

Department of Legislative Services  
 Maryland General Assembly  
 2023 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 172

(Delegate Kerr, *et al.*)

Health and Government Operations

Finance

Health Occupations - Licensed Athletic Trainers - Dry Needling Approval

This bill authorizes a licensed athletic trainer to perform dry needling as a specialized task if the athletic trainer is approved by the Maryland Board of Physicians (MBP). MBP must issue an approval to perform dry needling to a licensed athletic trainer who meets specified requirements.

Fiscal Summary

**State Effect:** Special fund expenditures increase by \$31,900 in FY 2024 for contractual staff and one-time licensure system changes; future years reflect termination of the position after one year and elimination of one-time costs. Special fund revenues may increase to the extent MBP charges an application fee for issuing an approval (not reflected below).

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	31,900	6,400	0	0	0
Net Effect	(\$31,900)	(\$6,400)	\$0	\$0	\$0

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

Analysis

**Bill Summary:** “Dry needling” means an intramuscular manual therapy that (1) involves the insertion of one or more solid needles into the muscle and related tissues to effect change in the muscle and related tissues; (2) requires ongoing evaluation, assessment, and

reevaluation of an impairment; (3) is used only in parts of the body with neuromuscular or musculoskeletal links to an impairment; and (4) is not performed for the purposes of acupuncture or any purpose outside the scope of practice of athletic trainers.

### *Requirements for Approval*

MBP must issue an approval to perform dry needling to a licensed athletic trainer who provides proof of completion of at least 80 hours of instruction in a continuing education course that is approved by (1) the National Athletic Trainers' Association; (2) the Board of Certification for the Athletic Trainer; or (3) the U.S. Armed Forces. The continuing education course must include (1) at least 40 hours of instruction related to dry needling, as specified, and (2) at least 40 hours of practical, hands-on instruction in the application and technique of dry needling that is completed under the guidance of a licensed health care practitioner who is approved to perform dry needling and has practiced dry needling for at least five years. The course must include an assessment of the licensed athletic trainer that is performed by the instructor of the course.

### *Disciplinary Actions for Performing Dry Needling without Approval*

An applicant or licensee who performs dry needling without the approval of MBP is subject to licensure denial, reprimand, probation, suspension, or revocation by a disciplinary panel subject to existing hearing provisions.

## **Current Law:**

### *Athletic Training*

In general, an individual must be licensed by MBP before the individual may practice athletic training in the State (subject to specified exceptions). "Practice athletic training" means application of the following principles and methods for managing athletic injuries for athletes in good overall health under the supervision of a licensed physician: (1) prevention and wellness promotion; (2) clinical evaluation, examination, assessment, and determination of a plan of care, including appropriate referrals; (3) immediate care and emergency care; and (4) treatment, rehabilitation, and reconditioning. The definition includes the organization and administration of an athletic training program; instruction to coaches, athletes, parents, medical personnel, and community members regarding the care and prevention of athletic injuries; and recognition and management of a concussion, including management of an athletic individual's progressive return to activity.

"Practice athletic training" *does not include* specified chiropractic actions, massage therapy, medicine, occupational therapy, physical therapy, or podiatry; reconditioning of systemic neurologic injuries, conditions, or disease; or the treatment of disease.

MBP oversees the issuance and renewal of licenses for athletic trainers and may set reasonable fees for licensure, renewal, and other services it provides to athletic trainers. The Athletic Trainer Advisory Committee within MBP must make specified recommendations to and submit an annual report to MBP regarding the practice of licensed athletic trainers, and MBP must report any disciplinary matters regarding licensed athletic trainers to the committee.

#### *State Board of Physical Therapy Examiners – Dry Needling*

“Dry needling” means a physical therapy intervention, also known as intramuscular manual therapy, that (1) involves the insertion of one or more solid needles, a mechanical device, into the muscle and related tissues to affect change in muscle and related tissues; (2) requires ongoing evaluation, assessment, and reevaluation of the impairments; (3) is only utilized in parts of the body with neuromuscular or musculoskeletal links to the impairments; and (4) is not performed for the purposes of acupuncture or any purpose outside the scope of physical therapy.

To perform dry needling, a physical therapist must register with the State Board of Physician Therapy Examiners as having the appropriate education and training, including 80 hours of total specified instruction, 40 hours of which must be practical hands-on instruction.

#### *State Board of Chiropractic Examiners – Dry Needling*

“Dry needling” means a chiropractic intervention, also known as intramuscular manual therapy, that (1) is performed only by chiropractors with physical therapy privileges; (2) involves the insertion of one or more solid needles, a mechanical device, into the muscle and related tissues to affect change in muscle and related tissues; (3) requires ongoing evaluation, assessment, and reevaluation of the impairments; (4) is only utilized in parts of the body with neuromuscular or musculoskeletal links to the impairments; and (5) is not performed for the purposes of acupuncture or any purpose outside the scope of chiropractic.

A chiropractor with physical therapy privileges must be registered with the State Board of Chiropractic Examiners to perform dry needling by submitting (1) evidence of completing the required education and training, including 80 hours of specified coursework, 20 hours of which must consist of hands-on classroom work; (2) a registration application; and (3) evidence of continuing education coursework in dry needling completed before May 18, 2020.

**State Revenues:** MBP advises that licensed athletic trainers will register to perform dry needling by completing a new section of the existing evaluation and treatment protocol application. There is currently no application fee associated with modifying or amending previously approved applications. However, MBP is authorized to set reasonable fees for

licensure, renewal, and other services it provides to athletic trainers. Although not specified under the bill, MBP may charge a fee for issuing an approval to perform dry needling to cover any administrative costs incurred by MBP. To the extent MBP elects to charge such a fee, special fund revenues increase beginning in fiscal 2024.

**State Expenditures:** MBP’s fiscal 2022 annual report indicates there are 720 licensed athletic trainers in the State. MBP advises that it would need to hire one part-time (50%) contractual licensure analyst for an indefinite period at an annual salary of \$24,702. The Department of Legislative Services agrees there may be a need for part-time contractual staff but advises that a one-year duration to handle initial implementation is likely sufficient due to the overall number of licensed athletic trainers.

Thus, special fund expenditures increase by \$31,893 in fiscal 2024, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects the cost of hiring one part-time (50%) contractual licensure analyst to handle the initial influx of dry needling approval requests, including ensuring applicants meet minimum qualifications and notifying athletic trainers and supervising physicians of decisions. It includes a salary, fringe benefits, one-time start-up costs, ongoing operating expenses, and a one-time contractual expense of \$5,000 for MBP to modify its licensing system to include the new approval.

Contractual Position	0.5
Salary and Fringe Benefits	\$19,881
Contractual Expense	5,000
Operating Expenses	<u>7,012</u>
<b>Total FY 2024 State Expenditures</b>	<b>\$31,893</b>

Future year expenditures reflect termination of the contractual position after one year (September 30, 2024) and elimination of one-time costs.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

**Small Business Effect:** Licensed athletic trainers practicing as small businesses can apply for approval to perform dry needling as an additional service.

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### **Additional Information**

**Prior Introductions:** Similar legislation has been introduced within the last three years. See SB 711 and HB 1016 of 2022.

**Designated Cross File:** SB 232 (Senator Beidle, *et al.*) - Finance.

**Information Source(s):** Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - February 2, 2023  
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Analysis by: Amber R. Gundlach

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510