

November 18, 2009

Ms. Kathleen Haley
Executive Director
State of Oregon
Medical Board
1500 SW 1st Ave., Suite 620
Portland, OR 97201-5847

The National Chiropractic Council (“NCC”) is a federal risk purchasing group which purchases physical therapy malpractice insurance on a group basis for its members. It has come to the NCC’s attention that the Oregon Physical Therapist Licensing Board has recently determined that the technique of “dry needling” falls within the physical therapy scope of practice. This determination concerns NCC not only on a malpractice perspective, but also concerns NCC from the perspective of public health and safety.

According to the World Health Organization, the term “acupuncture” literally means to puncture with a needle. “Dry needling” is a term that was developed to define the technique of placing an acupuncture needle into a muscle trigger point rather than injecting the trigger point with lidocaine or cortisone. Dry needling focuses on releasing muscle tension by treating specific trigger points, alleviating nerve tissue irritation by reducing the nerve impulse, or stimulating local blood supply where it may be naturally poor, for instance at the junction between tendons or ligaments and bone. It became known a “dry” needle since nothing was injected. Dry needling is a derivative of acupuncture and defined by the World Health Organization as “acupuncture.”

In fact, one of the pioneers of the dry needling technique, Chan C. Gunn, stressed that many trigger points were close to or identical to acupuncture points. Chan C. Gunn’s belief was that Western practitioners would better accept the technique if the point locations were described in anatomical rather than traditional Chinese medical terms.¹

Proponents of the addition of dry needling to the scope of physical therapy maintain that trigger point dry needling does not have any similarities to acupuncture other than using the same tool. These same proponents of the technique re-define traditional Chinese medicine as being based on a traditional system of energetic pathways and the goal of acupuncture to balance energy in the body. They emphasize the channel relationship of acupuncture points, de-emphasize or

¹ Gunn, CC et al. *Spine*, 1980

completely exclude the use of ASHI points, and emphasize that acupuncture is based on the energetic concepts of Oriental medicine diagnosis. They therefore define dry needling as different and distinct from acupuncture because it is based on Western anatomy.²

However, these proponents fail to recognize that acupuncture schools teach both “western” neurophysiological concepts along with “traditional” meridian concepts. As such, acupuncturists are highly trained within both fields of medicine. In fact, the profession of Chinese medicine utilizes neurophysiological principles. As such, there is no such distinction between “eastern” and “western” acupuncture.

Needless to say, dry needling is a contentious issue. However, the issue needs to be ultimately viewed from the perspective of public health and safety. Currently, the leading dry needling courses being offered in the United States include the Travell Series through Myopain Seminar in Maryland and dry needling courses offered by the Global Education of Manual Therapists located in Colorado.

The Travell Series is comprised of an 80 hour course on myofascial trigger points and a 36 hour course on dry needling. The course is designed for licensed healthcare practitioners including acupuncturists.³ The dry needling course offered by the Global Education of Manual Therapists is a 27.5 introductory course with an option for another 27.5 level two seminar.⁴

Licensed acupuncturists typically receive at least 3000 hours of education.⁵ The dry needling courses currently being offered, including the Travell Series and the courses offered by the Global Education of Manual Therapists not only allow physical therapists to use needles on patients without sufficient training, but constitutes a public health hazard.

California, Hawaii, New York, North Carolina, and Tennessee, all prohibit physical therapists from performing dry needling. In addition, the state of Florida disallows physical therapists from using any technique which ruptures the skin.

In California, physical therapists recognize that invasive procedures clearly move beyond the scope and training of physical therapy and in some instances hire licensed acupuncturists to treat patients. Many physical therapists respect the fact that use of needles is both an invasive procedure beyond the professional scope of physical therapy and directly related to the practice of acupuncture.

According to Ben Massey Jr., PT, MA, the Executive Director of the North Carolina Board of Physical Therapy Examiners, “Dry needling is a form of acupuncture. In North Carolina, a practitioner who performs acupuncture must have a license from the North Carolina Board of Acupuncture.”⁶

² Hobbs, Valerie, DiplOM, LAc, *Dry Needling and Acupuncture Emerging Professional Issues*

³ <http://www.myopainseminars.com/seminars/travell/index.html>

⁴ <http://www.gemtinfo.com/physical-therapy/Trigger-Point-Dry-Needling-Level-II-Training/page18.html>

⁵ <http://aaaononline.org/pressroom.asp?pagenumber=48266>

⁶ <http://aaaononline.org/pressroom.asp?pagenumber=48266>

Oregon defines “acupuncture” as “Oriental health care practice used to promote health and to treat neurological, organic or functional disorders by the *stimulation of specific points on the surface of the body by the insertion of needles...*”⁷ (Emphasis added). As discussed above, dry needling focuses on releasing muscle tension by treating specific trigger points, alleviating nerve tissue irritation by reducing the nerve impulse, or stimulating local blood supply where it may be naturally poor. As such, dry needling falls squarely within the Oregon definition of “acupuncture” as it involves the insertion of needles on the surface of the body to stimulate specific points.

Physical therapy state boards of Maryland, New Mexico, New Hampshire and Virginia have determined that dry needling falls within the scope of physical therapy in those states. However, the Oregon statute defining “acupuncture” is distinguishable from these states’ statute.

For example, the New Mexico Acupuncture and Oriental Medicine Practice Act defines acupuncture as “the use of needles inserted into and removed from the human body for the prevention, cure or correction of any disease, illness, injury, pain, or other condition by controlling and regulating the flow and balance of energy and functioning...”⁸

Proponents of the addition of dry needling to the scope of physical therapy point out that dry needling is not to control and regulate the flow and balance of energy and is not based on Eastern esoteric and metaphysical concepts. As such, based on the definition of “acupuncture” as set forth in the New Mexico Acupuncture and Oriental Medicine Practice Act, the physical therapy state board determined that dry needling falls within the scope of physical therapy practice.

However, unlike the New Mexico statute, ORS 677.575 is not narrowly tailored to limit the practice of “acupuncture” to the control and regulation of the flow and balance of energy and functioning.

Moreover, the Oregon Physical Therapist Licensing Board Administrative Rules does not provide for any statutory authority to physical therapists to perform dry needling.⁹ In fact, ORS 848-040-0100(8) provides that “Physical therapy intervention” means a treatment or procedure and includes but is not limited to: therapeutic exercise; gait and locomotion training; neuromuscular reeducation; manual therapy techniques (including manual lymphatic drainage, manual traction, connective tissue and therapeutic massage, mobilization/manipulation of soft tissue or spinal or peripheral joints, and passive range of motion); functional training related to physical movement and mobility in self-care and home management (including activities of daily living (ADL) and instrumental activities of daily living (IADL)); functional training related to physical movement and mobility in work (job/school/play), community, and leisure integration or reintegration (including IADL, work hardening, and work conditioning); prescription, application, and, as appropriate, fabrication of devices and equipment (assistive, adaptive, orthotic, protective, or supportive); airway clearance techniques; integumentary repair and

⁷ ORS 677.757(1)(a)

⁸ New Mexico Statutes Annotated 1978, Chapter 61, Professional and Occupational Licenses, Article 14A, Acupuncture and Oriental Medicine Practice 3, Definitions

⁹ ORS 848-040-0100(8)

protective techniques; electrotherapeutic modalities; physical agents and mechanical modalities; and patient related instruction and education.”

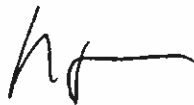
For the Oregon Physical Therapy Licensing Board to determine that dry needling falls within the scope of practice for its physical therapists means that the Oregon Physical Therapy Licensing Board is ignoring ORS 677.575 defining “acupuncture” and making a policy to include dry needling by a rule, rather than the physical therapy profession having to sponsor and pass a bill that explicitly changes state physical therapy law.

Additionally, the Oregon Physical Therapy Licensing Board’s reliance on ORS 848-040-0145 (2) that provides “A physical therapists or physical therapist assistant shall perform, or attempt to perform physical therapy interventions only with qualified education and experience in that intervention”¹⁰ to justify that dry needling is within in scope of physical therapy is not only overreaching but almost irresponsible and dangerous. The Oregon Physical Therapist Licensing Board Administrative Rules does not provide further standards or guidelines regarding dry needling education and/or certification. As such, it is impossible to determine what is considered “qualified education and experience” in dry needling. As stated above, to allow physical therapists to use needles on patients without sufficient training, but constitutes a public health hazard.

Based on the foregoing, the NCC will not provide malpractice insurance for any physical therapist who inserts needles and/or utilizes the technique of dry needling.

Thank you for your professional courtesies in this regard. Should you have any further questions or concerns, please do not hesitate to contact me.

Sincerely yours,



Michael J. Schroeder
Vice-President and General Counsel

¹⁰ ORS 848-040-0145(2)