

ASSEMBLY, No. 539

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Co-Sponsored by:

Assemblymen Johnson, DePhillips, Wimberly, McKeon, Greenwald,

Assemblywoman Timberlake, Assemblymen Mejia, Calabrese and

Assemblywoman McKnight

SYNOPSIS

Permits certain physical therapists to perform dry needling.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the practice of physical therapy and amending
2 and supplementing P.L.1983, c.296.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1983, c.296 (C.45:9-37.13) is amended to
8 read as follows:

9 3. As used in P.L.1983, c.296 (C.45:9-37.11 et seq.):

10 "Board" means the State Board of Physical Therapy Examiners
11 established pursuant to section 5 of P.L.1983, c.296 (C.45:9-37.15).

12 "Direct supervision" means the presence of the supervising
13 physical therapist on site, available to respond to any consequence
14 occurring during any treatment procedure.

15 "Dry needling" means a physical intervention that uses a dry,
16 filiform needle, without medication or other deliverable, to
17 penetrate the skin and stimulate underlying muscular tissue,
18 connective tissues, or myofascial trigger points for the management
19 of neuromusculoskeletal pain and movement impairments. "Dry
20 needling" shall not mean the stimulation of auricular or distal points
21 or the practice of acupuncture as defined by section 2 of P.L.1983,
22 c.7 (C.45:2C-2).

23 "General supervision" means supervision by a physical therapist
24 in which: the physical therapist shall be available at all times by
25 telecommunications but is not required to be on-site for direction
26 and supervision; and the supervising physical therapist assesses on
27 an ongoing basis the ability of the physical therapist assistant to
28 perform the selected interventions as directed.

29 "Physical therapist" means a natural person who holds a current,
30 valid license to practice physical therapy pursuant to the provisions
31 of P.L.1983, c.296 (C.45:9-37.11 et seq.) and in accordance with
32 regulations of the board.

33 "Physical therapist assistant" means a natural person who is
34 licensed pursuant to the provisions of P.L.1983, c.296 (C.45:9-
35 37.11 et seq.) and who assists a licensed physical therapist under his
36 direct or general supervision in accordance with P.L.1983, c.296
37 (C.45:9-37.11 et seq.) and regulations of the board.

38 "Physical therapy" and "physical therapy practice" mean the
39 identification of physical impairment, movement-related functional
40 limitation, or balance disorder that occurs as a result of injury or
41 congenital or acquired disability, or other physical dysfunction
42 through examination, evaluation and diagnosis of the physical
43 impairment or movement-related functional limitation and the
44 establishment of a prognosis for the resolution or amelioration
45 thereof, and treatment of the physical impairment or movement-

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 related functional limitation, which shall include, but is not limited
2 to, the alleviation of pain, physical impairment and movement-
3 related functional limitation by therapeutic intervention, including
4 treatment by means of manual therapy techniques and massage, dry
5 needling, electro-therapeutic modalities, wound debridement and
6 care, the use of physical agents, mechanical modalities,
7 hydrotherapy, therapeutic exercises with or without assistive
8 devices, neurodevelopmental procedures, joint mobilization,
9 movement-related functional training in self-care, providing
10 assistance in community and work integration or reintegration,
11 providing training in techniques for the prevention of injury,
12 impairment, movement-related functional limitation, or dysfunction,
13 providing consultative, educational, other advisory services, and
14 collaboration with other health care providers in connection with
15 patient care, and such other treatments and functions as may be
16 further defined by the board by regulation.

17 "Physical therapy" and "physical therapy practice" also include
18 the screening, examination, evaluation, and application of
19 interventions for the promotion, improvement, and maintenance of
20 fitness, health, wellness, and prevention services in populations of
21 all ages exclusively related to physical therapy practice.

22 "Wound debridement and care" means the removal of loosely
23 adhered necrotic and nonviable tissue, by a physical therapist, to
24 promote healing, done in conjunction with a physician or podiatric
25 physician.

26 (cf: P.L.2017, c.121, s.1)

27

28 2. Section 8 of P.L.1983, c.296 (C.45:9-37.18) is amended to
29 read as follows:

30 8. a. The board shall:

31 (1) Administer and enforce the provisions of P.L.1983, c.296
32 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-37.34b et al.);

33 (2) Establish procedures for application for licensure;

34 (3) Establish standards for, and adopt and administer
35 examinations for licensure;

36 (4) Review and pass upon the qualifications of applicants for
37 licensure;

38 (5) Insure the proper conduct and standards of examinations;

39 (6) Issue and renew licenses to physical therapists and physical
40 therapist assistants pursuant to P.L.1983, c.296 (C.45:9-
41 37.11 et seq.);

42 (7) Establish disciplinary measures, including but not limited to,
43 suspending, revoking, or refusing to renew the license of a physical
44 therapist or physical therapist assistant pursuant to the provisions of
45 P.L.1978, c.73 (C.45:1-14 et seq.);

46 (8) Maintain a record of every physical therapist and physical
47 therapist assistant licensed in this State, his place of business, his
48 place of residence, and the date and number of his license;

- 1 (9) Conduct hearings into allegations of misconduct by
2 licensees;
- 3 (10) Establish requirements and standards for continuing
4 professional education and competency and approve courses that
5 are eligible to meet these requirements and standards, as provided
6 in section 25 of P.L.2003, c.18 (C.45:9-37.34f);
- 7 (11) Conduct hearings pursuant to the "Administrative
8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that
9 the board shall have the right to administer oaths to witnesses, and
10 shall have the power to issue subpoenas for the compulsory
11 attendance of witnesses and the production of pertinent books,
12 papers or records;
- 13 (12) Conduct proceedings before any board, agency or court of
14 competent jurisdiction for the enforcement of the provisions of
15 P.L.1983, c.296 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-
16 37.34b et al.);
- 17 (13) Conduct investigations as necessary and have the
18 enforcement powers provided pursuant to P.L.1978, c.73 (C.45:1-14
19 et seq.);
- 20 (14) Within 180 days of the effective date of P.L.2003, c.18,
21 establish standards in accordance with the provisions of section 22
22 of P.L.2003, c.18 (C.45:9-37.34c), in collaboration with the State
23 Board of Medical Examiners and other appropriate professional
24 licensing boards established pursuant to Title 45 of the Revised
25 Statutes, setting forth the conditions under which a physical
26 therapist is required to refer an individual being treated by a
27 physical therapist to or consult with a practitioner licensed to
28 practice dentistry, podiatry or medicine and surgery in this State, or
29 other appropriate licensed health care professional. Pending
30 adoption of the standards: (a) a physical therapist shall refer any
31 individual who has failed to demonstrate reasonable progress within
32 30 days of the date of initial treatment to a licensed health care
33 professional; and (b) a physical therapist, not more than 30 days
34 from the date of initial treatment of functional limitation or pain,
35 shall consult with the individual's licensed health care professional
36 of record as to the appropriateness of the treatment, or, in the event
37 that there is no identified licensed health care professional of
38 record, recommend that the individual consult with a licensed
39 health care professional of the individual's choice;
- 40 (15) Establish mechanisms to assure that the public has access
41 to physical therapists' services, and report back to the Senate
42 Health, Human Services and Senior Citizens and Assembly
43 Regulated Professions Committees, or their successors, regarding
44 this access; **[and]**
- 45 (16) Promulgate rules and regulations necessary for the
46 performance of its duties and the implementation of P.L.1983, c.296
47 (C.45:9-37.11 et seq.); and

1 (17) Within 180 days of the effective date of P.L. _____, c.
2 (C. _____) (pending before the Legislature as this bill), establish
3 standards for the provision of dry needling by a physical therapist
4 pursuant to sections 3 and 4 of P.L. _____, c. _____ (C. _____) (pending
5 before the Legislature as this bill), in collaboration with the State
6 Board of Medical Examiners.

7 b. In addition to the provisions of subsection a. of this section,
8 the board may establish standards of professional behavior.
9 (cf: P.L.2017, c.121, s.2)

11 3. (New section) a. A physical therapist may perform dry
12 needling if the physical therapist meets all of the following
13 requirements:

14 (1) has no less than two years of active clinical experience in the
15 treatment of patients as a licensed physical therapist in this State
16 and holds a current, unrestricted license to practice physical therapy
17 in this State;

18 (2) has a current CPR certification issued by the American Red
19 Cross, American Heart Association, National Safety Council, or any
20 other agency or organization approved by the board; and

21 (3) has obtained documentation of the successful completion of
22 a dry needling continuing education and competency program
23 approved by the board that satisfies subsections b. and c. of this
24 section.

25 b. The board shall approve a dry needling continuing education
26 and competency program if the program meets all of the following
27 requirements:

28 (1) provides a minimum of 40 hours of academic instruction
29 which is attended in person by the physical therapist and shall be
30 completed by the physical therapist in no more than two years;

31 (2) provides the history and a current literature review of dry
32 needling and evidence based practice;

33 (3) covers pertinent anatomy and physiology;

34 (4) covers the choice and operation of dry needling supplies and
35 equipment;

36 (5) provides knowledge of dry needling technique including
37 indications, contraindications, and precautions for its use;

38 (6) provides knowledge of the risks and complications of dry
39 needling;

40 (7) covers safe practice guidelines and generally accepted
41 standards of practice including clean needle techniques and the
42 Occupational Safety and Health Administration's bloodborne
43 pathogens standard;

44 (8) provides knowledge of post intervention care, including an
45 adverse response or emergency;

46 (9) documents the successful completion of psychomotor and
47 cognitive performance by means of practical and written
48 assessments or examinations; and

(10) provides a minimum of 40 hours of practical hands-on instruction in the application and technique of dry needling under the supervision of a licensed physical therapist or physician pursuant to subsection c. of this section, which shall be completed by the physical therapist in no more than two years.

c. The dry needling continuing education and competency program, including the practical hands-on instruction required pursuant to paragraph (10) of subsection b. of this section, shall be taught by a licensed physical therapist who has a minimum of five years of clinical experience in the performance of dry needling or by a physician licensed to practice medicine and surgery in this State.

4. (New section) a. Dry needling shall only be performed by a physical therapist who meets the requirements of subsection a. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), and the performance of dry needling shall not be delegated to a physical therapist assistant or student physical therapist. A physical therapist who meets the requirements to provide dry needling shall only utilize the specific dry needling techniques for which the physical therapist has completed instruction and demonstrated competency.

b. A physical therapist shall obtain written informed consent from each patient prior to the provision of dry needling. The patient shall receive a copy of the written informed consent and the physical therapist shall retain a copy in the patient's record. The informed consent shall include, at a minimum, the following:

- (1) the patient's signature;
- (2) the risks, benefits, and possible complications of dry needling;
- (3) the treatment alternatives to dry needling;
- (4) the physical therapist's level of education regarding supervised hours of training in dry needling;
- (5) the importance of consulting with the patient's physician regarding the patient's condition; and
- (6) a clearly and conspicuously written statement that the patient is not receiving acupuncture, which shall include the following language: "DRY NEEDLING IS A TECHNIQUE USED IN THE PRACTICE OF PHYSICAL THERAPY TO TREAT MYOFASCIAL, MUSCULAR, AND CONNECTIVE TISSUES FOR THE MANAGEMENT OF NEUROMUSCULAR PAIN AND MOVEMENT DYSFUNCTION. DRY NEEDLING TECHNIQUE SHOULD NOT BE CONFUSED WITH AN ACUPUNCTURE TREATMENT PERFORMED BY A LICENSED ACUPUNCTURIST."

c. A physical therapist shall only use filiform needles labeled in accordance with the United States Food and Drug Administration guidelines when performing dry needling.

1 d. A physical therapist shall perform dry needling in a manner
2 that is consistent with generally accepted standards of practice
3 including clean needle techniques, safe disposal of sharp objects,
4 and the Occupational Safety and Health Administration's
5 bloodborne pathogens standard.

6 e. A physical therapist shall maintain documentation in the
7 patient record of each dry needling session. The documentation
8 shall include the treatment performed, the patient's response to the
9 treatment, and any adverse reactions or complications to the
10 treatment.

11 f. If requested by the board or a member of the general public,
12 a physical therapist practicing dry needling shall provide
13 documentation of the education and training completed by the
14 physical therapist as required under section 3 of P.L. , c.
15 (C.) (pending before the Legislature as this bill). The failure to
16 provide documentation in response to a request by the board or a
17 member of the general public shall be deemed prima facie evidence
18 that the physical therapist has not received the required training and
19 shall not be permitted to perform dry needling.
20

21 5. This act shall take effect on the 90th day next following
22 enactment.
23
24

25 STATEMENT

26

27 This bill allows a physical therapist to perform dry needling if
28 the physical therapist successfully completes a dry needling
29 continuing education and competency program approved by the
30 New Jersey State Board of Physical Therapy Examiners, has two or
31 more years of clinical experience treating patients as a licensed
32 physical therapist in this State, holds a current and unrestricted
33 license to practice physical therapy in this State, and has a current
34 CPR certification.

35 The bill defines "dry needling" as a physical intervention that
36 uses a dry, filiform needle, without medication or other deliverable,
37 to penetrate the skin and stimulate underlying muscular tissue,
38 connective tissues, or myofascial trigger points for the management
39 of neuromusculoskeletal pain and movement impairments. The
40 definition provides that "dry needling" excludes the stimulation of
41 auricular or distal points or the practice of acupuncture.

42 The bill establishes requirements for any board-approved dry
43 needling continuing education and competency program, which
44 must include at least 40 hours of academic instruction, attendance
45 in person by a physical therapist, and the ability to complete the
46 program in no more than two years. The required dry needling
47 instruction must be taught by a licensed physical therapist who has
48 a minimum of five years of clinical experience in the performance

1 of dry needling or by a physician licensed to practice medicine and
2 surgery in this State.

3 The bill provides that dry needling will only be performed by a
4 physical therapist who meets the requirements of the bill, and the
5 performance of dry needling may not be delegated to a physical
6 therapist assistant or student physical therapist. A physical
7 therapist who meets the requirements to provide dry needling may
8 only utilize the specific dry needling techniques for which the
9 physical therapist has completed instruction and demonstrated
10 competency.

11 The bill also requires a physical therapist to obtain written
12 informed consent from each patient prior to the provision of dry
13 needling. The patient must receive a copy of the written informed
14 consent and the physical therapist must retain a copy of the
15 informed consent in the patient's record. The informed consent
16 must include, at a minimum, the following:

- 17 (1) the patient's signature;
- 18 (2) the risks, benefits, and possible complications of dry
19 needling;
- 20 (3) the treatment alternatives to dry needling;
- 21 (4) the physical therapist's level of education regarding
22 supervised hours of training in dry needling;
- 23 (5) the importance of consulting with the patient's physician
24 regarding the patient's condition; and
- 25 (6) a clearly and conspicuously written statement that the patient
26 is not receiving acupuncture.

27 The bill provides that a physical therapist may only use filiform
28 needles labeled in accordance with the United States Food and Drug
29 Administration guidelines when performing dry needling and must
30 perform dry needling in a manner that is consistent with generally
31 accepted standards of practice, including clean needle techniques,
32 safe disposal of sharp objects, and the Occupational Safety and
33 Health Administration's bloodborne pathogens standard.

34 Under the bill, a physical therapist must maintain documentation
35 in the patient record of each dry needling session. The
36 documentation must include the treatment performed, the patient's
37 response to the treatment, and any adverse reactions or
38 complications to the treatment.

39 Finally, the bill provides that, upon request of the board or a
40 member of the general public, a physical therapist practicing dry
41 needling must provide documentation of the education and training
42 completed by the physical therapist as required by the provisions of
43 the bill. The failure to provide documentation in response to a
44 request by the board or a member of the general public will be
45 deemed prima facie evidence that the physical therapist has not
46 received the required training and will not be permitted to perform
47 dry needling.