



STATE OF OREGON  
LEGISLATIVE COUNSEL COMMITTEE

December 14, 2009

Senator Jason Atkinson  
900 Court Street NE S415  
Salem OR 97301

Re: Dry needle technique

Dear Senator Atkinson:

You asked whether physical therapists may perform the "dry needling" technique under Oregon laws relating to physical therapy and acupuncture. Although the Physical Therapist Licensing Board has determined that dry needling is within a physical therapist's scope of practice, some argue that the practice violates statutes relating to acupuncture. The answer depends on whether dry needling constitutes "acupuncture" under the definition of that term in ORS 677.757. The definition can be interpreted to include dry needling, so that physical therapists would not be permitted to practice this technique without a license to practice medicine or acupuncture. However, there is a plausible argument that dry needling is distinct from acupuncture, and may be used by physical therapists.

According to an organization that teaches courses on dry needling (and supports the use of dry needling by physical therapists), "Dry Needling involves multiple advances of a filament needle into the muscle in the region of a 'Trigger Point.'<sup>1</sup> Essentially, it appears that dry needling means inserting a solid needle into the surface of the body to relieve pain.

ORS 677.759 states that "[n]o person shall practice acupuncture without first obtaining a license to practice medicine and surgery or a license to practice acupuncture from the Oregon Medical Board[.]" A person who practices acupuncture without a license commits the unauthorized practice of medicine, a Class C felony. ORS 677.765, 677.990.

The definition of "acupuncture" is set forth in ORS 677.757 (1):

(1)(a) "Acupuncture" means an Oriental health care practice used to promote health and to treat neurological, organic or functional disorders by the stimulation of specific points on the surface of the body by the insertion of needles. "Acupuncture" includes the treatment method of moxibustion, as well as the use of electrical, thermal, mechanical or magnetic devices, with or without needles, to stimulate acupuncture points and acupuncture meridians and to induce acupuncture anesthesia or analgesia.

(b) The practice of acupuncture also includes the following modalities as authorized by the Oregon Medical Board;

<sup>1</sup> See <<http://www.gemtinfo.com/physical-therapy/default.33.0.0.0.0.0.html>>.

- (A) Traditional and modern techniques of diagnosis and evaluation;
- (B) Oriental massage, exercise and related therapeutic methods; and
- (C) The use of Oriental pharmacopoeia, vitamins, minerals and dietary advice.

An opponent of the practice of dry needling by physical therapists would likely argue that dry needling falls within this definition because it involves "the stimulation of specific points on the surface of the body by the insertion of needles," which is arguably the heart of the definition of "acupuncture." If dry needling does fall within the definition of "acupuncture," a physical therapist could not perform the technique.

A physical therapist who wants to practice dry needling might argue, however, that the definition states that acupuncture is "an Oriental health care practice," while dry needling is not based on Oriental medicine.<sup>2</sup> Indeed, the definition of "acupuncture" in ORS 677.757 (1) focuses on Oriental methods in several locations:

In addition, a physical therapist might point to ORS 677.761, which states:

Nothing in ORS 677.757 to 677.770 is intended to:

\* \* \*

- (2) Limit any other licensed or certified health care practitioner from practicing acupressure or other therapy within the scope of the license or certification of the individual.



Although the plain language of this provision appears to allow licensed physical therapists to practice any "other therapy within the scope of [their] license" without interference by the Oregon Medical Board, a court may find that the mention of acupressure implicitly limits this authority to complementary techniques that do not involve insertion of needles.

The debate about whether dry needling constitutes acupuncture appears to be hotly contested among physical therapists and acupuncturists across the nation. Physical therapists are permitted to practice the technique in many states, while other states prohibit physical therapists from practicing the technique.

It is difficult to predict how a court or other adjudicative body would ultimately resolve this issue under Oregon law. There are plausible arguments for both positions and each has been accepted and implemented in other states. Under the current definition, therefore, we will not have a definitive answer to the question unless the Oregon Medical Board attempts to penalize a physical therapist who practices dry needling for the unauthorized practice of medicine and the issue is adjudicated.

<sup>2</sup> See, e.g., J. Dommerholt, *The "Dry Needling Issue,"* Qi-Unity Report, July 2009, at <<http://www.aaacomonline.info/qiunity/08/07/3a.html>>. For the view that dry needling does constitute acupuncture, see V. Hobbs, *The Rose Has a New Name,* Qi-Unity Report, July 2009, at <<http://www.aaacomonline.info/qiunity/08/07/3b.html>>.

Alternatively, this issue could be resolved by legislation. If you wish to prohibit physical therapists from practicing dry needling, we could amend the definition of "acupuncture" to explicitly include the technique. Some states also have statutes or regulations that prohibit physical therapists from penetrating the skin in their practice. On the other hand, if you wish to permit physical therapists to practice dry needling, we could amend ORS 677.761 to specify that dry needling is not regulated by the statutes relating to acupuncture. Please let us know if you would like to explore the possibility of introducing legislation on this topic.

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Very truly yours,

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By  
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