?
2. ***Is there evidence of education and training which supports the addition of the activity in question to the scope of practice?***
 - a. Does current entry-level education prepare practitioners to perform this skill as their experience increases?
 - b. If the change in scope is an advanced skill that would not be tested on the entry-level licensure examination, how is competence in the new technique assured?
 - c. What competence measures are available and what is the validity of these measures?
 - d. Are there training programs within the profession for obtaining the new skill or technique?
 - e. Are standards and criteria established for these programs? Who develops these standards? How and by whom are these programs evaluated against these standards?
3. ***What is the evidence which supports the addition of the activity in question to the scope of practice?***
 - a. Is there evidence within the profession related to the particular procedures and skills involved in the changes in scope?
 - b. Is there evidence that the procedure or skill is beneficial to public health?
4. ***What is the regulatory environment in the jurisdiction?***
 - a. Is the regulatory board authorized to develop rules related to a changed or expanded scope?
 - b. Is the board able to determine the assessment mechanisms for determining if an individual professional is competent to perform the task?
 - c. Is the board able to determine the standards that training programs should be based on?
 - d. Does the board have sufficient authority to discipline any practitioner who performs the task or skill incorrectly or might likely harm a patient?
 - e. Have standards of practice been developed for the new task or skill?
 - f. How has the education, training and assessment within the profession expanded to include the knowledge base, skill set and judgments required to perform the tasks and skills?
 - g. What measures will be in place to assure competence?

Dry Needling- terms

Dry needling or intramuscular manual therapy, an adopted term by the American Physical Therapy Association (APTA), has grown in popularity but is still a relatively unique part of physical therapy practice. The controversy surrounding this procedure seems to begin even with the term and definition. It appears that finding consensus regarding a proper term or definition amongst the different stakeholders, even the stakeholders within physical therapy alone, is next to impossible. The term dry needling may be confusing and have different meanings depending upon the audience. In the past, "dry needling" was more of an adjective, referring to the fact that nothing was injected with the needle; the term has evolved into meaning an intervention which has certain physiological effects from the insertion and placement of the needles. However, many groups still debate the proper term and exact definition to describe this intervention.

The World Health Organization (WHO) has published a number of reports on acupuncture. Specifically, the report discussing traditional medicine refers to dry needling in acupuncture, but in context, the reference is comparing needling alone with needling in conjunction with complements such as laser, TENS, and electro-acupuncture.³ The WHO report is not describing dry needling in the same context as intramuscular manual therapy or trigger point dry needling. Many of the World Health Organization's reports regarding acupuncture including "Acupuncture:

³Report Second Consultation Meeting On Traditional And Modern Medicine: Harmonizing The Two Approaches. World Health Organization. April 2004. P. 7.

Review and Analysis of Reports on Controlled Clinical Trials," do not contain the term dry needling at all.^{4 5 6} Beginning in 2009, the American Physical Therapy Association has recommended the use of the term "intramuscular manual therapy" to describe the intervention provided by physical therapists defined below.

Definitions

Intramuscular manual therapy is also known as dry needling, trigger point dry needling, or intramuscular needling.

- **Intramuscular Manual Therapy (Dry Needling)** is a technique using the insertion of a solid filament needle, without medication, into or through the skin to treat various impairments including, but not limited to: scarring, myofascial pain, motor recruitment and muscle firing problems. Goals for treatment vary from pain relief, increased extensibility of scar tissue to the improvement of neuromuscular firing patterns.
- **Physical therapy** is defined in the Federation of State Boards of Physical Therapy **Model Practice Act for Physical Therapy** as "the care and services provided by or under the direction and supervision of a physical therapist who is licensed pursuant to this [act]. The term "physiotherapy" shall be synonymous with "physical therapy" pursuant to this [act]."⁷
- **Acupuncture** definitions vary widely. Acupuncture is defined in the Delaware and Florida statutes as follows:

Acupuncture" refers to a form of health care, based on a theory of energetic physiology that describes and explains the interrelationship of the body organs or functions with an associated acupuncture point or combination of points located on "channels" or "meridians". Acupuncture points shall include the classical points defined in authoritative acupuncture texts and special groupings of acupuncture points elicited using generally accepted diagnostic techniques of oriental medicine and selected for stimulation in accord with its principles and practices. Acupuncture points are stimulated in order to restore the normal function of the aforementioned organs or sets of functions. Acupuncture shall also include the ancillary techniques of oriental medicine including moxibustion, acupressure or other forms of manual meridian therapy and recommendations that include oriental dietary therapy, supplements and lifestyle modifications according to the principles of oriental medicine.⁸

"Acupuncture" means a form of primary health care, based on traditional Chinese medical concepts and modern oriental medical techniques, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture shall include, but not be limited to, the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body and the use of

⁴ Acupuncture: Review And Analysis Of Reports On Controlled Clinical Trials. World Health Organization.

⁵ International Standard Terminologies on Traditional Medicine in the Western Pacific Region. World Health Organization

⁶ Guidelines on Basic Training and Safety in Acupuncture. World Health Organization. 1996.

⁷ The Model Practice Act for Physical Therapy. A Tool for Public Protection and Legislative Change. p. 1.

⁸ Delaware State Code. TITLE 24 Professions and Occupations. CHAPTER 17 MEDICAL PRACTICE ACT. Subchapter X. Acupuncture Practitioners

electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies, as defined by board rule.⁹

Professional Association/Regulatory Agency Specific Support

American Academy of Orthopedic Manual Physical Therapists: October 2009 position statement supporting intramuscular/dry needling as being within the scope of PT practice

- **Position:**

It is the Position of the AAOMPT that dry needling is within the scope of physical therapist practice.

- **Support Statement:**

Dry needling is a neurophysiological evidence-based treatment technique that requires effective manual assessment of the neuromuscular system. Physical therapists are well trained to utilize dry needling in conjunction with manual physical therapy interventions. Research supports that dry needling improves pain control, reduces muscle tension, normalizes biochemical and electrical dysfunction of motor endplates, and facilitates an accelerated return to active rehabilitation¹⁰

American Physical Therapy Association: Currently, there are no HOD or BOD policies or official positions on intramuscular manual therapy. APTA contends that dry needling is not inconsistent with the *Guide to Physical Therapist Practice*. A working group made up of various stakeholders is looking further in to the topic. APTA recognizes that PTs are performing dry needling and that PTs who do it should have additional education and be competent to do so.

Federation of State Boards of Physical Therapy: Although the FSBPT Model Practice Act does not specifically mention intramuscular manual therapy there is nothing to specifically exclude the technique. The following section from the Model Practice Act would be relevant in the discussion regarding intramuscular manual therapy:

Other procedures that might be addressed in rules are whether physical therapists can use certain machines and perform procedures such as electroneuromyography, needle EMG, dry needling, etc. that are not specifically addressed in the statutory language.¹¹

State Legislation:

As of March 2011, Georgia was the first and only state to introduce a bill that would add dry needling to the practice act of physical therapists. ON April 19, 2011, the Georgia bill passed and was sent to the Governor for signature. The Governor is expected to sign the legislation into law; no other state physical therapy practice acts specifically mention dry needling or intramuscular manual therapy.

There are two states that specifically cannot allow dry needling based on their statute. Hawaii's practice act specifically prohibits physical therapists from puncturing the skin. Although ambiguous as to the intent of the law regarding skin puncture by physical therapists overall, such as with EMG or other procedures, the Florida Physical Therapy practice act contains language which specifically excludes penetrating the skin in the performance of acupuncture:

⁹ Florida State Code. Title XXXII Regulation of Professions and Occupations. Chapter 457 Acupuncture. 457.102

¹⁰ <http://aaompt.org/members/statements.cfm>

¹¹ Model Practice Act for Physical Therapy, p. 59.

"Practice of physical therapy" means the performance of physical therapy assessments and the treatment of any disability, injury, disease, or other health condition of human beings, or the prevention of such disability, injury, disease, or other condition of health, and rehabilitation as related thereto by the use of the physical, chemical, and other properties of air; electricity; exercise; massage; the performance of acupuncture only upon compliance with the criteria set forth by the Board of Medicine, when no penetration of the skin occurs;¹²

The Board has not yet taken up the issue of whether or not dry needling is acupuncture. For now, this statute prohibits dry needling in Florida.

Current State Rulings (as of March 2011)

In 1989, Maryland became the first jurisdiction to allow dry needling/intramuscular manual therapy. In March 2010, **fifteen** licensing boards had issued interpretive opinions that dry needling/intramuscular manual therapy was within the scope of physical therapy practice: AL, CO, DC, GA, KY, LA, MD, NM, NH, NJ, OH, OR, SC, VA, and WY. Oregon's position should really be considered neutral at this time. Although ruling in July 2009 that dry needling is likely within the scope of PT practice with the appropriate training, difficulties and unsuccessful attempts at communication with the Oregon Medical Board and Acupuncture Committee have led to the following neutral position since November 2009:

Upon further discussions the Physical Therapist Licensing Board believes that the dry needling of trigger points is likely within the physical therapist scope of practice (excluding PTAs). The Board acknowledges that the dry needling of trigger points is an advanced intervention requiring post physical therapy graduate training and education. Further, the Board recommends that the acupuncture committee, physical therapist and medical Boards work in partnership with their professional associations to define a minimum competency by which a physical therapist can safely practice the intervention of dry needling of trigger points. In the interest of public safety, until training and education can be determined, the Board strongly advises its licensees to not perform dry needling of trigger points.¹³

The Oregon Physical Therapy Board continues to reach out to the Medical Board and Acupuncture Committee to help in the development of the list of competencies required for PTs to perform dry needling, but have received no positive response from either entity.

Since that time, both Iowa and North Carolina approved dry needling. North Carolina's decision was a re-consideration of their previous position opposed to dry needling and now allows dry needling to be performed by practitioners that meet specific requirements. North Carolina revised and refined their policy further in December of 2010:

Intramuscular manual therapy is an advanced skill that requires additional training beyond entry-level education and should only be performed by physical therapists who have demonstrated knowledge, skill, ability, and competence, in one of the following two ways: (1) Completion of an Intramuscular Manual Therapy course of study at a program approved by the Board with a minimum of 54 hours of classroom education, an additional forty hours of clinical instruction under an experienced Intramuscular Manual

¹² Florida Statute. Chapter 468. Physical Therapy Practice.

¹³ <http://www.oregon.gov/PTBrd/docs/Current.Topics/Board.Statement.Relevant.to.Dry.Needling.pdf>

Therapy practitioner and two years of practice as a licensed physical therapist prior to using Intramuscular Manual Therapy; or (2) Evidence of practice experience in the use of intramuscular manual therapy techniques ("experienced intramuscular manual therapy practitioner") which consists of using the technique for a least 100 hours per year for a period of 2 years. Since Intramuscular Manual Therapy requires ongoing re-evaluation and reassessment, it is not in the scope of work for physical therapist assistants or physical therapy aides.¹⁴

At least two other jurisdictions have published favorable proposed or final rules on the topic of dry needling. The District of Columbia published a final rule regarding the qualifications and training required for the performance of dry needling by PTs licensed in the District. Louisiana's December 2010 proposed rule contains language which defines dry needling, requires two year experience as a licensed, practicing physical therapist, and clarifies the education and training required to perform dry needling, The Board stated that the continuing education course used to fulfill the requirements must be approved by the board and that the courses cannot be offered online or through distance learning. In March 2011, based on comments received during the proposed period, the board reduced the number of proposed education hours required for dry needling education from 100 to 50. A public hearing is scheduled for April 27, 2011 to discuss this and other changes made to the rule.¹⁵

After 20+ years of physical therapists performing dry needling in Maryland, the State Acupuncture Board requested an Attorney General opinion on two subjects: 1. whether or not dry needling falls within the definition of the practice of physical therapy and 2. the appropriateness of the Board of Physical Therapy Examiners to include it in the scope of practice of PTs without legislation. The Maryland AG reframed the critical question to being "whether dry needling falls within the scope of practice of physical therapy, regardless of whether it would also fall within the scope of practice of acupuncture."¹⁶ The Attorney General's opinion was that dry needling could fall within the scope of physical therapy as use of a mechanical device, however, the "Maryland Physical Therapy Board's informal statement that dry needling is consistent with the practice of physical therapy does not carry the force of law, as it is not a regulation adopted pursuant to the State Administrative Procedure Act."¹⁷ In January 2011, the Board of physical therapy began the rule making process for dry needling specifics in the state of Maryland. As of April 25, 2011, the rule has not been published.

The Georgia State Board of Physical Therapy had previously ruled that dry needling was in the scope of physical therapy practice. However, fairly new language in the acupuncture practice act specifically states dry needling is a technique of the practice of acupuncture. As the practice of acupuncture is regulated in Georgia by the Georgia Medical Composite Board, and the Physical Therapy Board finds that dry needling is appropriate in the practice of physical therapy, the Board of Physical Therapy met with the Medical Board to discuss dry needling. The Boards seem to have found common ground as the Georgia Physical Therapy Association and the Physical Therapy Board worked to have legislation introduced that specifically includes dry needling as part of the definition of the practice of physical therapy. The Medical Board is not opposing this bill. As discussed above, Georgia is the first state to add dry needling to the PT scope in legislation. As of April 19, 2011 the bill (House Bill 145) had been adopted by both the House and Senate and was sent to the Governor for signature. As of April 26, 2011, although expected to do so, the Governor has not signed the legislation..

As of March 2010, five state boards (Idaho, Nevada, New York, South Dakota, and Tennessee) had specifically stated that intramuscular manual therapy was not within the scope of practice of physical therapy. Some of the

¹⁴ Position Statement: NC Board of Physical Therapy Examiners. *Intramuscular Manual Therapy (Dry Needling)*. Approved 9/23/2010 and revised 12/9/2010. page 3. Available on the web: http://www.ncptboard.org/documents/positionstatements/Intramuscular%20Manual%20Therapy%20_Dry%20Needling_%20Position%20Statement.pdf

¹⁵ Louisiana Register. Vol. 37, No. 03. March 20, 2011. p 1060.

¹⁶ Attorney General Opinion. State of Maryland, Office of the Attorney General. August 17, 2010.

¹⁷ Ibid.

reasons for finding against intramuscular manual therapy in the scope of practice of a PT included the procedure being invasive, the technique is within the scope of acupuncture, and the lack of inclusion in the US educational curricula. In Nevada, dry needling is specifically listed in the regulations of the Homeopathic Board. Licensees may apply to the Homeopathic Board for an Advanced Practitioner of Homeopathy certification which would allow for the practice of dry needling legally.

In the last year, three additional state boards: Pennsylvania, South Dakota, and Utah, have decided against dry needling in the physical therapist scope of practice. The Utah board determined that the addition of dry needling would require a change in the statute and further defining in the rule.¹⁸ Pennsylvania was also advised by the medical Board's legal counsel that "dry needling is not within the scope of practice of a PT per the Medical Board's regulations."¹⁹ The findings from the South Dakota Board of Medical and Osteopathic Examiners, under which Physical Therapy regulation falls, are below:

The South Dakota Board of Medical and Osteopathic Examiners considers procedures involving the breaking or altering of human tissue for diagnostic, palliative or therapeutic medical purposes to be the practice of medicine. The Board determines that dry needling is significantly different from "electromyography (EMG)", which the Board previously opined was an activity within the scope of practice for a physical therapist.

Decision:

The South Dakota Board of Medical and Osteopathic Examiners determined that the procedure known as "dry needling" does not fall within the physical therapist scope of practice as defined in SDCL ch. 36-10.

This opinion issued by the Board of Medical and Osteopathic Examiners is advisory in nature. It does not constitute an administrative rule or regulation and is intended solely to serve as a guideline for persons registered, licensed, or otherwise regulated by the Board of Medical and Osteopathic Examiners.²⁰

The administrator of the Texas Executive Council of Physical Therapy & Occupational Therapy Examiners contacted FSBPT after the release of the 1st edition of this paper to clarify that Texas does not have an official position and is legally not allowed to offer advisory opinions; however, the Board has made no determination that dry needling is outside the scope of practice for PTs. State boards in Arizona and Pennsylvania are also restricted legally from issuing interpretations of the Physical Therapy Statutes; however, Arizona has not restricted the use of dry needling,

In Hawaii dry needling is prohibited by statute as physical therapists are not allowed to puncture the skin of a patient.

Several other states (Alaska, Montana, Nebraska, Washington) will be considering the topic of dry needling at future physical therapy board meetings.

Available Web-based Opinions on Intramuscular Manual Therapy

Jurisdiction	Opinion on Intramuscular Manual Therapy
Arizona	http://www.gemtinfo.com/physical-therapy/assets/files/arizona_letter.pdf
Colorado	A physical therapist must have the knowledge, skill, ability, and documented competency to perform an act that is with practice. 1. Completion of a minimum of 46 hours face-to-face IMS/Dry needling course study

¹⁸ Utah Physical Therapy Licensing Board Meeting minutes dated December 21, 2010. http://www.dopl.utah.gov/licensing/minutes/2010/physical_therapy_2010-12-21.pdf

¹⁹ E-mail communication with Michelle Roberts, Board Administrator, State Board of Physical Therapy. Dated: 3/29/2011.

²⁰ South Dakota Board of Medical and Osteopathic Examiners Advisory Opinion. December 8, 2010.

	2. Two years of practice as a licensed physical therapist http://www.dora.state.co.us/physical-therapy/rules.pdf
District of Columbia	http://hpla.doh.dc.gov/hpla/frames.asp?doc=/hpla/lib/hpla/physical_therapy/pt_policy_guidelines_dry_needling.pdf
New Hampshire	http://www.gemtinfo.com/physical-therapy/assets/files/State_TDN_acceptance_letters/new_hampshire.pdf
New Mexico	http://www.gemtinfo.com/physical-therapy/assets/files/State_TDN_acceptance_letters/new_mexico.pdf
North Carolina	http://www.ncptboard.org/documents/positionstatements/Intramuscular%20Manual%20Therapy%20Dry%20Needling.pdf
Ohio	http://www.gemtinfo.com/physical-therapy/assets/files/Ohio_Dry_Needling_Letter.pdf
Oregon	http://www.oregon.gov/PTBrd/docs/Current_Topics/Board_Statement_Relevant_to_Dry_Needling.pdf
South Dakota	http://www.sdbmoe.gov/images/stories/SEPTEMBER_2010_MINUTES.pdf
Virginia	Dry needling is an advanced skill requiring minimum of 54 hours of continuing ed. http://www.dhp.virginia.gov/physical-therapy/dry-needling
Wyoming	http://www.gemtinfo.com/physical-therapy/assets/files/State_TDN_acceptance_letters/2010_02_02_16_07_49.pdf

In December 2010, the Council of Colleges of Acupuncture and Oriental Medicine (CCAOM) authored a position paper on dry needling and distributed it to the state boards of physical therapy and acupuncture throughout the United States. The CCAOM has taken the position to affirm the history of dry needling as an acupuncture technique. The CCAOM asserts that dry needling, beyond the sole needling of trigger points, is the practice of acupuncture regardless of whether it is called dry needling or intramuscular manual therapy. State boards may want to explore this CCAOM paper further in order to familiarize themselves with counter-arguments to including dry needling in the scope of PT practice.

Intramuscular manual therapy is also accepted as being within the scope of physical therapy practice in many countries, including Australia, Belgium, Canada, Chile, Denmark, Ireland, the Netherlands, New Zealand, Norway, South Africa, Spain, and the United Kingdom, among others.

The Question of Acupuncture

Currently, some overlap exists between the physical therapy and acupuncture professions which can be demonstrated both in law and in practice. The Oregon statutory definition of the practice of acupuncture includes many treatment interventions such as therapeutic exercise, manual therapy techniques including massage, electrotherapeutic modalities, physical agents and mechanical modalities that are also found in the Federation of State Boards' **Physical Therapy Model Practice Act** and the American Physical Therapy Association's **Guide to Physical Therapist Practice**.²¹

"Acupuncture" includes the treatment method of moxibustion, as well as the use of electrical, thermal, mechanical or magnetic devices, with or without needles, to stimulate acupuncture points and acupuncture meridians and to induce acupuncture anesthesia or analgesia.

(b) The practice of acupuncture also includes the following modalities as authorized by the Oregon Medical Board:

- (A) Traditional and modern techniques of diagnosis and evaluation;**
- (B) Oriental massage, exercise and related therapeutic methods;²²**

"Practice of physical therapy" means:

²¹ Guide to Physical Therapist Practice. 2nd ed. Phys Ther. 2001, 81:9-744.

²² Oregon Revised Statutes. Chapter 677 – Regulation of Medicine, Podiatry and Acupuncture. 677.757 Definitions. 2009.

1. Examining, evaluating and testing individuals with mechanical, physiological and developmental impairments, functional limitations, and disabilities or other health and movement-related conditions in order to determine a diagnosis, prognosis and plan of treatment intervention, and to assess the ongoing effects of intervention.
2. Alleviating impairments, functional limitations and disabilities by designing, implementing and modifying treatment interventions that may include, but are not limited to: therapeutic exercise, functional training in self-care and in home, community or work integration or reintegration, manual therapy including soft tissue and joint mobilization/manipulation, therapeutic massage, prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment, airway clearance techniques, integumentary protection and repair techniques, debridement and wound care, physical agents or modalities, mechanical and electrotherapeutic modalities, and patient-related instruction.²³

Acupressure is a complementary medicine technique derived from acupuncture. In acupressure physical pressure is applied to acupuncture points by the practitioner's hand, elbow, or with various devices. Clinically, physical therapists often utilize sustained, direct pressure for the relief of trigger points and pain.

The accepted premise must be that overlap occurs amongst professions. The question for the State Board should only be whether or not dry needling/intramuscular manual therapy is within the scope of practice of physical therapy, not determining whether it is part of acupuncture.

PTs using intramuscular manual therapy:

- do not and cannot claim to practice acupuncture,
- do not use acupuncture traditional Chinese medicine theories, meridian acupoints and terminology,
- do not use acupuncture diagnosis like tongue and pulse

As demonstrated in the definition of the practice of acupuncture from the Oregon statute, needle techniques are only a piece of the acupuncturist's full scope of practice. It is not the specific individual procedures, but the totality of a scope which defines a profession. Acupuncturists and physical therapists continue to have unique scopes of practice even with the overlap of some of the treatment techniques. It is completely reasonable for the acupuncture profession to want to protect the title and term *acupuncturist* or *acupuncture* as much as physical therapy profession protects *physical therapist* and *physical therapy*. Qualified, competent physical therapists that perform intramuscular manual therapy should not hold themselves out as providing acupuncture services. Qualified, competent acupuncturists instructing a client in traditional, oriental exercise should not hold themselves out as a physical therapist. Protection of titles and terms are important from a public protection stand point in that people need to be clear as to the qualifications of their practitioner of choice as well as his/her profession.

Historical Basis and Education (as of March 2011)

Although for a different purpose, physical therapists have a historical basis for needle insertion with the practice of EMG and NCV testing. At this time, law in 46 states would allow PTs to perform needle electromyography and nerve conduction velocity testing.²⁴ Although the language and requirements vary, California, Florida, Kentucky,

²³ The Model Practice Act for Physical Therapy. A Tool for Public Protection and Legislative Change. 4th edition. Federation of State Boards of Physical Therapy. 2006.

²⁴ American Physical Therapy Association. State Affairs memorandum on review of EMG in the States.

Missouri, New Hampshire, Oklahoma, Pennsylvania, Washington, and West Virginia have specific protection in statute for physical therapists to perform EMGs. North Carolina and Texas utilize administrative rule to authorize PTs to perform EMGs. An opinion from the Kentucky board specifically addresses EMG by fine wire insertion and affirms that these tests are within the scope of a physical therapist.²⁵ South Carolina also has a statement regarding performance of needle EMG.²⁶ The law in Oklahoma specifically defines the practice of physical therapy to include invasive and noninvasive techniques.

"Physical therapy" means the use of selected knowledge and skills in planning, organizing and directing programs for the care of individuals whose ability to function is impaired or threatened by disease or injury, encompassing preventive measures, screening, tests in aid of diagnosis by a licensed doctor of medicine, osteopathy, chiropractic, dentistry or podiatry, or a physician assistant, and evaluation and invasive or noninvasive procedures with emphasis on the skeletal system, neuromuscular and cardiopulmonary function, as it relates to physical therapy.²⁷

At this time, dry needling/w2qintramuscular manual therapy is not being taught in most entry level physical therapy programs with the exception of Georgia State University, Mercer University, and the Army physical therapy program at Baylor. Other universities including the University of St. Augustine for Health Sciences, and the Ola Grimsby Institute are considering adding intramuscular manual therapy to the curriculum of both the advanced and entry level educational programs. Dry needling is also included in the Mercer University physical therapy residency program. Internationally, intramuscular manual therapy is being taught at many universities. In most educational programs for physical therapists, the needling technique is learned in conjunction with evaluation of the myofascial trigger points and used as a part of the patient's overall treatment plan.

The Commission on Accreditation of Physical Therapy Education (CAPTE) criteria requires the physical therapist professional curriculum to include content and learning experiences in the behavioral, biological and physical, and clinical sciences necessary for initial practice of the profession.²⁸ The entry level curriculum must demonstrate inclusion of many topics which should provide a strong foundation to the understanding and performance of intramuscular manual therapy such as anatomy/cellular biology, physiology, neuroscience, pathology, pharmacology; study of systems including cardiovascular, pulmonary, integumentary, musculoskeletal, and neuromuscular; communication, ethics and values, teaching and learning, clinical reasoning, and evidence-based practice.

Intramuscular manual therapy education purposefully does not include the basic tenets of acupuncture training such as Chinese medicine philosophy, meridians, *qi*, or diagnosis via tongue inspection, as the technique and its rationale have no basis in oriental medicine. Dry needling/intramuscular manual therapy is based primarily on the work of Dr. Janet Travell, a pioneer in trigger point research and treatment. According to the World Health Organization's **Guidelines on Basic Training and Safety in Acupuncture**, the basic study of acupuncture should include:²⁹

- Philosophy of traditional Chinese medicine, including but not limited to concepts of *yin-yang* and the five phases.
- Functions of *qi*, blood, mind, essence and body fluids, as well as their relationship to one another.
- Physiological and pathological manifestations of *zang-fu* (visceral organs) and their relationship to one another.
- Meridians and collaterals, their distribution and functions.

²⁵ <http://www.pt.ky.gov/NR/rdonlyres/4D460291-23A1-43E3-AFF3-DEE7506DF149/0/Electromyography.pdf>

²⁶ <http://www.llr.state.sc.us/POL/PhysicalTherapy/Index.asp?file=PT%20Positions/electro.htm>

²⁷ State Of Oklahoma Physical Therapy Practice Act. Title 59 O.S., Sections 887.2

²⁸ Commission on Accreditation for Physical Therapy Education. Accreditation Handbook. Effective January 1, 2006; revised 5/07, 10/07, 4/09 p. B28-B29.

²⁹ **Guidelines on Basic Training and Safety in Acupuncture.** World Health Organization. 1996. Pages 7-8.

- Causes and mechanisms of illness.

Overwhelmingly, physical therapists are getting instruction in intramuscular manual therapy through continuing education. The following is a partial list of common continuing education courses offered on the topic:

Course Title	Education Sponsor	Website	Description
Trigger Point Dry Needling Level 1	Therapy Concepts	http://www.therapyconceptsinc.com/events.php#2	This three day course introduces Trigger Point Dry Needling as an intervention for treating a variety of diagnoses. In the Level I course participants are introduced to the theory and physiology of myofascial trigger points, and the history of dry needling. Anatomy of each muscle will be reviewed, including the trigger points and their corresponding referral patterns. The muscle groups included in the level I course are the cervical and lumbar spine, hip, lower extremity, shoulder and forearm. This course be limited to 20 participants and attendees will need to provide a current CV with continuing education courses listed, and a copy of their license, in order to be considered for participation in this course. All participants must have a minimum of 2 years of experience.
Trigger Point Dry Needling Level 2	Therapy Concepts	http://www.therapyconceptsinc.com/events.php#2	This three day course is a continuation of the Level 1 course and consists of a combination of lecture, testing, demonstration and a large amount of hands-on laboratory sessions. This course will address the anterior neck, head and face, thoracic spine and rib cage, hand, foot and other more challenging musculature. Get the full course description by clicking on the link below. NOTE: the Friday portion of the course will be held from 12 noon until 8 pm, the Saturday and Sunday portion will be from 8 am to 5 pm. All three days will have meal breaks that are on your own.
Systemic Integrative Dry Needling Course Pain Management, Sports and Trauma Rehabilitation		http://www.dryneedlingcourse.com/dry_needling_course.htm	100 hour home study and 3-day intensive and practical seminar
Trigger Point	GEMt –	http://www.gemtinfo.com/physical-	An introductory course for evaluation

Dry Needling Level I Training	Global Education for Manual therapists	therapy/Trigger-Point-Dry-Needling-Level-I-Training/page17.html	and treatment of neuromyofascial pain and dysfunction present in the acute and chronic population. Instruction will include evaluation and application of dry needling of neuromyofascial trigger points for musculature which is considered appropriate at the introductory level of training. This three day course (27.5 contact hours) consists of a combination of lecture, testing, demonstration and a large amount of hands-on laboratory sessions. Trigger point dry needling (TDN), will be presented as a tool to evaluate and treat the neuromuscular system. Both the Gunn and Travell & Simons' techniques will be discussed and demonstrated. Supporting research will be presented and discussed. Treatment safety will be evaluated throughout the course.
Dry Needling Level 2 Training	Global Education for Manual therapists	http://www.gemtinfo.com/physical-therapy/Trigger-Point-Dry-Needling-Level-I-Training/page17.html	An advanced course which builds upon the techniques learned in the Level I course. Participants are required to take the introductory Level I course and fulfill specific requirements prior to becoming eligible for this course. Topics to be covered include advanced musculature and extensive techniques, application of techniques for specific diagnoses, and further review of supporting research.
Dry Needling	Myopain Seminars	www.myopainseminars.com	Multiple level seminars on dry needling. 104 hours of training, followed by theoretical and practical examinations

Intramuscular Manual Therapy Evidence-based Practice:

There are numerous scientific studies to support the use of dry needling for a variety of conditions.³⁰ Supporting textbooks include:

- Dommerholt J, Huijbregts PA, Myofascial trigger points: pathophysiology and evidence-informed diagnosis and management Boston: Jones & Bartlett 2011
- *The Gunn approach to the treatment of chronic pain.* Gunn, C.C., Second ed. 1997, New York: Churchill Livingstone.
- *Travell and Simons' myofascial pain and dysfunction; the trigger point manual.* Simons, D.G., J.G. Travell, and L.S. Simons, 2 ed. Vol. 1. 1999, Baltimore: Williams & Wilkins.

³⁰ Dommerholt, J., O. Mayoral, and C. Gröbli, *Trigger point dry needling.* J Manual Manipulative Ther, 2006. 14(4): p. E70-E87.

A literature search regarding intramuscular manual therapy or dry needling yields extensive results. Numerous research studies have been performed and published in a variety of sources. In addition to the references contained in this paper, the following is just a small sample:

- Dommerholt, J., O. Mayoral, and C. Gröbli, *Trigger point dry needling*. J Manual Manipulative Ther, 2006. 14(4): p. E70-E87.
- Lewit, K., *The needle effect in the relief of myofascial pain*. Pain, 1979. 6: p. 83-90.
- Intramuscular Stimulation (IMS) - The Technique By: C. Chan Gunn, MD (<http://www.istop.org/papers/imspaper.pdf>)
- Dommerholt, J., *Dry needling in orthopedic physical therapy practice*. Orthop Phys Ther Practice, 2004. 16(3): p. 15-20.
- Baldry, P.E., *Acupuncture, Trigger Points and Musculoskeletal Pain*. 2005, Edinburgh: Churchill Livingstone.
- Dommerholt, J. and R. Gerwin, D., *Neurophysiological effects of trigger point needling therapies*, in *Diagnosis and management of tension type and cervicogenic headache*, C. Fernández de las Peñas, L. Arendt-Nielsen, and R.D. Gerwin, Editors. 2010, Jones & Bartlett: Boston. p. 247-259.
- Simons, D.G. and J. Dommerholt, *Myofascial pain syndrome - trigger points*. J Musculoskeletal Pain, 2007. 15(1): p. 63-79.
- Furlan A, Tulder M, Cherkin D, Tsukayama H, Lao L, Koes B, Berman B, *Acupuncture and Dry-Needling for Low Back Pain: An Updated Systematic Review Within the Framework of the Cochrane Collaboration*. Spine 30(8): p. 944-963, 2005.
- White A, Foster NE, Cummings M, Barlas P, *Acupuncture treatment for chronic knee pain: a systematic review*. Rheumatology (Oxford) 46(3): p. 384-90, 2007.
- Chu, J., et al., *Electrical twitch obtaining intramuscular stimulation (ETOIMS) for myofascial pain syndrome in a football player*. Br J Sports Med, 2004. 38(5): p. E25.

Typically the literature refers to dry needling or acupuncture, and in some cases specifically looks at the effectiveness of acupuncture and dry needling, suggesting indeed that a difference exists.³¹ Overall, the literature suggests and supports dry needling/intramuscular manual therapy as a safe, effective, viable treatment option for patients.

Public Protection

Intramuscular manual therapy has been practiced by physical therapists for over 20 years with minimal numbers of adverse effects reported. The most common side effects include post-needling soreness and minor hematomas. The Federation of State Boards of Physical Therapy's Examination, Licensure, and Disciplinary Database (ELDD) has no entries in any jurisdiction of discipline for harm caused by intramuscular needling performed by physical therapists.

Many American providers of intramuscular manual therapy, with multiple course providers in Europe, have established a voluntary web-based registry for reporting adverse effects. This registry currently includes two

³¹ Furlan A, Tulder M, Cherkin D, Tsukayama H, Lao L, Koes B, Berman B, *Acupuncture and Dry-Needling for Low Back Pain: An Updated Systematic Review Within the Framework of the Cochrane Collaboration*. Spine 30(8): p. 944-963, 2005.

reports of pneumothoraces, a severe autonomic response of one patient, but no other "severe" side effects.³² Additionally, the literature does not report serious injury or harm from intramuscular needling performed by a physical therapist.

Conclusion

Returning to the four tenets from *Changes in Healthcare Professions Scope of Practice: Legislative Considerations* on which to base scope of practice decisions and summarizing the information above, it appears that there is a historical basis, available education and training as well as an educational foundation in the CAPTE criteria, and supportive scientific evidence for including intramuscular manual therapy in the scope of practice of physical therapists. The education, training and assessment within the profession of physical therapy include the knowledge base and skill set required to perform the tasks and skills with sound judgment. It is also clear; however, that intramuscular manual therapy is not an entry level skill and should require additional training.^{33 34}

When considering the scope of practice decision, the regulatory environment in each jurisdiction will vary dramatically. However, recognizing that intramuscular manual therapy is not an entry level skill, the jurisdictional boards that are authorized to develop rules related to determining if an intervention is within scope of practice must determine the mechanisms for determining that a physical therapist is competent to perform the task. To ensure public protection the board should also have sufficient authority to discipline any practitioner who performs the task or skill without proper training, incorrectly, or in a manner that might likely harm a patient.

³² Dummerholt, J., Unpublished data. January 2010.

³³ **ACTIVITIES PERFORMED BY ENTRY-LEVEL PHYSICAL THERAPISTS IDENTIFIED DURING THE 2006 ANALYSIS OF PRACTICE.** Federation of State Boards of Physical Therapy. 2006-2007.

³⁴ Knapp, D, Russell, L, Byrum, C. and Waters, S. **Entry-Level Practice Analysis Update for Physical Therapist Licensure Examinations Offered by the Federation of State Boards of Physical Therapy.** Human Resources Research Organization. February 14, 2007.

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STATE OF WISCONSIN
DEPARTMENT OF SAFETY and PROFESSIONAL SERVICES
DIVISION OF ENFORCEMENT

POLICY/PROCEDURE

**Subject: Administrative Complaint Closures by Division of Enforcement Prior to
Submission to Screening Panel**

Section: 15.0 (Version 2) Effective Date: April 10, 2012

Authorized by the Division Administrator:
Chad Koplien

Intent of Policy: The intent of this policy/procedure is to identify complaints that can be closed by Division of Enforcement staff and attorney supervisors to eliminate the opening of unnecessary complaints, complaints without legal basis or where the complaint can be, or has been addressed by another court, agency, or organization with more direct financial resources, common authority, or jurisdiction.

Procedure: Intake staff shall seek the input of the applicable business/health team attorney supervisor regarding any case of the types listed below. The attorney supervisor will make the decision on whether any of these types of complaints shall be administratively closed on the basis of legal discretion at the intake stage prior to referral to the screening panel. In the event intake staff allows a case which falls into one of the categories below to be referred to screening without consideration for closure, prior to the screening panel date, the prosecuting attorney shall discuss the case with his or her attorney supervisor, and the supervisor shall determine whether the case should be administratively closed and withdrawn from panel consideration.

The following types of complaints shall be vigorously identified by Division staff for potential closure after legal review:

1. Anonymous complaints that are not serious as determined from an objective legal perspective; or lack sufficient evidence to support the allegations (e.g., no information on who, what, where, or when); or present no actual violation; or do not present a clear danger to the public;
2. Complaints of Healthcare fraud, including but not limited to Medicaid and Medicare fraud, shall be referred to agencies dedicated to investigating these issues (e.g., Department of Justice, Department of Health Services, or Private Insurer Internal Fraud Department), with a request that the agency or private insurer notify DOE of any adjudication of fraud. The Division shall prosecute a fraud complaint, only upon obtaining a certified copy of a judgment of conviction; an administrative adjudication finding fraud; or civil judgment adjudicating a finding of fraud;
3. Complaints where the incident alleged is older than two years unless the complaint alleges serious physical or financial harm or there is other substantial legal or public interest justification for opening for investigation;
4. Barber or Cosmetology complaints where the incident is older than one year and there is no evidence of bodily harm or serious financial harm as determined from an objective legal perspective;

5. Complaints or notifications of an OWI conviction unless the complaint contains evidence of a substantial relationship between the offense and the practice of the profession;
6. Commission and earnest money disputes or contract disputes between employee and employer;
7. Rudeness on the part of the licensee, with the exception of complaints against funeral directors;
8. Billing disputes or money issues unless there is an adjudication of fraud. The Division shall prosecute a fraud complaint, only upon obtaining a certified copy of a judgment of conviction; an administrative adjudication finding fraud, or civil judgment adjudicating a finding of fraud;
9. Advertising complaints in particular complaints by competitors, where there is no serious harm as determined by an objective legal perspective;
10. Disputes between professionals unless there is evidence of harm to a third party consumer;
11. Any complaint where there is adequate alternative redress through other regulatory agencies, authorities, or the courts, unless a certified copy of a judgment of conviction, administrative adjudication or civil judgment all which fully evidence the facts necessary to establish a professional regulatory violation; and
12. Any complaint where there is no actual physical or financial harm unless there is other substantial legal or public interest justification for opening for investigation as determined from an objective legal perspective.

Any complaint closed administratively, prior to submission to the screening panel, shall contain a statement drafted by the attorney supervisor, stating the basis for the closure. Also, the attorney supervisor should note if the complaint is appropriate for a "letter of education". In such case, the attorney supervisor shall assist intake staff in preparing an appropriate letter of instruction notifying the credential holder of the rule and/or violation at issue, and suggesting professional education to redress the allegation or deficiency. The intake supervisor working with the attorney supervisors shall monitor the number of cases closed under this policy and report these closures quarterly at Division of Enforcement management meetings.

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION and LICENSING
DIVISION OF ENFORCEMENT**

POLICY/PROCEDURE

Subject: **Complaint Closures by Intake Staff**
Section: **15.0 (Version 1)** Effective Date: **July 1, 2009**

Authorized by Division Administrator or Designee:
18 Month Committee

Intent of Policy/Procedure: The intent of this policy/procedure is to identify complaints that can be closed by intake staff to eliminate unnecessary opening of complaints.

Intake staff will make the decision on whether a complaint will be closed at the intake stage for the following types of complaints:

- Anonymous complaints that are not serious/no evidence to support allegation/no clear danger to the public/no information on who, what, when, where (Business and Health Teams)
- Unproven allegations of Medicaid/Medicare fraud would be referred to the agency dedicated to investigating those issues and request notification of any findings of fraud that we should act upon (Health Teams)
- Business complaints where the incident is older than two years and no serious harm; exception will be real estate appraisers (Business Team)
- Barber and Cosmetology complaints where the incident is older than one year and no bodily harm (Business Team)
- DWI convictions unless a relationship to the profession
- Commission disputes (Business Team)
- Earnest money disputes (Business Team)
- Contract disputes between employee and employer (Business and Health Teams)
- Rudeness on the part of the licensee; (Business and Health Teams) exception will be funeral directors and cemeteries
- Billing disputes or money issues unless fraud is expected (Business and Health Teams)

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sandy Nowack Board Legal Counsel		2) Date When Request Submitted: June 8, 2012	
		Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others	
3) Name of Board, Committee, Council, Sections: PHYSICAL THERAPY EXAMINING BOARD			
4) Meeting Date: June 28, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Consideration of aPTitude as "accepted health-related or other (credentialing) organization"	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: The provisions of Wis. Admin. Code sec PT9.04(2), authorize various activities for satisfaction of biennial continuing education requirements. Acceptable activities are, by rule, set forth in Table PT 9.04. Approved activities include those which are offered, approved, or sponsored by "acceptable health-related or other organizations" and "recognized credentialing organization." The Board will consider whether or not it will recognize "aPTitude" as an acceptable recognized health-related and credentialing organization for purposes of PT9.04(2). In doing so the Board should consider whether aPTitude evaluates and approves programs on bases set forth in PT 9.04(1): an organized program of learning which contributes directly to the professional competency; pertains to subject matters which integrally relate to the practice of physical therapy and that of physical therapy assistants; are conducted by individuals who have specialized education, training or experience that are considered qualified concerning the subject matter of the activity or program; programs that fulfill pre-established goals and objectives; and programs that require proof of attendance. If the Board determines that aPTitude meets these requirements, the Board can consider a motion similar to the following: The Board accepts and recognizes aPTitude as an acceptable health-related and credentialing organization for purposes of Wis. Admin. Code sec PT9.04(2). If the Board determines that aPTitude is not an acceptable health-related and credentialing organization for purposes of Wis. Admin. Code sec PT9.04(2), the Board can consider a motion similar to the following: The Board declines to accept and recognize aPTitude as an acceptable health-related and credentialing organization for purposes of Wis. Admin. Code sec PT 9.04(2).			

11)

Authorization

Samuel P. Cruz

6/8/12

Signature of person making this request

Date

Supervisor (if required)

Date

Bureau Director signature (indicates approval to add post agenda deadline item to agenda) Date

Directions for including supporting documents:

1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director.
3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sandy Nowack Board Legal Counsel		2) Date When Request Submitted: May 30, 2012 Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others	
3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: June 28, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Requested FAQ: Do physical therapists have the authority to prescribe or order "devices".	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Board will approved proposed draft of FAQ; upon approval FAQ will be submitted for authority to post to the Department's website.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			



State of Wisconsin
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

CORRESPONDENCE / MEMORANDUM

DATE: May 21, 2012

TO: Wisconsin Physical Therapy Examining Board

FROM: Sandy Nowack
Legal Counsel 

RE: MEDICAL DEVICES

You have asked whether Wis. Stat. 448.50(4)(b) prohibits physical therapists from ordering all medical device(s).

Short Answer: No. It is within the scope of practice for physical therapists to order medical devices for which a prescription is not required. Section 448.50(4)(b) bars physical therapists from ordering only those medical devices for which a prescription is required.

RELEVANT WI STATUTES AND RULES:

448.50(4)(a) "Physical therapy" means, except as providing in ¶(b), any of the following:

1. Examining, evaluating, or testing individuals with mechanical, physiological, or developmental impairments, functional limitations related to physical movement and mobility, disabilities, or other movement-related health conditions, in order to determine a diagnosis, prognosis, or plan of therapeutic intervention or to assess the ongoing effects of intervention. In this subdivision, "testing" means using standardized methods or techniques for gathering data about a patient.

2. Alleviating impairments or functional limitations by instructing patients or designing, implementing, or modifying therapeutic interventions.

3. Reducing the risk of injury, impairment, functional limitation, or disability, including by promoting or maintaining fitness, health, or quality of life in all age populations.

4. Engaging in administration, consultation, or research that is related to any activity specified in subsds. 1. to 3.

(b) "Physical therapy" does not include using roentgen rays or radium for any purpose, using electricity for surgical purposes, including cauterization, or prescribing drugs or devices.

450.01(6) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component, part or accessory, which does not achieve any of its principal intended purposes through chemical action within or on the body of a person or other animal, is not dependent upon being metabolized for the achievement of any of its principal intended purposes and is:

- a. Recognized by the U.S. pharmacopoeia and national formulary or official homeopathic pharmacopoeia of the United States, or any supplement to either of them;
- b. Intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or other conditions in persons or other animals; or
- c. Intended to affect the structure or any function of the body of persons or other animals.

...

(18) "Prescribed drug or device" means any drug or device prescribed by a practitioner.

...

(21) "Prescription order" means an order transmitted orally, electronically or in writing by a practitioner for a drug or device for a particular patient.

450.11 Prescription drugs and prescription devices.

(1) DISPENSING. No person may dispense any *prescribed drug or device* except upon the prescription order of a practitioner. All prescription orders shall specify the date of issue, the name and address of the patient, the name and address of the practitioner, the name and quantity of the drug product or device prescribed, directions for the use of the drug product or device and, if the order is written by the practitioner, the signature of the practitioner. Any oral prescription order shall be immediately reduced to writing by the pharmacist and filed according to sub. (2).

EXPLANATION:

The United States Food and Drug Administration regulates medical devices, and recognizes a distinction between medical devices for which a prescription is required, and those for which a prescription is not required. The Wisconsin legislature, in 450.01(6), adopted the federal definition of "medical devices", but elected not to define the phrase "prescription devices". Federal statutes define prescription devices to mean:

a device which, because of any potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such device...

21 CFR 801.109. According to the FDA, part of the reason prescriptions are required for these devices is that adequate directions for use as required by 21 CFR 801.5 cannot be written. Under federal law, prescription devices must include cautionary statements such as: Caution: Federal law restricts this device to sale by or on the order of a practitioner authorized by state law to prescribe drugs and prescription devices.

Wisconsin Stat. § 450.01(21) defines “prescribed drug or device” to mean a drug or device prescribed by a practitioner. Section § 450.11 Stats., makes it clear that a prescription is required for a prescribed drug or device. Consequently, the plain language of Wis. Stat. §§ 448.50(4)(a) and 450.01(21), when read together, establishes that the word “prescribed” as used in § 448.50(4)(a) modifies both drug and device. Therefore, physical therapists may not order devices for which a prescription is required but may order any medical device for which a prescription is NOT required under federal law.

**State of Wisconsin
Department of Safety & Professional Services**

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1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted:	
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3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: June 21, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Board Review of FAQs	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Board Review			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

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Can a physical therapist in Wisconsin evaluate and treat a patient without a referral?

With regard to physical therapy referrals, Wisconsin is considered a Direct Access state. A written referral is not required for the following physical therapy services related to the work, home, leisure, recreational and educational environments: conditioning, injury prevention and application of biomechanics and treatment of musculoskeletal injuries with the exception of acute fractures or soft tissue avulsions (Ch PT 6.) Per Wis. Stat. s. 448.56 a written referral is also not required if a physical therapist provides services in schools to children with disabilities, as part of a home health care agency, to a patient in a nursing home or to an individual for a previously diagnosed medical condition after informing the individual's health care practitioner who made the diagnosis.

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May a physical therapist not licensed in the state of Wisconsin perform a home evaluation?

Those who wish to conduct a physical therapy evaluation in Wisconsin, regardless of the setting, must have a valid Wisconsin physical therapy license in order to do so. [Wis. Stat. s. 448.51.](#)

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Is dry needling within the scope of practice of a physical therapist in Wisconsin?

Wis. Stat. s. 448.50 (6) allows for "therapeutic intervention" within the scope of physical therapy. As this process uses sterile techniques, the surface skin is cleaned, it does not draw blood, and the physical therapists are trained in blood-body precautions, the Board considers this within the realm of therapeutic intervention. Trigger point dry needling is within the scope of physical therapy practice and may be performed provided the licensed physical therapist is properly educated and trained.

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May a physical therapist licensed in Wisconsin perform needle EMG?

Consistent with Wis. Stat. s. 448.50(4) the Board has determined that a Wisconsin licensed physical therapist may perform needle EMG (electromyography), surface EMG and nerve conduction studies, provided that he or she has the appropriate education, training, and experience to perform them.

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Can a Wisconsin physical therapist or physical therapist assistant do INR (International Normalized Ratio) monitoring?

The scope of practice for Physical Therapy is defined by Wis. Stat. s. 448.50 (4) (a) 1-4 and (b). The Board considers any physical therapist or physical therapist assistant performing INR monitoring or Prothrombine Time testing to be acting outside the scope of their practice as stated in the Wisconsin Statutes. INR is used to monitor the effectiveness of blood thinning drugs. It involves collecting a blood sample by inserting a needle into a vein or from a fingerstick. It is typically measured along with Prothrombine Time which is a lab test used to evaluate the ability of blood to clot properly. Prothrombine Time or Pro Time is commonly abbreviated as "PT" which can be a source of confusion if this is misunderstood to mean Physical Therapy.

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Are Wisconsin Physical Therapists allowed to provide injections as being within the scope of their licensure?
Wis. Stat. s. 448.50(4)(b) states that "Physical therapy" does not include...prescribing drugs.

Wis. Stat. s. 448.50(4)(a) and (6) describe the "Therapeutic intervention(s)" that are within the scope of practice. While administering a medication by iontophoresis is considered to be a physical therapy procedure or technique, administering a medication by injection is not and should be considered as outside a PT's scope of practice.

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May a physical therapist assistant licensed in Wisconsin perform joint mobilization and muscle energy techniques under the direct supervision of a licensed physical therapist?

As long as a licensed physical therapist assistant has the appropriate experience and has been properly educated and trained in appropriate portions of the treatment plan and program to be delegated, he or she may perform them under the direct or general supervision of a licensed physical therapist. The supervising physical therapist maintains primary responsibility for the physical therapy care rendered by the physical therapist assistant (per Wis. Stat. s. 448.56(6) and Ch PT 5.01 (2)(a)(g))

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How many physical therapist assistants may practice under the general supervision of a physical therapist in Wisconsin?

No physical therapist may at any time supervise more than two (2) physical therapist assistants (full-time equivalents) practicing under general supervision, see [Ch PT 5.01 \(2\)\(i\)](#). In addition, the total number of physical therapist assistants, unlicensed personnel, and those who have temporary licenses may not exceed a combined total of four (4) under supervision by a licensed physical therapist ([See Ch PT 5.02 \(2\)\(k\)](#)).

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In the state of Wisconsin can a physical therapist assistant supervise a PT aide?

Wis. Stat. s. 448.56(6) does not specifically speak to this topic. While unlicensed personnel (in this case a physical therapy aide) may assist the physical therapist assistant in patient related tasks, under Ch. PT 5.02(1) they must be under the direct on-premises supervision of a physical therapist. The guidelines for "direct on-premise supervision" are outlined in PT 5.02(2). Direct supervision does not specify that the physical therapist needs to be in the same room during the appointment, but does need to be on-site and "be available at all times for direction and supervision."

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Can a physical therapist practicing in a school in the State of Wisconsin provide services at a universal level (i.e. offer intervention strategies for students not identified as students with disabilities or providing services related to prevention, fitness and wellness)?

Wisconsin 448.50(4)(a)3 supports the meaning of physical therapy in the context of reducing risk of injury, impairment, functional limitation, or disability, including the promotion or maintenance of fitness, health, or quality of life in all age populations. Written referral for physical therapy services for children with disabilities in schools is not required as stated in Wisconsin 448.56(1) The statutes do not address the need for written referral when providing services to individuals without disabilities that are meant to address fitness, health or quality of life.

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Physical Therapist

The following are answers to some frequently asked questions received by the Department of Safety and Professional Services. These questions and answers are general in nature and are provided as a public service. Licensees and applicants with specific questions should refer to the Wisconsin statutes and administrative code provisions which govern their profession. In any instance in which an answer may differ from the provisions of the statutes and administrative code provisions, the latter will govern.

Is Rehabilitative Ultrasound Imaging (RUSI) considered within the scope of practice for physical therapists licensed in the state of Wisconsin?

Consistent with Wis. Stat. s. 448.50 (4)(6), the Board has determined that this intervention is within the physical therapy scope of practice as a therapeutic and assessment tool.

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Toll-free: (877) 617-1565

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted:	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: June 28, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Website Updates	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Discuss the new website update process and the timing of postings.			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sandy Nowack Board Legal Counsel		2) Date When Request Submitted: June 8, 2012	
Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 			
3) Name of Board, Committee, Council, Sections: PHYSICAL THERAPY EXAMINING BOARD			
4) Meeting Date: June 28, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? PT7 Update DRAFT	
7) Place item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: Thorman/Shropshire	
10) Describe the issue and action that should be addressed: The Board will review and comment on PT7 working draft.			
11) <i>Sandra L. Nowack</i> Authorization		<i>6/8/12</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Shawn Leatherwood, Advance Paralegal		2) Date When Request Submitted: June 6, 2012 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: June 28, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? CR 12-002 Proposed Rule Order regarding PT 1 - PT9	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: <p style="margin-left: 40px;">Adopt the Proposed Rule Order regarding PT1- PT 9. Sign the approved Proposed Rule Order draft for submission to the Legislative Reference Bureau for publication.</p>			
11) Authorization			
Signature of person making this request 		Date 06-06-2012	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. 			

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	PHYSICAL THERAPY
PHYSICAL THERAPY	:	EXAMINING BOARD
EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 12-002)

PROPOSED ORDER

The Wisconsin Physical Therapy Examining Board proposes an order to repeal PT 3.01 (7); to amend PT1.02 (1) to (6), 1.03 (1) (c), 3.01 (1), 3.01 (4), 4.01 (4), 8.05 (intro.), and 9.01; to repeal and recreate PT 1.01; and to create PT 2.001, 2.01 (1) (j), 3.001, 3.02, 4.001, 5.001, 6.001, 9.02 (1m) and (5), relating to licensure, examinations, temporary licenses, locum tenens license, referrals, and continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 448.53, 448.535, 448.54, 448.55(3), 448.56, Stats. and 2009 Wisconsin Act 149

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), 448.53 (2), 448.55(3), and 448.56 (6), Stats.

Explanation of agency authority:

The legislature via ss. 15.08 (5) (b), and 227.11 (2) (a), Stats., confers upon the Physical Therapy Examining Board general powers to promulgate rules for the guidance of the profession and to interpret the provisions of statutes it enforces. Sections 448.53(2) and 448.55(3), Stats., especially concerned with regulating health professions, authorizes the Physical Therapy Examining Board to promulgate rules regarding licensure and maintaining competence to practice in the profession. Section 448.56 (6) provides the Physical Therapy Examining Board may promulgate rules defining direct or general supervision of physical therapist assistants. Therefore, the Physical Therapy Examining Board is authorized both generally and specifically to promulgate these proposed rules.

Related statute or rule:

Wis. Admin. Code Chapter PT 1 to PT 9

Plain language analysis:

Due to the passage of 2009 Wisconsin Act 149, the administrative rules governing physical therapy professionals required updating. The legislation transformed the Physical Therapists Affiliated Credentialing Board into the Physical Therapy Examining Board. The newly formed board now functions independently without oversight by the Medical Examining Board. These proposed rules effectuate the changes mandated by the legislation by modernizing existing provisions, upgrading the authority sections in chapters PT 1- 9, adding clarifying terms and revising the provision regarding temporary licensure.

The proposed rule amends the temporary license to practice under supervision in s. PT 3.01 by limiting this license to an applicant who has not practiced as a physical therapist or physical therapist assistant, but has graduated from a school of physical therapy or a physical therapist assistant educational program, and has applied to take the appropriate national examination, or is awaiting exam results, but is not required to take an oral examination. The temporary license to practice under supervision credential holder must practice under the supervision of a licensed physical therapist. The temporary reentry license has been added to ch. PT 3 for applicants who have not engaged in clinical practice for three years prior to submitting their application for a regular physical therapy or physical therapy assistant license. The temporary reentry license holder may practice physical therapy under the supervision of a licensed physical therapist after providing proof of minimum competence.

SECTION 1 repeals the former authority section and recreates s. PT 1.01 as a new statement of authority.

SECTION 2 amends s. PT 1.02 by adding terms such as, "candidate for reentry", "client", "direct, immediate, on premises supervision", "direct, immediate, one-to-one supervision", "general supervision", "informed consent" and "intimate parts". The terms will aid in clarifying the level of supervision for temporary licensees.

SECTION 3 amends s. PT 1.03 (1) (c) to distinguish between the documentary evidence required for graduation for physical therapists and physical therapist assistants.

SECTION 4 creates s. PT 2.001 as statement of authority for chapter PT 2.

SECTION 5 creates s. PT 2.015 (1) (j) adding a new category for applicants required to complete an oral examination to persons who have voluntarily limited the scope of their practice as a result of being investigated by a credentialing authority.

SECTION 6 creates an authority and definitions sections in chapter PT 3.

SECTION 7 amends s. PT 3.01 (1) by renaming the definition of the temporary license to practice under supervision and by limiting the class of temporary license holders under supervision to persons who have not previously been licensed in Wisconsin.

SECTION 8 amends s. PT 3.02 (4) by deleting duplicative language regarding the supervision of physical therapist assistants.

SECTION 9 repeals the renewal provision in s. PT 3.01 (7) for physical therapists and physical therapist assistants under supervision.

SECTION 10 creates s. PT 3.02 regarding the temporary reentry license. Physical therapists and physical therapist assistants who have not engaged in the clinical practice of physical therapy for three years are eligible for the temporary reentry license. The temporary reentry license is valid for one year and is nonrenewable.

SECTION 11, 12, and 13 create authority provisions for chapters PT 4 to PT 6.

SECTION 14 amends s. PT 4.01 (4) by adding language that allows the Physical Therapy Examining Board greater discretion in extending the expiration date of a locum tenens license. Currently, a locum tenens license expires within 90 days of being issued.

SECTION 15 amends s. PT 8.05 (intro.) by adding a renewal exception for the newly created class of temporary reentry applicants.

SECTION 16 amends the authority and purpose provision in s. PT 9.01 to reflect the change in status from affiliated credentialing board to examining board.

SECTION 17 creates ss. PT 9.02 (1m) and (5) adding the terms “continuing competence” and “remedial education”. Remedial education applies to licensees who must obtain continuing education as result of a disciplinary action.

Summary of, and comparison with, existing or proposed federal legislation:

There is no comparative existing or proposed federal rule.

Comparison with rules in adjacent states:

Illinois: Illinois does not issue a temporary license. Illinois allows applicants to apply for restoration of licenses that have expired or have been placed on inactive status for a period of 5 to 10 years. ILL. ADMIN. CODE tit.68 §1340.60 (4) (A) Individuals that have allowed their license to lapse must obtain 160 contact hours under the supervision of a licensed physical therapist, or twenty hours of continuing education on the clinical aspects of physical therapy or a combination of both.

Iowa: The state of Iowa does not issue a temporary license. Iowa allows an individual whose license has been inactive for 5 years or less and an individual whose license has been inactive for more than 5 years to apply for reactivation of an inactive license. IOWA ADMIN. CODE R. 645-200.15 (17A, 147, 272C) However, Iowa does have provisions

enumerating the supervision requirements for physical therapist assistants. IOWA ADMIN. CODE R. 645-200.6 (272C)

Michigan: Michigan issues a nonrenewable temporary license for physical therapists and physical therapist assistants who are applying for re-licensure and whose license has lapsed less than 3 years after their expiration date provided they have completed all other requirements other than examination. MICH. ADMIN. CODE R 338.7149 Michigan also issues a limited license for physical therapist assistants who graduated from a board approved program but still must complete a physical therapist assistant examination. MICH. ADMIN. CODE R 338.7143 Temporary license holders must practice under the supervision of license holders and may not be supervised by limited license holders or temporary license holders. MICH. COMP. LAWS §333.16181

Minnesota: By statute, Minnesota issues temporary permits to practice physical therapy. MINN. STAT. §148.71 The permit, once issued, expires 90 days after the next examination for licensure given by the Board. The temporary permit cannot be renewed. Temporary license holders may be supervised by applicants for physical therapist, physical therapist assistants and licensed physical therapist. The level of supervision must be direct immediate and on premises.

Summary of factual data and analytical methodologies:

The Physical Therapy Examining Board conducted an extensive review of its rules along with legal counsel. The Federation of State Boards of Physical Therapy Model Practice Act was also reviewed. The board and its legal counsel identified key areas that required updating to bring the current regulations into conformity with the passage of 2009 Wisconsin Act 149.

Analysis and supporting documents used to determine effect on small business or in preparation of economic report:

It is anticipated that this rule will have no effect on small business as it is defined in s. 227.114 (1), Stats.

Anticipated costs incurred by the private sector:

The proposed rules will not incur additional costs to the private sector.

Fiscal estimate and Economic Impact Analysis:

With regard to the fiscal impact there would be additional IT costs of approximately \$2,130 related to coding in the licensing system and additional costs of approximately \$340 for updating forms and the website. These costs would be absorbed within the DSPS budget. With regard to the economic impact, the proposed rule language was made available on the department's website for 14 days. Comments were solicited. The department did not receive any comments regarding an economic impact from local

government units, specific business sectors or public utility rate payers. The department finds the proposed rule will have no economic impact.

Effect on small business:

This rule will have no effect on small business as it is defined in s. 227.114 (1), Stats. The department's Regulatory Review Coordinator may be contacted by email at Bill.Wendle@wisconsin.gov, or by phone by calling (608) 267-2435.

Agency contact person:

Shawn Leatherwood, Paralegal, Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Shawn Leatherwood, Paralegal, Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received on or before February 16, 2012, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. PT 1.01 is repealed and recreated to read:

PT 1.01 Authority and purpose. (1) The rules in this chapter are adopted by the physical therapy examining board pursuant to the authority delegated by ss. 15.08 (5) (b), and 15.405 (7r), 448.53 (1), Stats.

(2) The rules in this chapter are adopted to govern the issuance of licenses to physical therapists and physical therapist assistants under ss. 448.53, 448.535, 448.54, and 448.55, Stats.

SECTION 2. PT 1.02 (1) to (6) are amended to read:

PT 1.02 Definitions. As used in chs. PT 1 to 9:

(1) "Board" means the physical ~~therapists affiliated credentialing therapy~~ examining board.

(2) "Candidate for reentry" means a physical therapist or physical therapist assistant who has not practiced in the 3 years immediately preceding the application for licensure or renewal of licensure, and who has been issued a temporary license for purposes of establishing competence to reenter clinical practice.

(3) "Client" means a person who has contracted for, who receives, and or who has previously received or contracted for, the professional services of a physical therapist, a physical therapist assistant, student or temporary licensee, whether the physical therapist, student or temporary licensee is paid or unpaid for the service, and regardless of where such services occur. If a client is a person under age 18, the client's parent or legal guardian are also clients.

(4) "Direct, immediate, on-premises supervision" means face-to-face contact between the supervisor and the person being supervised, as necessary, with the supervisor physically present in the same building when the service is performed by the person being supervised.

(5) "Direct, immediate, one-to-one supervision" means one-to-one supervision with face-to-face contact between the person being supervised and the supervisor. The supervisor may assist the person being supervised as necessary.

(2) (6) "FSBPT" means the Federation of State Boards of Physical Therapy.

(7) "General supervision" means direct, on-premises contact between a supervisor, and a physical therapist, physical therapist assistant, student or temporary licensee being supervised, as necessary. Between direct contacts, a supervisor is required to maintain indirect, off-premises telecommunication contact such that the person being supervised can, within 24 hours, establish direct telecommunication with a supervisor.

(8) "Informed consent" means a client's voluntary, knowing and understood agreement to the service to be provided by the physical therapist, physical therapist assistant, temporary licensee, candidate for reentry, or student. Informed consent requires, at a minimum, that the licensee has provided information about reasonable alternate modes of diagnosis and treatment, and the risks and benefits of each, that a reasonable person in the client's position would need before making an informed decision concerning the mode of treatment or diagnosis.

- (a) Informed consent may ordinarily be documented by the written signature of the client, the client's guardian or the client's power of attorney for healthcare, or in the alternative by a notation in the patient's health care record as defined in s. 146.81 (4), Stats. If circumstances prevent signed documentation by the client, the licensee may document verbal consent within the patient's health care record.
- (b) A client may withdraw informed consent verbally or in writing at any time before a service is completed.
- (c) Informed consent shall include an understanding that the client may, upon request, have a chaperone present while services are provided.
- (d) No service or part of a service may be provided without the client's informed consent or after informed consent has been withdrawn.

(e) No service or part of a service may be provided without informing the client of the general nature of the costs associated with the service provided or contact information for the entity who can address billing concerns.

(9) "Intimate parts" has the meaning given in s. 939.22(19), Stats.

(3) (10) "License" means any license, permit, certificate or registration issued by the board.

(4) (11) "Licensee" means any person validly possessing any license granted and issued to that person by the board.

(12) "Supervisor" means a person holding a regular license as a physical therapist who is competent to coordinate, direct, and inspect the accomplishments of another physical therapist, physical therapist assistant, student, or temporary licensee.

(13) "Temporary licensee" means a graduate of a physical therapy school or program who has met the requirements for and who has been granted a temporary license to practice as a physical therapist or physical therapist assistant as provided in ch. PT 3.

(6)(14) "Unlicensed personnel" means a person other than a physical therapist or physical therapist assistant who performs patient related tasks consistent with the unlicensed personnel's education, training and expertise under the direct on-premises supervision of the physical therapist.

SECTION 3. PT 1.03 (1) (c) is amended to read:

PT 1.03 (1) (c) For a physical therapist, Verified verified documentary evidence of graduation from a school of physical therapy; for a physical therapist assistant, verified documentary evidence of satisfactory completion of a or physical therapist assistant educational program approved by the board.

SECTION 4. PT 2.001 is created to read:

PT 2.001 Authority and purpose. (1) The rules in this chapter are adopted by the board pursuant to the authority delegated by ss. 15.08 (5) (b), 448.53 (1) and 448.54, Stats.

(2) The rules in this chapter are adopted to govern examination of applicants for licensure of physical therapist and physical therapist assistants under ss. 448.53, 448.535, 448.54, and 448.55, Stats.

SECTION 5. PT 2.01 (1) (j) is created to read:

PT 2.01 (1) (j) Has voluntarily limited the scope of his or her practice as a physical therapist or physical therapist assistant after being the subject of an investigation by a credentialing authority or employer.

SECTION 6. PT 3.001 is created to read:

PT 3.001 Authority and purpose. The rules in this chapter are adopted by the board pursuant to the authority delegated by ss. 15.08 (5) (b), 227.11 (2) and 448.53 (2), and 448.55 (3), Stats., and govern the various classes of temporary licenses to practice physical therapy.

SECTION 7. PT 3.01 (1) is amended to read:

PT 3.01 (title.) **Temporary license to practice under supervision, initial licensure.** (1) An applicant for a regular license to practice as a physical therapist or physical therapist assistant, who has not previously been licensed to practice as a physical therapist or as a physical therapist assistant in this state, whichever is applicable, and who is a graduate of an approved school of physical therapy or a physical therapist assistant educational program and has applied to take the national physical therapist examination or the national physical therapist assistant examination and is awaiting results and is not required to take an oral examination, may apply to the board for a temporary license to practice as a physical therapist or physical therapist assistant under supervision. The applications and required documents for a regular license and for a temporary license may be reviewed by 2 members of the board, and upon the finding by the 2 members that the applicant is qualified for admission to examination for a regular license to practice as a physical therapist or physical therapist assistant, the board, acting through the 2 members, may issue a temporary license to practice as a physical therapist or physical therapist assistant under supervision to the applicant.

SECTION 8. PT 3.01 (4) is amended to read:

PT 3.01 (4) The holder of a temporary license to practice as a physical therapist assistant under supervision may provide physical therapy services as defined by s. 448.50(4), Stats., providing that the entire practice is under the supervision of a person validly holding a regular license as a physical therapist. The supervision shall be direct, immediate, and on premises. ~~No physical therapist assistant holding a temporary license may provide physical therapy services when the supervising physical therapist is not immediately available to assist.~~

SECTION 9. PT 3.01 (7) is repealed.

SECTION 10. PT 3.02 is created to read:

PT 3.02 Temporary reentry license. The board may issue a temporary reentry license to an applicant for a regular license to practice as a physical therapist or physical

therapist assistant, who has met all other requirements for licensure, and has provided proof of minimal competence to the satisfaction of the board, but has not been engaged in clinical practice as a physical therapist or physical therapist assistant for at least 3 years immediately preceding their application.

(1) **PROOF OF COMPETENCE.** A candidate for reentry may provide proof of minimal competence by completing either one of one of the following:

(a) A vocational evaluation by a physical therapist who is preapproved by the board or its designee.

(b) Satisfactory completion of not less than 3 months of clinical practice under the supervision of a professional mentor who has been preapproved by the board or its designee.

(2) **PROFESSIONAL MENTOR.** A professional mentor shall be a person holding a regular license in good standing as a physical therapist, who has no pre-existing personal or professional affiliation with the candidate for reentry. The professional mentor shall provide direct, immediate, on-premises supervision of the candidate for reentry, and insure that clients have given informed consent to treatment by the candidate for reentry under the professional mentor's supervision.

(3) **EVALUATION OF CLINICAL PRACTICE.** After a period of not less than 3 months of clinical practice, a candidate for reentry may petition the board for a regular license to practice as a physical therapist or physical therapist assistant. The board shall grant a regular license to practice as a physical therapist or physical therapist assistant to the candidate for reentry when he or she demonstrates, to the board's satisfaction, minimal competence to practice physical therapy as defined in s. 448.50 (4), Stats., without supervision.

(4) **TERM OF LICENSE.** A temporary reentry license shall be valid for a period not to exceed 1 year, or until the holder of the temporary reentry license receives either a failing evaluation or a regular license to practice as a physical therapist or physical therapist assistant whichever is shorter. A temporary reentry license expires after 1 year and may not be renewed.

SECTION 11. PT 4.001 is created to read:

PT 4.001 **Authority and purpose.** The rules in this chapter are adopted by the board pursuant to the authority delegated by ss. 15.08 (5) (b), 227.11 (2), 448.53 (2), and (3), Stats. and govern locum tenens licenses.

SECTION 12. PT 5.001 is created to read:

PT 5.001 **Authority and purpose.** The rules in this chapter are adopted by the board pursuant to the authority delegated by ss. 15.08 (5) (b), 227.11 (2), and 448.56 (6), Stats., and govern physical therapist assistants and unlicensed personnel.

SECTION 13. PT 6.001 is created to read:

PT 6.001 **Authority and purpose.** The rules in this chapter are adopted by the board pursuant to the authority delegated by ss. 15.08 (5) (b), 227.11 (2), and 448.56 (1m) (b), Stats., and govern referrals.

SECTION 14. PT 4.01 (4) is amended to read:

PT 4.01 (4) Except as otherwise ordered by the board, A a locum tenens license to practice physical therapy shall expire 90 days from the date of its issuance. For cause shown to its satisfaction, the board, acting through a member of the board, may renew the locum tenens license for additional periods of 90 days each, but the license may not be renewed within 12 months of the date of its original issuance, nor again renewed within 12 months of the date of any subsequent renewal may issue a locum tenens license for a period not to exceed 12 months. The locum tenens license is not renewable.

SECTION 15. PT 8.05 (intro.) is amended to read:

PT 8.05 Requirements for reinstatement. A license shall expire if it is not renewed by ~~November~~ March 1 of odd numbered years, except for temporary licenses granted pursuant to ch. PT 3. A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows:

SECTION 16. PT 9.01 is amended to read:

PT 9.01 Authority and purpose. The rules in this chapter are adopted by the board pursuant to the authority delegated by ss. ~~15.085~~ 15.08 (5) (b), 227.11 (2) and 448.55 (3), Stats., and govern required biennial continuing education of licensees of the board.

SECTION 17. PT 9.02 (1m), and (5) are created to read:

PT 9.02 (1m) "Continuing competence" means the ongoing self assessment, development and implementation of a personal learning plan that evaluates professional knowledge, skill, behavior, and abilities related to the practice of physical therapy.

PT 9.02 (5) "Remedial education" means education undertaken in lieu of or as part of discipline for the purpose of fulfilling a gap in the licensee's competence.

SECTION 18. EFFECTIVE DATE. The rule adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chairperson
Physical Therapy Examining Board

CR 12-002