

[First Reprint]

**ASSEMBLY, No. 392**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

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**District 32 (Bergen and Hudson)**

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**Assemblymen Johnson, DePhillips, Wimberly, McKeon, Greenwald,  
Assemblywoman Timberlake, Assemblymen Mejia, Calabrese and  
Assemblywoman McKnight**

**SYNOPSIS**

Permits certain physical therapists to perform dry needling.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on March 18, 2019,  
with amendments.



**(Sponsorship Updated As Of: 3/26/2019)**

1 AN ACT concerning the practice of physical therapy and amending  
2 and supplementing P.L.1983, c.296.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.1983, c.296 (C.45:9-37.13) is amended to  
8 read as follows:

9 3. As used in P.L.1983, c.296 (C.45:9-37.11 et seq.):

10 "Board" means the State Board of Physical Therapy Examiners  
11 established pursuant to section 5 of P.L.1983, c.296 (C.45:9-37.15).

12 "Direct supervision" means the presence of the supervising  
13 physical therapist on site, available to respond to any consequence  
14 occurring during any treatment procedure.

15 "Dry needling" means a physical intervention that uses a dry,  
16 filiform needle, without medication or other deliverable, to  
17 penetrate the skin and stimulate underlying muscular tissue,  
18 connective tissues, or myofascial trigger points for the management  
19 of neuromusculoskeletal pain and movement impairments. "Dry  
20 needling" shall not mean the stimulation of auricular or distal points  
21 or the practice of acupuncture as defined by section 2 of P.L.1983,  
22 c.7 (C.45:2C-2).

23 "General supervision" means supervision by a physical therapist  
24 in which: the physical therapist shall be available at all times by  
25 telecommunications but is not required to be on-site for direction  
26 and supervision; and the supervising physical therapist assesses on  
27 an ongoing basis the ability of the physical therapist assistant to  
28 perform the selected interventions as directed.

29 "Physical therapist" means a natural person who holds a current,  
30 valid license to practice physical therapy pursuant to the provisions  
31 of P.L.1983, c.296 (C.45:9-37.11 et seq.) and in accordance with  
32 regulations of the board.

33 "Physical therapist assistant" means a natural person who is  
34 licensed pursuant to the provisions of P.L.1983, c.296 (C.45:9-  
35 37.11 et seq.) and who assists a licensed physical therapist under his  
36 direct or general supervision in accordance with P.L.1983, c.296  
37 (C.45:9-37.11 et seq.) and regulations of the board.

38 "Physical therapy" and "physical therapy practice" mean the  
39 identification of physical impairment, movement-related functional  
40 limitation, or balance disorder that occurs as a result of injury or  
41 congenital or acquired disability, or other physical dysfunction  
42 through examination, evaluation and diagnosis of the physical  
43 impairment or movement-related functional limitation and the  
44 establishment of a prognosis for the resolution or amelioration

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Assembly AAP committee amendments adopted March 18, 2019.

1 thereof, and treatment of the physical impairment or movement-  
2 related functional limitation, which shall include, but is not limited  
3 to, the alleviation of pain, physical impairment and movement-  
4 related functional limitation by therapeutic intervention, including  
5 treatment by means of manual therapy techniques and massage, dry  
6 needling, electro-therapeutic modalities, wound debridement and  
7 care, the use of physical agents, mechanical modalities,  
8 hydrotherapy, therapeutic exercises with or without assistive  
9 devices, neurodevelopmental procedures, joint mobilization,  
10 movement-related functional training in self-care, providing  
11 assistance in community and work integration or reintegration,  
12 providing training in techniques for the prevention of injury,  
13 impairment, movement-related functional limitation, or dysfunction,  
14 providing consultative, educational, other advisory services, and  
15 collaboration with other health care providers in connection with  
16 patient care, and such other treatments and functions as may be  
17 further defined by the board by regulation.

18 "Physical therapy" and "physical therapy practice" also include  
19 the screening, examination, evaluation, and application of  
20 interventions for the promotion, improvement, and maintenance of  
21 fitness, health, wellness, and prevention services in populations of  
22 all ages exclusively related to physical therapy practice.

23 "Wound debridement and care" means the removal of loosely  
24 adhered necrotic and nonviable tissue, by a physical therapist, to  
25 promote healing, done in conjunction with a physician or podiatric  
26 physician.

27 (cf: P.L.2017, c.121, s.1)

28

29 2. Section 8 of P.L.1983, c.296 (C.45:9-37.18) is amended to  
30 read as follows:

31 8. a. The board shall:

32 (1) Administer and enforce the provisions of P.L.1983, c.296  
33 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-37.34b et al.);

34 (2) Establish procedures for application for licensure;

35 (3) Establish standards for, and adopt and administer  
36 examinations for licensure;

37 (4) Review and pass upon the qualifications of applicants for  
38 licensure;

39 (5) Insure the proper conduct and standards of examinations;

40 (6) Issue and renew licenses to physical therapists and physical  
41 therapist assistants pursuant to P.L.1983, c.296 (C.45:9-  
42 37.11 et seq.);

43 (7) Establish disciplinary measures, including but not limited to,  
44 suspending, revoking, or refusing to renew the license of a physical  
45 therapist or physical therapist assistant pursuant to the provisions of  
46 P.L.1978, c.73 (C.45:1-14 et seq.);

- 1 (8) Maintain a record of every physical therapist and physical  
2 therapist assistant licensed in this State, his place of business, his  
3 place of residence, and the date and number of his license;
- 4 (9) Conduct hearings into allegations of misconduct by  
5 licensees;
- 6 (10) Establish requirements and standards for continuing  
7 professional education and competency and approve courses that  
8 are eligible to meet these requirements and standards, as provided  
9 in section 25 of P.L.2003, c.18 (C.45:9-37.34f);
- 10 (11) Conduct hearings pursuant to the "Administrative  
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that  
12 the board shall have the right to administer oaths to witnesses, and  
13 shall have the power to issue subpoenas for the compulsory  
14 attendance of witnesses and the production of pertinent books,  
15 papers or records;
- 16 (12) Conduct proceedings before any board, agency or court of  
17 competent jurisdiction for the enforcement of the provisions of  
18 P.L.1983, c.296 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-  
19 37.34b et al.);
- 20 (13) Conduct investigations as necessary and have the  
21 enforcement powers provided pursuant to P.L.1978, c.73 (C.45:1-14  
22 et seq.);
- 23 (14) Within 180 days of the effective date of P.L.2003, c.18,  
24 establish standards in accordance with the provisions of section 22  
25 of P.L.2003, c.18 (C.45:9-37.34c), in collaboration with the State  
26 Board of Medical Examiners and other appropriate professional  
27 licensing boards established pursuant to Title 45 of the Revised  
28 Statutes, setting forth the conditions under which a physical  
29 therapist is required to refer an individual being treated by a  
30 physical therapist to or consult with a practitioner licensed to  
31 practice dentistry, podiatry or medicine and surgery in this State, or  
32 other appropriate licensed health care professional. Pending  
33 adoption of the standards: (a) a physical therapist shall refer any  
34 individual who has failed to demonstrate reasonable progress within  
35 30 days of the date of initial treatment to a licensed health care  
36 professional; and (b) a physical therapist, not more than 30 days  
37 from the date of initial treatment of functional limitation or pain,  
38 shall consult with the individual's licensed health care professional  
39 of record as to the appropriateness of the treatment, or, in the event  
40 that there is no identified licensed health care professional of  
41 record, recommend that the individual consult with a licensed  
42 health care professional of the individual's choice;
- 43 (15) Establish mechanisms to assure that the public has access  
44 to physical therapists' services, and report back to the Senate  
45 Health, Human Services and Senior Citizens and Assembly  
46 Regulated Professions Committees, or their successors, regarding  
47 this access; **[and]**

1 (16) Promulgate rules and regulations necessary for the  
2 performance of its duties and the implementation of P.L.1983, c.296  
3 (C.45:9-37.11 et seq.); and

4 (17) Within 180 days of the effective date of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill),  
6 establish standards for the provision of dry needling by a physical  
7 therapist pursuant to sections 3 and 4 of P.L. , c. (C. )  
8 (pending before the Legislature as this bill), in collaboration with  
9 the State Board of Medical Examiners.

10 b. In addition to the provisions of subsection a. of this section,  
11 the board may establish standards of professional behavior.  
12 (cf: P.L.2017, c.121, s.2)

13  
14 3. (New section) a. A physical therapist may perform dry  
15 needling if the physical therapist meets all of the following  
16 requirements:

17 (1) has no less than two years of active clinical experience in the  
18 treatment of patients as a licensed physical therapist in this State  
19 and holds a current, unrestricted license to practice physical therapy  
20 in this State;

21 (2) has a current CPR certification issued by the American Red  
22 Cross, American Heart Association, National Safety Council, or any  
23 other agency or organization approved by the board; and

24 (3) has obtained documentation of the successful completion of  
25 a dry needling continuing education and competency program  
26 approved by the board that satisfies subsections b. and c. of this  
27 section.

28 b. The board shall approve a dry needling continuing education  
29 and competency program if the program meets all of the following  
30 requirements:

31 (1) provides a minimum of <sup>1</sup>~~54~~ <sup>40</sup><sup>1</sup> hours of <sup>1</sup>academic<sup>1</sup>  
32 instruction which is attended in person by the physical therapist and  
33 shall be completed by the physical therapist in no more than two  
34 years;

35 (2) provides the history and a current literature review of dry  
36 needling and evidence based practice;

37 (3) covers pertinent anatomy and physiology;

38 (4) covers the choice and operation of dry needling supplies and  
39 equipment;

40 (5) provides knowledge of dry needling technique including  
41 indications, contraindications, and precautions for its use;

42 (6) provides knowledge of the risks and complications of dry  
43 needling;

44 (7) covers safe practice guidelines and generally accepted  
45 standards of practice including clean needle techniques and the  
46 Occupational Safety and Health Administration's bloodborne  
47 pathogens standard;

1 (8) provides knowledge of post intervention care, including an  
2 adverse response or emergency;

3 (9) documents the successful completion of psychomotor and  
4 cognitive performance by means of practical and written  
5 assessments or examinations; and

6 (10) provides <sup>1</sup>**【supervised training】** a minimum of 40 hours of  
7 practical hands-on instruction in the application and technique of  
8 dry needling under the supervision of a licensed physical therapist  
9 or physician pursuant to subsection c. of this section, which shall be  
10 completed by the physical therapist in no more than two years<sup>1</sup>.

11 c. The dry needling continuing education and competency  
12 program, including the <sup>1</sup>**【required supervised training】** practical  
13 hands-on instruction required pursuant to paragraph (10) of  
14 subsection b. of this section<sup>1</sup>, shall be taught by a licensed physical  
15 therapist who has a minimum of five years of clinical experience in  
16 the performance of dry needling or by a physician licensed to  
17 practice medicine and surgery in this State.

18

19 4. (New section) a. Dry needling shall only be performed by a  
20 physical therapist who meets the requirements of subsection a. of  
21 section 3 of P.L. , c. (C. ) (pending before the Legislature  
22 as this bill), and the performance of dry needling shall not be  
23 delegated to a physical therapist assistant or student physical  
24 therapist. A physical therapist who meets the requirements to  
25 provide dry needling shall only utilize the specific dry needling  
26 techniques for which the physical therapist has completed  
27 instruction and demonstrated competency.

28 b. A physical therapist shall obtain written informed consent  
29 from each patient prior to the provision of dry needling. The  
30 patient shall receive a copy of the written informed consent and the  
31 physical therapist shall retain a copy in the patient's record. The  
32 informed consent shall include, at a minimum, the following:

33 (1) the patient's signature;

34 (2) the risks, benefits, and possible complications of dry  
35 needling;

36 (3) the treatment alternatives to dry needling;

37 (4) the physical therapist's level of education regarding  
38 supervised hours of training in dry needling;

39 (5) the importance of consulting with the patient's physician  
40 regarding the patient's condition; and

41 (6) a clearly and conspicuously written statement that the patient  
42 is not receiving acupuncture, which shall include the following  
43 language: "DRY NEEDLING IS A TECHNIQUE USED IN THE  
44 PRACTICE OF PHYSICAL THERAPY TO TREAT  
45 MYOFASCIAL, MUSCULAR, AND CONNECTIVE TISSUES  
46 FOR THE MANAGEMENT OF NEUROMUSCULAR PAIN AND  
47 MOVEMENT DYSFUNCTION. DRY NEEDLING TECHNIQUE  
48 SHOULD NOT BE CONFUSED WITH AN ACUPUNCTURE

1 TREATMENT PERFORMED BY A LICENSED  
2 ACUPUNCTURIST.”

3 c. A physical therapist shall only use filiform needles labeled  
4 in accordance with the United States Food and Drug Administration  
5 guidelines when performing dry needling.

6 d. A physical therapist shall perform dry needling in a manner  
7 that is consistent with generally accepted standards of practice  
8 including clean needle techniques, safe disposal of sharp objects,  
9 and the Occupational Safety and Health Administration’s  
10 bloodborne pathogens standard.

11 e. A physical therapist shall maintain documentation in the  
12 patient record of each dry needling session. The documentation  
13 shall include the treatment performed, the patient’s response to the  
14 treatment, and any adverse reactions or complications to the  
15 treatment.

16 f. If requested by the board or a member of the general public,  
17 a physical therapist practicing dry needling shall provide  
18 documentation of the education and training completed by the  
19 physical therapist as required under section 3 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill). The failure to provide  
21 documentation in response to a request by the board or a member of  
22 the general public shall be deemed prima facie evidence that the  
23 physical therapist has not received the required training and shall  
24 not be permitted to perform dry needling.

25

26 5. This act shall take effect on the 90th day next following  
27 enactment.