

SENATE BILL REPORT

2SHB 1039

As Reported by Senate Committee On:
Health & Long Term Care, March 17, 2023

Title: An act relating to physical therapists performing intramuscular needling.

Brief Description: Concerning physical therapists performing intramuscular needling.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Macri, Harris, Corry, Duerr, Riccelli, Chambers, Goodman, Reed, Fitzgibbon, Pollet, Ryu, Paul, Thai, Springer, Stonier, Kloba, Santos and Ormsby).

Brief History: Passed House: 2/27/23, 94-1.

Committee Activity: Health & Long Term Care: 3/14/23, 3/17/23 [DPA].

Brief Summary of Amended Bill

- Allows physical therapists to perform intramuscular needling after being issued an intramuscular needling endorsement by the Secretary of Health.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass as amended.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Padden, Randall and Van De Wege.

Staff: Andie Parnell (786-7439)

Background: Physical Therapists. The Department of Health (DOH) licenses physical therapists. The Board of Physical Therapy (Board) works alongside DOH to regulate the profession. A physical therapist must be licensed to practice in Washington State. To receive a physical therapist license, an applicant must be of good moral character and have obtained either:

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- a baccalaureate degree in physical therapy from an institution of higher learning approved by the Board; or
- a baccalaureate degree from an institution of higher learning and a certificate of advanced degree from a school of physical therapy approved by the Board.

Licensed physical therapists may perform a variety of care and services, including:

- examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement, and disability or other health and movement-related conditions;
- alleviating impairments and functional limitations in movement by designing, implementing, and modifying therapeutic interventions;
- training for, and the evaluation of, the function of a patient wearing specific types of orthosis or prosthesis;
- performing limited wound care services by referral from or after consultation with an authorized health care practitioner;
- reducing the risk of injury, impairment, functional limitation, and disability related to movement; and
- engaging in administration, consultation, education, and research.

Dry Needling. Dry needling is defined as a skilled intervention that uses a thin filiform needle to penetrate the skin and stimulate underlying myofascial trigger points, muscular, and connective tissues for the management of neuromusculoskeletal pain and movement impairments. Dry needling does not include the stimulation or treatment of acupuncture points and meridians.

Attorney General Opinion. The Washington attorney general provides official opinions on questions of law at the request of designated public officials. In 2016, the attorney general issued an opinion on whether the practice of dry needling was within a licensed physical therapist's scope of practice. The attorney general concluded that dry needling was not within the practice of physical therapy, based on how the law is currently written and implemented. But the attorney general noted that the Legislature could expand the scope of physical therapy by amending the relevant statutes.

Sunrise Review. The Sunrise Act states that a healthcare profession should be regulated, or the scope of practice expanded only when:

- unregulated practice can clearly harm and endanger the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
- the public needs can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and
- the public cannot be effectively protected by other means in a more cost-beneficial manner.

In 2016, DOH conducted a sunrise review of a proposal to add dry needling to the physical

therapist scope of practice. The proposal defines dry needling as a skilled intervention that uses a thin filiform needle to penetrate the skin and stimulate underlying myofascial trigger points, muscular, and connective tissues for the management of neuromusculoskeletal pain and movement impairments; not including the stimulation or treatment of acupuncture points and meridians. The expanded scope would offer an endorsement to physical therapists that have completed one year of full-time physical therapy practice and 54 hours of education and training in dry needling. DOH found the submitted proposal did not meet the sunrise criteria for increasing a profession's scope of practice, based on the following rationale and challenges:

- the applicant did not demonstrate that 54 hours of training is sufficient to ensure professional ability of physical therapists to perform dry needling;
- the proposal did not include a supervised clinical experience requirement;
- the applicant states that the majority of education necessary to perform dry needling is taught in entry-level physical therapy doctoral education, but doctoral level training is not required for physical therapists in Washington;
- the definition of dry needling is problematic because the physical location of myofascial trigger points, muscular, and connective tissue often correspond with acupuncture points and meridians; and
- dry needling endorsement education requirements should reflect physical therapist licensure statute and rules.

However, DOH found that with adequate training including a clinical component, dry needling may fit within the physical therapist's scope of practice in treating neuromusculoskeletal pain and movement impairments. DOH offered suggestions for proposed legislation if the Legislature considers adding dry needling to the physical therapist scope of practice. DOH suggested specialized education and training requirements, written informed consent from patients, and clear authorizations and limitations for the practice of dry needling by physical therapists.

Acupuncture and Eastern Medicine. Acupuncture and Eastern medicine is a health care service using acupuncture or Eastern medicine diagnosis and treatment to promote health and treat organic or functional disorders, which includes a variety of traditional and modern acupuncture and Eastern medicine therapeutic treatments, such as the practice of acupuncture techniques and herbal medicine to maintain and promote wellness, prevent, manage, and reduce pain, and treat substance use disorder. Acupuncture and Eastern medicine includes services and modalities, including intramuscular needling and dry needling of trigger points and other nonspecific points throughout the body in accordance with acupuncture and Eastern medicine training.

Informed Consent. A health care provider must obtain informed consent from a patient or the patient's representative before performing medical treatment. Informed consent is the process by which the treating health care provider discloses information to a patient or the patient's representative so the patient may make a voluntary choice to accept or refuse treatment. Informed consent generally includes a discussion of the following elements:

- the nature of the decision or procedure proposed by the provider;
- reasonable alternatives to the proposed intervention;
- the relevant risks, benefits, and uncertainties related to each alternative;
- assessment of the patient's understanding; and
- the acceptance of the intervention by the patient.

Summary of Amended Bill: Intramuscular needling, also known as dry needling, means a skilled intervention that uses a single use, sterile filiform needle to penetrate the skin and stimulate underlying myofascial trigger points and connective and muscular tissues for the evaluation and management of neuromusculoskeletal pain and movement impairments. Intramuscular needling requires an examination and diagnosis. Intramuscular needling does not include needle retention without stimulation or the stimulation of auricular and distal points.

A physical therapist may perform intramuscular needling only after being issued an intramuscular needling endorsement by the Secretary of Health (Secretary). The Secretary, upon approval by the Board, shall issue an endorsement to a physical therapist who:

- has at least one year of postgraduate practice experience that averages at least 36 hours a week and consists of direct patient care; and
- provides evidence in a manner acceptable to the Board of a total of 325 hours of instruction and clinical experience.

The instruction and clinical experience must meet or exceed the following criteria:

- 100 hours of didactic instruction in the following areas:
 1. anatomy and physiology of the musculoskeletal and neuromuscular systems;
 2. anatomical basis of pain mechanisms, chronic pain, and referred pain;
 3. trigger point evaluation and management;
 4. universal precautions in avoiding contact with a patient's bodily fluids;
 5. preparedness and response to unexpected events including injury to blood vessels, nerves, and organs, and psychological effects or complications;
- 75 hours of in-person intramuscular needling instruction in the following areas:
 1. technique;
 2. indications and contraindications;
 3. documentation and informed consent;
 4. management of adverse effects;
 5. practical psychomotor competency;
 6. occupational safety and health administration's bloodborne pathogens protocol;
 and
- a successful clinical review of a minimum of 150 hours of at least 150 individual intramuscular needling treatment sessions by a qualified provider, which the physical therapist must submit an affidavit to DOH demonstrating completion of these reviews.

A qualified provider for the clinical review requirement must be one of the following:

- a licensed physician, licensed osteopathic physician, licensed naturopath, licensed acupuncture and Eastern medicine practitioner, or a licensed advanced registered nurse practitioner;
- a physical therapist credentialed to perform intramuscular needling in any branch of the United States armed forces;
- a licensed physical therapist who currently holds an intramuscular needling endorsement; or
- a licensed physical therapist who meets the requirements of the intramuscular needling endorsement.

After receiving 100 hours of didactic instruction and 75 hours of in-person intramuscular needling instruction, a physical therapist seeking endorsement has up to 18 months to complete a minimum of 150 treatment sessions for review.

A physical therapist can apply for endorsement before they have completed one year of clinical practice experience if they can meet the requirement of 100 hours of didactic instruction and 75 hours of in-person intramuscular needling instruction through their prelicensure coursework and have completed all other requirements.

A physical therapist may not delegate intramuscular needling and must remain in constant attendance of the patient for the entirety of the procedure.

If a physical therapist is intending to perform intramuscular needling on a patient who the physical therapist knows is being treated by an acupuncturist or acupuncture and Eastern medicine practitioner for the same diagnosis, the physical therapist must make reasonable efforts to coordinate patient care to prevent conflict or duplication of services.

All patients receiving intramuscular needling from a physical therapist must sign an informed consent form that includes:

- the definition of intramuscular needling;
- a description of the risks, benefits, and potential side effects of intramuscular needling; and
- a statement clearly differentiating the procedure from the practice of acupuncture.

Intramuscular needling may not be administered as a stand-alone treatment within a physical therapy care plan.

EFFECT OF HEALTH & LONG TERM CARE COMMITTEE AMENDMENT(S):

- Specifies that intramuscular needling includes stimulating underlying myofascial trigger points.
- Clarifies intramuscular needling does not include needle retention without stimulation.
- Prohibits physical therapists from using intramuscular needling as a stand-alone

treatment within a physical therapy care plan.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There is an epidemic of pain in our state and the use of opioids for pain. Allowing physical therapists to perform intramuscular needling would provide treatment without medications. This bill requires the highest education and training requirements in the nation for intramuscular needling endorsement. Offering an endorsement to physical therapists could substantially improve patient's pain, function and care. Intramuscular needling is not the same as acupuncture and there are no widespread reports of harm to patients. Washington cannot afford to lose physical therapists and physical therapy students because they are unable to practice intramuscular needling in this state.

CON: Amendments are necessary to align this bill with the Sunrise Review recommendations. The current education and training hours are misleading and do not adequately protect patient health and safety. The technique is also ambiguous and potentially infringes on the acupuncture scope of practice. The current bill language is not specific enough, detail is needed on procedure, technique and the difference between acupuncture and needling.

Persons Testifying: PRO: Representative Nicole Macri, Prime Sponsor; Melissa Johnson, APTA Washington; Ben Boyle, APTA Washington; Todd Gentzler; Susanne Michaud; Shane Koppenhaver; Carol Sayles Rydbom; Leslie Emerick, Wa Acupuncture & Eastern Medicine Association.

CON: Stanley Chan; Kristine McGinley, Kristine Acupuncture LLC; Chaiya Sherman, Washington Acupuncture & Eastern Medicine Association; Ashley Goddard, Washington Acupuncture & Eastern Medicine Association; Xia Che, Eastern Medicine I-Ching Acupuncture Clinic, PLLC; Tong Ning, Washington Acupuncture & Eastern Medicine Association; Jamil Shoot; Lisa vanHaagen, Professional member WA DOH AEMP Advisory Committee; WAEMA.

Persons Signed In To Testify But Not Testifying: PRO: Jacqui Berg.

CON: Su Liew; Jin Ding; Tsui-Ping LeeSinclair; ash goddard; Steve Du; Xiaohua Chen; Lifang Huang; Rachel Li; Kiki Huang; Bing Long; Jianguo Chen; kevin Lu; Xiaohong Zhang; Dongmei Shan; Sophie Ren; Dave Bajra; Ka yan Ko; Jianhong Cao; Harry Teng;

Teshu Teng; Emily Siy.

OTHER: Xiangping Ren.