

**APPROVED
BOARD OF PHYSICAL THERAPY
REGULATORY ADVISORY PANEL – PROPOSED DRY NEEDLING REGULATIONS
MEETING MINUTES**

The Virginia Board of Physical Therapy’s Regulatory Advisory Panel on the Proposed Dry Needling Regulations met on Wednesday, November 15, 2017 at the Department of Health Professions, 9960 Mayland Drive, Henrico, Virginia, on the Second Floor, in Training Room 1.

PANEL MEMBERS PRESENT:

Allen R. Jones, Jr., PT, DPT, Board President, Panel Chair
Arkena L. Dailey, PT, DPT, Board Vice-President
Sarah Schmidt, PTA, MPA, Board Member
Melissa Wolff-Burke, PT, EdD, Former Board Member
Lisa D. Shoaf, PT, DPT
Erik Wijnmans, PT, MTC, CGIMS, CMTPT
Aubry Fisher, L.Ac.
Josh Bailey, PT, DPT

DHP STAFF PRESENT:

Corie E. Tillman Wolf, Executive Director
Lynne H. Helmick, Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst
Erin Barrett, Assistant Attorney General, Board Counsel

GUESTS PRESENT:

Richard Grossman, VPTA
Matthew Stanley, ASVA

CALL TO ORDER:

The Regulatory Advisory Panel (RAP) meeting was called to order at 2:04 p.m.

Dr. Jones, Panel Chair, asked Panel members and staff to introduce themselves. Dr. Jones asked audience members to sign in and stated that there would be no public comment accepted at the meeting. Dr. Jones provided reminders regarding the meeting materials provided on laptops for panel members.

Ms. Tillman Wolf read the Emergency Egress Procedures.

AGENDA:

Dr. Jones asked whether there were any proposed changes to the ordering of the agenda. With no proposed changes, the meeting proceeded.

CHARGE OF THE RAP:

Dr. Jones provided members with an overview of the charge of the Regulatory Advisory Panel (RAP), which was convened pursuant to 18VAC112-11-70 of the Board's Regulations related to Public Participation. Dr. Jones stated that the RAP has been composed to provide professional specialization and technical assistance to the Board to address a specific regulatory issue – the Board's proposed regulations regarding the practice of dry needling and the public comment that has been received in response to those proposed regulations.

Dr. Jones stated that the RAP previously convened on June 29, 2017, and made certain recommendations for changes or additions to the current proposed regulations, but the RAP did not have sufficient time to discuss the issue of whether there should be a specified number of training hours required for the practice of dry needling, or whether should be a focus on competency. That issue was referred back to the RAP by the full Board and would be the primary focus of discussion.

Dr. Jones stated that the RAP's first matter of business will be a review of the previous RAP meeting from Ms. Tillman Wolf; a review of the draft amendments to the proposed language from Ms. Yeatts; and a group discussion of recommendations related to training requirements and the response to public comment previously received.

DISCUSSION:

Review of Discussion from the June 29, 2017, RAP Meeting

Ms. Tillman Wolf provided an overview of the discussion from the last RAP meeting and the recommendations that were made to the full Board.

Review of Draft Amendments to Proposed Language

Ms. Yeatts provided panel members with an overview of the draft amendments to the current proposed regulation language. These draft amendments were based upon the recommendations of the RAP at the last meeting.

Ms. Yeatts provided an overview of comments received during the public comment period related to training standards and specification, including a comment from the American Medical Society for Sports Medicine.

Ms. Yeatts recommended two ways to approach the issue, either detail the competencies needed for the practice of dry needling in paragraph B.1., or detail the minimum training hours in paragraph B.2. of the draft amendments. Ms. Yeatts discussed advantages and disadvantages to detailing the number of hours in the regulation; she further stated that the requirement of a minimum 54 hours has been in effect as guidance since 2010. Whether the Board decides to specify hours or not, the Board will need to justify its decision to steer away from the current minimum number of hours.

Ms. Barrett, Board counsel, stated that the full Board has discretion to determine what constitutes competency; this could be as a minimum number of hours or as competencies – either would give the Board a framework to work with in the event there is a disciplinary case.

Consideration of Recommendations for Training Requirements

Panel members then discussed the issue of whether the regulations should include a minimum number of training hours or whether there should be a focus on competencies. Panel members discussed that no

other modalities require specific hours of training, for example debridement; however, there could be value in having a set number of hours or competencies for the Board to measure against.

Panel members further discussed that there have been changes to courses offered since the original Guidance Document was adopted. When the original guidance was adopted, the number of hours was based on the number of hours for completion of what was viewed to be the best course available at that time. Now, the baseline for coursework differs – the courses vary in length and vary in examination and certification; also, to suggest that taking courses equates to competence puts the competency burden on the courses, rather on the individual practitioner.

Panel members discussed the burden on the practitioner to practice only to the extent to which he or she is trained. The number of hours could vary, as could the nature of the training – for example training for certain muscle groups or parts of the body. Panel members discussed amending the language in proposed draft paragraph B.2. to strike “a minimum of [??] hours” and then include at end, “The practitioner shall not practice beyond the scope of his highest level of training.”

Ms. Tillman Wolf noted that the additional scope/training language would be consistent with current regulatory language which states that a practitioner shall not perform procedures or techniques that are outside the scope of his practice or for which he is not trained and individually competent.

Ms. Barrett stated that, in the event of a disciplinary case, the onus would still be on the practitioner to prove competency and to address any standard of care issues that may arise.

Ms. Fisher stated that the use of a filiform needle, even in muscle tissue, is the practice of acupuncture. The definitions of dry needling and acupuncture overlap; dry needling is the practice of acupuncture without a license.

Ms. Barrett responded that the assertion of unlicensed practice would be an antitrust issue, and the scope of physical therapy practice is not at issue. Different professions can use the same modality or instruments without there being an issue of unlicensed practice.

Panel members reviewed the proposed language for hands-on, as well as laboratory and didactic training elements. Mr. Wijtmans stated that the language in the proposed draft for paragraph B.2. should reflect the language that is in the motion reflected in the June 29 RAP meeting minutes: “The training shall consist of [hours/no hours] and shall include didactic and laboratory education and the hands-on laboratory training must be face-to-face.” Panel members discussed further amendments to the training language.

Upon a **MOTION** made by Dr. Melissa Wolff-Burke, and properly seconded by Dr. Josh Bailey, the panel members voted to recommend the revision of the draft/proposed language as follows:

Revise draft paragraph B.2.:

2. “The training shall consist of didactic and hands-on laboratory education and shall include passage of a theoretical and practical examination. The hands-on laboratory education shall be face-to-face.”

Add paragraph B.4.:

4. “The practitioner shall not practice beyond the scope of his highest level of training.”

The motion passed by a vote of 7-1 (Nay: A. Fisher).

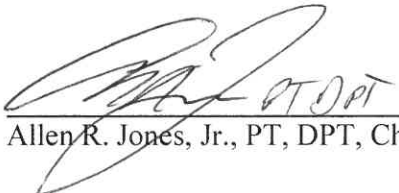
NEXT STEPS:

The recommendations of the RAP will be presented to the full Board at the next meeting scheduled for November 17, 2017. Per Ms. Yeatts, once the Board votes to amend the proposed regulations, there will be another comment period to follow.

ADJOURNMENT

Prior to adjournment, Dr. Jones presented former Board member, Dr. Melissa Wolff-Burke, with a plaque of appreciation to recognize her eight years of service to the Board.

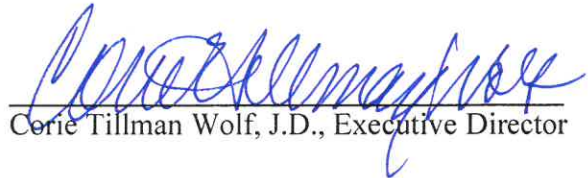
With no further business, the RAP meeting was adjourned at 3:25 p.m.



Allen R. Jones, Jr., PT, DPT, Chair

11/17/17

Date



Cerie Tillman Wolf, J.D., Executive Director

11/17/17

Date