

BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.177.501 examinations,) PROPOSED AMENDMENT,
24.177.507 licensure of out-of-state) ADOPTION, AND REPEAL
applicants, the adoption of NEW)
RULE I dry needling, and the repeal)
of ARM 24.177.2101 renewals and)
24.177.2401 complaint procedure)

TO: All Concerned Persons

1. On June 8, 2015, at 9:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Physical Therapy Examiners (board) no later than 5:00 p.m., on May 29, 2015, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdp@mt.gov (board's e-mail).

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.177.501 EXAMINATIONS (1) through (4) remain the same.

(a) application fee; and

(b) copy of their certificate of graduation or transcripts from a board-approved physical therapy school or physical therapist assistant curriculum;

~~(c) verification of physical therapy or physical therapist assistant instruction and graduation; and~~

~~(d) recent photograph of the applicant.~~

(5) and (6) remain the same.

AUTH: 37-1-131, 37-11-201, MCA

IMP: 37-1-131, 37-1-304, 37-11-303, 37-11-304, MCA

REASON: The board is amending this rule and ARM 24.177.507 since the board determined that it is redundant and unnecessary to require graduation verifications and a recent applicant photograph. Universities and colleges typically charge an extra fee for completing the verification form, which adds to initial licensure costs.

The national examination service requires photo identification to sit for the exam, and a copy of that photo is included on the exam scores sent to the states, as requested by an applicant. The amendments will make obtaining a license more affordable and less restrictive for applicants than current requirements.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.177.507 LICENSURE OF OUT-OF-STATE APPLICANTS (1) through (2)(b) remain the same.

~~(c) verification of graduation from a board-approved physical therapy school or physical therapist assistant curriculum;~~

~~(d) recent photograph of the applicant within the last six months;~~

(e) and (f) remain the same but are renumbered (c) and (d).

(3) remains the same.

AUTH: 37-1-131, 37-11-201, MCA

IMP: 37-1-131, 37-1-304, 37-11-307, MCA

4. The proposed new rule provides as follows:

NEW RULE I DRY NEEDLING (1) Dry needling is a manual therapy technique that uses a filiform needle as a mechanical device to treat conditions within the scope of physical therapy practice.

(a) It is based upon Western medical concepts, requires a physical therapy examination and diagnosis, and treats specific anatomic entities.

(b) Dry needling does not include the stimulation of auricular or distal acupuncture points or acupuncture meridians.

(2) Licensed physical therapists performing dry needling must be able to demonstrate they have received training in dry needling that meets the standards of continuing education as set forth by the board's continuing education rules.

(a) Dry needling courses must include, but not be limited to, training in indications, contraindications, potential risks, proper hygiene, proper use and disposal of needles, and appropriate selection of clients.

(b) Initial training in dry needling must include hands-on training, written examination, and practical examination.

(3) A licensed physical therapist must perform dry needling in a manner consistent with generally acceptable standards of practice, including clean needling techniques, relevant standards of the Centers for Disease Control and Prevention, and Occupational Safety and Health Administration blood borne pathogen standards as per 29 CFR 1910.1030, et. seq.

(4) Dry needling may only be performed by a licensed physical therapist and may not be delegated to a physical therapist assistant.

(5) The physical therapist performing dry needling must be able to provide written documentation, upon request by the board, which substantiates appropriate training as required by this rule. Failure to provide written documentation may result in disciplinary action.

(6) No physical therapist shall advertise or in any way hold themselves out as an acupuncturist, unless that physical therapist is a licensed acupuncturist under the provisions of Title 37, chapter 13, MCA.

AUTH: 37-1-131, 37-11-201, MCA

IMP: 37-1-131, 37-11-101, 37-11-104, MCA

REASON: The board is proposing to adopt this new rule to provide guidance on the practice of dry needling within the scope of physical therapy. The scope of practice of physical therapists is broad and includes the use of mechanical devices, such as filiform needles, to treat physical disability, bodily malfunction, pain, and injury. The Federation of State Boards of Physical Therapy (FSBPT) reports that research supports the use of dry needling to improve pain, reduce muscle tension, and facilitate speedier rehabilitation.

Dry needling is being incorporated into physical therapy curricula nationally and has been determined to be within the scope of physical therapy practice in Alabama, Arkansas, Colorado, Georgia, Iowa, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, Nevada, New Mexico, New Hampshire, New Jersey, North Dakota, Ohio, South Carolina, Texas, Utah, Virginia, Wisconsin, Wyoming, and the District of Columbia. Pennsylvania and Arizona do not preclude a physical therapist from performing dry needling. For over 20 years, dry needling has been an accepted part of physical therapy practice internationally. Australia, Belgium, Canada, Chile, Denmark, Ireland, the Netherlands, New Zealand, Norway, South Africa, Spain, and the United Kingdom allow physical therapists to perform dry needling.

The board formed a joint committee with the Board of Medical Examiners (BME) to investigate the safety, efficacy, educational standards, and uses of dry needling in physical therapy and the overlap with the practice of acupuncture, which is under the jurisdiction of BME. Acupuncturists and the Montana Association of Acupuncture and Oriental Medicine oppose dry needling within the scope of physical therapy practice. The BME determined they have no authority over physical therapists or their scope of practice.

As medical technology evolves, scopes of practice and training for many health professionals, including physicians, physical therapists, and acupuncturists who all use needles, naturally shift and sometimes overlap. The training for and application of dry needling in physical therapy, not the use of a needle, distinguishes dry needling from acupuncture. Acupuncture meridians and auricular or distal acupuncture points are not part of dry needling.

The board is proposing this new rule now because physical therapists in Montana are incorporating dry needling into their practices. Public safety is the foremost concern of the board. This new rule establishes criteria for the inclusion of dry needling within the scope of physical therapy, ensures that physical therapists practicing dry needling meet demonstrable educational, training, and safety standards, and sets consequences for failing to meet those standards.

5. The rules proposed to be repealed provide as follows:

24.177.2101 RENEWALS found at ARM page 24-20189

AUTH: 37-1-131, 37-11-201, MCA

IMP: 37-1-141, MCA

REASON: The board is repealing this unnecessary rule, because the department administers a standardized renewal process for all professional and occupational licensure boards, and this rule merely references the department rules on renewals.

24.177.2401 COMPLAINT PROCEDURE found at ARM page 24-20225

AUTH: 37-11-201, MCA

IMP: 37-1-308, 37-1-309, MCA

REASON: The board is repealing this unnecessary rule, because the complaint procedure is adequately addressed in statute and should not be unnecessarily repeated in rule per the Montana Administrative Procedure Act.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdp@mt.gov, and must be received no later than 5:00 p.m., June 12, 2015.

7. An electronic copy of this notice of public hearing is available at www.pt.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

8. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-

2305; e-mailed to dlibsdp@mt.gov; or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.177.501 and 24.177.507 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULE I will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.177.2101 and 24.177.2401 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdp@mt.gov.

11. Mark Jette, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PHYSICAL THERAPY
EXAMINERS
BRIAN MILLER, PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 4, 2015