

JAN 22 2021

A BILL FOR AN ACT

RELATING TO THE PHYSICAL THERAPY PRACTICE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the Physical Therapy
2 Practice Act was established in 1985, when health care was
3 primarily focused on the curing of illness. Since that time,
4 health care has evolved to place a greater focus on the overall
5 wellness and prevention of illness and disability with the
6 growth of evidence-based treatment intervention options for
7 patients.

8 The legislature further finds that dry needling is a
9 therapeutic intervention tool that is used in conjunction with
10 other physical therapy interventions in order to improve pain
11 control, decrease muscle tension, accelerate active
12 rehabilitation, facilitate normal movement, and return to
13 function for overall better quality of life. Dry needling is
14 recognized by the American Physical Therapy Association,
15 American Academy of Orthopaedic Manual Physical Therapists, and
16 Federation of State Boards of Physical Therapy and has been
17 utilized effectively to treat neuromuscular pain in specific



1 populations, such as acute and overuse sport injuries,
2 post-operative rehabilitative care, chronic pain, opioid
3 dependence, work restrictions, and disability.

4 Dry needling is allowed in all but seven states, one of the
5 seven being Hawaii. Physical therapists practicing dry needling
6 in federal facilities in Hawaii, as well as across the nation,
7 have patients who have benefited from its use. However,
8 civilian patients in Hawaii are denied access and choice of dry
9 needling care from a physical therapist when appropriate.

10 The legislature also finds that the American Physical
11 Therapy Association endorses the professional liability
12 insurance administered by the Healthcare Providers Service
13 Organization and underwritten by American Casualty Company of
14 Reading, Pennsylvania, a CNA company. A review of a CNA claim
15 database from 2012 to 2017 reveals that of the total of 3,413
16 physical therapist claims, there were only thirty-four physical
17 therapy claims related to dry needling reported, representing
18 less than one per cent of the total amount of claims against
19 physical therapists and a total loss incurred of \$341,290.

20 The legislature further finds that the Federation of State
21 Boards of Physical Therapy is an organization made up of



1 fifty-three physical therapy jurisdictions within the United
2 States. The Federation of State Boards of Physical Therapy
3 upholds a mission to protect the public by providing leadership
4 that promotes safe and competent physical therapy services,
5 including administration and maintenance of an examination,
6 licensure, and disciplinary database.

7 The Federation of State Boards of Physical Therapy
8 commissioned the Human Resources Research Organization for the
9 July 10, 2015, practice analysis of the competencies required of
10 physical therapists to perform dry needling. These competencies
11 can provide a strong foundation of professional standards,
12 including education and training requirements, practice
13 assessment, management, and regulation. In this practice
14 analysis, the specific definition of competency, in terms of a
15 physical therapist performing dry needling, was determined to be
16 safe and effective for the patient and the physical therapist.
17 The practice analysis further determined that eighty-six per
18 cent of the knowledge requirements for dry needling competency
19 is acquired during physical therapy basic entry level education
20 and consists of knowledge related to evaluation, assessment,
21 diagnosis, and plan of care development. The remaining fourteen



1 per cent of the knowledge required for dry needling competency
2 must be acquired through post-graduate education or specialized
3 training in dry needling.

4 The legislature further finds that the Hawaii Physical
5 Therapy Practice Act, which is codified under chapter 461J,
6 Hawaii Revised Statutes, establishes the board of physical
7 therapy to provide licensing requirements for physical
8 therapists and physical therapist assistants in the interest of
9 safeguarding life and health. As such, the board of physical
10 therapy is responsible for content standards of continuing
11 competency related to the professional practice of physical
12 therapy and patient or client management.

13 Under existing law, physical therapists are prohibited from
14 breaking or puncturing good skin integrity through surgery or
15 injection. This prohibition was originally intended to ensure
16 that physical therapists do not perform surgery and medical
17 procedures outside the scope of practice and education of
18 physical therapists. However, the existing law does not allow
19 for modern techniques in physical therapy that are within the
20 scope of physical therapy practice and education.

21 Accordingly, the purpose of this Act is to:



- (1) Clarify the scope of practice for licensed physical therapists to include the practice of dry needling;
- (2) Require the board of physical therapy to issue dry needling certifications to qualified licensed physical therapists and designate the requirements for physical therapists related to dry needling; and
- (3) Allow the board of physical therapy to revoke or suspend a physical therapist's license for performing dry needling incorrectly, without proper training or certification, or in a manner that would likely harm a patient.

SECTION 2. Section 461J-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Dry needling" means a skilled technique performed by a physical therapist using filiform needles to penetrate the skin 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. By amending the definition of "physical therapy" or "physical therapy services" to read:

"Physical therapy" or "physical therapy services" means the examination, treatment, and instruction of human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction, pain from injury, disease, and any other physical or mental condition as performed by a physical therapist appropriately licensed under this chapter. It includes but is not limited to:

- (1) Administration, evaluation, modification of treatment, and instruction involving the use of physical measures, activities, and devices, for preventive and therapeutic purposes; provided that should the care or treatment given by a physical therapist or physical therapist assistant contravene treatment diagnosed or prescribed by a medical doctor, osteopath, or as determined by the board, the physical therapist shall confer with the professional regarding the manner or course of treatment in conflict and take appropriate action in the best interest of the patient; and



(2) The provision of consultative, educational, and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction, or pain[-], including the promotion and maintenance of fitness, health, and quality of life in all age populations."

3. By amending the definition of "practice of physical therapy" to read:

"Practice of physical therapy" includes, but is not limited to, the use of the following:

- (1) Physical agents, such as heat, cold, water, air, sound, compression, light, electricity, and electromagnetic radiation;
- (2) Exercise with or without devices, joint mobilization, mechanical stimulation; dry needling; biofeedback; postural drainage; traction; positioning, massage, splinting, training in locomotion, and other functional activities with or without assisting devices; and correction of posture, body mechanics, and gait;



(3) Tests and measurements of: muscle strength, force, endurance, and tone; joint motion, mobility, and stability; reflexes and automatic reaction; movement skill and accuracy; sensation and perception; peripheral nerve integrity; locomotor skill, stability, and endurance; activities of daily living; cardiac, pulmonary, and vascular functions; the fit, function, and comfort of prosthetic, orthotic, and other assisting devices; posture and body mechanics; limb strength, circumference, and volume; thoracic excursion and breathing patterns; vital signs; nature and locus of pain and conditions under which pain varies; photosensitivity; and the home and work physical environments."

SECTION 3. Section 461J-2.5, Hawaii Revised Statutes, is amended to read as follows:

"[+]§461J-2.5[+] **Prohibited practices.** A physical therapist shall not use invasive procedures. For purposes of this section, an invasive procedure is the breaking or puncturing of a person's good skin integrity, for example,



1 through surgery or injections[-], with the exception of dry
2 needling."

3 SECTION 4. Section 461J-6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§461J-6 Permanent licenses[-]; dry needling**
6 **certifications.** (a) An applicant for a permanent license to
7 practice as a physical therapist or physical therapist assistant
8 shall submit proof of educational qualifications and any other
9 information required by the board on an application form
10 prescribed by the board. The board shall maintain a current
11 list of schools of physical therapy that are approved by an
12 agency recognized by the United States Department of Education
13 or Council on Postsecondary Accreditation.

14 In the case of foreign-trained persons, the board shall
15 establish procedures for assessing the education and training to
16 determine in each case whether it is equivalent to that of
17 applicants trained in the United States.

18 (b) Except as provided under section 461J-7, every
19 applicant for a permanent license who meets the qualifications
20 established by the board shall take an examination administered
21 by the board or an examination administered by a testing agency



1 selected by the board. The board shall establish the schedule
2 for examinations, determine the passing score, and notify
3 applicants of the results of examinations according to rules
4 adopted by the board.

5 (c) The board shall certify qualified licensed physical
6 therapists to perform dry needling and shall designate the
7 requirements for physical therapists related to dry needling,
8 including but not limited to continuing competence requirements;
9 provided that the board shall not certify a qualified licensed
10 physical therapist to perform dry needling before January 1,
11 2022."

12 SECTION 5. Section 461J-12, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) In addition to any other actions authorized by law,
15 any license issued under this chapter may be revoked or
16 suspended by the board at any time for any cause authorized by
17 law, including but not limited to the following:

18 (1) Obtaining a fee on the assurance that a manifestly
19 incurable disease can be permanently cured;

20 (2) Wilfully betraying patient confidentiality;



- (3) Making an untruthful and improbable statement in advertising one's practice or business;
- (4) False, fraudulent, or deceptive advertising;
- (5) Being habituated to the excessive use of drugs or alcohol or being or having been addicted to, dependent on, or a habitual user of, a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (6) Practicing physical therapy while the ability to practice is impaired by alcohol, drugs, or mental instability;
- (7) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to practice physical therapy;
- (8) Performing dry needling incorrectly, without proper training or certification, or in a manner that would likely harm a patient;
- ~~[(8)]~~ (9) Professional misconduct, gross carelessness, or manifest incapacity in the practice of physical therapy;



~~[-9-]~~ (10) Conduct or practice contrary to the ethics of the profession of physical therapy in the United States;

~~[(10)]~~ (11) Violation of the conditions or limitations upon which a temporary license is issued or an exemption is granted; or

~~[(11)]~~ (12) Violation of this chapter or the rules adopted pursuant thereto."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: Ronald H. Baker



S.B. NO. 617

Report Title:

Dry Needling; Physical Therapists; Scope of Practice;
Certification

Description:

Specifies that the scope of practice for licensed physical therapists to include the practice of dry needling. Requires the board of physical therapists to certify qualified licensed physical therapists to perform dry needling after 1/1/2022, and designate requirements to perform dry needling. Allows the board of physical therapists to revoke or suspend a physical therapist's license for performing dry needling incorrectly, without proper training or certification, or in a manner that would likely harm a patient.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

