

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 867

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 867 (1R).

This bill permits a physical therapist to perform dry needling if the physical therapist has successfully completed a dry needling continuing education and competency program approved by the New Jersey State Board of Physical Therapy Examiners, has two or more years of clinical experience treating patients as a licensed physical therapist in this State, holds either a doctorate in physical therapy or a current and unrestricted license to practice physical therapy in this State that was issued prior to 2003, and has a current CPR certification issued by the American Red Cross, American Heart Association, National Safety Council, or any other agency or organization approved by the board.

The bill defines “dry needling” as a physical intervention that uses a dry, filiform needle, without medication or other deliverable, to penetrate the skin and stimulate underlying muscular tissue, connective tissues, or myofascial trigger points for the management of neuromusculoskeletal pain and movement impairments. The bill provides that “dry needling” does not mean the stimulation of auricular or distal points or the practice of acupuncture.

The bill establishes requirements for board-approved dry needling continuing education and competency programs, which would include at least 40 hours of academic instruction, attendance in person by a physical therapist, and the ability to complete the program in no more than two years. The programs would also be required to include a minimum of 40 hours in practical hands-on instruction, under the direct supervision of a licensed physical therapist or physician, in the application and technique of dry needling. The required dry needling instruction would 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. A physical therapist who meets the bill’s requirements and is approved by the board to offer dry needling would be required to complete 10 credits of continuing education and competency in dry needling during each biennial license renewal period if the therapist chooses to continue offering dry needling.

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

The bill also stipulates that if a patient is ordered, prescribed, or referred to physical therapy by a New Jersey-licensed physician, osteopathic physician, or podiatric physician, the physical therapist licensed in New Jersey to perform dry needling can only perform the dry needling service on that patient after communicating with the physician who made the order, prescription, or referral to physical therapy for that patient. This communication would address the physical therapy diagnosis of the patient, the specific dry needling technique that the physical therapist intends to utilize in the treatment of the patient, the proposed number, size, and insertion points of the needles, and any elevated risk factors that the patient may have. The physical therapist would be required to document this communication in the patient's record. Under the bill, dry needling cannot proceed if the physician, who made the order, prescription, or referral determines and communicates to the physical therapist that dry needling is contraindicated or clinically inappropriate for the patient.

The bill also requires a physical therapist to obtain written informed consent from each patient before the provision of dry needling. The patient would be required to receive a copy of the written informed consent, and the physical therapist would also be required to retain a copy of the informed consent in the patient's record. The informed consent would 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.

The bill provides that a physical therapist may only use filiform needles labeled in accordance with the United States Food and Drug Administration guidelines when performing dry needling. The physical therapist would also be required to perform dry needling in a manner that is consistent with generally accepted standards of practice, including clean needle techniques, safe disposal of sharp objects, and the Occupational Safety and Health Administration's blood borne pathogens standard.

Under the bill, a physical therapist would be required to maintain documentation in the patient record of each dry needling session. This documentation would include the treatment performed, the patient's response to the treatment, and any adverse reactions or complications to the treatment.

Finally, the bill provides that, upon request of the board or a member of the general public, a physical therapist practicing dry needling is required to provide documentation of the education and training completed by the physical therapist as required by the provisions of the bill. The failure to provide documentation in response to a request by the board or a member of the general public would be deemed prima facie evidence that the physical therapist has not received the required training and is not be permitted to perform dry needling.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure increases to the State Board of Physical Therapy Examiners and the Division of Criminal Justice in the Department of Law and Public Safety, as well as the Administrative Office of the Courts.

The OLS estimates that the State Board of Physical Therapy Examiners will experience recurring workload increases from: (1) changes in the licensing requirements for the physical therapists who choose to perform dry needling, which requires additional guidelines, review, and enforcement by the board; and (2) regulating the new practice of permitting physical therapists to perform dry needling. Depending on the board's resource allocation policies, however, the added workload may or may not augment State administrative expenditures.

Additional indeterminate annual State revenue will accrue from fine and penalty payments from convicted violators of new statutory provisions.