

Notice of Petition for Declaratory Order

On August 17, 2015, the Iowa Association of Oriental Medicine and Acupuncture filed a Petition for Declaratory Order pursuant to Iowa Code § 17A.9 and 645 IAC Chapter 8. The Petition requests a Declaratory Order from the Iowa Board of Physical & Occupational Therapy regarding dry needling.

Notice is being provided to state licensing boards that may have an interest in dry needling, professional organizations that may have an interest in dry needling, the accredited physical therapy educational programs located in Iowa, and multiple dry needling training programs.

Petition for Intervention. Any person who qualifies under any applicable provision of law as an intervenor and who files a petition for intervention shall be allowed to intervene in the proceeding. Petitions for Intervention may be filed by any interested party no later than September 9, 2015 at the Iowa Board of Physical and Occupational Therapy, Bureau of Professional Licensure, IDPH, Lucas State Office Building—5th Floor, 321 East 12th Street, Des Moines, IA 50319-0075 or emailed to Judith.Manning@idph.iowa.gov.

Hearing. A public hearing will be held at 11:00 a.m. on September 11, 2015, in the Bureau of Professional Licensure Conference Room at the Lucas State Office Building—5th Floor, 321 East 12th Street, Des Moines, IA 50319-0075.

Petition for Declaratory Order

The Petition for Declaratory Order provides the following statement of facts:

1. There are persons in Iowa who are utilizing acupuncture needles by performing a technique called “Dry Needling” or “Intramuscular Manual Therapy” in violation of:
 - a. Iowa Code 148. Practice of Medicine and Surgery
 - b. Iowa Code 148E. Practice of Acupuncture
 - c. Iowa Code 148A.1 Physical Therapy
 - d. FDA Title 21, Section 880.5580 Acupuncture Needle, and
 - e. FDA Title 21, Section 880.109 Prescription Devices.
2. The most common violation is by Physical Therapists and Athletic Trainers.
3. They are being trained by non-accredited “Dry-Needling/Intramuscular Manual Therapy” training programs that falsely advertise the legality of dry-needling by non-acupuncturists.
4. One such program, Kinetacore states that the Iowa Board of Physical and Occupational Therapy ruled in June 2012: “It has been the consensus of the Board

that dry needling does not appear to be prohibited by the law or administrative rules. However, dry needling is an advanced skill that requires additional training beyond entry-level education and should only be performed by PTs who have completed additional education and demonstrated knowledge, skill, ability and competency in the performance of the procedure. If the Board determines that a PT is performing dry needling outside their training or expertise it could result in the licensee being disciplined by the Board. The Board has not issued an official opinion or policy statement on the performance of dry needling by Iowa licensed PTs.”

5. Searches of the Minutes and official declarations of the Iowa Board of Physical and Occupational Therapy does not reveal the above declaration.
6. There have been informal discussions about Dry Needling at recent Iowa Board of PTOT meetings. They have specifically resisted the need to create a formal ruling.
7. There has been no known public discussion on dry needling by the Iowa Board of Athletic Training.
8. The use of acupuncture needles is the practice of acupuncture.
9. The act of puncturing the skin is within the scope of the practice of medicine and prohibited unless allowed by statutory authority, such as that allowed to acupuncturists in Iowa Code 148E. Practice of Acupuncture.
10. The use of the term “Intramuscular Manual Therapy” refers to the use of “manual” therapy, not the use of an acupuncture needle. This rebranding of the use of acupuncture needles as a “Manual” therapy is designed to bypass the licenses of acupuncture and to avoid the need to use the rarely reimbursed insurance codes for acupuncture.
11. The use of the term “Dry Needling” is a rebranding of the use of acupuncture needles through the false claim that it is solely a Western Medical therapy and has no relation to the practice of acupuncture. The origins of western medicine using acupuncture needles for trigger point therapy began with Injections of pharmaceuticals into the trigger points in the 1960s. Injection therapy is an invasive and dangerous procedure. Dry Needling is just as invasive and dangerous. The advanced technique of “lifting/thrusting” is a documented acupuncture technique with centuries of use. Dry Needling uses this technique. It should be reserved for advanced acupuncture practitioners.
12. The use of “trigger points” for therapy have been documented for over 1,400 years. They are defined as “ashi” or tender points.
13. There are no statutory definitions of “dry needling” and “intramuscular manual therapy” in the Physical Therapy license Chapter 148A.1
14. There is no statutory authorization to insert any object into a patient, nor to use acupuncture needles in the Physical Therapy license Chapter 148A.1

15. Acupuncture needles are not mechanical devices, they are medical devices, subject to the following FDA restrictions:
 - a. Labeling for single use only and conformance to the requirements for prescription devices set out in 21 CFR 801.109,
 - b. A device which, because of any potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such device, and hence for which “adequate directions for use” cannot be prepared.
16. There is a specific code in Chapter 201.1(2) that should prohibit the use of “dry needling” and acupuncture needles by Physical Therapist due to the prohibition on practicing “outside the scope of the license.”

The specific questions presented in the Petition for Declaratory Order are:

1. What are the medical and legal definitions of “trigger points”, “Ashi Point”, “intramuscular manual therapy”, “dry needling” and “lifting/thrusting technique”?
2. Does the use of “trigger points” equate to the use of “Ashi” points?
3. Is Dry Needling/Intramuscular Manual Therapy a technique within the practice of acupuncture due to the utilization of a FDA regulated medical device, the acupuncture needle?
4. Is Dry Needling/Intramuscular Manual Therapy an invasive technique?
5. What type of training should be required?
6. How is the safety of the patient protected?
7. Who should be legally able to perform dry needling/intramuscular manual therapy?

A copy of the Petition for Declaratory Order will be posted on the Board’s website (<http://www.idph.state.ia.us/licensure/PhysicalandOccupationalTherapy.aspx>) and is available for viewing and copying at the Board office, Bureau of Professional Licensure, Lucas State Office Building, 5th Floor, 321 East 12th Street, Des Moines, IA 50319-0075. The bureau policy for obtaining copies will be enforced.

Sent via email to:

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