

MARYLAND REGISTER

## Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	08/06/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 9/19/2014**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

10 38 12 01-.04

**3. Name of Promulgating Authority**

Department of Health and Mental Hygiene

**4. Name of Regulations Coordinator**

Michele Phinney

**Telephone Number**

410-767-5623

**Mailing Address**

201 W. Preston Street

**City State Zip Code**

Baltimore MD 21201

**Email**

michele.phinney@maryland.gov

**5. Name of Person to Call About this Document**

Kristen Neville

**Telephone No.**

410-742-7378

**Email Address**

kristen.neville@maryland.gov

**6. Check applicable items:**

- New Regulations

Amendments to Existing Regulations

    Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

:                      Md. R  
(vol.) (issue)                      (page nos)                      (date)

Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

Yes - No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Brett E. Felter, Assistant Attorney General, (telephone #410-767-1878) on August 1, 2014. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Joshua M. Sharfstein, M.D.

**Title**

Secretary

**Telephone No.**

410-767-6500

**Date**

August 6, 2014

**Title 10**  
**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

**Subtitle 38 BOARD OF PHYSICAL THERAPY EXAMINERS**

**10.38.12 Dry Needling**

Authority: Health Occupations Article, §§13-101 and 13-206, Annotated Code of Maryland

**Notice of Proposed Action**

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The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01—.04 under a new chapter COMAR 10.38.12 Dry Needling.

This action was considered by the Board of Physical Therapy Examiners at a public meeting on August 20, 2013, notice of which was given by publication on the Board’s website at <http://dhmh.maryland.gov/bphte/SitePages/boards.aspx> to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to establish guidelines for the provision of dry needling as an intervention performed by physical therapists. See “Background and Analysis of Proposal to Establish Guidelines for Dry Needling” in the Special Documents section of this issue of the Maryland Register for further details.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

Physical Therapists who have not completed the required training required for dry needling may incur a cost to obtain that training.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	

Benefit (+)	Magnitude
Cost (-)	

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- |   |      |               |
|---|------|---------------|
| D. On regulated industries or trade groups: | (-)  | Indeterminate |
| E. On other industries or trade groups:     | NONE |               |
| F. Direct and indirect effects on public:   | NONE |               |

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

D. To the extent that a physical therapist has or has not completed the required training to perform dry needling, there will be a cost to the physical therapist. This amount cannot be determined as it will vary between each individual physical therapist.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to [dhmh.regs@maryland.gov](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through October 20, 2014. A public hearing has not been scheduled.

**Economic Impact Statement Part C**

- A. Fiscal Year in which regulations will become effective: FY 2014
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

It is incumbent upon the individual licensee to comply with the requirements of the proposed regulation, not upon a small business.

G. Small Business Worksheet:

Attached Document:

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## **Title 10**

# **DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

## **Subtitle 38 BOARD OF PHYSICAL THERAPY EXAMINERS**

### **10.38.12 Dry Needling**

*Authority: Health Occupations Article, §§13-101 and 13-206, Annotated Code of Maryland*

#### **.01 Scope.**

*This chapter establishes standards for the provision of dry needling as an intervention performed by physical therapists.*

#### **.02 Definitions.**

*A. In this chapter, the following terms have the meanings indicated.*

*B. Terms Defined.*

*(1) "Board" means the State Board of Physical Therapy Examiners.*

*(2) "Dry needling" means a physical therapy intervention, also known as intramuscular manual therapy, that:*

*(a) Involves the insertion of one or more solid needles, a type of mechanical device, into or through the skin to effect change in muscles and tissues for the purpose of alleviating identified impairments;*

*(b) Requires ongoing evaluation, assessment, and re-evaluation of the impairments;*

*(c) Is only utilized in parts of the body with neuromuscular or musculoskeletal links to the impairments; and*

*(d) Is not performed for the purposes of detoxification, smoking cessation, stress relief, or any condition outside the scope of physical therapy.*

#### **.03 Minimum Education and Training Necessary to Perform Dry Needling.**

*A. In order to perform dry needling, a physical therapist shall have at least 80 total hours of instruction, to include:*

*(1) A total of at least 40 hours of instruction in the following dry needling-specific course content areas:*

*(a) Theory and application of dry needling;*

*(b) Dry needling technique, including spine and extremities;*

*(c) Dry needling indications and contraindications;*

*(d) Infection control, the Occupational Safety and Health Administration's Bloodborne Pathogen Protocol, and safe handling of needles; and*

*(e) Documentation of dry needling; and*

*(2) At least 40 hours of practical, hands-on instruction in the application and technique of dry needling, under the supervision of a licensed healthcare practitioner competent in dry needling procedures who has completed the requisite coursework under §A(1) of this regulation and has practiced dry needling for at least 5 years.*

*B. The instruction required under §A(1) of this regulation shall be provided by a continuing education course sponsored by the:*

*(1) American Physical Therapy Association;*

- (2) *The APTA of Maryland; or*
- (3) *The Federation of State Boards of Physical Therapy.*

*C. A continuing education course taken before the effective date of this regulation shall qualify for instruction if the same course, in substantially similar form, is later sponsored by the American Physical Therapy Association, the APTA of Maryland, or the Federation of State Boards of Physical Therapy.*

*D. All instruction required under this regulation shall include an assessment of competency.*

*E. The instruction required under §A(1) of this regulation shall be offered:*

- (1) *In person at a face-to-face session; or*
- (2) *In real time through electronic means that allow for simultaneous interaction between the instructor and the participants.*

*F. A physical therapist may not fulfill any portion of the practical, hands-on instruction required under §A(2) of this regulation with online or distance learning.*

*G. A physical therapist shall have practiced physical therapy for at least 2 years before performing dry needling in the State.*

*H. Upon request of the Board, a physical therapist practicing dry needling shall provide documentation that substantiates appropriate education and training as required by this regulation.*

*I. A physical therapist who practices dry needling without the education and training required by this regulation shall be subject to discipline pursuant to COMAR 10.38.10.04A(4).*

*J. This regulation shall take effect 1 year after the effective date of the rest of this chapter.*

#### ***.04 Standards of Practice in Performing Dry Needling.***

*A. A physical therapist shall:*

- (1) *Fully explain dry needling to the patient in advance of treatment; and*
- (2) *Obtain written informed consent specific to dry needling that shall be included in the patient's medical record.*

*B. A physical therapist shall perform dry needling in a manner consistent with standards set forth in the Maryland Occupational Safety and Health Act, Labor and Employment Article, Title 5, Annotated Code of Maryland.*

*C. A physical therapist shall document the provision of dry needling services in accordance with the documentation requirements of COMAR 10.38.03.02-1.*

*D. A physical therapist who practices dry needling in a manner inconsistent with the standards of practice enumerated in this regulation shall be subject to discipline pursuant to COMAR 10.38.10.04A(14).*

*E. Dry needling is not within the scope of practice of limited physical therapy and shall only be performed by a licensed physical therapist.*

**JOSHUA M. SHARFSTEIN, M.D.**

**Secretary of Health and Mental Hygiene**