

**MINUTES OF THE PUBLIC HEARING FOR THE
ADOPTION OF PROPOSED REGULATIONS FOR THE
NEVADA STATE BOARD OF ATHLETIC TRAINERS (NSBAT)**

DATE: **November 15, 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
Rooms #304 & #306
Las Vegas, Nevada 89154

1. Meeting called to order at 2:05 p.m. by Nevada Physical Therapy Board Chair Sherise Smith. 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 and Frank Sakelarios, Board Members

Board Members in Attendance – Nevada Physical Therapy Board: Sherise Smith, Chair; Brian Fearnley, Vice-Chair; Eathan O’Bryant, Public Member; Jennifer Nash, Secretary/ Treasurer

Staff in Attendance – Nevada State Board of Athletic Trainers: Sarah Bradley, Senior Deputy Attorney General, and Michelle Cothrun, Board Executive Secretary

Staff in Attendance – Nevada Physical Therapy Board: Charles Harvey, Executive Director; Neena Laxalt, Lobbyist; Deborah Dieter, Investigator; Muriel Morin-Mendes, Licensing Coordinator; Sarah Bradley, Senior Deputy Attorney General; Michael Detmer, Deputy Attorney General

Public Members in Attendance – Southern Nevada: Nicole Lang, PT; Louis Hillegass, PT; Matt Biancuzzo, AT

Public Members in Attendance – Northern Nevada: None

2. Pledge of Allegiance

3. Purpose of hearing, introduction and explanation of proposed regulation, and procedure for taking oral comments. Chair Sherise Smith explains that this hearing is for both Boards to take public comment regarding the regulation draft prepared by the LCB. The public comment will be taken prior to the Boards deliberating and approving or not approving the final form of the regulation. If approved, the final form will be sent to the LCB by the beginning of the year. Chair Smith asks Senior Deputy Attorney General Sarah Bradley if she has anything to add to the procedure.

Sarah begins by stating that this is the last step for public comment. The Boards will consider any comments today, including any submitted written comment. The Boards will vote to possibly adopt the

regulation. Before the regulation becomes effective, the approved draft will need to be heard before the Legislative Commission. Sarah ends by encouraging anyone to provide their comment.

4. Public Comment. Since there are no members of the public in the North, Chair Sherise Smith asks for public comment from those attending in the South.

A. Louis Hillegass, PT.

Mr. Hillegass reads highlights of his comment into the record and provides a written copy of his full comment. A copy of his written comment is attached.

B. Kirk Satchler, PT.

Executive Director Harvey reads written comment provided by Mr. Satchler into the record. A copy of his written comment is attached.

No further public comment.

5. The Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board will receive comments and input from interested persons on proposed regulations regarding Dry Needling. The proposed regulation 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 on its regulation draft as prepared by the Legislative Counsel Bureau (LCB Files R053-19 & R054-19), the Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board may vote to adopt or amend its regulation. (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.**

Senior Deputy Attorney General Bradley advises both Boards to fully consider the public comments and decide whether or not those comments merit any change to the proposed regulation. Members discuss the public comments provided by Mr. Hillegass regarding the qualifications a physical therapist or athletic trainer must obtain before he or she is authorized to perform dry needling. They also discuss the requirement of 150 hours of didactic training. Chair Smith explains that since the hour requirement is mandated by statute, the two Boards worked together to come up with a reasonable way to meet the hourly requirement with a combination of 125 hours undergraduate and 25 hours of post-graduate coursework. Both Boards tried to satisfy the educational requirement in a reasonable way.

Members also discuss the public comments provided by Mr. Satchler regarding needle retention. Chair Smith clarifies that the specification that an athletic trainer or physical therapist must not

engage in needle retention was mandated by statute and cannot be altered. She explains the work done during the legislative session and the joint public hearings to come up with the current definition of needle retention. She reads the limits stated in the statute. Jeremy Haas adds that the definition of needle retention as written complies with the statute and yet is broad enough not to be too restrictive. The Boards agree that they are comfortable with the definition as written.

Chair Smith discusses two different forms that the Nevada Physical Therapy Board will be working on. These include an educational form that licensees will have to complete to show how they meet the training hour requirements, and an attestation form for licensees who may not have their certificates of education. Licensees are only required to keep these records for four years, although they may be able to contact their provider to obtain copies. This form would also apply to licensees currently practicing dry needling who may have received training eight or nine years ago and do not have copies of their certificates. These licensees will be able to attest under penalty of perjury that the training information they are providing is true and accurate. Sarah Bradley advises board members that if a licensee provides false information and it is discovered, they will be investigated and disciplined. There is no further discussion.

6. The Nevada State Board of Athletic Trainers will review, discuss and possibly adopt or amend proposed regulation regarding Dry Needling (LCB File No. R053-19). (For Possible Action). Chair Smith asks if someone from the Athletic Trainers Board would like to motion. Tedd Girouard motions to approve the proposed regulation regarding Dry Needling, in regard to LCB File #R053-19. Jeremy Haas seconds the motion. The motion passes unanimously.

7. The Nevada Physical Therapy Board will review, discuss and possibly adopt or amend proposed regulation regarding Dry Needling (LCB File No. R054-19). (For Possible Action). Chair Sherise Smith motions to adopt the regulation in LCB File #R054-19, regarding Dry Needling. Eathan O'Bryant seconds the motion. Motion passes unanimously.

8. Public Comment. None.

9. Adjournment (For Possible Action) Chair Smith adjourns the meeting at 2:30p.m.

Copies of proposed regulations, LCB File Nos. R053-19 and R054-19, are attached, after Items 4.A and 4.B.

ITEM 4.A Public Comment
Louis Hillegass, PT



November 15, 2019

Nevada Physical Therapy Board
Nevada State Board of Athletic Trainers

Dear Board members,

The following is a response from ATI Physical Therapy to the request for information as it relates to dry needling and proposed changes to revise Chapter 640 and Chapter 640B of the Nevada Administrative Code. In the published Notice of Intent to Act Upon a Regulation (October 10, 2019), the following are discussed as proposals to the regulations:

- 1) Qualifications a physical therapist or athletic trainer must obtain before he or she is authorized to perform dry needling.
- 2) Procedures concerning the handling of needles used to perform dry needling.
- 3) Procedures to ensure that a physical therapist or athletic trainer does not engage in needle retention.

The following comments are provided to assist in the commentary related to this topic and context to the practice of dry needling.

- 1) Physical therapists and athletic trainers are highly trained individuals that complete a number of competencies during their education to become licensed healthcare providers. The Federation or State Boards of Physical Therapy (FSBPT) conducted an *Analysis of Competencies for Dry Needling by Physical Therapists* in July 2015 that included the following comment;

"86% of the knowledge requirements needed to be competent in dry needling is acquired during the course of PT clinical education, including knowledge related to evaluation, assessment, diagnosis and plan of care development, documentation, safety, and professional responsibilities."

As such, we would support the requirement to obtain additional knowledge related to the practical application of dry needling. Other states have adopted specific hour requirements for licensed physical therapists to perform this technique. For example, Maryland has defined the requirements as follows:

In order to perform dry needling, a physical therapist shall have at least 80 total hours of instruction, which includes:

- (1) A total of at least 40 hours of instruction in the following dry needling-specific course content areas:
 - (a) Theory and application of dry needling;
 - (b) Dry needling technique, including spine and extremities;
 - (c) Dry needling indications and contraindications;
 - (d) Infection control, the Occupational Safety and Health Administration's



- Bloodborne Pathogen Protocol, and safe handling of needles;
- (e) Emergency preparedness and response procedures related to complications associated with dry needling; and
- (f) Appropriate documentation of dry needling; and
- (2) At least 40 hours of practical, hands-on instruction in the application and technique of dry needling, under the supervision of a licensed health care practitioner competent in dry needling procedures who has:
 - (a) Completed the requisite course work under §A(1) of this regulation; and
 - (b) Practiced dry needling for at least 5 years.
- B. The instruction required under §A(1) of this regulation shall be provided by a continuing education course sponsored by the:
 - (1) American Physical Therapy Association;
 - (2) The APTA of Maryland; or
 - (3) The Federation of State Boards of Physical Therapy.

This is one example of how the practical application can be addressed through a curriculum that also includes supervision by another provider in order to assess the physical therapist's capacity to demonstrate the technique in a skilled fashion. We believe this is one way and understand that other states have modeled similar methodologies that may include supervision of a specified number of procedures, a different amount of hours or a limitation on who may obtain the knowledge (must have practiced a certain length of time prior to completion of additional coursework/requirements). As it relates to physical therapists, supporting a competency that addresses these items is critical for those practicing dry needling.

To address dry needling by athletic trainers, while there may be similar initial training related to anatomy/physiology, kinesiology and assessment of musculoskeletal conditions, we are unaware of any current states that have included dry needling in the scope of practice for licensed provider. The National Athletic Trainers' Association has published the following:

"Currently, there is no profession-wide standard that defines athletic trainer competence in dry needling. Prior to performing dry needling, athletic trainers must ensure their state practice act does not prohibit them from performing dry needling as part of the athletic training plan of care. Additionally, athletic trainers must satisfy any requisite educational and training necessary to provide dry needling. Athletic trainers may have to produce evidence of appropriate training and demonstrate knowledge and competency in dry needling."

To support the process of athletic trainers utilizing dry needling, it is our stance that additional parameters above those identified in our previous commentary would be necessary. This would need to include additional curriculum related to both the principles of the technique as well as the practical application. The competencies as set forth by FSBPT could be utilized as a reference and basis to help develop this material.



2) Procedures related to the handling of needles is critical to the safety of both the practitioner as well as the patient. We believe that those Individuals who have been granted the capacity to conduct dry needling would need to be compliant with the Needlestick Safety and Prevention Act. The Occupational Safety and Health Administration is responsible for oversight of these provisions and has provided the necessary guidance as it relates to the handling of needles. It is our opinion that these standards would need to be in place for all licensed providers that are able to handle needles.

3) As stated above, compliance with the Needlestick Safety and Prevention Act would need to be the standard for prevention against licensed clinicians who may consider retaining needles. An entity providing these services should ensure that staff are knowledgeable in bloodborne pathogens, infection control and safe handling. Clinic locations should have the appropriate equipment to capture and remove needles so that this may occur after each usage with individual patients. Lastly, parameters should be in place to discipline Individuals, who upon investigation, have been determined to be out of compliance.

Thank you for the opportunity to discuss our thoughts and recommendations as it relates to dry needling and the revision of Chapter 640 and Chapter 6408 of the Nevada Administrative Code. The safety of patients is critical to the success of licensed providers such as physical therapists and athletic trainers. By clearly defining the scope of practice for these individuals, it helps to promote a compliant environment where providers can address the needs of those seeking care from them.

ITEM 4.B Public Comment
Kirk J. Sachtler, PT

Nevada PT and Athletic Training Board Workshop November 15, 2019

Ladies and Gentlemen of the respective Boards, Good Afternoon!

I would like to comment on the proposed regulations regarding Dry Needling as described in Senate Bill 186.

Please allow me to introduce myself. My name is Kirk Sachtler. I have been a practicing Physical Therapist in Nevada for over 30 years and have been practicing Dry Needling since 2012, when our State Board authorized its use. Prior to that, I studied acupuncture for 15 years. I have a Doctorate in Physical Therapy and am a Board Certified Orthopedic Clinical Specialist, a Board Certified Sports Clinical Specialist, and Certified in Manual Therapy, Strength & Conditioning, and Dry Needling.

I would like to address the 3 aspects of today's workshop:

- 1) Training Qualifications
- 2) Handling Procedures
- 3) Needle Retention definition

- 1) I am in agreement with the 25 hours of in-person graduate level education.
- 2) To the best of my knowledge, training in needle handling procedures and sterile technique is provided in all Dry Needling curricula, and I am in agreement with this requirement, as well as, the requirement to use needles for single use, single insertion only. The scientific evidence regarding the benefit of this is significant.
- 3) Regarding Needle Retention, however, I am quite perplexed. If by "Needle Retention" one means the duration of time a needle is allowed to remain in a patient, this is a concept currently being researched around the world, and one in which there is not yet agreement. Not even among acupuncturists. There are NO Dry Needling programs in the U.S. currently teaching a procedure in which a needle is placed in a patient and then immediately removed. If this becomes the definition, the Nevada PT Board would find itself in conflict with all of the Dry Needling Programs it is simultaneously certifying. I cannot support this definition, which is not backed by any evidence, nor used by any practitioners worldwide. I can only hope that the Board will develop a more flexible and "Therapeutic" definition for the benefit of the citizens of Nevada.

Thank you very much for your time.

Kirk J. Sachtler, PT, DPT, SCS, OCS, CMPT, CSCS, CertDN

**PROPOSED REGULATION OF THE
BOARD OF ATHLETIC TRAINERS**

LCB File No. R053-19

September 23, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-4, NRS 640B.260, as amended by section 11 of Senate Bill No. 186, chapter 277, Statutes of Nevada 2019, at page 1588.

A REGULATION relating to athletic trainers; prescribing the training required before an athletic trainer is authorized to perform dry needling; prescribing standards of practice for dry needling; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Board of Athletic Trainers to prescribe by regulation the qualifications required for an athletic trainer to perform dry needling. Those qualifications must include the completion of at least 150 hours of certain didactic education and training in dry needling. (NRS 640B.260, as amended by section 11 of Senate Bill No. 186, chapter 277, Statutes of Nevada 2019, at page 1588) **Section 2** of this regulation prescribes the requirements for such didactic education and training.

Existing law requires the Board to prescribe by regulation: (1) the standards of practice for athletic trainers; (2) procedures concerning the handling of needles used to perform dry needling; and (3) procedures to ensure that an athletic trainer does not engage in needle retention. (NRS 640B.260, as amended by section 11 of Senate Bill No. 186, chapter 277, Statutes of Nevada 2019, at page 1588) **Section 3** of this regulation requires an athletic trainer to obtain the informed consent of a patient before performing dry needling. **Section 3** also requires an athletic trainer who performs dry needling to: (1) use only single-use, single-insertion needles; and (2) dispose of those needles after completing a portion of a procedure performed on a specific area of the body or, if the entire procedure is performed on one area of the body, after completing the procedure. **Section 3** additionally prohibits an athletic trainer from delegating the performance of dry needling to a person who is not authorized to perform dry needling.

Section 1. Chapter 640B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *Before performing dry needling, an athletic trainer must submit to the Board written proof of successful completion of the didactic education and training in dry needling required pursuant to NRS 640B.260, as amended by section 11 of Senate Bill No. 186, chapter 277, Statutes of Nevada 2019, at page 1588, and which meets the requirements set forth in this section.*

2. The courses taken to satisfy the didactic education and training requirements must:

(a) Be approved by the Board of Certification for the Athletic Trainer, or its successor organization, the Commission on Accreditation of Athletic Training Education, or its successor organization, or the Board of Athletic Trainers;

(b) Include instruction concerning:

(1) The use of sterile needles in accordance with standards prescribed by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services or the Occupational Safety and Health Administration of the United States Department of Labor;

(2) The aspects of human anatomy relevant to dry needling;

(3) Control of blood-borne pathogens; and

(4) Circumstances under which performing dry needling on a patient may or may not be appropriate;

(c) Except as otherwise provided in paragraph (d), be provided as part of a graduate-level program of study approved by the Board; and

(d) Include at least 25 hours of the didactic instruction and training provided through a postgraduate course of study that requires the successful completion of a written examination and a practical examination. Each part of the course, including, without limitation, each examination, must be completed in person.

Sec. 3. 1. *Before performing dry needling, an athletic trainer must obtain a signed form which provides informed consent from the patient. Such a form must include, without limitation:*

(a) The definition of “dry needling” set forth in section 8 of Senate Bill No. 186, chapter 277, Statutes of Nevada 2019, at page 1587;

(b) A description of the particular treatment that will be provided and the risks and benefits of the treatment; and

(c) The signature of the patient.

2. *An athletic trainer who performs dry needling:*

(a) Shall use only single-use, single-insertion sterile needles;

(b) Shall dispose of each needle after completing a portion of a procedure performed on a specific area of the body or, if the entire procedure is performed on one area of the body, after completing the procedure;

(c) Shall not delegate dry needling to a student athletic trainer, graduate student athletic trainer or other person who is not authorized to perform dry needling; and

(d) Shall ensure that the form described in subsection 1 is maintained as part of the health care records of the patient pursuant to NRS 629.051.

Sec. 4. An athletic trainer who wishes to perform dry needling after the effective date of this regulation shall submit proof of compliance with the requirements of section 2 of this regulation by not later than 30 days after the effective date of this regulation.

**PROPOSED REGULATION OF THE
NEVADA PHYSICAL THERAPY BOARD**

LCB File No. R054-19

September 24, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted-material~~ is material to be omitted.

AUTHORITY: §§1-4, NRS 640.050, as amended by section 6 of Senate Bill No. 186, chapter 277, Statutes of Nevada 2019, at page 1586.

A REGULATION relating to physical therapists; prescribing the training required before a physical therapist is authorized to perform dry needling; prescribing standards of practice for dry needling; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Nevada Physical Therapy Board to prescribe by regulation the qualifications required for a physical therapist to perform dry needling. Those qualifications must include the completion of at least 150 hours of certain didactic education and training in dry needling. (NRS 640.050, as amended by section 6 of Senate Bill No. 186, chapter 277, Statutes of Nevada 2019, at page 1586) **Section 2** of this regulation prescribes the requirements for such didactic education and training.

Existing law requires the Board to prescribe by regulation: (1) procedures concerning the handling of needles used to perform dry needling; and (2) procedures to ensure that a physical therapist does not engage in needle retention. Existing law additionally authorizes the Board to adopt other reasonable regulations to carry out provisions of law governing physical therapy. (NRS 640.050, as amended by section 6 of Senate Bill No. 186, chapter 277, Statutes of Nevada 2019, at page 1586) **Section 3** of this regulation requires a physical therapist to obtain the informed consent of a patient before performing dry needling. **Section 3** also requires a physical therapist who performs dry needling to: (1) use only single-use, single-insertion needles; and (2) dispose of those needles after completing a portion of a procedure performed on a specific area of the body or, if the entire procedure is performed on one area of the body, the procedure. **Section 3** additionally prohibits a physical therapist from delegating the performance of dry needling to a person who is not authorized to perform dry needling.

Section 1. Chapter 640 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *Before performing dry needling, a physical therapist must submit to the Board written proof of successful completion of the didactic education and training in dry needling required pursuant to NRS 640.050, as amended by section 6 of Senate Bill No. 186, chapter 277, Statutes of Nevada 2019, at page 1586, and which meets the requirements set forth in this section.*

2. The courses taken to satisfy the didactic education and training requirements must:

(a) Be approved by the Commission on Accreditation in Physical Therapy Education, or its successor organization, the American Physical Therapy Association, or its successor organization, or the Nevada Physical Therapy Board;

(b) Include instruction concerning:

(1) The use of sterile needles in accordance with standards prescribed by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services or the Occupational Safety and Health Administration of the United States Department of Labor;

(2) The aspects of human anatomy relevant to dry needling;

(3) Control of blood-borne pathogens; and

(4) Circumstances under which performing dry needling on a patient may or may not be appropriate;

(c) Except as otherwise provided in paragraph (d), be provided as part of a graduate-level program of study approved by the Board; and

(d) Include at least 25 hours of the didactic instruction and training provided through a postgraduate course of study that requires the successful completion of a written examination and a practical examination. Each part of the course, including, without limitation, each examination, must be completed in person.

Sec. 3. 1. Before performing dry needling, a physical therapist must obtain a signed form which provides informed consent from the patient. Such a form must include, without limitation:

(a) The definition of “dry needling” set forth in section 2 of Senate Bill No. 186, chapter 277, Statutes of Nevada 2019, at page 1585;

(b) A description of the particular treatment that will be provided and the risks and benefits of the treatment; and

(c) The signature of the patient.

2. A physical therapist who performs dry needling:

(a) Shall use only single-use, single-insertion sterile needles;

(b) Shall dispose of each needle after completing a portion of a procedure performed on a specific area of the body or, if the entire procedure is performed on one area of the body, after completing the procedure;

(c) Shall not delegate dry needling to a physical therapist assistant, student of physical therapy, physical therapist technician or other person who is not authorized to perform dry needling; and

(d) Shall ensure that the form described in subsection 1 is maintained as part of the health care records of the patient pursuant to NRS 629.051.

Sec. 4. A physical therapist who wishes to perform dry needling after the effective date of this regulation shall submit proof of compliance with the requirements of section 2 of this regulation by not later than 30 days after the effective date of this regulation.