

HOUSE BILL REPORT

2SHB 1039

As Passed House:
February 27, 2023

Title: An act relating to physical therapists performing intramuscular needling.

Brief Description: Concerning physical therapists performing intramuscular needling.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Macri, Harris, Corry, Duerr, Riccelli, Chambers, Goodman, Reed, Fitzgibbon, Pollet, Ryu, Paul, Thai, Springer, Stonier, Kloba, Santos and Ormsby).

Brief History:

Committee Activity:

Health Care & Wellness: 1/11/23, 1/20/23 [DPS];
Appropriations: 2/1/23, 2/8/23 [DP2S(w/o sub HCW)].

Floor Activity:

Passed House: 2/27/23, 94-1.

Brief Summary of Second Substitute Bill

- Establishes an endorsement authorizing physical therapists to perform intramuscular needling.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard, Bronoske, Davis, Graham, Harris, Macri, Maycumber, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

Staff: Kim Weidenaar (786-7120).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 1 member: Representative Rude.

Staff: Lily Smith (786-7175).

Background:

Physical Therapists.

Licensed physical therapists may perform a variety of services, including:

- examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments; functional limitations in movement; and disability or other health- and movement-related conditions;
- alleviating impairments and functional limitations in movement;
- performing wound care services;
- reducing the risk of injury, impairment, functional limitation, and disability related to movement;
- engaging in administration, consultation, education, and research; and
- spinal manipulation—after being issued an endorsement.

In 2016 the Attorney General issued an opinion finding that dry needling did not fall within the scope of practice for a licensed physical therapist under the existing statute.

Additionally, in 2016 the Department of Health (DOH) completed a sunrise review of a proposal establishing an endorsement for dry needling for physical therapists. The proposal required a physical therapist to have one year of full-time physical therapy practice and 54 hours of training and education in dry needling to obtain an endorsement. The DOH found the proposal did not meet the sunrise criteria for increasing the profession's scope of practice finding that there was no supervised clinical experience requirement, and the applicant did not demonstrate that 54 hours of training was sufficient to ensure the professional ability to perform dry needling. However, the DOH found that the applicants demonstrated that with adequate training that includes a clinical component, dry needling may fit within the physical therapist's scope of practice.

Acupuncture.

"Acupuncture and Eastern medicine" is defined as a health care service utilizing

acupuncture or Eastern medicine diagnosis and treatment to promote health and treat organic or functional disorders, which includes a variety of traditional and modern acupuncture and Eastern medicine therapeutic treatments, such as the practice of acupuncture techniques and herbal medicine to maintain and promote wellness; prevent, manage, and reduce pain; and treat substance use disorder. Acupuncture and Eastern medicine includes a variety of services and modalities, including intramuscular needling and dry needling of trigger points and other nonspecific points throughout the body in accordance with acupuncture and Eastern medicine training.

Informed Consent.

Generally, a health care provider must obtain informed consent from a patient or the patient's representative before performing medical treatment. Informed consent is the process by which the treating health care provider discloses information to a patient or the patient's representative so that the patient may make a voluntary choice to accept or refuse treatment.

Summary of Second Substitute Bill:

Intramuscular needling, also known as dry needling, is defined as a skilled intervention that uses a single use, sterile filiform needle to penetrate the skin and stimulate underlying connective and muscular tissue for the evaluation and management of neuromusculoskeletal pain and movement impairments. Intramuscular needling requires an examination and diagnosis and does not include stimulation of auricular points or distal points. Performing intramuscular needling is added to the definition of physical therapy.

A physical therapist may perform intramuscular needling only after receiving an endorsement from the Secretary of Health (Secretary). The Secretary, upon approval by the Board of Physical Therapy (Board), must issue an endorsement to a physical therapist who has at least one year of postgraduate experience that averages at least 36 hours a week and consists of direct patient care and who provides evidence in a manner acceptable to the Board of 325 hours of instruction and clinical experience that meet the following criteria:

- 100 hours of didactic instruction in the following areas:
 - anatomy and physiology of the musculoskeletal and neuromuscular systems;
 - anatomical basis of pain mechanisms, chronic pain, and referred pain;
 - trigger point evaluation and management;
 - universal precautions in avoiding contact with a patient's bodily fluids; and
 - preparedness and response to unexpected events including injury to blood vessels, nerves, and organs, and psychological effects or complications;
- 75 hours of in-person intramuscular needling instruction in the following areas:
 - technique;
 - indications and contraindications;
 - documentation and informed consent;
 - management of adverse effects;
 - practical psychomotor competency; and

- occupational safety and health administration's bloodborne pathogens protocol; and
- a successful clinical review of a minimum of 150 hours of at least 150 individual intramuscular needling treatment sessions by a qualified provider, which the physical therapist must submit an affidavit to the Department of Health demonstrating completion of these reviews.

A qualified provider for purposes of the clinical review requirement must be a:

- licensed physician, licensed osteopathic physician, licensed naturopath, licensed acupuncture and Eastern medicine practitioner, or a licensed advanced registered nurse practitioner;
- physical therapist credentialed to perform intramuscular needling in the United States Armed Forces;
- licensed physical therapist who holds an intramuscular needling endorsement; or
- licensed physical therapist who meets the requirements of an intramuscular needling endorsement.

After receiving the 175 hours of required instruction, a physical therapist has up to 18 months to complete the 150 treatment session reviews. A physical therapist can apply for the endorsement before they have one year of experience, if they meet the 175 hours of instruction through their prelicense coursework and have completed all other requirements.

A physical therapist may not delegate intramuscular needling and must remain in constant attendance of the patient during the procedure. If a physical therapist intends to perform intramuscular needling on a patient who the physical therapist knows is being treated by an acupuncturist or acupuncture and Eastern Medicine Practitioner for the same diagnosis, the physical therapist must make reasonable efforts to coordinate patient care with the practitioner to prevent conflict or duplicate services.

All patients receiving intramuscular needling from a physical therapist must sign an informed consent form that includes:

- the definition of intramuscular needling;
- a description of the risks, benefits, and potential side effects of intramuscular needling; and
- a statement clearly differentiating the procedure from the practice of acupuncture.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Health Care & Wellness):

(In support) This bill has been introduced a number of times and the goal of this bill is to address a crisis of pain. Intramuscular needling is a technique intended to address pain and movement impairments. A lot of work has been done to address the opioid crisis and this is another option to treat pain. The proposed training required by the bill is two to three times what other states require and is built on the model used by the United States Armed Forces model.

The sunrise review suggested a number of changes that are reflected in this bill including increasing the required training. When the Department of Health performs a sunrise review, they ask four questions: is there a need, is it safe, is it effective, and is it cost effective? The answer to all of these questions was yes. Hundreds to thousands of studies support the use of dry needling by physical therapists and show that there are no widespread reports of adverse effects.

Dry needling improves physical therapists' practices and helps patients improve and get better much faster than other types of physical therapy. All health care providers are overloaded in Washington and there is a need to help patients access all the providers they can. The real issue here is that people are not getting the access to the health care that they need. Physical therapists play a preventative role, reduce pain, and increase mobility. Dry needling is a vital tool that enables patients to have agency, avoid strong medications, improve faster, and avoid unnecessary surgery.

(Opposed) Intramuscular needling is one of the most aggressive treatments. Physical therapists have different educational backgrounds none of which includes training with needles. This bill does not include adequate limits or protect patient safety. This bill is not good medical practice. There are many unreported injuries in areas where physical therapists can perform dry needling. There are no fail safes in this bill, and it lacks clarity. This bill puts the patient and the acupuncture profession at risk.

Meridians are a concept of Chinese medicine that is extremely old and included in many cultures and systems. The terminology in the bill equates dry needling and intramuscular needling, but this is not accurate. Dry needling is constantly evolving and evolving into the practice of acupuncture. Dry needling repackages acupuncture. Dry needling is a fantastic modality, but everyone can refer their patients to an acupuncturist.

Staff Summary of Public Testimony (Appropriations):

(In support) The fees implicated by the bill do not come from the General Fund and the professions involved want to pay them. The Department of Health may be overestimating the number of physical therapists that will seek the new endorsement, but many of them do want it.

(Opposed) None.

(Other) Acupuncturists would like to come to an agreement on this bill, as physical therapists are valuable and we often refer patients to them, but the cost estimate may be inadequate. The low training hours requirement could increase safety risks. Acupuncturists need significantly more hours of training and to pass a national exam. Some dual-licensed practitioners may be interested in the new endorsement.

Persons Testifying (Health Care & Wellness): (In support) Representative Nicole Macri, prime sponsor; Todd Gentzler; Benjamin Boyle and Melissa Johnson, American Physical Therapy Association Washington; Shane Koppenhaver; Jacqui Berg; Susanne Michaud; Lindsey Thompson; Carol Sayles Rydbom; and Hayden Bayley.

(Opposed) Tai Lahans; Elizabeth Dart; Jaime Chaves; Carla Corkin; Romi Epstein; Lisa Van Haagen, Washington Department of Health Acupuncture and Eastern Medicine Advisory Committee and Washington Acupuncture and Eastern Medicine Association; Sharonne O'Shea, Acorn Acupuncture and Washington Acupuncture and Eastern Medicine Association; and Chaiya Sherman and Ash Goddard, Washington Acupuncture and Eastern Medicine Association.

Persons Testifying (Appropriations): (In support) Representative Nicole Macri, prime sponsor; Melissa Johnson, American Physical Therapy Association of Washington.

(Other) Leslie Emerick, Washington Acupuncture and Eastern Medicine Association.

Persons Signed In To Testify But Not Testifying (Health Care & Wellness): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.