

June 27, 2019

The Virginia Board of Physical Therapy convened for a public hearing on Thursday, June 27, 2019 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Hearing Room #3, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Tracey Adler, PT, DPT, CMTPT

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:

Corie Tillman Wolf, Executive Director
Elaine Yeatts, Sr. Policy Analyst

COURT REPORTER

Farnsworth and Taylor Reporting, LLC.

OTHER GUESTS PRESENT

Aubry Fisher, Acupuncture Society of Virginia
Janet Borges
Tom Bohanon, InMotion PT/Virginia Physical Therapy Association
Becky Bruers-Lanier, B2L Consulting

CALL TO ORDER

Tracey Adler, PT, DPT, CMTPT, Regulatory/Legislative Committee Chair, called the public hearing to order at 9:00 a.m.

CALL FOR PUBLIC COMMENT

Dr. Adler called for comment on the proposed regulatory action regarding dry needling.

PUBLIC COMMENT

One (1) comment was received in favor of the proposed regulations.


One (1) comment was received in opposition to the proposed regulations.

A transcript of the hearing is attached as Attachment A.

Dr. Adler reminded everyone that a public comment period will remain open until July 26, 2019.

ADJOURNMENT

With all business concluded, the public hearing adjourned at 9:07 a.m.



Tracey Adler, PT, DPT, CMTPT,
Regulatory/Legislative Committee Chair



Corie Tillman Wolf, J.D., Executive Director

08/13/2019
Date

August 14, 2019
Date

1
2 VIRGINIA BOARD OF PHYSICAL THERAPY
3 THE VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS
4

5 PUBLIC COMMENT
6 ON REVISED PROPOSED REGULATIONS
7

8 PRACTICE OF DRY NEEDLING
9

10 Department of Health Professions
11 9960 Mayland Drive, Suite 201
12 Richmond, Virginia
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14
15
16 July 27, 2019

17 9:00 a.m.
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1 APPEARANCES

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3 BOARD MEMBERS:

4 Tracey Adler, P.D., D.P.T.; Chairperson;

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6 STAFF MEMBERS:

7 Ms. Corie E. Tillman Wolf, J.D.; Executive Director;

8 Ms. Elaine Yeatts, Senior Public Analyst.

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1 NOTE: The hearing commenced at
2 9:00 a.m. as follows:

3 DR. ADLER: Good morning. I'm
4 Dr. Tracey Adler, a member of the Board of
5 Physical Therapy. This is a public hearing
6 to receive comments on the proposed
7 amendments for practice of dry needling by
8 physical therapists. This is a re-proposed
9 regulation and the changes made by the board
10 are shown in brackets. Copies of the
11 proposed regulations are available on the
12 back table.

13 At this time I will call on
14 persons who have signed up to speak to the
15 proposed amendments. As I call your name,
16 please come forward -- or you can stay at
17 your seat -- and tell us your name and where
18 you are from. So first, Janet.

19 JANET BORGES: So you know, I timed
20 it and everything. So I wanted you to know I
21 tried to keep it down. And also --

22 DR. ADLER: Oh, you need you to say
23 who you are and what you do.

24 JANET BORGES: Janet Borges,
25 Licensed Acupuncturist in Richmond, Virginia.

1 I also brought a copy in case you need it. I
2 feel like I should stand.

3 DR. ADLER: You can do whatever you
4 want.

5 JANET BORGES: Good morning. My
6 name is Janet Borges, Traditional Chinese
7 Medicine Practitioner and Licensed
8 Acupuncturist in practice for 15 years. I
9 represent no other entity here.

10 The mandate for the Virginia
11 Board of Physical Therapy is to protect the
12 public. Presumably, this includes the
13 promulgation of regulations pertaining to
14 safety and the standard of care. As it
15 stands, this proposed regulation would allow
16 physical therapists to perform the dry
17 needling style of acupuncture with no
18 standard respective to training; clinical,
19 supervised or otherwise; no continuing
20 education requirement and no competency
21 standard. This Board is fully aware of the
22 national standards that my profession must
23 adhere to in order to become licensed in
24 Virginia.

25 All styles of acupuncturists

1 have very real risks. The style of dry
2 needling potentially increases those risks by
3 the manner in which it is done, often with
4 very deep needling with muscle fasciculation.
5 This style is also known as myofascial
6 trigger point acupuncture, motor point
7 needling, et cetera, as performed by licensed
8 acupuncturists across the country. We all
9 share the same risks. The exact same risks.

10 I know of cases in Virginia
11 including in my practice where patients have
12 been injured, not with a life-threatening
13 outcome like pneumothorax but with lesser
14 injury such as nerve damage. There is no
15 language in this proposed regulation that
16 sets a standard of training and competency to
17 protect the patient from these injuries.

18 There is no guidance for PTs
19 even in this proposed regulation as to what
20 courses would provide such training. At
21 present, it is all weekend or online courses,
22 all of which are for-profit endeavors with no
23 agreed-upon standard on training or clinical
24 supervision. Myo-pain courses are three days
25 for the level-one training. Even that is

1 three days longer than any specification in
2 this proposed regulation. Maryland requires
3 40 hours of didactic training and 40 hours of
4 supervised clinical training, which is all to
5 be done after graduation from a PT program.
6 That is 80 hours more than any specification
7 in this proposed regulation. Maryland
8 physicians complete a 200-hour program in
9 order to add acupuncture as a treatment
10 modality. Virginia physicians have 300 hours
11 of training to perform acupuncture.

12 This proposed regulation, which
13 identifies dry needling as an advanced
14 procedure that requires additional training,
15 essentially leaves it up to the practitioner
16 to decide if they are competent to do this.
17 Is this really how we want to protect the
18 public?

19 These facts have been presented
20 many times. Yet this Board has ignored
21 constructive input from my profession,
22 medical acupuncturists, the American Medical
23 Association and the American Association for
24 Physical Medicine and Rehabilitation. This
25 Board has opted to instead circumvent

1 legislative procedure and national
2 acupuncture standards in favor of proposing a
3 regulation that essentially protects only the
4 Board by giving it legal authority to hold
5 practitioners accountable should they injure
6 a patient. None of this protects the public.

7 In the interest of public
8 safety, please at the very least, amend this
9 proposed regulation with language that
10 identifies greater specificity regarding
11 competency and safety standards in order to
12 protect the patients that we all want to
13 serve.

14 MS. YEATTS: Thank you. Do you
15 have a copy we could have?

16 JANET BORGES: I do.

17 MS. YEATTS: Great. Thank you, so
18 much.

19 DR. ADLER: Okay. Next is Tom
20 Bohanon. Come on up, introduce yourself and
21 what you do.

22 MR. BOHANON: I'm Tom Bohanon. I'm
23 here -- I'm a lone practitioner in my own
24 private practice, but I'm here to speak on
25 behalf of the Virginia Physical Therapy

1 Association.

2 I rise to speak in favor of
3 these regulations, and we appreciate the hard
4 work the Board's put in and the due diligence
5 that's been done by multiple groups to get to
6 this point. We believe that this regulation
7 does accurately reflect both additional
8 training as well as the previous training
9 that we get as doctoral trained students
10 coming out of school, both anatomically and
11 physiologically. And we believe that this
12 modality, which is a treatment modality, is
13 well within the scope of our practice. And
14 we appreciate the effort by the Board to put
15 this through.

16 DR. ADLER: Thank you. Are there
17 any other people that would like to comment?

18 (No response.)

19 DR. ADLER: All right. If not, we
20 want to thank all of you who took the time to
21 come today to offer comments on these
22 proposed regulations. I also want to remind
23 everyone that electronic comments can be
24 posted on the Virginia Regulatory Town Hall
25 at www.townhall.Virginia.gov or sent by

1 email. Comments on these regulations may be
2 received until July 26, 2019. Comments
3 should be directed to Elaine Yeatts, Policy
4 Analyst for the Department. All comments
5 will be considered before the Board adopts a
6 final regulation at its meeting scheduled for
7 August 13, 2019.

8 Again, thank you for taking the
9 time to participate, and this concludes our
10 hearing.

11 NOTE: The hearing concluded at
12 9:07 a.m.

C E R T I F I C A T E

Commonwealth of Virginia,
Chesterfield County, to-wit:

I, Mary E. Aliff, a Notary Public
for the Commonwealth of Virginia at Large, do hereby
certify that these proceedings took place in the
above stated manner as specified in the foregoing
caption.

Further, that this transcript is, to
the best of my ability, a true and accurate record
of the proceedings.

Given under my hand this 10th day of July,
2019.

Mary E. Aliff

Mary -----

Virginia Notary Registration No. 270874

My commission expires
May 31, 2014