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Jay Stewart
Director, Division of Professional Regulation
Illinois Department of Financial and Professional Regulation
320 West Washington Street
Springfield, IL 62786

Dear Mr. Stewart:

It has come to my attention that the Illinois Department of Financial and Professional Regulation (IDFPR) released an informal opinion on April 25, 2014, asserting that dry needling is not within the scope of practice of licensed physical therapists in the state of Illinois. I strongly urge the Department to withdraw this deeply flawed opinion.

Dry needling is a skilled intervention provided by physical therapists that uses a thin filiform needle to penetrate the skin and stimulate underlying myofascial trigger points, muscular tissues, and connective tissues for the management of neuromuscular pain and movement impairments. It is part of the physical therapist professional scope of practice and has been recognized as being part of the legal scope of practice in a majority of states. State regulatory agencies or attorneys general have issued opinions affirming that dry needling is within the physical therapist scope of practice in many states. These states include, but are not limited to, Alabama, Arizona, Colorado, the District of Columbia, Georgia, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, South Carolina, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, and Wyoming. I have enclosed copies of opinions from the attorneys general of Kentucky, Maryland, and Mississippi, for your reference, along with the APTA Educational Resource Paper, "Physical Therapists and the Performance of Dry Needling."

It should be noted that in determining that dry needling is within the scope of physical therapist practice, several state regulatory boards have also specified that the physical therapist must receive additional education and training to perform dry needling and be competent to provide these services. A number of boards have adopted regulations or published guidelines outlining education and competency standards for physical therapists performing dry needling. These states include Colorado, Louisiana, Mississippi, North Carolina, Virginia, and the District of Columbia.

The performance of dry needling by physical therapists differs from the practice of acupuncture by acupuncturists in terms of historical, philosophical,

indicative, and practical context. According to the American College of Acupuncture and Oriental Medicine, the Master of Acupuncture & Oriental Medicine degree program is based on preserving the ancient theories, principles, and tenets of traditional Chinese medicine. The objectives and philosophy behind the use of dry needling by physical therapists are not based on ancient theories or tenets of traditional Chinese medicine. The performance of modern dry needling by physical therapists is based on western neuroanatomy and modern scientific study of the musculoskeletal and nervous systems. Physical therapists that perform dry needling do not use traditional acupuncture theories or acupuncture terminology.

Similarities between these practices do exist in terms of dermal penetration with a solid filament needle (a tool) to varying depths within the body for therapeutic indications. However, the authority to use needles for therapeutic purposes is not necessarily reserved exclusively to acupuncturists. The fact that a particular tool may be more commonly used by one profession does not mean use of that tool falls *exclusively* within the domain of that profession. State regulation of health professions is not intended to allow for one profession to claim sole ownership of a specific intervention or tool. Most state laws governing the licensure of health care professions acknowledge the reality of overlapping scopes of practice, particularly when the overlap involves a modality, intervention, or tool, and provide exemptions for other health care providers who are acting within their scope of practice as long as providers do not describe or refer to their services as the practice of another regulated profession.

Most state licensure laws do not provide an exhaustive list of every specific intervention, test, tool, or modality that the regulated profession may, or may not, provide. Barring specific prohibitive language in the state's physical therapy licensure statute, the performance of dry needling by a physical therapist may be determined by the state regulatory board, agency, or department to be allowed, provided that the physical therapist is competent to provide the service, and does not profess to be engaging in the practice of another profession. For example it would be inappropriate and a potential violation of state law for a physical therapist to refer to the performance of dry needling as "acupuncture," as acupuncture describes the scope of services and interventions provided by an acupuncturist. Conversely, the performance of an intervention such as therapeutic exercise by an acupuncturist should not be referred to as "physical therapy" as "physical therapy" describes the services provided by a licensed physical therapist.

When a state's practice act is silent on an issue or intervention, the determination of what constitutes practice beyond the scope of physical therapy is generally the responsibility of the licensing board. In states where

the licensing board does not have the authority to make scope of practice determinations, the regulatory agency or department usually does so in consultation with the licensing board. Scope of practice evolves as contemporary practice evolves, and regulatory entities need the latitude to determine the appropriateness of physical therapy procedures as they relate to both established and changing scope of practice. While the skills and services provided by a physical therapist are distinct, there are interventions, tools, and modalities contained within the physical therapist scope of practice that overlap with other professions, and vice versa.

Health care education and practice have developed in such a way that most professions today share some procedures, tools, or interventions with other regulated professions. It is unreasonable to expect a profession to have exclusive domain over an intervention, tool, or modality. According to the publication "Changes in Healthcare Professions Scope of Practice: Legislative Considerations," no one profession actually owns a skill or activity in and of itself. One activity does not define a profession but it is the entire scope of activities within the practice that makes any particular profession unique. Simply because a skill or activity is within one profession's skill set does not mean another profession cannot and should not include it in its own scope of practice. Clearly it is in the best interests of health care consumers to be afforded the ability to access the widest possible range of competent licensed professionals qualified to provide treatment.

Regarding the scope of practice for physical therapists in Illinois, the Illinois physical therapy practice act does not specifically exclude the use of needles or of piercing the skin. 225 ILCS 90/1 (B) includes the following in the definition of "physical therapy":

> (A) Examining, evaluating, and ***testing*** individuals who may have mechanical, physiological, or developmental impairments, functional limitations, disabilities, or other health and movement-related conditions, classifying these disorders, determining a rehabilitation prognosis and plan of therapeutic intervention, and assessing the on-going effects of the interventions.
>
> (B) Alleviating impairments, functional limitations, or disabilities by designing, implementing, and modifying therapeutic interventions that may include, ***but are not limited to***, the evaluation or treatment of a person through the use of the effective properties of physical measures and heat, cold, light, water, radiant energy, electricity, sound, and air and use of therapeutic massage, therapeutic exercise, mobilization, and rehabilitative procedures, with or without assistive devices, for the

> purposes of preventing, correcting, or alleviating a physical or mental impairment, functional limitation, or disability. (Emphasis added)

225 ILCS 90/1 (D) further states, "Nothing in this Section shall limit a physical therapist from employing appropriate physical therapy techniques that he or she is educated and licensed to perform."

The April 25 opinion asserts that "all procedures listed in the Physical Therapy Act are non-invasive procedures." While the procedures specifically listed in the above definition may be non-invasive, 225 ILCS 90/1 (B) clearly states that the practice of physical therapy includes the use of therapeutic interventions including "but not limited to" those listed. Physical therapists provide many procedures not specifically listed in the Physical Therapy Act, including some that may be considered invasive. In addition to dry needling, such procedures include needle electromyography, which is a form of electrodiagnostic testing, and sharp debridement, which is a wound care procedure. These procedures are well established as part of the physical therapist scope of practice in Illinois and nationally, and are specifically referenced in the *Guide to Physical Therapist Practice* (2nd Edition).

Having previously opined that dry needling is not outside the scope of physical therapist practice in Illinois, it is deeply concerning that IDFPR would abandon that position with seemingly little or no consultation with the Physical Therapy Licensing and Disciplinary Board or other stakeholders, especially in the absence of any public harm. As such I respectfully request that the Department withdraw the April 25 informal opinion, and provide public notification of such withdrawal.

Thank you for your attention to this matter. If you have any questions, please feel free to contact Angela Chasteen, Sr. State Affairs Specialist, at angelachasteen@apta.org.

Sincerely,

Paul Rockar, Jr., PT, DPT
President, American Physical Therapy Association

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Enclosures