

# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH



Manisha Juthani, MD  
Commissioner

Ned Lamont  
Governor  
Susan Bysiewicz  
Lt. Governor

### PUBLIC HEALTH HEARING OFFICE

May 24, 2022

Department of Public Health  
Practitioner Licensing and Investigations Section  
c/o Christian Andresen, Section Chief  
410 Capitol Avenue  
Hartford, CT 06106  
**(VIA EMAIL ONLY)**

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Connecticut Society of Acupuncturists  
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**RE: DECLARATORY RULING – DRY NEEDLING**

### FINAL DECLARATORY RULING

Attached is the Final Declaratory Ruling in the above-referenced matter which has been adopted pursuant to §19a-14(f)(2) of the Connecticut General Statutes.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey A. Kardys".

Jeffrey A. Kardys  
Administrative Hearings Specialist  
Public Health Hearing Office

c: Manisha Juthani, MD, Commissioner  
Kerry Colson, Assistant Attorney General  
Stacy Schulman, Esq. Hearing Officer, DPH  
Connecticut State Board of Examiners for Physical Therapists



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### PUBLIC HEALTH HEARING OFFICE

#### RE: DECLARATORY RULING CONCERNING PHYSICAL THERAPISTS SCOPE OF PRACTICE IN RELATION TO ACUPUNCTURE AND DRY NEEDLING

#### FINAL DECLARATORY RULING

The parties in the above-referenced matter were provided an opportunity, in accordance with Conn. Gen. Stat. §§ 4-179 and 19a-14(f)(2), to file exceptions to the attached Proposed Declaratory Ruling of the Connecticut State Board of Examiners for Physical Therapists rendered on January 26, 2021 ("Proposed Declaratory Ruling"). Exceptions were due by February 26, 2021. No exceptions were filed by the parties.

A brief in response to the Proposed Declaratory Ruling was filed on behalf of the Connecticut Society of Acupuncturists (CSA), an entity designated an intervenor in this matter. As CSA is not a party to these proceedings, their brief with exceptions was not considered by the undersigned.<sup>1</sup>

In accordance with Conn. Gen. Stat. § 19a-14(f)(2), the undersigned was designated by Manisha Juthani, MD, the Commissioner of the State of Connecticut's Department of Public Health, to review the Proposed Declaratory Ruling and the entire administrative record in this matter and to render a final determination.

The undersigned reviewed the Proposed Declaratory Ruling and the entire administrative record and issues this final determination:

1. The practice of acupuncture, as defined in Conn. Gen. Stat. § 206aa(3), is not within the scope of practice for physical therapists, as set forth in Conn. Gen. Stat. § 20-66(2); and
2. Dry needling, as defined in the attached Proposed Declaratory Ruling, is within the scope of practice for physical therapists under Conn. Gen. Stat. § 20-66(2), when used as a rehabilitative procedure for the purpose of preventing, correcting, or alleviating a physical disability.<sup>2</sup>

<sup>1</sup> CSA was not represented by legal counsel in this matter. In accordance with Practice Book § 2-44A, the practice of law in this proceeding is limited to those authorized to practice law in the State of Connecticut.

<sup>2</sup> The training and conduct of physical therapists performing dry needling must be consistent with the accepted standards of the practice of physical therapy.



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The Proposed Declaratory Ruling is supported by the administrative record. Additionally, in making the Proposed Declaratory Ruling, the Connecticut State Board of Examiners for Physical Therapists board relied on the training, expertise and specialized knowledge of its members in the field of physical therapy. See *Pet v. Department of Health Services*, 228 Conn. 651, 670 (1994).

Based on the foregoing, I hereby adopt the attached Declaratory Ruling of the Connecticut State Board of Examiners for Physical Therapists rendered on January 26, 2021, as the Final Declaratory Ruling.

5/24/2022  
Date

Joanne V. Yandow  
Joanne V. Yandow, Hearing Officer  
Commissioner's Designee



**STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR PHYSICAL THERAPISTS**

IN RE:                   DECLARATORY RULING CONCERNING PHYSICAL THERAPISTS  
SCOPE OF PRACTICE IN RELATION TO ACCUPUNCTURE AND  
DRY NEEDLING

FOR THE BOARD:

Michael Parisi, PT, Board Member  
Andrea O'Brien, PT, Board Member  
Laurie Devaney, PT, Board Member  
J. Kristopher Ware, MD, Board Member

**PROPOSED DECLARATORY RULING**

*Procedural Background*

On March 12, 2019, Christian Andresen, Section Chief of the Connecticut Department of Public Health ("CT DPH"), Practitioners Licensing and Investigations Unit, petitioned the Connecticut Board of Examiners for Physical Therapists (the "Board") to issue a declaratory ruling related to whether acupuncture and dry needling are within the scope of practice for physical therapists as set forth in Conn. Gen. Stat. § 20-66(2). Board Exhibit ("Bd. Ex.") 1.

On April 30, 2019, a Notice of Declaratory Ruling Proceeding ("the Notice") was published in the *Connecticut Law Journal* indicating the Board's intention to issue a declaratory ruling and hold a hearing.<sup>1</sup> The Notice further indicated that all persons seeking status to participate were required to petition the Board by May 31, 2019 and that the Board would issue its rulings on the petitions for status by June 25, 2019. Bd. Exs. 4, 5.

On May 30, 2019, Amity Physical Therapy ("Amity") filed a Petition to Participate as a Party in the proceeding. Bd. Ex. 7.

On May 31, 2019, the Connecticut Physical Therapy Association ("CPTA") filed a Petition to Participate as a Party in the proceeding. Bd. Ex. 8.

On May 31, 2019, the Connecticut Society of Acupuncturists ("CSA") filed a Petition to Participate as an Intervenor in the proceeding. Bd. Ex. 9.

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<sup>1</sup> On March 13, 2019, the Commissioner of the Department of Public Health ("the Commissioner") notified the Board that, pursuant to § 19a-14(f)(2) of the Connecticut General Statutes ("Statutes"), the Board's declaratory ruling in this matter shall be a proposed decision and the Commissioner or the Commissioner's designee shall render the final determination of the matter. Bd. Ex. 2.

On June 6, 2019, Jennifer Brett, N.D., L.Ac., the Director of the University of Bridgeport Acupuncture Institute (UBAI) filed a Petition to Participate as an Intervenor in the proceeding. Bd. Ex. 10.

On July 8, 2019, pursuant to § 4-176(d)(1) of the Statutes, the Board designated the CT DPH, the Petitioner, as a Party in the proceeding and granted Amity and CPTA Party status. Bd. Exs. 6, 7, 8.

On July 8, 2019, pursuant to § 4-176(d)(2) of the Statutes, the Board granted the CSA, and UBAI Intervenor status, without the right of cross-examination. Bd. Exs. 9-10

On August 27, 2019, a Notice of Hearing was published in the *Connecticut Law Journal*. Bd. Ex. 13; see also Bd. Exs. 11-12. The Notice of Hearing scheduled a hearing in this matter for October 1, 2019.

The hearing was held as scheduled and was conducted in accordance with Conn. Gen. Stat. § 4-177c(b), 4-178 and 4-179. See Conn. Gen. Stat. § 4-176(g). Christian Andresen, Section Chief for the Practitioners Licensing and Investigations Section of the CT DPH appeared on behalf of the CT DPH; Attorney James S. Brownstein appeared on behalf of Amity; Attorney Kyle R. Pavlick appeared on behalf of the CPTA; Margaret C. Barili, RN, L.Ac. appeared on behalf of CSA; Jennifer Brett, ND, L.Ac. appeared on behalf of UBAI.

Intervenors and Parties provided pre-filed and rebuttal testimony, which they adopted under oath during the hearing, and witnesses were available for questioning and cross-examination. CSA Exhibits ("CSA Exs.") 1, 2; UBAI Exhibit ("UBAI Ex.") 1; Amity Exhibit A, CPTA Exhibits ("CPTA Exs.") AA-1 and AA-2; Transcript pages ("Tr., pp.") 10-101.<sup>2</sup>

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<sup>2</sup> At the conclusion of the hearing, the parties and intervenors were given an opportunity to file post hearing briefs and proposed findings of fact. The record closed October 22, 2019. Tr., pp. 102-104.

The Post Hearing Brief filed by UBAI on October 14, 2019 is hereby entered as Board Exhibit 14. Bd. Ex. 14.

The Post Hearing Brief filed by Amity on October 16, 2019 is hereby entered as Board Exhibit 15. Bd. Ex. 15.

The Post Hearing Brief filed by CPTA on October 22, 2019 and its Amended Post Hearing Brief filed on November 1, 2019 are hereby entered as Board Exhibits 16 and 17, respectively. Bd. Exs. 16 and 17.

The Post Hearing Brief filed by CSA on October 22, 2019 is hereby entered as Board Exhibit 18. Bd. Ex. 18.

This Declaratory Ruling is based entirely on the record and sets forth findings of fact and conclusions of law, and a Ruling. To the extent that the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S & H Computer Systems, Inc.*, 605 F. Supp. 816 (Md. Tenn. 1985). In making this Declaratory Ruling, the Board relied on the training, expertise and specialized knowledge of its members in the field of physical therapy. *Pet v. Department of Health Services*, 228 Conn. 651, 670 (1994).

### **Findings of Fact**

1. Dry needling is an intervention that uses a thin filiform needle to penetrate the skin and stimulate underlying myofascial trigger points, muscular and connective tissues for the management of neuromusculoskeletal pain and movement impairments. Bd. Ex. 1; CPTA Ex. A-1, p. 2 and Exhibit A.
2. Dry needling is used by physical therapists in treatment programs to alleviate pain and to restore range of motion. Dry needling is used by physical therapists along with manual therapy and other therapeutic techniques to treat trigger points and restore function. Dry needling is based on western medical diagnoses such as plantar fasciitis, osteoarthritis and carpal tunnel syndrome. Bd. Ex. 17, pp. 2-3; CPTA Exs. A-1, p. 4; AA-2, pp. 1, 2, 4; Tr. pp. 93, 94; Amity Ex. A, p. 4.
3. Training to become competent in dry needling can be found in most of the core curriculum of education provided to students enrolled in physical therapy programs and licensed continuing education programs for physical therapists. Tr., pp. 19, 20; Bd. Ex. 17, p. 3; CPTA Exs. A-1, p. 3; AA-2, pp. 6, 7.
4. Acupuncture is based on traditional Oriental medicine principles and methods such as a bi syndrome, qi or blood stagnation and not western medical diagnosis. Bd. Ex. 17; Conn. Gen. Stat. § 20-206aa. Physical Therapists are not required to be trained in acupuncture or Oriental medicine for licensure. The practice of physical therapy is not based on principles and methods of classic and/or modern Oriental medicine but is based on Western medicine.
5. Successful completion of a program accredited by the Accreditation Commission for Acupuncture and Oriental Medicine, as recognized by the U.S. Department of Education, is required to become a licensed acupuncturist. Tr., pp. 20, 21, 48, 49; 77; CPTA A-1, p.



2; UBAI Ex. pp. 1, 2. The course study for physical therapy programs are not accredited by the Commission for Acupuncture and Oriental Medicine. CPTA Ex. A-1, p. 2.

**Discussion and Law**

Conn. Gen. Stat. § 4-176 authorizes an agency, such as the Board, to issue a declaratory ruling regarding, among other things, the applicability of the statutes or regulations to specified circumstances on matters within the agency's jurisdiction. By law, a declaratory ruling constitutes a statement of agency law and may also be utilized by the Board, on a case-by-case basis, in future proceedings before the Board concerning the practice of physical therapy.

I. Is acupuncture, as defined in Conn. Gen. Stat. § 20-206aa(3), within the scope of practice of physical therapists?

Section 20-66(2) of the Conn. Gen. Stat. defines physical therapy as:

[T]he evaluation and treatment of any person by the employment of the effective properties of physical measures, the performance of tests and measurements as an aid to evaluation of function and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting or alleviating a physical or mental disability. "Physical therapy" includes the establishment and modification of physical therapy programs, treatment planning, instruction, wellness care, peer review, consultative services and the use of low-level light laser therapy for the purpose of accelerating tissue repair, decreasing edema or minimizing or eliminating pain, but does not include surgery, the prescribing of drugs, the development of a medical diagnosis of disease, injury or illness, the use of cauterization or the use of Roentgen rays or radium for diagnostic or therapeutic purposes. . . .

The practice of acupuncture is defined in Conn. Gen. Stat. § 20-206aa(3) as:

[T]he system of restoring and maintaining health by the classical and modern Oriental medicine principles and methods of assessment, treatment and prevention of diseases, disorders and dysfunctions of the body, injury, pain and other conditions. "The practice of acupuncture" includes:

(A) Assessment of body function, development of a comprehensive treatment plan and evaluation of treatment outcomes according to acupuncture and Oriental medicine theory;

(B) Modulation and restoration of normal function in and between the body's energetic and organ systems and biochemical, metabolic and circulation functions using stimulation of selected points by inserting needles, including, trigger point, subcutaneous and dry needling, and other methods consistent with accepted standards within the acupuncture and Oriental medicine profession;

(C) Promotion and maintenance of normal function in the body's energetic and organ systems and biochemical, metabolic and circulation functions by recommendation of Oriental dietary principles, including, use of herbal and other supplements, exercise and other self-treatment techniques according to Oriental medicine theory; and

(D) Other practices that are consistent with the recognized standards of the acupuncture and Oriental medicine profession and accepted by the National Certification Commission for Acupuncture and Oriental Medicine.

Acupuncture is based on Oriental medicine theory and practices. Conn. Gen. Stat. § 20-206aa(3); UBAI Ex. 1, pp. 1-4; CPTA Ex. A-1, pp. 1, 2. To obtain an acupuncturist license, a person must have successfully completed a course of study in a program that is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine as recognized by the U.S. Department of Education. Conn. Gen. Stat. § 20-206bb(b); Tr., pp. 20, 21, 48, 49; CPTA Ex. A-1, p. 2. Physical Therapists are not trained to follow Oriental medicine theory or practice, and the course of study for physical therapy programs are not accredited by the Commission for Acupuncture and Oriental Medicine. CPTA Ex. A-1, p. 2. The practice of physical therapy is not based on principles and methods of classic and/or modern Oriental medicine. Therefore, the practice of acupuncture is outside the scope of physical therapy, as defined in Conn. Gen. Stat. § 20-66(2).

II. Is dry needling within the scope of practice of physical therapists under Conn. Gen. Stat. § 20-66(2)?<sup>3</sup>

Dry needling is defined as an intervention that uses a thin filiform needle to penetrate the skin and stimulate underlying myofascial trigger points, muscular and connective tissues for the management of neuromusculoskeletal pain and movement impairments. It is the insertion of needles into tender points in the body without the injection of any substance. Tr., pp. 86, 87, 93; Bd. Ex. 17, p. 2. Unlike other procedures and treatments specifically listed as outside the scope of practice for physical therapy in accordance with Conn. Gen. Stat. §20-66(2), dry needling is not explicitly excluded. Tr., pp. 18, 93, 94. Therefore, it must be determined whether dry needling falls within permitted procedures and treatments set forth in the definition of physical

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<sup>3</sup> The question originally posed by the CT DPH was "is dry needling, provided that the practitioner is trained and competent to do so, within the scope of practice of physical therapists under Conn. Gen. Stat. § 20-66(2)?" Whether the practitioner is trained and competent to perform dry needling pertains to the standard of care and not the scope of practice as set forth in the statute. Accordingly, the Board has rephrased the question to address the appropriate issue.



therapy. For the reason set forth herein, the Board finds dry needling constitutes a rehabilitative procedure used for the purpose of preventing, correcting or alleviating a physical disability and thus is within the scope of practice of physical therapy.

Dry needling, as distinguished from acupuncture, is not based on the tenets of Oriental medicine, but rather, relies on western medicine diagnoses. Tr., pp. 31, 32, 86, 87; CSA Ex. 1, Exhibit 1, pp. 18-20; Bd. Ex. 10, p. 2, Bd. Ex. 17, p. 2; CPTA Exs. AA-1, pp. 2, 3; AA-2, p. 3. While dry needling is a component of the acupuncture practice, it is not for exclusive practice within said system of medicine. Tr., pp. 31-34, 95; CSA Ex. 1, Exhibit 1, pp. 18-20; Bd. Ex. 17, p. 2. The core curriculum of physical therapy programs provides training towards dry needling competency. CPTA Exs. A-1, p. 3; AA-2, pp. 6, 7.

In the practice of physical therapy, dry needling is not done in isolation, but rather, is utilized as a part of a comprehensive plan in conjunction with other therapeutic techniques. Bd. Ex. 17, p. 3; CPTA Ex. AA-2, p. 4. Dry needling uses the filiform needle as an assistive device to relieve pain and restore range of motion. Tr., pp. 93, 94; Amity Ex. A, p. 4; CPTA Exs. A-1, p. 4; AA-2, pp. 1, 2. As such, the Board concludes that dry needling is within the scope of practice, as defined by Conn. Gen. Stat. § 20-66(2) and constitutes a rehabilitative procedure with an assistive device for the purpose of preventing, correcting or alleviating a physical disability.<sup>4</sup>

### **Ruling**

Based on the foregoing, the Board concludes that the scope of practice for physical therapists in Connecticut, as set forth in Conn. Gen. Stat. § 20-66(2),

- 1.) Prohibits the practice of acupuncture, as defined in Conn. Gen. Stat. § 20-206aa(3); and,
- 2.) Permits dry needling as a rehabilitative procedure with an assistive device for the purpose of preventing, correcting or alleviating a physical disability.

1/26/2021  
Date

  
Michael Parisi, PT, Board Member

<sup>4</sup> While dry needling falls within the scope of practice for both physical therapists and acupuncturists, Conn. Gen. Stat. § 20-206aa(g) provides that "[n]othing in section 20-206aa . . . shall be construed to prevent licensed practitioners of the healing arts, as defined in section 20-1, *physical therapists*, or dentists from providing care or performing services consistent with accepted standards within their respective professions. (Emphasis added.)

## CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Final Declaratory Ruling was sent this 24 day of MAY 2022, by email and certified mail, return receipt requested to:


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