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Commenter: Council of Colleges of Acupuncture and Oriental Medicine (CCAOM) *

CCAOM Opposes Proposed DN Regulations

Council of Colleges of Acupuncture and Oriental Medicine

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Written Statement to the Virginia Board of Physical Therapy (December 30, 2015)

This statement is submitted by the Council of Colleges of Acupuncture and Oriental Medicine (Council) in opposition to the proposed regulation of the Virginia Board of Physical Therapy to expand the scope of practice for physical therapy to include “dry needling,” a treatment domain that is equivalent to acupuncture practice. The Council since 1982 has been the national membership association for accredited acupuncture colleges and programs in the U.S. (www.ccaom.org). The Council’s membership currently consists of 56 such colleges in 21 states, all of which have been approved by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), the national accrediting agency for acupuncture and Oriental medicine programs recognized by the U.S. Department of Education.

The Council opposes the proposed regulation for the following reasons:

1. Dry Needling is Acupuncture.

Dry needling is an invasive procedure that uses acupuncture needles, is indistinguishable from acupuncture, and is part of the armamentarium of acupuncture. In its Position Paper on Dry Needling,[1] the Council, which consists of higher education faculty, active practitioners, and administrators, documented the collective work of scholars and physicians over centuries and the work of modern practitioners showing decisively that the claims by physical therapists concerning the alleged “differences” between acupuncture and dry needling do not exist and that acupuncture historically and scholastically/academically encompasses all dry needling.[2]

2. Acupuncture uses biomedical terminology; therefore, use of biomedical language cannot be a basis for defining dry needling as distinct from acupuncture.

The Council has taken the position that any intervention utilizing dry needling is the practice of acupuncture, regardless of the language used to describe the procedure. Physical therapists have misled the public by attempting to claim that their use of biomedical terminology distinguishes dry needling from acupuncture practice. The curriculums of the Council’s member acupuncture colleges make no such distinction. National acupuncture accreditation and certification bodies require the study of biomedicine, evidenced-informed practice, and bioscience courses such as anatomy and physiology as part of standard training for modern acupuncture practice. In addition, the national certification agency for the profession (NCCAOM) provides a national certification examination in biomedicine. The idea that acupuncturists use energetic language that is different from the biomedical terminology used by physical therapists, and that for this reason dry needling through the use of an acupuncture needle is not acupuncture, is false and has no correlation to actual standards of practice and education in the acupuncture field. It is therefore inaccurate and inappropriate that the Virginia Board of Physical Therapy makes any statements about any procedure or practice of acupuncture or attempt in any way to “declare” that dry needling is distinct from the practice of acupuncture.

3. Dry needling may not be within the scope of practice for physical therapists in Virginia because as an incisive procedure, such needling may be prohibited surgery.

The use of an acupuncture needle for purposes of dry needling or for any other purpose is an incisive procedure inasmuch as the documented presence of bleeding after acupuncture and the risk for nerve injury and pneumothorax indicate that acupuncture involves puncturing body tissues.[3] Accordingly, the inherently incisive nature of dry needling raises an issue whether the proposed regulation is consistent with Virginia statute §54.1-3473, which prohibits physical therapists from using “surgical purposes.”

4. There is no national standard in the physical therapy profession for the provision of education and training for dry needling, and the lack of such a national standard has resulted in public harm.

In the U.S., dry needling is taught to physical therapists in continuing education courses for which there is no regulation of content. Providers of continuing education for physical therapists are teaching techniques indistinguishable from what is commonly practiced as acupuncture, in some instances teaching acupuncture meridians and points, and renaming classical acupuncture points as “homeostatic points.” Moreover, continuing education instruction for dry needling is usually carried out during a 27-hour weekend seminar with no supervised clinical time. Not all providers who deliver physical therapy continuing education will meet the proposed guideline. One continuing education provider maintains that its trainees are somehow “enrolled” in their program after 27 hours of training until they take the remaining number of required hours at a future date, while the trainees are expected to practice on the public in the meantime without supervision. Without a mechanism for regulatory registration of trainees, tracking of trainees who do not complete training, or a prohibition against further practice if the total number of training hours is not met, the physical therapy board in Virginia has not described within this proposed rule how the board expects to enforce the educational standard.

In view of reports of serious adverse events caused by physical therapists and other non-acupuncturist providers performing dry needling, including pneumothorax,[4][5] the Virginia Physical Therapy Board must exercise its duty to protect the public by refusing to allow the practice until adequate educational standards are in place. In published comments to the Virginia Regulatory Town Hall on Dry Needling Guidelines, acupuncture practitioners Janet Borges[6] and Jodi Knauer[7] report separate instances of pneumothoraxes occurring after dry needling in Virginia, and one of the cases is reported to be known to the Virginia Physical Therapy Board. The opinion of the Oregon Physical Therapy Board that its licensees should not practice dry needling should be used as a precedent in making a decision to not adopt the guidelines.[8]

5. The proposed education standard is inadequate.

For the sake of public safety, the proposed 54 hours of education with no clinical supervision is grossly inadequate to provide comprehensive and adequate training for the incisive procedure of dry needling, even for physical therapists trained at a doctoral level.

6. Attendance in dry needling courses is not limited. A doctorate level degree in physical therapy is not a prerequisite to taking a dry needling course.

The physical therapy lobby claims that because physical therapists are trained at the doctoral level, they already have the competencies to learn invasive techniques such as dry needling. While new graduates are at the doctoral level, currently licensed physical therapists may be at the bachelor or masters level of education. However, because there is no regulatory requirement for dry needling education, dry needling continuing education programs for physical therapists do not restrict attendees to providers trained at the doctoral-level. Further, current education, upon which the guidance document underlying the proposed regulation is based, has failed to prevent practitioners from improperly needling through clothing or treating patients far beyond the defined scope of dry needling practice. Regular postings of needling through clothing and unsafe insertion of needles up to the handle are found on social media in the U.S.

7. Physical therapy regulators must conduct adverse event monitoring.

In spite of documentation of life-threatening adverse events, the Council is not aware of a call within the physical therapy community to monitor adverse events through appropriate reporting. The Council believes the absence of such a call in the presence of known life-threatening injury calls into question whether the motivation in the proposed scope expansion is in the best interest of the profession and the safety of its patients.

8. In many states where similar dry needling regulations have been adopted, physical therapists have practiced far beyond the intended scope of the regulations free from any disciplinary consequences.

In Colorado, where regulations also define dry needling as a technique applied to trigger points, physical therapists advertise services for cosmetic dry needling with impunity. Social media sites advertise treatment of headaches by using acupuncture points on the hand and dry needling treatment of sinusitis. Placing the responsibility on the physical therapist rather than on the board for proper adherence to scope of practice may lead to a similar breach of scope in Virginia.

The CCAOM is very aware that acupuncture is effective and that there are many patient benefits derived from acupuncture treatments. It is incumbent on the physical therapy profession, however, not to mislead the public when the profession seeks to expand its scope of practice, to seek appropriate legislative authority for an expansion of scope into a well-established domain of practice belonging to another profession, and above all to set appropriate training standards to protect the public.

Sincerely,

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Council of Colleges of Acupuncture and Oriental Medicine

[1] See http://www.ccaom.org/downloads/CCAOM_Position_Paper__May_2011_Update.pdf.

[2] See Zhou, K, Ma Y, Brogan MS, *Acupunct Med* "Dry needling versus acupuncture: the ongoing debate." Published Online First: 6 November 2015 doi:10.1136/acumed-2015-010911: <http://aim.bmj.com/content/33/6/485.full?sid=b148da55-4902-4ec2-b4e7-4823a5ef8e05>; and Arthur Yin Fan and Hongjian He. Letter: Dry needling is acupuncture. *Acupunct Med* Published Online First: 15 December 2015. Doi:10.1136/acumed-2015-011010.<http://aim.bmj.com/content/early/2015/12/15/acupmed-2015-011010.full>.

[3] See Council of Colleges of Acupuncture and Oriental Medicine, *Clean Needle Technique (CNT) Manual—Best Practices for Acupuncture Needle Safety and Related Procedures* (7th ed. 2015), at 3-23.

[4] National Center for Acupuncture Safety and Integrity. 2015. *10 Facts You Should Know* [Brochure].<http://acupuncturesafety.org/10-facts-you-should-know/>

[5] U.S. Food and Drug Administration. March 25, 2013. MAUDE Adverse Event Report: Acupuncture Needle. MDR Report Key 3122096. http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfmaude/detail.cfm?mdrfoi__id=3122096.

[6] <http://www.townhall.virginia.gov//viewcomments.cfm?commentid=47827>

[7] <http://www.townhall.virginia.gov/L/viewcomments.cfm?commentid=48189>

[8] Oregon Physical Therapy Licensing Board. February, 18, 2014. Updated Statement Relevant to Physical Therapists using the Intervention of Dry Needling. <http://www.oregon.gov/PTbrd/docs/02.18.14.Revised.Statement.pdf>.