"DRY NEEDLING" BY PHYSICAL THERAPISTS AS UNLICENSED ACUPUNCTURE IN NEW JERSEY

A CHRONOLOGICAL REVIEW

BY

THE NEW JERSEY ASSOCIATION OF ACUPUNCTURE AND ORIENTAL MEDICINE

Prepared for the Association by

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DEFINITION OF ACUPUNCTURE

The New Jersey State Board of Medical Examiners (the “BME”) recognizes that the use of needles done by non-physicians for medical treatment and pain control constitutes the practice of acupuncture. The BME defines “acupuncture” as “the stimulation of a certain point or points on or near the surface of the body by the insertion of special needles to prevent or modify the perception of pain or to normalize physiological functions including pain control and for the treatment of certain diseases or dysfunctions of the body.” The BME further states that use of “needles” to stimulate acupuncture points and channels shall be performed only by acupuncturists certified or approved by the BME. (N.J.A.C. 13:35-9.2; 13:35-9.12) Thus, dry needling, as practiced by non-physicians including physical therapists, constitutes the practice of acupuncture as defined by the BME and is subject to the BME’s requirements.

[excerpt: 9/24/12 Letter of The New Jersey Society of Physical Medicine and Rehabilitation to Acting Director Eric Kanefsky, New Jersey Division of Consumer Affairs]
Unlicensed acupuncture is a crime of the third degree. (N.J.S.A. 45:2C-21-20.1)

A person not licensed under the Act “shall not practice acupuncture.” (N.J.S.A. 45:2C-7)

The Act shall not prevent a trained “physician and surgeon or dentist” from the practice of acupuncture. [No such authorization is extended to physical therapists.] (N.J.S.A. 45:2C-8)
“DRY NEEDLING” BY PHYSICAL THERAPISTS AS UNLICENSED

ACUPUNCTURE IN NEW JERSEY

- CHRONOLOGICAL HIGHLIGHTS -

(All cited attachments are in chronological order.)

11/06 **NJ Board of Physical Therapy Examiners** found dry needling to be an “invasive procedure and outside the scope of practice of physical therapists”

9/22/09 **NJ Board of Physical Therapy Examiners** minutes – “nothing in the New Jersey State Board of Physical Therapy Examiners’ statutes or regulations that would preclude the use of dry needling techniques for trigger point release or for treating musculoskeletal conditions by a physical therapist provided the physical therapist is trained and competent in such techniques.” (emphasis added)

Late 9/09 **NJ Association of Acupuncture and Oriental Medicine** (“NJAAOM”) promptly wrote to the Board of Physical Therapy Examiners to highlight that dry needling was unlicensed acupuncture.

12/09 **NJAAOM** wrote the New Jersey Acupuncture Examining Board, which held that dry needling was acupuncture.

1/10 **Board of Physical Therapy Examiners** tabled the issue.

1/11 **Board of Physical Therapy Examiners** declared that “the individual therapist determines whether they are competent.” (emphasis added)

2/13/12 **NJAAOM** wrote the **NJ Acupuncture Examining Board** highlighting NJAAOM’s complaints to the Board of Physical Therapy Examiners and making a complaint that a Colorado physical therapy education organization, Kinetacore, was advertising an upcoming dry needling training seminar over the weekend of May 7, 2012 at Centra State Medical Center in Freehold (copy attached). NJAAOM also highlighted advertising of dry needling services by a Belmar physical
therapist. NJAAOM appropriately highlighted unlicensed and unlawful acupuncture practices and advertising under the “dry needling” deception.

3/21/12 Board of Acupuncture Examiners minutes at “IV.” (copy attached)

- determined that “DAG Lopez should advise the Deputy Director of Consumer Affairs of the need to hold mediation” between the Physical Therapy and Acupuncture Boards
- “in order to resolve the interboard conflict regarding dry needling by physical therapists”
- determined that “the practice of dry needling is a practice of acupuncture … in violation of … statute.”

4/12/12 NJAAOM wrote Centra State Medical Center in Freehold to express concern that the hospital was sponsoring a dry needling training seminar presented by Colorado’s Kinetacore on the weekend of May 7, 2012 (copy attached); Centra State responsibly canceled the event – which led to subsequent Kinetacore seminars in New Jersey that were essentially secretly publicized by Kinetacore in an effort to avoid scrutiny by acupuncturists and the State.

4/24/12 Board of Physical Therapy Examiners minutes – “the Board of Physical Therapy Examiners does not consider dry needling the practice of acupuncture” – adding, “waiting for guidance from the Division of Consumer Affairs.”

9/19/12 Board of Acupuncture Examiners minutes at “III. (B), (C)” (copy attached)

- “The Board determined that Dry Needling is the Unlicensed Practice of Acupuncture.” (bold in original text)
- “The Board of Acupuncture and The Board of Physical Therapy are working towards a resolution with the Division of Consumer Affairs.” (bold in original text)
9/20/12  **NJAOM** wrote Acting Director Kanefsky of the Division of Consumer Affairs a detailed letter requesting an opinion on dry needling. (copy attached)

9/24/12  **NJ Society of Physical Medicine and Rehabilitation** wrote Acting Director Kanefsky at the Division of Consumer Affairs (copy attached):

- “extremely concerned” that physical therapists are dry needling “without meeting the necessary legal standards of education and training, and thus engaging in the practice of medicine and acupuncture unlawfully.”

- “patient safety is being jeopardized”

- Patients are without knowledge of inadequate training and unlawful treatment.

- reviewed **Board of Medical Examiners** definition of acupuncture and regulations for lawful practice, including “very strict” and “rigorous” requirements

- increased risk of patient harm

- cited “physical therapists who offer two day courses in dry needling, with the assumption that the attendees can then start treating patients immediately thereafter”

- **Society** stated that it was “extremely alarmed” with the Physical Therapy Board’s use of “negative logic” in responses to therapist inquiries with the Board conclusion that “nothing in the Board[‘s]...statutes or regulations would preclude” drying needling by physical therapists.

- called the Physical Therapy Board’s comment “extremely vague”
observed that “a cottage industry is growing” in “minimal courses” for physical therapists with “no prior experience” who “can suddenly claim they are now adequately trained” in dry needling “when clearly they are not”

“serious risk” to patient health and safety

increased risk of patient harm by puncturing a lung, puncturing a nerve or blood vessel, worsening a pre-existing condition or creating new pain conditions

foreseeable, resulting “costly hospitalization” and threat to patient health

cited an actual illustration:

- dry needling to a patient’s shoulder
- by a “certified” physical therapist
- patient was not being treated for shoulder pain
- result: patient developed “severe searing shoulder pain” when it did not exist before and aggravated pre-existing vertigo that became “incapacitating”

requested that the Division alert the Board of Medical Examiners and the Board of Physical Therapy Examiners “to the problems” and request that the boards issue declarations and impose “discipline” on “non-compliant practitioners”

Early 2013 The Board of Physical Therapy Examiners asked that Kinetacore provide a “Statement to be provided to PT participants of Dry Needling Courses in New Jersey” to all dry needling seminar attendees:
• acknowledging that Consumer Affairs had not rendered a decision on who was lawfully permitted to perform dry needling

• highlighting that the Physical Therapy Board did not consider dry needling to be acupuncture and that the Acupuncture Board did consider dry needling to be unlicensed acupuncture

• adding that the Physical Therapy Board was awaiting action by the Division of Consumer Affairs

4/1/13 **Medical Society of New Jersey** wrote Acting Director Kanefsky at the Division of Consumer Affairs (copy attached):

• Board of Physical Therapy Examiners statement “is troubling” – particularly in failing to require proof of training or competency

• The Board “waiting for guidance” should lead to *limiting* scope of practice, not expanding it.

• encouraged the Division to “defer to regulations that establish the scope of practice for acupuncturists” – “fair reading ... would preclude ... other practices” from using needling techniques

• Medical Society “believes that dry needling is not in the scope of practice for physical therapists.”

• highlighted physical therapists practicing dry needling “without meeting the necessary legal standards of education and training,” resulting in “practice of medicine and acupuncture unlawfully.” (emphasis added)

• highlighted patients “agreeing to undergo dry needling by physical therapists without knowledge of inadequate training and unlawful practice” by the therapists
• cited that physical therapists’ dry needling is acupuncture as defined by the **NJ State Board of Medical Examiners** (N.J.A.C. 13:35-9.2, 13:35-9.12)

• Physical therapists are ignoring “strict requirements” for the practice of acupuncture

• urged Board of Physical Therapy Examiners at scheduled 12/13 renewal of their regulations “to clarify that physical therapists cannot practice dry needling since not licensed to practice acupuncture” (emphasis added) – The Board failed to do so in 2013 and since.

5/13 Acting Director of the Division of Consumer Affairs sent the issue to the Attorney General for opinion.

6/13 Board of Physical Therapy Examiners receives a motion for therapist assistant performance of dry needling – tabled pending Division action.

5/9/14 **Pathways Government Relations**, as lobbyist for **NJAAOM**, wrote to new Acting Director Steve Lee at the Division of Consumer Affairs (copy attached) and introduced to the new Director the dry needling issue – attaching an illustrative 4/25/14 opinion of the Illinois Attorney General that was adverse to continued dry needling by physical therapists in that State.

10/14 **Kinetacore**, the private dry needling training group out of Colorado, posts on line, “NJ supports PT’s and the use of Dry Needling” – which was outrageously untrue. NJ chapter of the **American Physical Therapy Association** announces that it is “negotiating” with the **NJ Medical Society** on the issue.

12/9/14 **American Academy of Medical Acupuncture Policy Statement** (copy attached):

• highlighted health, safety and “strict” training and education in acupuncture to avoid “substantial injury”
• listed risks as: hematoma, pneumothorax, nerve injury, vascular injury and infection

• concluded that dry needling “should be performed only by practitioners with extensive training and familiarity with routine use of needles in their practice and who are duly licensed to perform these procedures, such as licensed medical physicians or licensed acupuncturists.”

1/15 A New Jersey private physical therapist buys infomercial time on local CBS-TV’s “American Health Front” to promote dry needling. The Acupuncture Board, NJAAOM and acupuncturists contact CBS and producers Medical Media Group (which, coincident to Kinetacore, is also based in Colorado) and Medical Media Group cancels the spot before air time.

• American Physical Therapy Association of New Jersey issues a responsive hostile press release – and press coverage follows in the Philadelphia Inquirer

3/6/15 The NJ Attorney General still has yet to issue an opinion on the issue of dry needling by physical therapists as unlicensed acupuncture under New Jersey statutes and regulations.
New Jersey Association of Acupuncture & Oriental Medicine

February 13, 2012

New Jersey Acupuncture Examining Board
Ms. Rene Clark, Executive Director
P.O. Box 46201
Newark, NJ 07101

Dear Ms. Clark,

As you may be aware, I have filed a letter of complaint to the New Jersey State Board of Medical Examiners regarding the New Jersey Physical Therapy Examining Board and their authorization of physical therapists to practice dry needling, when clearly the practice is the same as acupuncture. You have been copied on that letter.

Related to that issue, I am writing on behalf of the New Jersey Association of Acupuncture & Oriental Medicine (NJAAOM) to lodge a complaint against Kinetacore, a Physical Therapy Education group out of Brighton, Colorado, which is advertising a dry needling class to be held in New Jersey on the weekend of May 5 – 7, 2012, in Freehold, NJ. You can see the advertisement at: www.kinetacore.com/product/20120505-L1-TDN-NewJersey.html. I have enclosed a printout of the advertisement from their website.

The NJAAOM believes that by statutory definition, dry needling is the practice of acupuncture. Kinetacore is not advertising to acupuncturists but to physical therapists and possibly others who are not qualified or legally authorized to practice acupuncture. Also, if the person(s) teaching the course is not an acupuncturist or has not filed to obtain a guest acupuncturist permit, then they are in violation of the acupuncture statute.

Additionally, a physical therapist named, Arthur Veilleux, PT, DPT, who practices in Belmar, Monmouth County, NJ is advertising that he does dry needling. You can see his advertisement on his website at: http://hellopt.net/2601.html. I have also enclosed a printout of Mr. Veilleux’s website advertising dry needling.

The NJAAOM is requesting a formal investigation and prosecution, if necessary, on both Mr. Veilleux and Kinetacore. They are practicing acupuncture without a license and advertising as such, and in doing so they represent a serious threat to public safety.

Thank you for your attention to this matter.

Sincerely,

Candace Sarges, M.Ac., L.Ac., Dipl. O.M.
President, NJAAOM

Enclosures
New Jersey Office of the Attorney General
Division of Consumer Affairs
State Board of Medical Examiners
Acupuncture Examining Board
124 Halsey Street, 6th Floor, Newark, NJ 07102

ACUPUNCTURE EXAMINING BOARD
PUBLIC SESSION MINUTES
MARCH 21, 2012

I  ROLL CALL

PRESENT  Henry McCann, Mimi Vassilev-Baker, Roger Rossi, Nita Raval, Edith Lee, Shoshanna Katzman, Barbara Montana, Karen Wei-Ru Lin

ABSENT  No Absences

ALSO PRESENT  Barbara Lopez, DAG
              Renee P. Clark, Executive Director
              Tanya Gollett, Staff

CALL TO ORDER  The regular monthly meeting of the Acupuncture Examining Board was called to order at 124 Halsey Street at 9:30 a.m., all members having been notified of the time, date and, place and materials pertinent hereto having been provided.

SUNSHINE LAW  In compliance with Chapter 231 the Public Law of 1975, notice of this was sent to the Courier-Post and the Record.

II. MINUTES

A motion was made by Roger Rossi and seconded by Mimi Vassilev-Baker to approve the January 18, 2012 Public Session Minutes with amendments. The motion carried by unanimous vote.

III. NY CHIROPRACTIC COLLEGE

Staff of New York Chiropractic College addressed the board members to request that the Board reconsider its policy of not accepting the BPS degree as a qualification for licensure. The New York Chiropractic College BPS degree differs from most other schools in that it functions as a stand-alone bachelor's degree and that no acupuncture courses will be included in the bachelor's degree.
The Acupuncture Examining Board has determined that the program at the New York Chiropractic College should be approved, in the case of the specific applicant, because it does have regional accreditation, because the bachelors degree does not include any acupuncture courses, and because it functions as a stand alone bachelors degree.

The student from this school should resubmit their application for licensure to the board for the board’s reconsideration. Motion made by Henry McCann, seconded by Roger Rossi.

IV. LETTER FROM CANDACE SARGES OF THE ACUPUNCTURE ASSOCIATION REGARDING DRY NEEDLING BY PHYSICAL THERAPISTS

Ms. Sarges sent a letter advising board of physical therapists advertising the practice of dry needling in the state of New Jersey in the near future.

Board determined that DAG Lopez should advise the Deputy Director of Consumer Affairs of the need to hold mediation between a subcommittee of the Physical Therapy Board and a subcommittee of the Acupuncture Examining Board in order to resolve the interboard conflict regarding dry needling by physical therapists.

The Acupuncture Examining Board determined that the practice of dry needling is a practice of acupuncture, and as such any physical therapist who performs dry needling is in violation of our statute. Motion made by Henry McCann, seconded by Edith Lee. Roger Rossi and Nita Raval abstained from the vote.

V. SUSAN KREIGER/ APPLICATION FOR GUEST ACUPUNCTURIST

Board determined that Ms Kreiger is not part of a training or teaching program, and so does not fall under the definition of a guest acupuncturist under the regulation. Therefore her application for guest acupuncturist is denied. Motion made by Henry McCann, seconded by Roger Rossi. Motion carried by unanimous vote.

Roger Rossi made a motion seconded by Nita Raval, to proceed to Executive
Session, to consider and review advertisement, consumer complaints and other information received pursuant to the Board's investigative authority in order to determine whether violations of law, including Board regulations, have occurred. The results of these deliberations will be made known when, and if, the Board chooses to take public action, the action will be taken in Public Session immediately after the Executive Session.

Respectfully submitted

ACUPUNCTURE EXAMINING BOARD

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Renee P. Clark, Executive Director
April 12, 2012

To Whom It May Concern:

My name is Candace Sarges M.Ac., L.Ac., and I am the President of the New Jersey Association of Acupuncture and Oriental Medicine (NJAAOM). I am writing on behalf of NJAAOM of our concern regarding a class that you will be sponsoring on May 5 - 7, 2012. It will be run by Kinetacore and is a Physical Therapy class in "Dry Needling".

Our position and that of the NJ Acupuncture Examining Board is that "Dry Needling" is the practice of acupuncture and as such this type of class and those who are teaching or practicing it, are in violation of the NJ Acupuncture regulatory statute. In March 2012 the NJ Acupuncture Examining Board voted that the practice of dry needling by a physical therapist is the unlicensed practice of acupuncture. In NJ the unlicensed practice of acupuncture is a crime of the third degree (Title 2C:21-20.1). As such, your institution can be held liable for aiding and abetting a third degree crime. Furthermore, the course instructors are neither licensed acupuncturists, nor have they been given permission by the NJ Acupuncture Examining Board to be guest acupuncturists.

The NJ Physical Therapy Board does not give outright approval of this practice. Their opinion is that there is nothing in their statute that would preclude a PT from practicing dry needling, and that they are aware that the NJ Acupuncture Examining Board may consider the procedure may be considered a crime of the third degree. Please see the public minutes of August 23, 2011, that I have attached, on page 5, Section III, M.

Acupuncturists are held to standards set out by our statute and at minimum, requires 2500 hours of training in ACAOM accredited programs (ACAOM is the only school accrediting agency recognized by the U.S. Dept. of Ed.), the completion of national board exams by NCCAOM (the only certifying commission recognized in the U.S. for acupuncture), a NJ State licensing examination, and an examination to test proper handling of biohazard materials.

We are concerned that a weekend course does not cover the necessary information to practice safely and this would be putting the public at risk.

We are, therefore, requesting that you cancel the Kinetacore dry needling class to be held at your facility on May 5 -7, 2012.

Sincerely,

Candace Sarges, B.S., M.Ac., L. Ac., Dipl. O.M.
President

300 Madison Avenue, Suite 102, Madison, NJ 07940
973-660-0110 ~ njaaom.net
New Jersey Office of the Attorney General
Division of Consumer Affairs
State Board of Medical Examiners
Acupuncture Examining Board
124 Halsey Street, 6th Floor, Newark, NJ 07102

ACUPUNCTURE EXAMINING BOARD
PUBLIC SESSION MINUTES
SEPTEMBER 19, 2012

I. ROLL CALL

PRESENT
Barbara Montana, Mimi Vassilev-Baker,
Shoshanna Katzman, Edith Lee, Karen Wei-Ru Lin

ABSENT
Nita Raval, Henry McCann, Roger Rossi

ALSO PRESENT
Barbara Lopez, DAG
Renee P. Clark, Executive Director
Tanya Gollett, Staff

CALL TO ORDER
The regular monthly meeting of the Acupuncture Examining Board was called to order at 124 Halsey Street at 10:00 a.m., all members having been notified of the time, date and place and materials pertinent hereto having been provided.

SUNSHINE LAW
In compliance with Chapter 231 the Public Law of 1975, notice of this was sent to the Courier-Post and the Record.

II. MINUTES

A motion was made by Mimi Vassilev-Baker and seconded by Edith Lee to approve the May 16, 2012 Public Session Minutes. The motion carried by unanimous vote.

III. NEW BUSINESS

A. Goldfarb Chiropractic and Acupuncture Center, P.A.
Steven J. Goldfarb - Mr. Goldfarb sends correspondence regarding using ear needles to the Acupuncture Examining Board for review.

The Acupuncture Examining Board reviewed the correspondence sent from Steven J Goldfarb. The Board determined that there is nothing in the Acupuncture statutes or regulations which would prevent acupuncturists from using ASP (Aiguille Semi Permanent) needles. The use of ASP ear
needles inserted intradermal on the ear for one to three days is consistent with the statutes and regulations. Patients must return to the Acupuncturist to have the ASP ear needle removed, unless it is shed by the body. A motion was made by Edith Lee and seconded by Mimi Vassilev-Baker. The motion carried by unanimous vote.

B. Law Offices Of David S. Barmark, LLC
Brandon C. Goldberg - Mr. Goldberg sends correspondence regarding Intramuscular manual therapy, also known as dry needling to the Acupuncture Examining Board for review. The Acupuncture Examining Board reviewed correspondence from Brandon C Goldberg. The Board determined that Dry Needling is the Unlicensed Practice of Acupuncture. The Board of Acupuncture and The Board of Physical Therapy are working towards a resolution with the Division of Consumer Affairs. A motion was made by Barbara Montana and seconded by Karen Wei-Ru Lin. The motion carried by unanimous vote.

C. Practice of Dry Needling - Hanna Alison
Ms. Alison sends correspondence regarding dry needling to the Board for review. The Acupuncture Examining Board reviewed correspondence from Hanna Alison. The Board determined that anyone that is not licensed as an Acupuncturist is not regulated to perform dry needling which constitutes the unlicensed practice of Acupuncture. A motion was made by Barbara Montana and seconded by Mimi Vassilev-Baker. The motion carried by unanimous vote.

D. Gavin Lin - Mr. Lin sends correspondence regarding his education to be reviewed by the Board. The Acupuncture Examining Board reviewed correspondence from Gavin Lin. The Board determined that Mr. Lin should obtain an application and checklist as well as a copy of the Statutes and Regulations from the Board’s website. A motion was made by Barbara Montana and seconded by Mimi Vassilev-Baker. The motion carried by unanimous vote.

IV. INFORMATIONAL
A. Consumers and Acupuncturist send in almost 1000 emails protesting the use of dry needling by Physical Therapist.

B. 2013 ACUPUNCTURE EXAMINING BOARD MEETINGS

January 16, 2013 Somerset Room 6th Fl.
V. TERESA YUAN - Applicant
The Board sends Ms. Yuan a Provisional Order of Denial. The Acupuncture Examining Board determine that due to no response from the applicant the Provisional Order of Denial was finalized by default. A motion was made by Karen Wei-Ru Lin and seconded by Barbara Montana. The motion carried by unanimous vote.

Edith Lee made a motion seconded by Barbara Montana, to proceed to Executive Session, to consider and review advertisement, consumer complaints and other information received pursuant to the Board’s investigative authority in order to determine whether violations of law, including Board regulations, have occurred. The results of these deliberations will be made known when, and if, the Board chooses to take public action, the action will be taken in Public Session immediately after the Executive Session.

Respectfully submitted
ACUPUNCTURE EXAMINING BOARD

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Renee P. Clark, Executive Director
September 20, 2012

Eric T. Kanefsky, Acting Director
NJ Division of Consumer Affairs
124 Halsey Street, 7th Floor
Newark, NJ 07102

Dear Mr. Kanefsky:

We are writing to inform you of and ask for an opinion on the recent action of the New Jersey State Board of Physical Therapy Examiners to expand their scope of practice, by board rule, to include the performance of Dry Needling. It is the position of the New Jersey Association of Acupuncture and Oriental Medicine (NJAAOM) that Dry Needling is synonymous with the practice of Acupuncture and is the de facto practice of Acupuncture. Allowing physical therapists to practice dry needling/acupuncture in New Jersey does not best serve the health care needs of the residents of New Jersey. Allowing physical therapists to practice dry needling/acupuncture without mandated classroom, clinical and continuing education in dry needling/acupuncture does not preserve the health care safety of the residents of New Jersey.

1. **Dry Needling is synonymous with Acupuncture and is a subset of Acupuncture.**

   “Acupuncture, in the strictest sense, refers to insertion of dry needles, at specially chosen sites for the treatment or prevention of symptoms and conditions.” (AHRQ, division of National Institutes of Health)\(^1\)

   The Agency for Healthcare Research and Quality (AHRQ), a division of the National Institutes of Health writes: “Acupuncture refers to the insertion of dry needles at specially chosen sites for the treatment or prevention of symptoms and conditions.”\(^2\) Acupuncture literally means to puncture with a needle.\(^3\) Acupuncture can be defined to include traditional body needling, electric acupuncture (electro-acupuncture), and microsystem acupuncture such as ear (auricular), face, hand and scalp acupuncture.\(^4\) Thus, Acupuncture becomes a system of medicine that utilizes needles to achieve therapeutic effect.\(^5\)

   As defined by the American Physical Therapy Association’s Educational Resource Paper, *Physical Therapists & the Performance of Dry Needling* (2012), Dry Needling is an invasive technique used by physical therapists (where allowed by state law) to treat myofascial pain that uses a dry needle, without medication or injection, which is inserted into areas of the muscle known as trigger points.\(^6\)

   The World Health Organization gives explanation as to why Dry Needling is a subset of Acupuncture practice and is, in fact, Acupuncture. The term “acupuncture” literally means to puncture with a needle. “Dry needling” is a term that was developed to define the technique of placing an acupuncture needle into a muscle trigger point rather than injecting the trigger point with lidocaine or cortisone. Dry needling focuses on releasing muscle tension by treating specific trigger points, alleviating nerve tissue irritations by reducing the nerve impulse, or stimulating local blood supply where it may be naturally poor. It became known as “dry’ needle” since nothing was injected. Dry needling is a derivative of acupuncture and is defined by the World Health Organization as “acupuncture.”\(^7\)

2. **Acupuncture involves the needling of trigger points to release pain. Thus, the performance of Dry Needling is the the performance of Acupuncture.**

   “The practice of dry needling, as described in the materials provided to us, appears to be indistinguishable from the definition of “perform acupuncture.” (Maryland Attorney General)\(^12\)
Travell and Simons’ *Myofascial Pain and Dysfunction, the Trigger Point Manual*, describes the relationship between Trigger Points, Acupuncture and Dry Needling: “If one defines an acupuncture point for treatment of pain as a tender spot, one is using a cardinal definition of TrPs [trigger points] as a criterion for an acupuncture point, which would increase the likelihood of treating a TrP and calling it an acupuncture point.”

Three important studies by Peter Dorsher, MD, Department of Physical Medicine and Rehabilitation at the Mayo Clinic, entitled “Trigger Points and Classical Acupuncture Points, Parts 1,2,3” explore the relationship of Ashi or Acupuncture points to myofascial trigger point regions. In the first part of the study, myofascial trigger point regions were demonstrated to have strong (93.3%) anatomic correspondences with classical acupuncture points. The second portion of this study examined the clinical correspondences of trigger point regions and classical acupuncture points in the treatment of both pain and somatovisceral disorders, and found they had ~ 97 % correlation for treating pain conditions and over 93 % correlation in treating somatovisceral conditions. The third portion of the study concluded that the strong (up to 91%) consistency of the distributions of trigger point regions’ referred pain patterns to Acupuncture meridians provides a third line of evidence that trigger points most likely represent the same physiological phenomenon as Acupuncture points in the treatment of pain disorders.

The Maryland Attorney General agrees. In their August 17, 2010 opinion entitled Health Occupations - Physical Therapists - Acupuncturists - Physical Therapy Board Has Authority to Determine by Regulation Whether “Dry Needling” is Within the Scope of Practice of Physical Therapy (95 OAG 138), Douglas F. Gansler, Attorney General, and Robert N. McDonald, Chief Counsel Opinions and Advice, writes: “The practice of dry needling, as described in the materials provided to us, appears to be indistinguishable from the definition of “perform acupuncture” in the Maryland Medical Practice Act.”

3. **Medicare/Medicaid define Dry Needling as Acupuncture.**
   “The only code for Medicare that would cover something like dry-needling would be an acupuncture code.” (Assistant U.S. Attorney Doyle)  

Medicare, while investigating a case involving a doctor who was billing for “Dry Needling” therapy, ruled that “to bill Medicare, doctors need to make an actual injection.” Assistant U.S. Attorney Kevin Doyle explains: “There is a claim code for trigger point injections. The only code for Medicare that would cover something like dry-needling would be an acupuncture code.” (Please see Appendix A.) Incidentally, Acupuncture is a non-covered procedure for Medicare/Medicaid federally.

4. **There can be no expectation of clinical safety in the performance of dry needling by physical therapists.**
   “To allow physical therapists to use needles on patients without sufficient training constitutes a public health hazard. Based on the foregoing, the NCC will not provide malpractice insurance for any physical therapist who inserts needles and/or utilizes the technique of dry needling.” (National Chiropractic Council)

Jan Dommerholt, PT, DPT, MPS and the first physical therapist in the United States to teach trigger point dry needling courses and founder of Myopain Seminars, gives this assessment of Physical Therapy education: “In the United States, dry needling is not included in physical therapy educational curricula. He adds, “Accurate needling requires clinical familiarity with Myofascial Trigger Points and excellent palpation skills.” (Please see Appendix B.)

However, The New Jersey State Board of Physical Therapy Examiners established during their Public Session Minutes of 9/22/09 that Dry Needling was within the scope of practice of physical therapists. The Board advises that “there is nothing in the New Jersey State Board of Physical Therapy Examiners’ statues or regulations that would preclude the use
of dry needling techniques for trigger point release or for treating musculoskeletal conditions by a physical therapist provided the physical therapist is trained and competent in the techniques." [emphasis added]

In contrast, Licensed Acupuncturists, rather than indulging in self-regulation, are adhering to safety, classroom, clinical and continuing education guidelines established through the National Certification Commission for Acupuncture (NCCAOM) who, in turn, based their policies on World Health Organization recommendations. Licensed Acupuncturists are receiving education in acupuncture/ashi/myofascial trigger point location through classroom development of palpation skills and needling technique. Individuals who attain a NCCAOM Acupuncture Certification (Dipl.Ac) undergo a rigorous training program at a minimum standard of three academic years, 1365 hours in Acupuncture, including point location and needle technique. Of the 1365 hours in Acupuncture, 660 hours must be clinical hours [emphasis added], in other words, hours spent practicing Acupuncture under the supervision of a Licensed Acupuncturist.

In addition, LAcS are required by New Jersey and nationally, to be certified in Clean Needle Technique and must complete Continuing Education Units in order to maintain their licensure. (Please see Appendix C.) The World Health Organization's publication, Guidelines on Basic Training and Safety in Acupuncture (2010), presents Needle Technique Safety guidelines that are meant for hospitals, clinics and practitioners, and that provide standards for safety in the clinical practice of Acupuncture. The purpose of these Guidelines is to minimize the risk of infection and accidents, to alert acupuncturists to contraindications, and to advise on the management of complications occurring during needle insertion. Since both Acupuncture and Dry Needling/Intramuscular Manual Therapy involve the insertion of dry needles into the human body for therapeutic purposes, the WHO recommendations are particularly germane for both Acupuncturists and Physical Therapists employing Dry Needling. They are also the basis for Clean Needles Certification that is required of all Licensed Acupuncturists in the United States. The Kentucky Board of Physical Therapy Ruling on Dry Needling does not make any accommodations for similar/equivalent training for physical therapists performing dry needling.

Other professional organizations have become to be aware of the dearth of safety, classroom, clinical and continuing education policies in place for Dry Needling as practiced by Physical Therapists. The National Chiropractic Council (NCC), a federal risk purchasing group that is the leading provider of malpractice insurance for allied health care professionals, including acupuncturists, physical therapists, massage therapists, etc., explains their decision not to provide malpractice insurance for physical therapists who perform dry needling:

"Proponents of the addition of dry needling to the scope of physical therapy maintain that trigger point dry needling does not have any similarities to acupuncture other than using the same tool. These same proponents of the technique re-define traditional Chinese medicine as being based on a traditional system of energetic pathways and the goal of acupuncture to balance energy in the body. They emphasize the channel relationship of acupuncture points, de-emphasize or completely exclude the use of ASHI points [also known as trigger points], and emphasize that acupuncture is based on the energetic concepts of Oriental medicine diagnosis. They therefore define dry needling as different and distinct from acupuncture because it is based on Western anatomy."

"However, these proponents fail to recognize that acupuncture schools teach both 'western' neurophysiological concepts along with 'traditional' meridian concepts. As such, acupuncturists are highly trained within both fields of medicine. In fact, the profession of Chinese medicine utilizes neurophysiological principles. As such, there is no such distinction between 'eastern' and 'western' [dry needling] acupuncture.

"To allow physical therapists to use needles on patients without sufficient training constitutes a public health hazard. Based on the foregoing, the NCC will not provide malpractice insurance for any physical therapist who inserts needles and/or utilizes the technique of dry needling." (National Chiropractic Council) (Please see Appendix D.)
5. No clinical research of sufficient quality exists to justify the performance of Dry Needling by Physical Therapists. “Despite the fact that dry needling has been known for years, there have been few published studies measuring the effect on patient outcomes published in the peer reviewed literature. Those studies that are available have design flaws or comprise small study samples so that it is not possible to draw conclusions regarding patient outcomes.” (BlueCross/BlueShield)

In a randomized, double blind, sham-controlled crossover trial comparing Dry Needling, Acupuncture and sham treatment of motion related neck pain, Irnich et al (2002) assessed relative quality of care: “Acupuncture is superior to Sham [treatment] in improving motion-related pain and ROM [range of motion] following a single session of treatment in chronic neck pain patients. Acupuncture at distant points improves ROM more than DN [Dry Needling]; DN was ineffective for motion-related pain.”

BlueCross BlueShield, when assessing the probability of relief of symptoms as demonstrated by a survey of available clinical research trials investigating the use of Dry Needling by Physical Therapists, concluded: “Despite the fact that dry needling has been known for years, there have been few published studies measuring the effect on patient outcomes published in the peer reviewed literature. Those studies that are available have design flaws or comprise small study samples so that it is not possible to draw conclusions regarding patient outcomes.”

6. "The only factors relevant to scope of practice decision making are those designed to ensure that all licensed practitioners be capable of providing competent care."

(The Federation of State Boards of Physical Therapy)

The Federation of State Board of Physical Therapy in Changes in Healthcare Professions Scope of Practice: Legislative Considerations (2006) wrote: “The only factors relevant to scope of practice decision making are those designed to ensure that all licensed practitioners be capable of providing competent care [emphasis added].”

We agree.

Dry needling is synonymous with acupuncture and is, in fact, a subset of acupuncture. Dry needling is an acupuncture practice and is de facto acupuncture. Licensed acupuncturists are the best equipped, prepared and qualified and therefore the best choice to provide competent care in the fields of dry needling and acupuncture.

Sincerely,

Candace Sarges, M.Ac., L.Ac. Dipl. O.M. (NCCAOM)

President

NJAAOM, 300 Madison Avenue, Suite 102, Madison, NJ 07940

973-660-0110 ~ njaaom.net


4. IBID


10. Ibid

11. Ibid


15. Schroeder, Vice-President and General Counsel, Michael. "National Chiropractic Council(TM)." Letter to Kathleen Haley, Executive Director, State of Oregon Medical Board. 18 Nov. 2009. MS.


19. IBID


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21. IBID
24. IBID
27. Schroeder, Vice-President and General Counsel, Michael. "National Chiropractic Council(TM)." Letter to Kathleen Haley, Executive Director, State of Oregon Medical Board. 18 Nov. 2009. MS.
28. IBID
29. IBID
34. IBID

APPENDICES:
A. "Doctor Settles Billing Case: Rutland Herald Online." Rutland Herald news story
B. "Dry Needling in Orthopaedic Physical Therapy Practice", Jan Dommerholt, PT, MPS
C. Council of Colleges of Acupuncture and Oriental Medicine Position Paper on Dry Needling
D. National Chiropractic Council letter

NJAAOM, 300 Madison Avenue, Suite 102, Madison, NJ 07940
973-660-0110 ~ njaaom.net
The New Jersey Society of Physical Medicine and Rehabilitation

September 24, 2012

The Honorable Eric T. Kanefsky
Acting Director
New Jersey Division of Consumer Affairs
124 Halsey Street, Sixth Floor
Newark, NJ 07012

Dear Acting Director Kanefsky:

On behalf of the New Jersey Society of Physical Medicine and Rehabilitation (the “Society”), representing 100 physicians, trained in non-surgical care of patients with various musculoskeletal and/or neurological disorders, appreciates the opportunity to provide information and comments on the practice of “dry needling.”

The Society is aware that physical therapists in New Jersey are now regularly performing a medical technique known as “dry needling” or “trigger point dry needling.” The Society is extremely concerned that many physical therapists may be offering such treatment without meeting the necessary legal standards of education and training, and thus engaging in the practice of medicine and acupuncture unlawfully. The Society is further concerned that because many physical therapists offer such treatment without the requisite education and training, patient safety is being jeopardized. The Society believes that patients may be agreeing to undergo dry needling by physical therapists, without knowledge that the therapist may be inadequately trained and is rendering such “treatment” unlawfully.

By way of background, the technique of dry needling or biomedical acupuncture was first developed by a medical doctor, Janet Travell, M.D., the former medical advisor to the White House. The technique of dry needling recognizes that trigger points in the body can effectively be treated through the use of needles, without the injection of medication. In 2002, the American Medical Association revised its CPT Codes to add a new CPT Code 20552 for “Injection; single or multiple trigger point(s), one or two muscle group(s).” CPT Code 20553 is the same code, but for three or more muscle groups. Quite clearly, the use of needles to safely and effectively treat serious medical conditions requires a tremendous amount of education and training. Indeed, the responsible practice of inserting needles is the end result of literally thousands of years of development. The New Jersey State Board of Medical Examiners (the “BME”) recognizes that the use of needles done by non-physicians for medical treatment and pain control constitutes the practice of acupuncture. The BME defines “acupuncture” as “the stimulation of a certain point or points on or near the surface of the body by the insertion of special needles to prevent or modify the perception of pain or to normalize physiological functions including pain control and for the treatment of certain diseases or dysfunctions of the body.” The BME further states that use of “needles” to stimulate acupuncture points and channels shall be performed only by acupuncturists certified or approved by the BME. [N.J.A.C. 13:35-9.2; 13:35-9.12.] Thus, dry needling,
as practiced by non-physicians including physical therapists, constitutes the practice of acupuncture as defined by the BME and is subject to the BME’s requirements.

The BME regulations contain very strict requirements before a health care practitioner is permitted to perform acupuncture, including dry needling. Any person who performs acupuncture must be certified by the BME as possessing the qualifications to perform acupuncture services. Licensed physicians and dentists who desire acupuncture certification must have graduated from an accredited acupuncture program or completed 300 hours of comprehensive acupuncture course work or training, including at least 150 hours of clinical training taught by instructors qualified in acupuncture. Practitioners other than licensed physicians and dentists who seek acupuncture certification must obtain a baccalaureate or equivalent degree and graduate from an accredited acupuncture program which, commencing June 21, 2014, shall consist of at least 2,500 hours of instruction. [N.J.A.C. 13:35-9.4.]

Physical therapists who have not met these rigorous education, training and accreditation requirements are not and should not be allowed to use needles to treat muscle spasms or otherwise engage in dry needling. Physical therapists (or any other persons who do not meet the training and certification requirements) are, the Society submits, practicing medicine and acupuncture unlawfully. Whether the procedure is labeled as a “trigger point injection without medication” in accordance with the CPT Codes, or is labeled “dry needling” or “trigger point dry needling” by physical therapists, the point is that such techniques constitute the practice of medicine and acupuncture, and thus require the practitioner to undertake the rigorous education and training and receive the certification set forth by the BME which includes either a medical license or formal acupuncture training.

The Society is concerned that many, if not most, physical therapists who are performing this technique in New Jersey do not have the required training and certification. Physical therapists undoubtedly receive thousands of hours of training – in exercises, modalities and basic medicine. However, such training does not focus on needle use, nor does any ancillary needle training which physical therapists may receive through their regular education approach the level of education and training required to safely and properly perform acupuncture. The Society is aware of physical therapists who offer two day courses in dry needling, with the assumption that the attendees can then start treating patients immediately thereafter.

The Society also is aware that at a meeting of the New Jersey State Board of Physical Therapy Examiners in January 2012, the Board responded to a physical therapist’s inquiry by stating that its statutes and regulations “do not preclude the use of dry needling techniques for trigger point release by a physical therapist provided the physical therapist is trained and competent in the techniques.” The Society is extremely alarmed that physical therapists will use this “negative logic” about the absence of statutes and regulations from their own Board precluding the use of dry needling, as authorization to perform it, notwithstanding the BME certification requirements. The Society is also concerned that the Physical Therapy Board’s comment was extremely vague and did not specify the level of “training and competence” which it would deem satisfactory for a physical therapist to perform dry needling. As stated, a cottage industry is growing in which physical therapists offer minimal courses in dry needling, so that attendees who had no prior experience can suddenly claim that they are now adequately trained to perform the technique, when clearly they are not.

The Society is concerned about the serious risk that this poses to patient health and safety. Clearly, the more trained an individual is to perform a particular treatment, the more qualified they will
become to better perform the treatment. Physical therapists who have no or minimal training and experience in the use of needles cannot be expected to treat patients as safely and effectively as those persons who have undergone rigorous training and certification. That is undoubtedly the reason why anyone other than a plenary licensed physician or dentist will soon be required to complete a minimum of 2,500 hours of acupuncture instruction, to receive BME certification in acupuncture, or obtain a medical license. Physical therapists who have no or minimal training in the use of needles are ill-equipped to use them. Poorly trained physical therapists will not be able to effectively treat complex conditions. Poorly trained physical therapists who attempt to perform dry needling can be expected to increase the risk of patient harm, such as by puncturing a patient’s lung while treating their neck, puncturing an important nerve or blood vessel, worsening a pre-existing condition, or creating new pain conditions by way of example. This could result in costly hospitalization and threaten a patient’s health and safety. The BME and the Board of Physical Therapy Examiners should not allow inadequately trained physical therapists to compromise patient health and safety in this manner.

One known patient has fallen victim to this. This patient was treated by a physical therapist “certified” in dry needling. The therapist needle a muscle in the patient’s shoulder because a trigger point was found. The patient did not have shoulder pain. After the treatment, the patient developed severe searing shoulder pain. After several sessions with a physician certified in dry needling, the patient is improved but still has pain where it did not exist before. The therapist’s treatment also aggravated pre-existing vertigo. Before the treatment the patient had mild vertigo, but afterwards the vertigo became so bad that it was incapacitating at times. Her vertigo is much improved after treatment by the physician. This is only one case, but more will undoubtedly appear over time if unqualified physical therapists continue to administer dry needling.

In conclusion, the BME and the Board of Physical Therapy Examiners must be alerted to the problems associated with unqualified physical therapists treating patients with needles. The Boards should be requested to take action declaring that physical therapist who lack the required training and certification are not permitted to engage in dry needling, and to discipline non-compliant practitioners.

Sincerely,

Todd P. Stitik, MD
President
Statement to be provided to PT Participants
Of Dry Needling Courses in New Jersey

At the present time a decision regarding who can do dry needling has not been
rendered by the Division of Consumer Affairs. The Board of Physical Therapy
Examiners has asked that you provide all participants with this statement so they
are fully aware of the situation as it exists at the present time in New Jersey.

From the October 23, 2012 Public Session Minutes:

"The New Jersey State Board of Physical Therapy Examiners statutes and
regulations do not preclude the use of dry needling techniques or trigger point
release by a physical therapist provided the physical therapist is trained and
competent in the technique. The Board of Physical Therapy Examiners does not
consider dry needling the practice of acupuncture. The New Jersey Acupuncture
Examining Board considers dry needling by a New Jersey physical therapist to be
the unlicensed practice of acupuncture. The unlicensed practice of acupuncture is
now a crime of the third degree pursuant to N.J.S.A. 45:1C:21-20.1.

The Division of Consumer Affairs is aware of the views of the New Jersey State Board
of Physical Therapy Examiners and the New Jersey Acupuncture Examining Board.
The New Jersey State Board of Physical Therapy Examiners is waiting for guidance
from the Division of Consumer Affairs concerning this matter.
2012-2014 Renewal Period

November 27, 2012

Ms. Lesley Poladsky
Kinetacore
PO Box 563
Brighton, CO 80601

Dear Ms. Poladsky,

Your request for approval of the following course has been reviewed.

Course Name: Functional Dry Needling Level 1
Course Sponsor: Kinetacore
Date(s): see brochure
Location: see brochure US and Canada

The following action was taken by the Board of Physical Therapy Examiners.

This course was approved for 25* continuing education credits.
*no credit for exam time
NJBPT Course Approval Number: 903-2012

The course approval expires on January 31, 2014

Sincerely,

New Jersey State Board of
Physical Therapy Examiners
April 1, 2013

The Honorable Eric T. Kanefsky
Acting Director
New Jersey Division of Consumer Affairs
124 Halsey Street, Sixth Floor
Newark, NJ 07012

Dear Acting Director Kanefsky:

It has come to the attention of MSNJ that the State Board of Physical Therapy Examiners (the “Board”) has sanctioned the use of dry needling techniques by physical therapists. On September 22, 2009, the board stated that “there is nothing in the New Jersey State Board of Physical Therapy Examiners’ statutes or regulations that would preclude the use of dry needling techniques for trigger point release or for treating musculoskeletal conditions by a physical therapist provided the physical therapist is trained and competent in such techniques.” The Board reiterated this stance on April 24, 2012, when it stated that “the Board of Physical Therapy Examiners does not consider dry needling the practice of acupuncture” but it also said that the Board “is waiting for guidance from the Division of Consumer Affairs concerning this matter.”

This Board’s statement concerning this scope of practice issue is troubling. First, the Board does not seem to require any proof of the training or competency necessary. Second, if the Board is waiting for guidance, it should err on the side of caution and limit the scope, rather than expanding it. In making its decision, the Division should defer to regulations that establish scope of practice for acupuncturists. Though the regulations establishing scope of practice for acupuncturists do not explicitly preclude other professions from using needling techniques, a fair reading would in fact preclude those other professions from doing so.

MSNJ believes that dry needling is not in the scope of practice for physical therapists. MSNJ supports the position of the New Jersey Society of Physical Medicine and Rehabilitation, which represents 100 physicians trained in non-surgical care of patients with various musculoskeletal and/or neurological disorders. The Society is extremely concerned that many physical therapists may be offering such treatment without meeting the necessary legal standards of education and training, and thus engaging in the practice of medicine and acupuncture unlawfully. The Society believes that patients may be agreeing to undergo dry needling by physical therapists, without knowledge that the therapist may be inadequately trained and is rendering such “treatment” unlawfully.
The Acupuncture Examining Board, under the New Jersey State Board of Medical Examiners (the "BME"), recognizes that the use of needles done by non-physicians for medical treatment and pain control constitutes the practice of acupuncture. The BME defines “acupuncture” as “the stimulation of a certain point or points on or near the surface of the body by the insertion of special needles to prevent or modify the perception of pain or to normalize physiological functions including pain control and for the treatment of certain diseases or dysfunctions of the body.” The BME further states that use of “needles” to stimulate acupuncture points and channels shall be performed only by acupuncturists certified or approved by the BME. (N.J.A.C. 13:35-9.2; 13:35-9.12) Thus, dry needling, as practiced by non-physicians including physical therapists, constitutes the practice of acupuncture as defined by the BME and is subject to the BME's requirements.

The BME regulations contain very strict requirements before a health care practitioner is permitted to perform acupuncture, including dry needling. Any person who performs acupuncture must be certified by the BME as possessing the qualifications to perform acupuncture services. Licensed physicians and dentists who desire acupuncture certification must have graduated from an accredited acupuncture program or completed 300 hours of comprehensive acupuncture course work or training, including at least 150 hours of clinical training taught by instructors qualified in acupuncture. Practitioners other than licensed physicians and dentists who seek acupuncture certification must obtain a baccalaureate or equivalent degree and graduate from an accredited acupuncture program which, commencing June 21, 2014, shall consist of at least 2,500 hours of instruction. (N.J.A.C. 13:35-9.4)

We urge you to recognize and clarify that dry needling is synonymous with acupuncture and that it is therefore governed by the Board of Medical Examiners and its Board of Acupuncture. We hope that the Board of Physical Therapy Examiners, in turn, uses the opportunity of the upcoming renewal of its regulations in December to clarify that physical therapists cannot practice dry needling, since they are not licensed to practice acupuncture.

Thank you for your consideration. Please feel free to contact me with any questions or concerns.

Sincerely,

Mishael Azam
Senior Manager, Legislative Affairs
May 9, 2014

Steve C. Lee, Acting Director
NJ Division of Consumer Affairs
124 Halsey Street, 7th Floor
Newark, NJ 07102

Dear Mr. Lee;

On behalf of my client, the New Jersey Association of Acupuncture and Oriental Medicine (NJAAOM), please let me congratulate you on your recent appointment as Acting Director of the Division of Consumer Affairs.

NJAAOM has been working with your predecessor, Mr. Kanefsky, over the past 2 years on a consumer protection issue affecting the health and welfare of the general public. The issue has been commonly referred to as “dry needling” and its use by Physical Therapists (PT’s).

To be brief, the NJ Board of PT Examiners has taken a position that dry needling can be performed by PT’s because there is nothing in their statute saying they can’t. As a reminder, dry needling is an invasive procedure involving the use of acupuncture needles to pierce the skin.

This position by the Board of PT Examiners has been strongly opposed by not only our organization but the NJ Acupuncture Examining Board (which is a sub-board of the NJ Board of Medical Examiners), the Medical Society of NJ, the NJ Society of Physical Medicine & Rehabilitation and the NJ Association of Osteopathic Physicians. Dry needling is the practice of acupuncture and should only be performed by those licensed to perform acupuncture.

Because of the opposing views of both the Acupuncture Examining Board and the Board of PT Examiners, Mr. Kanefsky opted to send this matter to the Attorney General’s office for an opinion. This was sometime around May of last year.

Before leaving, Mr. Kanefsky indicated that the opinion was near completion and going through final review. We would greatly appreciate it if you could help move this final review along and release the opinion to us.
As you look at this final review, I would like to share with you the attached memo from the Illinois Department of Financial and Professional Regulation issued on April 25, 2014. I think you will find that Illinois shares a similar set of circumstances with New Jersey.

This memo found that the Illinois statute spelled out the practice of acupuncture and the piercing of skin with set criteria for education and training. With regard to the statutes for Physical Therapy, nothing was mentioned regarding the piercing of skin or the minimum education and training needed for PT’s to do so. In the words of the Illinois Associate General Counsel who wrote the interpretation:

"The concern of the Department is there are no standards of practice in place for physical therapists to perform Intramuscular Manual Therapy or Dry Needling. To be included in the scope of practice, the Physical Therapy Practice Act would need to clarify the entry-level education required to perform dry needling as well as the continuing education requirement. Without specific standards of practice in place, the Department has concerns about the ability of physical therapists to competently and safely perform Intramuscular Manual Therapy or Dry Needling." (emphasis added)

This is the exact case now before us in New Jersey.

Thank you for your help in bringing closure to this matter. I anxiously await the release of the opinion for New Jersey which, I am confident, will mirror that of Illinois. Should you have any questions or wish to discuss this further, please don’t hesitate to contact me.

Sincerely,

[Signature]

Paul J. Bent

Enclosure

CC: Candace Sarges, President, NJAAOM
April 25, 2014

The Department’s mission is to protect and promote the lives of Illinois consumers. With that goal in mind, the Department, through its legal counsel, considered whether Intramuscular Manual Therapy or Dry Needling is within the scope of practice of physical therapy. Due to the fact that the scope of practice for physical therapists is extremely broad, the Department reviewed both the Physical Therapy Act and the Acupuncture Practice Act. After careful consideration, it is the Department’s informal opinion that Intramuscular Manual Therapy or Dry Needling does not fall within the scope of practice of physical therapy.

The main reason for this opinion is that all procedures listed in the Physical Therapy Act are non-invasive procedures. 225 ILCS 90.1 (B) states in part that physical therapy includes the evaluation or treatment of a person through the use of the effective properties of physical measures and heat, cold, light, water, radiant energy, electricity, sound, and air and use of therapeutic massage, therapeutic exercise, mobilization, and rehabilitative procedures, with or without assistive devices.

In comparison, the Acupuncture Practice Act clearly refers to treatment using needles breaking the skin, an invasive procedure. 225 ILCS 2/10 states in part that acupuncture means the evaluation or treatment of persons affected through a method of stimulation of a certain point or points on or immediately below the surface of the body by the insertion of pre-sterilized, single-use, disposable needles, unless medically contraindicated, with or without the application of heat, electronic stimulation, or manual pressure to prevent or modify the perception of pain, to normalize physiological functions of the body... Furthermore, Section 114.30 requires the successful completion of a Clean Needle Technique course and 660 hours of clinical training. 250 of the 660 hours must consist of student-performed treatment. The Acupuncture Practice Act clearly defines the standards of practice in place to perform procedures using needles.

The concern of the Department is there are no standards of practice in place for physical therapists to perform Intramuscular Manual Therapy or Dry Needling. To be included in the scope of practice, the Physical Therapy Practice Act would need to clarify the entry-level education required to perform dry needling as well as the continuing education requirement. Without specific standards of practice in place, the Department has concerns about the ability of physical therapists to competently and safely perform Intramuscular Manual Therapy or Dry Needling.

Please be advised that this letter is intended only as an informal statement reflecting the interpretation of the Department, as the Office of the Attorney General is the only office that may render official opinions regarding statutory interpretation.

Lisa A. Wade, Associate General Counsel

Internet: www.idfpr.com
AAMA Policy on Dry-Needling

Marshall H. Sager, DO, FAAMA
Rey Ximenes, MD, FAAMA

The American Academy of Medical Acupuncture (AAMA) is the premier North American organization of physician acupuncturists. The AAMA is committed to insuring public health and safety by ensuring that all persons practicing any type of medicine, including acupuncture, are properly trained and educated. It is imperative that courts and medical bodies maintain and preserve strict standards of education and training in acupuncture before any person undertakes inserting a needle into a patient. An ill-trained practitioner could, as a result of lack of education or ignorance, cause substantial medical injury.

Acupuncture, like Western Medicine is a complex subject. It cannot be mastered in a weekend or in a month. All AAMA members in addition to four (4) years of medical school (MD or DO), must have 300 hours of didactic and clinical acupuncture education and training. A non-physician must have in excess of 2,000 hours of clinical and didactic education and training before they can become certified to treat patients in most states.

Dry needling is the use of solid needles (contrasted with the use of hollow hypodermic needles that are used for injections) to treat muscle pain by stimulating and breaking muscular knots and bands. Unlike trigger point injections used for the same purpose, no anesthetics are used in dry needling. There is controversy regarding the definition of dry needling. Licensed medical physicians and licensed acupuncturists consider dry needling as Western Style Acupuncture or Trigger Point Acupuncture whereby the insertion sites are determined by tender painful areas and tight muscles. These sites may be treated alone or in combination with known acupuncture points. Other practitioners take the position that dry needling is different from acupuncture in that it is not a holistic procedure and does not use meridians or other Eastern medicine paradigms to determine the insertion sites.

Dry needling is an invasive procedure. Needle length can range up to 4 inches in order to reach the affected muscles. The patient can develop painful bruises after the procedure and adverse sequelae may include hematoma, pneumothorax, nerve injury, vascular injury and infection. Post procedure analgesic medications may be necessary (usually over the counter medications are sufficient).

There has been controversy in the United States as to who is qualified to practice dry needling. Since it is an invasive procedure using needles, many take the position that it should only be performed by licensed acupuncturists or licensed medical physicians (M.D. or D.O.). In Illinois, this sentiment was echoed by a decision to reverse legislation permitting physical therapists to perform dry needling. These and other practitioners were performing this procedure who are not trained nor do they otherwise routinely use needles in their practices.

The AAMA recognizes dry needling as an invasive procedure using acupuncture needles that has associated medical risks. Therefore, the AAMA maintains that this procedure should be performed only by practitioners with extensive training and familiarity with routine use of needles in their practice and who are duly licensed to perform these procedures, such as licensed medical physicians or licensed acupuncturists.

December 9, 2014
Adopted unanimously
Board of Directors of AAMA