

**STATE OF KANSAS
BOARD OF HEALING ARTS**

Notice of Public Hearing on Proposed Administrative Regulations

A public hearing will be conducted on Tuesday, February 7, 2017 at 1:00 p.m. in the board room at the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas, to consider proposed new regulations related to licensure of and practice by Physical Therapists.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the above-referenced rules and regulations. All interested parties may submit comments prior to the hearing to Stacy Bond, Assistant General Counsel, at the Board of Healing Arts at the address above, or via e-mail to KSBHA_HealingArts@ks.gov. All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the proposed regulations during the public hearing. In order to provide all parties with an opportunity to present their views, it may be necessary to request each participant limit any oral presentations to five minutes.

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations may be obtained from the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas 66612; on the agency website at <http://www.ksbha.org/publicinformation/publicinformation.shtml>, by contacting Jenne Cook at (785) 296-2482, or by e-mailing the agency at KSBHA_HealingArts@ks.gov.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations being considered and the economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Barbara Montgomery at (785) 296-8558 or at Barbara.Montgomery@ks.gov. Individuals with hearing and/or speech disabilities may contact the Kansas Relay Center at 800-766-3777 for communication accommodations. Handicapped parking is located on 8th Street and in the building's parking garage. From the street, both the West entrance to the building on Jackson Street and the North entrance on 8th Street are accessible.

A summary of the proposed new regulations and their economic impact follows:

K.A.R. 100-29-18. Dry Needling; education and practice requirements. This new regulation specifies the educational requirements for a physical therapist to utilize dry needling therapy within the scope of practice of a physical therapist. This regulation also sets forth the requirements that a course on dry needling must cover in order for it to be considered by the Board for approval. It also contains a provision prohibiting the delegation of dry needling by a physical therapist.

K.A.R. 100-29-19. Dry Needling; informed consent. This new regulation advises physical therapists of the information required to be provided to the patient prior to the physical therapist utilizing dry needling therapy with the patient.

K.A.R. 100-29-20. Dry Needling; recordkeeping. This new regulation advises physical therapists that perform dry needling of the specific record keeping requirements of each dry needling session.

K.A.R. 100-29-21. Dry Needling; board requests for documentation. This new regulation assists the agency with investigations regarding the qualifications of individual physical therapists to perform dry needling therapy.

Costs to the State Board of Healing Arts are expected to be minimal. Costs to Physical Therapists would be determined on an individual basis. There is no statutory or regulatory requirement that a physical therapist obtain training to utilize dry needling techniques or therapy in their practice. However, a Physical Therapist that desires to utilize dry needling therapy in their practice would have the economic impact of the fees associated with the required training.

It is anticipated that the regulations will provide a positive economic impact on private individuals in that more Physical Therapists may have expanded practice opportunities in Kansas due to a greater scope of practice which, in turn, should improve the general public's access to healthcare provided by these individuals.

**KANSAS STATE BOARD OF HEALING ARTS
ECONOMIC IMPACT STATEMENT
K.A.R. 100-29-18, 100-29-19, 100-29-20, 100-29-21**

Pursuant to the requirements of K.S.A. 77-416(b), the Kansas State Board of Healing Arts submits the following Economic Impact Statement relating to four new proposed regulations that implement the educational requirements for physical therapists to practice dry needling as set forth in the Physical Therapist Licensure Act (“PT Act”) which were amended during the 2016 legislative session.

I. Summary of Proposed Regulations:

K.A.R. 100-29-18. (new)

The purpose of this regulation is to specify the educational requirements for a physical therapist to utilize dry needling therapy within the scope of practice of a physical therapist. This regulation also sets forth the requirements that a course on dry needling must cover in order for it to be considered by the Board for approval. It also contains a provision prohibiting the delegation of dry needling by a physical therapist.

K.A.R. 100-29-19. (new)

The purpose of this regulation is to advise physical therapists of the information required to be provided to the patient prior to the physical therapist utilizing dry needling therapy with the patient.

K.A.R. 100-29-20. (new)

The purpose of this regulation is to advise physical therapists that perform dry needling of the specific record keeping requirements of each dry needling session.

K.A.R. 100-29-21. (new)

The purpose of this regulation is to assist the agency with investigations regarding the qualifications of individual physical therapists to perform dry needling therapy.

II. Federal Mandate:

These regulations are not mandated by any federal law.

III. Anticipated Economic Impact upon the Kansas Board of Healing Arts:

Costs to the State Board of Healing Arts are expected to be minimal.

IV. Anticipated Economic Impact upon Other Governmental Agencies and upon Private Business or Individuals:

Costs to Physical Therapists, would be determined on an individual basis. There is no statutory or regulatory requirement that a physical therapist obtain training to utilize dry needling techniques or therapy in their practice. However, a Physical Therapist that desires to utilize dry needling therapy in their practice would have the economic impact of the fees associated with the required training.

It is anticipated that the amended regulations will provide a positive economic impact on private individuals in that more Physical Therapists may have expanded practice opportunities in Kansas due to a greater scope of practice which, in turn, should improve the general public's access to healthcare provided by these individuals.

V. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection:

No other less costly or less intrusive methods were identified or considered for the purpose of these regulations.

K.A.R. 100-29-18. Dry needling; education and practice requirements. (a) Dry needling shall be performed only by a physical therapist who is competent by education and training to perform dry needling as specified in this regulation. Online study and self-study for dry needling instruction shall not be considered appropriate training.

(b) Each physical therapist who does not obtain dry needling education and training as part of that individual's graduate or postgraduate education shall be required to successfully complete a dry needling course approved by the board in order to perform dry needling. Each dry needling course shall include a practical examination and a written examination.

(c) Each dry needling course shall include the following components:

- (1) Anatomical review for safety and effectiveness;
- (2) indications and contraindications for dry needling;
- (3) evidence-based instruction on the theory of dry needling practice;
- (4) sterile needle procedures, which shall include the standards of one of the following:
 - (A) The U.S. centers for disease control and prevention; or
 - (B) the U.S. occupational safety and health administration;
- (5) blood-borne pathogens;
- (6) postintervention care, including an adverse response or emergency; and
- (7) an assessment of the physical therapist's dry needling technique and psychomotor skills.

(d) Each dry needling course shall be taught by a licensed healthcare provider who meets the following requirements:

- (1) Has a scope of practice that includes dry needling;

(2) meets the regulatory minimum educational standard in that individual's respective state or jurisdiction;

(3) has not been disciplined by any state or jurisdictional licensing agency for any act that would be a violation of the physical therapy practice act or the healing arts act; and

(4) has performed dry needling for at least two years.

(e) Each physical therapist taking a dry needling course shall be required to obtain a passing score on all written and practical examinations given in the dry needling course. Each physical therapist shall obtain a certificate or other documentation from the provider of the dry needling course specifying what anatomical regions were covered in the dry needling course and that the physical therapist passed all examinations.

(f) Each dry needling course shall provide sufficient instruction to ensure that each student is able to demonstrate minimum adequate competency in the following:

(1) Current dry needling techniques;

(2) management of dry needling equipment and supplies;

(3) accurate point selection;

(4) accurate positioning of the patient and the education of the patient regarding the amount of movement allowed while needles are inserted;

(5) supervision and monitoring of the patient during treatment;

(6) communication with the patient, including informed consent; and

(7) clinically appropriate patient selection, including consideration of the following:

(A) The patient's contraindications for dry needling;

(B) the patient's ability to understand the treatment and the expected outcome; and

(C) the patient's ability to comply with treatment requirements.

(g) After completion of a board-approved dry needling course, each physical therapist shall be required to complete 200 patient treatment sessions of dry needling before taking each successive course in dry needling. Each physical therapist shall complete all foundation-level courses before proceeding to an advanced-level course.

(h) Dry needling shall be performed solely for conditions that fall under the physical therapy scope of practice pursuant to K.S.A. 65-2901, and amendments thereto. Each physical therapist performing dry needling shall perform dry needling only in the anatomical region of training completed by the physical therapist. Each physical therapist who performs dry needling shall do so in a manner consistent with generally acceptable standards of practice.

(i) A physical therapist shall not delegate dry needling. (Authorized by K.S.A. 2016 Supp. 65-2911 and 65-2923; implementing K.S.A. 2016 Supp. 65-2901; effective P-
_____.)

K.A.R. 100-29-19. Dry needling; informed consent. (a) Each physical therapist who performs dry needling shall obtain written informed consent from each patient before performing dry needling on the patient. A separate informed consent shall be required for each anatomical region treated by the physical therapist.

(b) The informed consent shall include the following:

- (1) The patient's signature;
- (2) the risks and benefits of dry needling;
- (3) the diagnosis for which the physical therapist is performing dry needling;
- (4) each anatomical region of training completed by the physical therapist; and
- (5) a statement that the procedure being performed is dry needling as defined by the physical therapy practice act, K.S.A. 65-2901 and amendments thereto.

(c) The informed consent shall be maintained in the patient's treatment record.

(Authorized K.S.A. 2016 Supp. 65-2911; implementing K.S.A. 2016 Supp. 65-2901; effective

P-_____.)

K.A.R. 100-29-20. Dry needling; recordkeeping. Each physical therapist who performs dry needling shall maintain a specific procedure note in each patient's record for each dry needling session. The procedure note shall include the following for each session:

- (a) The anatomical region treated;
- (b) the manner in which the patient tolerated the treatment; and
- (c) the clinical outcome of the treatment. (Authorized by K.S.A. 2016 Supp. 65-2911; implementing K.S.A. 2016 Supp. 65-2901 and 65-2912; effective P-_____.)

K.A.R. 100-29-21. Dry needling; board requests for documentation. Each physical therapist who performs dry needling shall be required to produce documentation demonstrating that the individual meets the requirements of K.A.R. 100-29-18, upon request by the board or a designee of the board. Failure of any physical therapist to provide this documentation shall be deemed prima facie evidence that the physical therapist has engaged in unprofessional conduct.

(Authorized by K.S.A. 2016 Supp. 65-2911; implementing K.S.A. 2016 Supp. 65-2901 and 65-2912; effective P-_____.)