

# NOTICE OF INTENT TO ACT UPON A REGULATION

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## Notice of Hearing for the Adoption of Proposed Regulations of the Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board

The Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board will hold a public hearing on November 15, 2019. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapters 640 & 640B of the Nevada Administrative Code (NAC).

**DATE & TIME: November 15, 2019 @ 2:00 p.m.**

**Public Access Locations with Videoconference:**

**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 #304 & #306  
Las Vegas, Nevada 89154

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The following information is provided pursuant to the requirements of NRS 233B.0603:

LCB File No. R-053-19.

- 1) What is the need for and the purpose of the proposed regulation or amendment?

*The regulation is necessary to comply with the provisions of Senate Bill (SB) 186 of the 2019 Legislative Session. SB186 added Dry Needling to the Practice Act of athletic trainers and physical therapists. The purpose is to adopt regulations establishing the qualifications an athletic trainer or physical therapist must obtain before he or she is authorized to perform dry needling in order to protect the public.*

- 2) What are the terms of substance of the proposed regulation?

*The proposed regulations will revise Chapter 640 and Chapter 640B of the Nevada Administrative Code, providing provisions for the following:*

- a. Qualifications an athletic trainer or 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.*

- 3) What is the estimated economic effect of the regulation on the business which it is to regulate and on the public?

- a. Athletic Trainers or Physical Therapists*
  - i. Athletic trainers or physical therapist who are approved to practice dry needling may have more opportunities in the public market.*

b. *Public*

- i. *Consumers who wish to receive dry needling treatment from athletic trainers or physical therapists may have a larger marketplace from which to select services.*

4) What is the anticipated adverse impact, if any?

a. *Athletic Trainers or Physical Therapists*

- i. *No adverse impact is anticipated by this regulation.*

b. *Public*

- i. *No adverse impact is anticipated by this regulation.*

5) Do other regulations address the same problem(s)?

*No.*

6) Are alternate forms of regulation sufficient to address the problem(s)?

*No.*

7) What value does the regulation have to the public?

*The regulation provides standards of care and training and education qualification for the delivery of dry needling skilled intervention, to help maintain the highest standards for public safety.*

8) What is the anticipated cost of the regulation, both direct and indirect?

*The Board anticipates no additional costs, either directly or indirectly.*

9) Does the regulation establish a new fee or increase an existing fee?

*The regulation does not establish a new fee or increase an existing fee.*

10) Provide a statement which identifies the methods used by the agency in determining the impact of the proposed regulation on a small business, prepared pursuant to subsection 3 of NRS 233B.0608.

*The Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board held a joint Public Workshop on July 26, 2019 at 2:00pm to solicit comments from the public regarding the proposed regulation. Copies of meeting agendas, meeting minutes, proposed regulations, notices of workshop and notices of intent to act were posted and provided to persons who were known to have an interest in the subject. These documents were also made available at the website of the Nevada State Board of Athletic Trainers. There will be no impact on small businesses.*

11) Provide a description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, state the name of the regulating federal agency.

*There are no other local, state or federal regulations that overlap or duplicate the regulation. SB186 required that both the Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board adopt regulations establishing the qualifications an athletic trainer and a physical therapist must obtain before he or she is authorized to perform dry needling. The Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board collaborated on proposed regulations to revise Chapter 640 and Chapter 640B of the Nevada Administrative Code, satisfying both Board's requirements under SB186.*

- 12) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

*The regulation is not required pursuant to federal law.*

- 13) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

*There are no federal regulations that address the requirements in the regulation.*

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Persons wishing to comment upon the proposed action the Nevada Physical Therapy Board and the Nevada State Board of Athletic Trainers may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form to:

Nevada State Board of Athletic Trainers  
P.O. Box 34296  
Reno, NV 89533-4296  
(775) 787-2636  
Email: [atrainner@nsbat.nv.gov](mailto:atrainner@nsbat.nv.gov)

Nevada Physical Therapy Board  
3291 N. Buffalo Road, Suite 100  
Las Vegas, NV 89129  
(702) 876-5535  
Email: [atrainner@nsbat.nv.gov](mailto:atrainner@nsbat.nv.gov)

Written submissions must be received on or before **4:00 pm, November 12, 2019**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Board of Athletic Trainers and the Nevada Physical Therapy Board may proceed immediately to act upon written submissions.

A copy of this Notice of Workshop to Solicit Comments on Proposed Regulation and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be Adopted will be available at the Nevada State Board of Athletic Trainers, P.O. Box 34296, Reno, NV 89533-4296, the Nevada Physical Therapy Board, 3291 N. Buffalo Road, Suite 100, Las Vegas, NV 89129, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to member of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This Notice of Workshop to Solicit Comments on Proposed Regulation and the regulation to be adopted has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

- The Office of the Attorney General, 100 North Carson Street, Carson City, Nevada, 89701.
  - The Nevada State Library and Archives, 100 North Stewart Street, Carson City, Nevada 89701.
  - University of Nevada Reno, Cashell Fieldhouse, 1664 N. Virginia Street, Reno, NV 89557.
  - University of Nevada Reno, System Computing Services, 1664 N. Virginia Street, Reno, NV 89557.
  - University of Nevada Las Vegas, Lied Athletic Complex, 4505 Maryland Pkwy, Las Vegas, NV.
  - State of Nevada, Department of Administration Public Notice Website (NV.GOV)
  - Nevada Legislature, Calendar of Meetings: <https://www.leg.state.nv.us/App/Calendar/A/>
  - The Nevada State Board of Athletic Trainer's website: <http://nevadaathletictrainers.nv.gov>
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- Nevada Physical Therapy Board website: [www.ptboard.nv.gov](http://www.ptboard.nv.gov)
  - Office of the Attorney General, 5420 Kietzke Lane, Ste 202, Reno, NV 89511.
  - The State of Nevada Public Notice Website, [www.nv.gov](http://www.nv.gov).
  - Grant Sawyer Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101.
  - Office of the Attorney General, 100 North Carson Street, Carson City, NV 89701.
  - College of Southern Nevada, PTA Program, 6375 W. Charleston Blvd, Sort WA 158, Las Vegas, NV 89146.
  - Pima Medical Institute, PTA Program, Attn: Rebecca Cheema, 3333 E. Flamingo Road, Las Vegas, NV 89121.
  - St. Mary's Regional Medical Center, 235 W. Sixth Street, 4<sup>th</sup> Floor PT Lounge, Reno, NV 89523.
  - Carrington College, Attn: Laura Cerame, 5740 S Eastern Ave #140, Las Vegas, NV 89119.
  - Nevada Physical Therapy Association (NPTA), <http://www.nvapta.org/>
  - Nevada State Legislature Website: [www.leg.state.nv.us](http://www.leg.state.nv.us).
  - State of Nevada Website: <https://notice.nv.gov>.
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## NEVADA COUNTY PUBLIC LIBRARIES

<p>Carson City Library 9000 North Roop Street Carson City, Nevada 89701-3101 <a href="mailto:Posting@carsoncitylibrary.org">Posting@carsoncitylibrary.org</a></p>	<p>Lincoln County Library 63 Main Street Pioche, Nevada 89043 Fax: (775) 962-5244</p>
<p>Churchill County Library 553 S. Main Street Fallon, Nevada 89406-3306 <a href="mailto:dfwargo@churchillcontylibrary.org">dfwargo@churchillcontylibrary.org</a></p>	<p>Lyon County Library System 20 Nevin Way Yerington, Nevada 89447-2399 Fax: (775) 463-6646</p>
<p>Storey County Treasurer and Clerk's Office Drawer D Virginia City, Nevada 89440 Fax: (775) 847-0921</p>	<p>Mineral County Public Library P.O. Box 1390 Hawthorne, Nevada 89415 Fax: (775) 945-0703</p>
<p>Douglas County Public Library 1625 Library Lane Minden, Nevada 89423-0337 Fax: (775) 782-5754</p>	<p>Pershing County Library 1125 Central Avenue Lovelock, Nevada 89419 Fax: (775) 273-0421</p>
<p>Nevada State Library, Archives, and Public Records 100 North Stewart St., Carson City, NV 89701 Fax: 775-684-3330 <a href="mailto:jholt@admin.nv.gov">jholt@admin.nv.gov</a></p>	<p>Nevada State Legislature 401 S. Carson St., Carson City, NV 89701 Fax: 775-684-6705 c/o Legislative Police <a href="mailto:Meghan.egli@lcb.state.nv.us">Meghan.egli@lcb.state.nv.us</a></p>
<p>Washoe County Library 301 South Center St., Reno, NV 89505 Fax: 775-327-8390 <a href="mailto:library-postinggroup@washoecounty.us">library-postinggroup@washoecounty.us</a></p>	<p>Clark County Library 1401 E. Flamingo Rd., Las Vegas, NV 89119 <a href="mailto:scott@lvccld.org">scott@lvccld.org</a> or <a href="mailto:balsaran@lvccld.org">balsaran@lvccld.org</a> or <a href="mailto:okabayashij@lvccld.org">okabayashij@lvccld.org</a></p>
<p>Elko County Library, Elko <a href="mailto:pdunn@elkocountynv.net">pdunn@elkocountynv.net</a> or <a href="mailto:krkincai@elkocountynv.net">krkincai@elkocountynv.net</a></p>	<p>Battle Mountain Branch Library (Lander County) 625 South Broad Street Battle Mountain, Nevada 89820 Fax: (707) 269-1900 or (707) 269-7062</p>
<p>Eureka County Library 10190 Monroe Street Eureka, Nevada 89316</p>	<p>Tonopah Public Library (Nye County) P.O. Box 449 Tonopah, Nevada 89049 Fax: (775) 482-5143</p>
<p>Humboldt County Library 85 East 5<sup>th</sup> Street Winnemucca, Nevada 89445-3095 Fax: (775) 623-6438</p>	<p>White Pine County Library 950 Campton Street Ely, Nevada 89301 Fax: (775) 289-3640</p>
<p>Esmeralda County Library Corner of Crook &amp; 4<sup>th</sup> Street P.O. Box 430 Goldfield, Nevada 89013-0430</p>	

Date: October 15, 2019

**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.