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ASSEMBLY, No. 2316

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

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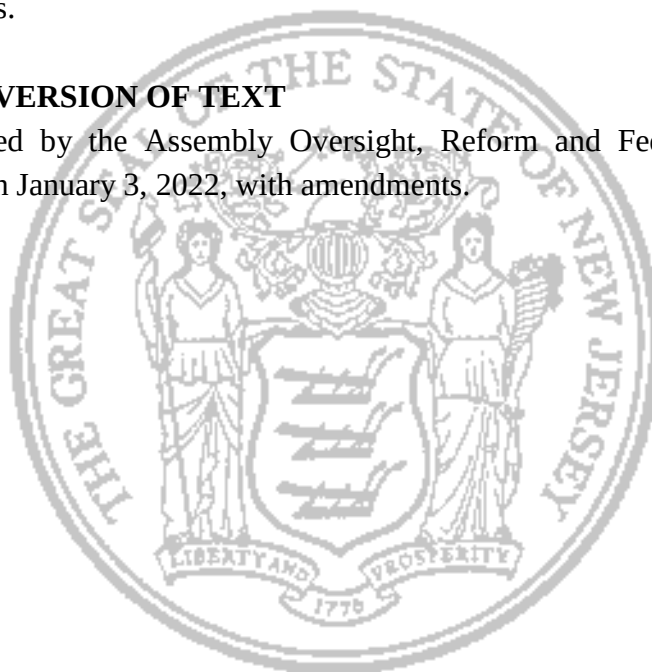
**Assemblymen Wimberly, DePhillips, McKeon, Mejia, Greenwald,
Calabrese, Mukherji and Assemblywoman Murphy**

SYNOPSIS

Permits physical therapists to perform dry needling under certain circumstances.

CURRENT VERSION OF TEXT

As reported by the Assembly Oversight, Reform and Federal Relations Committee on January 3, 2022, with amendments.



(Sponsorship Updated As Of: 1/3/2022)

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AOF committee amendments adopted January 3, 2022.

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) Within 180 days of the effective date of P.L. , c. (C.)
46 (pending before the Legislature as this bill), establish standards for
47 the provision of dry needling by a physical therapist pursuant to
48 sections 3 and 4 of P.L. , c. (C.) (pending before the

1 Legislature as this bill), in collaboration with the State Board of
2 Medical Examiners; and

3 (17) Promulgate rules and regulations necessary for the
4 performance of its duties and the implementation of P.L.1983,
5 c.296. (C.45:9-37.11 et seq.)

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

9
10 3. (New section) a. A physical therapist may perform dry
11 needling if the physical therapist meets all of the following
12 requirements:

13 (1) possesses a doctorate in physical therapy from an accredited
14 college or university or has otherwise been actively licensed as a
15 physical therapist in this State since January 1, 2003;

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

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

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

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

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

33 (2) provides the history and a current literature review of dry
34 needling and evidence-based practice;

35 (3) covers pertinent anatomy and physiology;

36 (4) covers the choice and operation of dry needling supplies and
37 equipment;

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

40 (6) provides knowledge of the risks and complications of dry
41 needling;

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

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

1 (9) documents the successful completion of psychomotor and
2 cognitive performance by means of practical and written
3 assessments or examinations; and

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

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

16 d. Following successful completion of the dry needling
17 continuing education and competency program, including the
18 practical hands-on instruction required pursuant to paragraph (10)
19 of subsection b. of this section, a physical therapist shall complete
20 10 of the required minimum credits of continuing education and
21 competency in each biennial license renewal period in board-
22 approved programs in dry needling if the physical therapist chooses
23 to continue to utilize such intervention on patients.

24
25 4. (New section) a. Dry needling shall only be performed by a
26 physical therapist who meets the requirements of subsection a. of
27 section 3 of P.L. , c. (C.) (pending before the Legislature as
28 this bill), and the performance of dry needling shall not be
29 delegated to a physical therapist assistant or student physical
30 therapist. A physical therapist who meets the requirements to
31 provide dry needling shall only utilize the specific dry needling
32 techniques for which the physical therapist has completed
33 instruction and demonstrated competency.

34 b. For patients who receive an order, prescription, or referral
35 for physical therapy from a New Jersey-licensed physician,
36 osteopathic physician, or podiatric physician, dry needling shall
37 only be performed on the patient after the physical therapist
38 licensed in New Jersey to perform dry needling communicates with
39 the physician who ordered, prescribed, or referred the patient to
40 physical therapy. ¹This communication shall address the physical
41 therapy diagnosis of the patient, the specific dry needling technique
42 that the physical therapist intends to utilize in the treatment of the
43 patient, the proposed number, size, and insertion points of the
44 needles, and any elevated risk factors that the patient may have.¹

45 The physical therapist shall maintain documentation of such
46 communication in the patient record. In no event shall a physical
47 therapist perform dry needling on a patient if, in the medical
48 judgment of the physician who ordered, prescribed, or referred the

1 patient to physical therapy, dry needling is contraindicated or
2 clinically inappropriate and such judgment is clearly communicated
3 to the physical therapist by the physician.

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

9 (1) the patient's signature;

10 (2) the risks, benefits, and possible complications of dry
11 needling;

12 (3) the treatment alternatives to dry needling;

13 (4) the physical therapist's level of education regarding
14 supervised hours of training in dry needling;

15 (5) the importance of consulting with the patient's physician
16 regarding the patient's condition; and

17 (6) a clearly and conspicuously written statement that the patient
18 is not receiving acupuncture, which shall include the following
19 language: "DRY NEEDLING IS A TECHNIQUE USED IN THE
20 PRACTICE OF PHYSICAL THERAPY TO TREAT
21 MYOFASCIAL, MUSCULAR, AND CONNECTIVE TISSUES
22 FOR THE MANAGEMENT OF NEUROMUSCULAR PAIN AND
23 MOVEMENT DYSFUNCTION. DRY NEEDLING TECHNIQUE
24 SHOULD NOT BE CONFUSED WITH AN ACUPUNCTURE
25 TREATMENT PERFORMED BY A LICENSED
26 ACUPUNCTURIST."

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

30 e. A physical therapist shall perform dry needling in a manner
31 that is consistent with generally accepted standards of practice
32 including clean needle techniques, safe disposal of sharp objects,
33 and the Occupational Safety and Health Administration's
34 bloodborne pathogens standard.

35 f. A physical therapist shall maintain documentation in the
36 patient record of each dry needling session. The documentation
37 shall include the treatment performed, the patient's response to the
38 treatment, and any adverse reactions or complications to the
39 treatment.

40 g. If requested by the board or a member of the general public,
41 a physical therapist practicing dry needling shall provide
42 documentation of the education and training completed by the
43 physical therapist as required under section 3 of P.L. , c. (C.)
44 (pending before the Legislature as this bill). The failure to provide
45 documentation in response to a request by the board or a member of
46 the general public shall be deemed prima facie evidence that the
47 physical therapist has not received the required training and shall
48 not be permitted to perform dry needling.

1 5. This act shall take effect on the 90th day next following
2 enactment.