

BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.177.2105 continuing) PROPOSED AMENDMENT AND
education and the adoption of NEW) ADOPTION
RULE I dry needling)

TO: All Concerned Persons

1. On May 5, 2016, at 9:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Physical Therapy Examiners (board) no later than 5:00 p.m., on April 29, 2016, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdp@mt.gov (board's e-mail).

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.177.2105 CONTINUING EDUCATION (1) through(4)(b)(viii) remain the same.
(xiv) remains the same, but is renumbered (ix).
(5) and (6) remain the same.

AUTH: 37-1-131, 37-1-319, 37-11-201, MCA
IMP: 37-1-131, 37-1-306, MCA

REASON: After a member of the public brought a numbering error to the board's attention, the board determined it is reasonably necessary to amend this rule to correct the error.

4. The proposed new rule provides as follows:

NEW RULE I DRY NEEDLING (1) Dry needling is a skilled manual therapy technique performed by a physical therapist using a mechanical device, filiform needles, to penetrate the skin and/or underlying tissues to affect change in body

structures and functions for the evaluation and management of neuromusculoskeletal conditions, pain, movement impairments, and disability.

(2) Dry needling requires a physical therapy examination and diagnosis.

(3) Licensed physical therapists who perform dry needling must be able to demonstrate they have completed training in dry needling that must meet the American Physical Therapy Association (APTA) GUIDELINES: STANDARDS OF QUALITY FOR CONTINUING EDUCATION OFFERINGS BOD G11-03-22-69 and/or the Federation of State Boards of Physical Therapists (FSBPT) STANDARDS FOR CONTINUING COMPETENCE ACTIVITIES.

(a) Dry needling courses must include, but not be limited to, training in indications, contraindications, potential risks, proper hygiene, proper use and disposal of needles, and appropriate selection of clients.

(b) Initial training in dry needling must include hands-on training, written, and practical examination as required by this rule.

(4) A licensed physical therapist must perform dry needling in a manner consistent with generally accepted standards of practice, including relevant standards of the Center for Disease Control and Prevention, and Occupational Safety and Health Administration blood borne pathogen standards as per 29 CFR 1910.1030 et seq.

(5) Dry needling shall only be performed by a licensed physical therapist and may not be delegated.

(6) The physical therapist performing dry needling must be able to provide written documentation, upon request by the board, which substantiates appropriate training as required by this rule. Failure to provide written documentation may result in disciplinary action.

AUTH: 37-1-131, 37-11-201, MCA

IMP: 37-1-131, 37-11-101, 37-11-104, MCA

REASON: The scope of practice for physical therapists is broad. Dry needling is an emerging trend within it that includes using filiform needles as a mechanical device to treat physical disability, bodily malfunction, pain, and injury. The Federation of State Boards of Physical Therapy (FSBPT) reports that research supports the use of dry needling to improve pain, reduce muscle tension, and facilitate speedier rehabilitation. The board is proposing to adopt this new rule now to provide guidance on the safe practice of dry needling in Montana.

For over twenty years, dry needling has been an accepted part of physical therapy practice internationally. Australia, Belgium, and Canada; Chile, Denmark, and Ireland; the Netherlands, New Zealand, and Norway; South Africa, Spain, and the United Kingdom, all allow a physical therapist to perform dry needling. Likewise, in the United States, dry needling has been determined to be within the scope of practice for physical therapists in: Alabama, Arizona, Arkansas, Colorado, Delaware, Georgia, Illinois, Iowa, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia. Oregon and Vermont do not preclude a physical therapist from performing dry needling.

Although dry needling is being progressively incorporated into entry level physical therapy curricula worldwide, the Human Resources Research Organization (HUMRRO) recently reported the baseline education most physical therapists receive provides 86 percent of the education necessary to perform it, which implies the remaining 14 percent must come from continuing education.

In mid-2015, the board received numerous public comments to both support and oppose the adoption of the previously proposed dry needling rule in MAR Notice No. 24-177-32. At the request of the 2015-2016 Economic Affairs Interim Committee, the board met with members of the professional acupuncturist association in an attempt to reach a consensus. Although no consensus exists, the feedback makes clear that to protect public safety, the quality of training is more important than quantity.

However, as just one emerging treatment option available to physical therapists, no separate credentialing process exists for dry needling. Therefore, the board determined physical therapists in Montana must otherwise be able to demonstrate they are competent to perform dry needling. Recognizing the most efficient way for licensees to demonstrate competence is to provide proof of passing a test provided by a course that meets the requirements of APTA guidelines or FSBPT standards, rather than simply documenting hours of practice. Specifically, the board amended the previous draft rule to require the clinical component comply with APTA guidelines or FSBPT standards.

As medical technology evolves, scopes of practice and training for many health professionals, including physicians, physical therapists, and acupuncturists who all use needles, naturally shift and sometimes overlap. Public safety is the board's foremost concern. The board is proposing this new rule now because physical therapists in Montana are increasingly incorporating dry needling into their practices. This new rule establishes criteria to ensure that physical therapists who perform dry needling meet demonstrable educational training and safety standards, and sets consequences for failing to meet those standards.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdtpt@mt.gov, and must be received no later than 5:00 p.m., May 12, 2016.

6. An electronic copy of this notice of public hearing is available at www.pt.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical

difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdp@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.177.2105 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULE I will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations are available upon request to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdp@mt.gov.

10. Mark Jette, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PHYSICAL THERAPY
EXAMINERS
BRIAN MILLER, PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 28, 2016