

MINUTES OF THE PUBLIC MEETING AND WORKSHOP FOR THE NEVADA STATE BOARD OF ATHLETIC TRAINERS (NSBAT)

DATE: **July 26, 2019**

LOCATIONS:

University of Nevada Reno
1664 N. Virginia Street
System Computing Services
Room #47
Reno, Nevada 89557

University of Nevada Las Vegas
4505 S. Maryland Parkway
System Computing Services
Room #306 (Room #304 Overflow)
Las Vegas, Nevada 89154

1. Meeting called to order by NSBAT Chairman, Jeremy Haas at 2:03PM. Introduction of members to determine the presence of a quorum:

Board Members in Attendance - Nevada State Board of Athletic Trainers: Jeremy Haas, Chairman; Tedd Girouard, Vice Chair; Keoni Kins, Board Member.

Board Members in Attendance – Nevada Physical Therapy Board: Sherise Smith, Chairman; Brian Fearnley, Vice-Chairperson. **Members in Attendance via Telephone:** Jennifer Nash, Secretary/ Treasurer; Rebecca Cheema, PTA; Eathan O’Bryant, Public Member.

Staff in Attendance – Nevada State Board of Athletic Trainers: Michelle Rodda Cothrun, Executive Secretary; Sarah Bradley, Senior Deputy Attorney General; Nikki Rossetta, Intern- Attorney General’s Office.

Staff in Attendance – Nevada Physical Therapy Board: Charles Harvey, Executive Director; Muriel Morin Mendes, Licensing Coordinator; Deborah Dieter, Board Investigator; Sarah Bradley, Senior Deputy Attorney General; Nikki Rossetta, Intern - Attorney General’s Office.

Public Members in Attendance – Southern Nevada: Mark D’Anza, Licensed Athletic Trainer; Mike Sepiol, President Nevada Athletic Trainers Association; Sean Ellis, Physical Therapist; Ashley Reagor, Physical Therapist; Jennifer Tucker; Nicole Lang; Chris Frehner.

Public Members in Attendance – Northern Nevada: Maggie Clowers, Oriental Medicine Doctor; Maggie Tracey, Oriental Medicine Doctor; Mike Wilden, Perkins Group, Lobbyist for PT Association; Robert Conatser, Licensed Athletic Trainer.

2. Pledge of Allegiance

3. Introduction of workshop process Sarah Bradley explains that we are here to take public comment on the requirement that both Boards have to draft regulation regarding dry needling. The process includes today’s workshop to receive public comments regarding proposed language, discussion and hopefully the finalization of a draft. After we have a draft regulation, they get submitted to the Legislative Counsel Bureau. The LCB attorney will draft it, and also give us an “R” number which is a tracking number for regulations. They are supposed to provide the draft within 30 days and send it back to each Board. We will then notice for a Public Hearing. For

members of the public in attendance, there is more than one chance to participate in this process. This is the first public meeting regarding regulations. There will be a Public Hearing once we get the draft back from LCB. Both Boards will review the drafts and the comments received at the public hearing and possibly adopt the regulations. It then goes back to the LCB to be voted on by the legislative commission. As you can see, it is not a quick process. We won't have regulations in place overnight. It takes at least 30 days for the drafting. Once we get it back, we have to notice it for 30 days. We would be doing really well if we had regulations in place by December/January. If you are here from the public, you can sign in and provide your email address to receive copies of notices for future meetings. Both Boards will accept written comments at the public hearing, so if you can't attend in person or others are interested, you can submit written comments. The nice thing about the public hearing is that we will have a written draft from the LCB that you can review and provide more substantive comments at to the public hearing.

4. Public Comment

Northern Nevada Public Comment: Executive Secretary Rodda received two written public comments and read them into the record.

1. From: Steve McCauley, Legislative Chairman for the Nevada Athletic Trainers Association.

Dear members of the Nevada State Board of Athletic Trainers:

My name is Steve McCauley and I am the Legislative Chairman for the Nevada Athletic Trainers Association. It is a pleasure to submit this testimony for this public hearing on the proposed regulation regarding Dry Needling. I will introduce suggestions in the subsequent paragraphs regarding the proposed changes to NRS 640B in accordance with Senate Bill 186 of the 2019 Legislative Session.

- A. Qualifications: SB186 states that the qualifications must include without limitation successful completion of not less than 150 hours of didactic education and training in dry needling approved by the Board. The sum of current commercial education and training available does not meet the 150 hours of training and education required by SB186. I propose that Athletic Trainers who currently provide dry needling therapy prior to July 1, 2019 be granted approval to continue to offer dry needling therapy if they demonstrate 150 hours of service in the provision of Dry Needling and are endorsed by a Nevada State licensed physician. In addition, these individuals would be eligible to receive authority from the State Board of Athletic Trainers to provide didactic education to newly certified and educated Athletic Trainers of a board approved course in dry needling for the purposes of satisfying the 150 hours of didactic training and education required.
- B. The policy and procedures governing the handling, disposal and retention of dry needles must be provided to the State Board of Athletic Trainers as a requirement before that Athletic Trainer is granted a dry needling privilege. This policy and procedure must be endorsed by a Nevada state licensed physician.

One final note on legislative intent related to both Chapter 640 and 640B. In Chapter 640B, an Athletic Trainer's scope of practice requires direction from a licensed physician. Chapter 640 does not include that requirement. It is therefore important to consider the physician's approval when developing guidelines for granting an Athletic Trainer privileges,

which as stated previously is not a requirement in Chapter 640 governing Physical Therapists.

Sincerely, Steve McCauley

2. From: Cirque Du Soleil Entertainment Group

To Whom It May Concern,

Please find our testimony in support of dry needling, as well as our concerns regarding the recent proposal by the Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board. On our second page, we have summarized our understanding of dry needling through the help of the NATA and APTA.

Testimony: Performance Medicine Therapists at Cirque Du Soleil's Resident Shows Division in Las Vegas work daily to keep our artists healthy through the rigorous physical demands of high show volume and extensive training hours required to maintain advanced acrobatic skills. Our staff, both Athletic Trainers and Physical Therapists, utilize dry needling for preventative and therapeutic purposes, and have been trained in these techniques through reputable educational institutes. There is significant scientific evidence to support the efficacy of this type of treatment in the management of neuromusculoskeletal conditions when performed by Athletic Trainers and Physical Therapists. At Cirque Du Soleil, our Therapists and artists have come to rely on dry needling as a valuable adjunct to our injury management techniques, improving the time to resolution for an injury and minimizing the impact of injury and disability for the artists and the show.

Concerns: We agree in the proposal that only Athletic Trainers and Physical Therapists who are properly trained in this treatment technique should be administering to patients. However, the educational requirements currently proposed for dry needling are unclear, and do not match the standards set in neighboring state regulations. We would like further clarification as to what is considered "150 hours of didactic education and training in dry needling approved by the Board." Most reputable educational institutions offer courses in dry needling that are 25 to 30 hours with lecture and lab components taught at a low instructor to student ratio. We are concerned that the 150 hours of didactic education proposed is high, particularly as our Therapists have accumulated hundreds of treatment hours over their years of practice, in addition to maintaining compliance with rigorous continuous education standards set by their state, national and international regulatory boards.

Summarization of Dry Needling: Dry Needling is defined as the insertion of solid filiform needles into muscles, ligaments, tendons, subcutaneous fascia, scar tissue and bones for the purpose of reducing pain, muscle tension and facilitating accelerated return to activity. Research has shown that this treatment stimulates a physiological response resulting in vasodilation and pain modulation at the local, segmental and systemic levels. These studies have established that dry needling treatment delivered by Athletic Trainers and Physical Therapists is effective in the management of pain and neuromusculoskeletal dysfunction, and that targeting trigger points and non-trigger point tissue is effective in decreasing pain and disability.

Evidence Supporting Dry Needling: Provided references of seven (7) articles. (End of letter)

Nevada Physical Therapy Board Chairman Sherise Smith then confirms with Charles Harvey, Executive Director that the Board had not received any written comments as of 12:00 pm on 7/26/2019.

Southern Nevada Public Comment:

1. Mike Sepiol, President Nevada Athletic Trainers Association - I guess my comment and concern is how we are going to have these 150 hours of didactics measured, who is doing it and how we are submitting them to the board.
2. Sean Ellis, physical therapist - Our post graduate education should meet most of these already expected hours suggested. Once they receive their Doctor of Physical Therapy or athletic training degree, most "didactic" level training should already be learned in school. The expectation beyond that should be more on the specific skill set for that tool using dry needling. Myself, I took 50 hours of continuing education with all of my post graduate education and years of experience in addition to that, made me more than qualified to continue to perform dry needling. I think most of us feel that our graduate or entry level education meets most of the qualifications for hours proposed.

5. The Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board will receive comments and input from interested persons regarding proposed regulation regarding Dry Needling. The proposed changes will revise Chapter 640 and Chapter 640B of the Nevada Administrative Code and are being proposed in accordance with Senate Bill 186 of the 2019 Legislative Session. After receiving public comment, the Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board may vote to amend its proposed regulation draft and send it to the Legislative Counsel Bureau for review and drafting. (For Possible Action) The proposed regulations provide provisions for the following:

- A. Qualifications an athletic trainer or a physical therapist must obtain before he or she is authorized to perform dry needling.**
- B. Procedures concerning the handling of needles used to perform dry needling.**
- C. Procedures to ensure that an athletic trainer or physical therapist does not engage in needle retention.**

Nevada Physical Therapy Board Chairman Smith directed the discussion of Item 5. Drafts of the proposed regulation for Physical Therapists were distributed to workshop attendees. Both Boards worked off of the Physical Therapy Board's original draft that went through a previous Public Workshop. The draft has been updated with the new mandates from SB186. The Dry Needling definition from NRS 640 is the definition that comes straight out of SB186. There will be some differences for professional standards of care, training and education qualifications for delivery of dry needling skilled intervention for the Athletic Trainers. Chair Smith reads through the proposed regulation (attached).

Discussion on the meaning of the word “Didactic”. Senior Deputy AG Bradley states that the Merriam Webster Dictionary provides the definition of didactic as: designed or intended to teach, so it has to be hours where the intention is to teach someone.

Discussion on the administration of Professional Standards of Care, Training and Education Qualifications, completion of previously accepted coursework written and practical exams, and the 30-day period for current Dry Needling practitioners to submit information to the Boards. Nevada Physical Therapy Board Chairman Smith mentions that licensees are mandated to keep copies of their course certifications for three (3) years and the Board retain three (3) years of renewals in their files. The Board is creating an attestation for licensees to affirm that the course information they have provided is true.

Nevada State Board of Athletic Trainers Chairman Haas states that the proposed regulations are a good starting point and he did not have any problems with it.

Nevada Physical Therapy Board Chairman Smith walked the Boards through a section by section review, seeking comment on each section of the proposed regulation, and identifying differences that are needed by the PT Board and Athletic Trainers Board

6. The Nevada State Board of Athletic Trainers will review, discuss and possibly approve proposed regulation regarding Dry Needling (For Possible Action).

Keoni Kins motions to approve the proposed regulation regarding Dry Needling with the changes noted. Jeremy Haas seconds and the motion passes unanimously.

7. The Nevada Physical Therapy Board will review, discuss and possibly approve proposed regulation regarding Dry Needling (For Possible Action).

Sherise Smith motions to approve the proposed regulation regarding Dry Needling with the changes noted. Brian Fernley seconds and the motion passes unanimously.

8. Public Comment

Maggie Tracey, President Nevada State Board of Oriental Medicine discusses clean needle technique training, number of hours required of post graduate coursework, and states that bruising was listed as a risk on the Dry Needling Consent to Treat Form. Bruising should not be common during dry needling. There is no further public comment.

9. Adjournment (For Possible Action) Meeting adjourned at 3:08 pm.

Proposed New Regulation related to Dry Needling

CHAPTER 640B—Athletic Trainers

Professional Standards of Care, Training and Education Qualifications for Delivery of Dry Needling Skilled Intervention:

- A. An athletic trainer shall meet the qualifications established in subsection (C) before providing the skilled intervention “dry needling”.*
- B. Before engaging in dry needling, an athletic trainer must submit documented proof of compliance with the qualifications listed in subsection (C) to the Board.*
[Note to LCB drafter: please give all current dry needling practitioners 30 days to submit information to the Board.]
- C. Course content that meets the didactic education and training qualifications for dry needling must include a total of 150 hours, of which 25 hours must be post graduate coursework as outlined below. Up to 125 hours may be obtained from coursework during a graduate program of study approved by the Board. Didactic education and training shall encompass each of the following:*
- 1. The course content shall be approved by one or more of the following entities prior to the course(s) being completed by the athletic trainer.*
 - a. Board of Certification for the Athletic Trainer (BOC);*
 - b. Commission on Accreditation of Athletic Training Education (CAATE); or*
 - c. The Nevada State Board of Athletic Trainers.*
 - 2. The course content shall include the following components of education and training:*
 - a. Sterile needle procedures to include one of the following standards:*
 - i. The U.S. Centers For Disease Control and Prevention, or*
 - ii. The U.S. Occupational Safety and Health Administration*
 - b. Anatomical Review,*
 - c. Blood Borne Pathogens*
 - d. Contraindications and indications for “dry needling”,*
- D. The course content required in subsection (C) of this Section pertaining to the minimum of 25 post graduate hours shall include, but is not limited to, passing of both a written examination and practical examination before completion of the course content. Practice application course content and examinations shall be done in person to meet the qualifications of the post graduate hours.*
- E. The standard of care for the intervention “dry needling” includes, but is not limited to the following:*
- a. Dry Needling shall be performed using a single-use, single-insertion sterile needle.*
 - b. Dry Needling shall not include needle retention. The definition of*

needle retention is a needle being retained after the athletic trainer is no longer working on that area of the body. Needles shall not be retained once an individual procedure is completed and must be disposed of appropriately at the end of each individual procedure.

c. “Dry needling” cannot be delegated to any assistive personnel, including a student athletic trainer or graduate student athletic trainer.

d. An athletic trainer who performs “dry needling” shall obtain informed consent including written documentation from each patient who will receive “dry needling” before the athletic trainer performs “dry needling” on that patient. The informed consent must be documented and shall include, at a minimum, a consent form that includes the following:

i. The patient’s signature;

ii. The risks and benefits “dry needling”;

iii. Definition of “dry needling” and description of treatment

Proposed New Regulation related to Dry Needling

CHAPTER 640 - PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

Dry Needling Definition (as in NRS 640):

Dry Needling

- 1. Means a skilled technique performed by a physical therapist using a single-use, single-insertion, sterile filiform needle, which is used to penetrate the skin or underlying tissue to effect change in body conditions, pain, movement, impairment and disability.*
- 2. Does not include :(a)The stimulation of an auricular point; (b)The stimulation of sinus points or other nonlocal points to treat underlying organs; (c)Needle retention; or(d)The teaching or application of acupuncture.*
- 3. A physical therapist who is qualified to perform dry needling pursuant to the regulations adopted in accordance with subsection 3 of NRS 640.050 shall not insert the same needle more than one time during the performance of dry needling.*

Professional Standards of Care, Training and Education Qualifications for Delivery of Dry Needling Skilled Intervention:

- A. A physical therapist shall meet the qualifications established in subsection (C) before providing the skilled intervention “dry needling”.*
- B. Before engaging in dry needling, a physical therapist must submit documented proof of compliance with the qualifications listed in subsection (C) to the Board.*

Note to LCB drafter: please give all current dry needling practitioners 30 days to submit information to the Board.

C. Course content that meets the didactic education and training qualifications for dry needling must include a total of 150 hours, of which 25 hours must be post graduate coursework as outlined below. Up to 125 hours may be obtained from coursework during a graduate program of study in physical therapy. Didactic education and training shall encompass each of the following:

- 1. The course content shall be approved by one or more of the following entities prior to the course(s) being completed by the physical therapist.*
 - a. Commission on Accreditation In Physical Therapy Education (this includes graduate coursework while in a physical therapy graduate program),*
 - b. American Physical Therapy Association,*
 - c. The ACCC Committee of the Nevada Physical Therapy Board.*
- 2. The course content shall include the following components of education and training:*
 - a. Sterile needle procedures to include one of the following standards:*

- i. *The U.S. Centers For Disease Control And Prevention, or*
 - ii. *The U.S. Occupational Safety And Health Administration*
- b. *Anatomical Review,*
- c. *Blood Borne Pathogens*
- d. *Contraindications and indications for “dry needling”,*

E. *The course content required in subsection (C) of this Section pertaining to the minimum of 25 post graduate hours shall include, but is not limited to, passing of both a written examination and practical examination before completion of the course content. Practice application course content and examinations shall be done in person to meet the qualifications of the post graduate hours.*

F. *The standard of care for the intervention “dry needling” includes, but is not limited to the following:*

- a. *Dry Needling shall be performed using a single-use, single-insertion sterile needle.*
- b. *Dry Needling shall not include needle retention. The definition of needle retention is a needle being retained after the physical therapist is no longer working on that area of the body. Needles shall not be retained once an individual procedure is completed and must be disposed of appropriately at the end of each individual procedure.*
- c. *“Dry needling” cannot be delegated to any assistive personnel, including physical therapist assistants, students of physical therapy or physical therapist technicians.*
- d. *A physical therapist who performs “dry needling” shall obtain informed consent including written documentation from each patient who will receive “dry needling” before the physical therapist performs “dry needling” on that patient. The informed consent must be documented and shall include, at a minimum, a consent form that includes the following:*
 - i. *The patient’s signature;*
 - ii. *The risks and benefits of “dry needling”;*
 - iii. *Definition of “dry needling” and description of treatment*