

Asian Medicine and Acupuncture Society of Arizona (AMASA) Position on Physical therapists and non-licensees using Dry Needling.

Overview

The increasing popularity of acupuncture has led other professions without proper training or licensure to irresponsibly attempt to circumvent the Arizona State mandated and statutory training that is required to practice Acupuncture (ARS Title 32 Chapter 39) for the protection and the health, welfare and safety of our public.

Dry Needling, by any name, is Acupuncture.

For millennia, Acupuncture has included what is recently labeled as Trigger Point Therapy, Trigger Point Dry Needling, Dry Needling, Intramuscular Manual Therapy, Intramuscular Stimulation, Skin Needling and other variations of these terms.

Drs. Peter Dorsher and Johannes Fleckenstein ran three research studies examining four angles on the question of “if trigger points are different from acupuncture points”. The first study concludes that the anatomic location of trigger points match $\geq 93.3\%$ to classical acupuncture points.¹ The second study provides two more clinical lines of evidence demonstrating they “describe the same physiologic phenomena”, “...marked correspondences of the pain indications (up to 97 %) and somatovisceral indications (up to 93 %) of anatomically corresponding common” trigger points to classical acupuncture point pairs.² The third study demonstrates “The strong (up to 91%) consistency of the distributions of trigger point regions' referred pain patterns to acupuncture meridians provides a fourth line of evidence”.³ Therefore, western research has documented that trigger points and acupuncture points have the same locations, the same pain indications, the same somatovisceral indications and the same referred pain patterns and physiological phenomenon, making them the same, acupuncture points.^{1,2,3}

Acupuncture, as defined by the AAAOM (American Association of Acupuncture and Oriental Medicine, a national Professional Association), is:

1. Trigger Point Dry Needling and Intramuscular Manual therapy are by definition acupuncture techniques, and are therefore included in the medical practice of Acupuncture.
2. Acupuncture techniques are the way in which acupuncture needles are manipulated and employed to achieve desired therapeutic effects.
3. Acupuncture as a procedure is the stimulation of specific anatomical locations on the body, alone or in combination, to treat disease, pain, and/or dysfunction.
4. Acupuncture as a procedure includes the invasive or non-invasive stimulation of said

locations by means of needles or other thermal, electrical, light, mechanical or manual therapeutic methods.

5. Acupuncture as a medical practice is the study of how various procedures and techniques can be applied to the diagnosis, prevention, and treatment of disease.

The Agency for Healthcare Research and Quality (AHRQ), a division of the National Institutes of Health (NIH), in a technology assessment published by The U.S. Department of Health and Human Services, agrees, “Acupuncture refers to the insertion of dry needles at specially chosen sites for the treatment or prevention of symptoms and conditions.”^{4,5}

The World Health Organization (WHO) considers dry needling a derivative of acupuncture.

Even the American Physical Therapy Association agrees in their Educational Resource Paper, *Physical Therapists & the Performance of Dry Needling* (2012), that where allowed by state law, “Dry Needling is an invasive technique used by physical therapists to treat myofascial pain that uses a dry needle, without medication or injection, which is inserted into areas of the muscle known as trigger points”.⁶ The needles used by physical therapists are acupuncture needles, also called filiform needles.

In addition, neither the Center for Medicare & Medicaid Services nor Trailblazer Health Enterprises recognize the American Physical Therapists Association/American Association of Orthopedic Physical Therapists use of the term Intramuscular Manual Therapy as terminology for describing the insertion of dry needles, acupuncture, for therapeutic purposes. As stated above, the Centers for Medicare & Medicaid Services do not reimburse for Dry Needling or Acupuncture services.⁷ This brings us to our next point.

Billing as Acupuncture or Trigger Point Injections is fraud.

“Trigger point injections” involve an actual injection of a substance. The term “Dry needle” means that there is no substance injected. To bill Medicare under trigger point injection with a “dry needle”, an acupuncture needle, is fraud. “The only code for Medicare that would cover something like dry-needling would be an acupuncture code,...a noncovered procedure federally”⁸, making it fraud no matter how you look at it.

Malpractice Insurance companies refuse to cover physical therapists performing acupuncture, by any name.

In a letter to the State of Oregon Medical Board, “...Allied Professionals Insurance Company, a Risk Retention Group (‘APIC’), ... is a federal risk retention group that provides malpractice insurance to physical therapists. It has come to APIC’s attention that the Oregon Physical Therapist Licensing Board recently determined that the

technique of dry needling” falls within the scope of practice of physical therapy. This determination concerns APIC not only on a malpractice perspective, but also for its effect on public health and safety.” They go on to agree with the WHO that dry needling is acupuncture and pointing out that even the pioneers of dry needling agree that most of the points are the same, simply renamed. APIC finishes the letter with “Based on the foregoing, APIC will not provide malpractice insurance for any physical therapist who inserts needles and/or utilizes the technique of dry needling.”⁹

NCC, “...a federal risk purchasing group which purchases physical therapy malpractice insurance on a group basis for its members”, flatly states in its letter to the State of Oregon Medical Board that “Based on the foregoing, the NCC will not provide malpractice insurance for any physical therapist who inserts needles and/or utilizes the technique of dry needling.”¹⁰

Education

There is no shortage of trained and state licensed acupuncturists in Arizona. Currently, we have 3 schools. There are 62 acupuncture programs nation wide from which the NCCAOM (National Certification Commission for Acupuncture and Oriental Medicine) considers graduates appropriately educated with the minimum standards needed to sit for the board exams and which have been or are in the process of national accreditation by ACAOM (the Accreditation Commission for Acupuncture and Oriental Medicine). ACAOM is the only accrediting commission for acupuncture schools in the U.S. “Licensed Acupuncturists typically receive at least 3000 hours of education”, before they take the Clean Needle exam, as part of the board exams.¹¹ This education includes clinical training, supervision by a licensed Acupuncturist, Oriental Medical theory, treatment techniques and related studies, in addition to biomedical clinical sciences.

Currently, equivalent training is not part of standard curriculum for physical therapists who instead take 24 to 40 hour continuing education courses for their education, which constitutes a public health hazard.¹⁰

In the letter from the malpractice insurance company, APIC, they point out that “Proponents of the addition of dry needling to the scope of physical therapy maintain that trigger point dry needling does not have any similarities to acupuncture other than using the same tool. These same proponents of the technique redefine traditional Chinese medicine as being based on a traditional system of energetic pathways and the goal of acupuncture to balance energy in the body. They emphasize the channel relationship of acupuncture points, deemphasize or completely exclude the use of ASHI [阿是] points, and emphasize that acupuncture is based on the energetic concepts of Oriental medicine diagnosis. They therefore define dry needling as different and distinct from acupuncture because it is based on Western anatomy.”⁹ As cited above and scientifically proven from four different angles by the three German research studies, 91 to 97 % of the points use by PTs are classical acupuncture points.^{1,2,3} The other points

are Ashi points. There are detailed descriptions of Ashi (阿是) points and their physiological phenomenon in writings dating back to the Tang Dynasty (618 – 907 AD).

“However, these proponents fail to recognize that acupuncture schools teach both ‘western’ neurophysiological concepts along with ‘traditional’ meridian concepts. As such, acupuncturists are highly trained within both fields of medicine. In fact, the profession of Chinese medicine utilizes neurophysiological principles.”⁹

A crucial area where the lack of proper education surfaces in the non-licensed is understanding the effects of needling, be it the angle, depth, vigor, frequency or contraindications. Case in point: 24 year old Emily K., who’s only symptom was vulvodinia, was needled by a non-Acupuncture-licensed physical therapist with one needle resulting in a 2 inch hematoma on her inner thigh and severe, debilitating pain radiating down to her feet and up her spine to her jaw that even 6 pharmaceuticals and a B12 supplement did not help, in addition to foot neuropathy making it difficult to walk and emotional trauma. The acupuncture point this non-licensee vigorously stimulated, any licensed acupuncturist would know vigorous stimulation is contraindicated in cases such as Emily’s for several reasons based on what her Asian Medicine diagnosis would be and was proven to be by the unsurprising yet extreme results. This is exactly why the malpractice companies refuse to cover physical therapists that perform dry needling.¹²

If angle or depth of needle is not correct on points such as GB 20 (located below the occiput), a patient could suffer from spinal damage if not brain stem injury. Frequent, vigorous use of GB 20 can lead to fibroids in women who would not even know that the physical therapist caused the problem. There are thousands of points of which to know and understand the needling variations and indications, which change in combination, not to mention the obvious issues of visceral (organ) damage such as pneumothrorax (collapsed lung) which a number of trained MD’s (200 hours) in California have caused.

Any strong medicine can cause damage in the untrained, unlicensed hands.

Do no harm is the oath which everyone in healthcare should live by for their patient’s sake.

Class II surgical device and legal precedence

The acupuncture needle was federally regulated and classified as a Class II surgical device on May 28, 1976 with the *Medical Device Amendments*, which means it is only to be sold to and used by those licensed to practice acupuncture. Therefore, purchase and/or use by a physical therapist is breaking the law.

In alignment with and respect for such a device, Charles E. Buri, Assistant Attorney General, Counsel to the Board of Medical Examiners wrote in a letter on February 28, 1979 that “The puncture of human skin is, indeed, considered to be minor surgery. For

this and other reasons, acupuncture is viewed to be the practice of medicine...One, who would practice acupuncture without benefit of such a license or certification, would be in violation of Arizona law and subject to both civil and criminal sanctions.” There are current educational standards which need to be met for the health and safety of the public.

Physical therapy scope of practice does not include any puncturing of the skin, including dry needling/acupuncture.

As noted above, no aspect of acupuncture, dry needling or other, is part of the standard college curriculum. It is also not tested for on the physical therapy licensing boards.

The physical therapy scope of practice does not involve any puncturing of the skin, especially the use of a Class II surgical device, and “manual therapy techniques” are just that, administered by the use of their hands not devices: “‘Manual therapy techniques’ means a broad group of passive intervention in which physical therapists use their hands to administer skilled movements designed to modulate pain, increase joint range of motion, reduce or eliminate soft tissue swelling, inflammation, or restriction, induce relaxation, improve contractile and noncontractile tissue extensibility, and improve pulmonary function. These interventions involve a variety of techniques, such as the application of graded forces.”^{13, 14}

One of the main duties of a licensing agency, such as the State of Arizona Physical Therapy Board of Examiners, is to **ensure public safety** through their preemptive, preventative licensing laws and rules, not to circumvent the public process of the legislative Sunrise review required for scope of practice expansion, and in this case, creating a public health hazard. If the national standards for performing acupuncture set by the NCCAOM and the only national accrediting body, ACAOM, were not protecting the health, welfare and safety of our public, then why would the State of Arizona have gone to the trouble of regulating and licensing acupuncture already via the Acupuncture Board of Examiners?

Since there are plenty of acupuncturists in Arizona and this scope of practice expansion is financed by the major companies who teach dry needling, one can only assume it is financial gain at the heart of this scope of practice expansion NOT patient care nor public safety, placing the motives as purely monetary and improper.

Conclusion

This is an attempt to circumvent the law and existing mandated regulations in acupuncture by increasing scope of practice via rule writing and is also wrong because:

- physical therapists have no substantive training in acupuncture, by any name;
- physical therapy board exams do not test acupuncture knowledge;
- it is not included in their scope of practice, thus this is an attempt to circumvent the legislative Sunrise review process making both the manner and the motives of expansion highly questionable;

- it is the duty of regulating boards to ensure the public safety;
- the points use in dry needling, called Trigger points, have been scientifically proven to be the same as acupuncture points;
- is considered acupuncture by everyone from the WHO to Medicare/Medicaid to NIH and even those who teach the classes to physical therapists;
- there is a clear effort to redefine acupuncture and thereby obscure and circumvent the existing Arizona laws in regards to safe medical practice;
- acupuncture needles are a Class II surgical device which the Arizona Attorney Generals office ruled can only be used by those licensed for acupuncture or surgery;
- Medicare, Medicaid and other insurance companies consider it fraud for physical therapists to bill for dry needling by any name;
- there are plenty of licensed acupuncturists to fill the public need and who are the best equipped, prepared and qualified to provide competent care in acupuncture;
- malpractice insurance companies refuse to cover dry needling and the use of needles when performed by a physical therapists while they consider it a public health hazard;
- they have hurt the public, and will continue to be a public health hazard and an endangerment to the public welfare and safety.

This is unconscionable. Protect the public.

References:

- 1.) Dorsher, MD, Peter, and Johannes Fleckenstein.MD. "**Trigger Points and Classical Acupuncture Points: Part 1: Qualitative and Quantitative Anatomic Correspondences**", *Deutsche Zeitschrift für Akupunktur*, Jahrgang/Volume 51, Heft/Issue 3, 2008, Seiten/Pages 15-24
Also found in English: "**Trigger Points and Classical Acupuncture Points.**" *Elsevier-Germany Online Journals*.Akupunktur.Web. 21 Feb. 2012.
<http://elsevier.isoftmedia.de/inhalt.php?/lan~eng/site~journalg/journal~4/name~1_09/article~5800132.html>.
- 2.) Dorsher, MD, Peter, and Johannes Fleckenstein.MD. "**Trigger Points and Classical Acupuncture Points – Part 2: Clinical Correspondences in Treating Pain and Somatovisceral Disorders**", *Deutscher Zeitschrift für Akupunktur*, Jahrgang 51, Heft 4, 12-2008, Seiten 6-11. Also found in English: "**Trigger Points and Classical Acupuncture Points.**" *Elsevier-Germany Online Journals*.Akupunktur.Web. 21 Feb. 2012.
<http://elsevier.isoftmedia.de/inhalt.php?/lan~eng/site~journalg/journal~4/name~1_09/article~5800132.html>.
- 3.) Dorsher, MD, Peter, and Johannes Fleckenstein.MD. "**Trigger Points and Classical Acupuncture Points – Part 3: Relationships of Myofascial Referred Pain Patterns to Acupuncture Meridians**", *Deutsche Zeitschrift für Akupunktur*, Jahrgang 52, Heft 1, 03-2009, Seiten 9-14. Also found in English: "**Trigger Points and Classical Acupuncture Points.**" *Elsevier-Germany Online Journals*.Akupunktur.Web. 21 Feb. 2012.
<http://elsevier.isoftmedia.de/inhalt.php?/lan~eng/site~journalg/journal~4/name~1_09/article~5800132.html>.
- 4.) When To Select Observational Studies as Evidence for Comparative Effectiveness Reviews Prepared for: The Agency for Healthcare Research and Quality (AHRQ) Training Modules for Systematic Reviews Methods Guide www.ahrq.govEffective Health Care Program. "The AHRQ Training Modules for the Systematic Reviews Methods Guide:..." *The AHRQ Training Modules for the Systematic Reviews Methods Guide: An Introduction*. Ahrq.gov. Web. 06 Feb. 2012. <<http://www.slideshare.net/AHRQEHCPProgram/the-ahrq-training-modules-for-the-systematic-reviews-methods-guide-an-introduction>>.
- 5.) Alberta Heritage Foundation for Medical Research Health Technology Assessment Unit.*Acupuncture: Evidence from systematic reviews and meta-analyses* 2002 Mar.Used in glossary of "Acupuncture for Osteoarthritis." *Centers for Medicare & Medicaid Services*.Web. 14 Jan. 2012. <<http://www.cms.gov/medicare-coverage-database/details/technology-assessments-details.aspx?TAlD=19>>.

- 6.) American Physical Therapy Association. *Physical Therapists & the Performance of Dry Needling Resource Paper*. Rep. APTA/APTA.org. Web. 27 Jan. 2012. <[TrailBlazerHealth.com Medicare Home Page | \[Home\] | TrailblazerHealth.com. Center for Medicare and Medicaid Services, Feb. 2011. Web. 19 Jan. 2012. <<http://trailblazerhealth.com>>.](http://www.apta.org/search.aspx?q=American+Physical+Therapy+Association's+Educational+Resource+Paper,+Physical+Therapists+%26+the+Performance+of+Dry+Needling#s=-_d0!2!1!!1!8!0!1!!2!!0!_d1!2!1!3!326!sim%7CMyAll!-360!DqCqtqBquqwpapxrvsryrpApxrvsrzrppqwpppsq!_d3!%40APTASource+OR+NOT+%40APTASource!_d0!APTA.org!4!Physical+Therapists+and+the+Performance+of+Dry+Needling!_d5!_d2!!KqGqtFpwpxpHppupxpupypupwppppppvpJlpEpApBpzpDppCpqrprpsq!>.>>7.))
- 8.) Dritschilo, Gordon, "Doctor settles billing case", *Rutland Herald*, 10/25/2011, also <<http://www.rutlandherald.com/article/20111025/NEWS01/710259964/0/business>>.
- 9.) Cigel, Rick A., Counsel, for Allied Professionals Insurance Company, A Risk Retention Group, Inc., in a letter to The State of Oregon Medical Board, 12/15/09.
- 10.) Schroeder, Michael J., Vice President & General Counsel, NCC, letter to State of Oregon Medical Board, 11/18/09, <http://www.oaaom.com/wp-content/uploads/2010/07/11-09-Schroeder-National-Chiropractic-Counsel-DN-and-PTs.pdf>
- 11.) aaonmonline.org/pressroom.asp?pagenumber=48266
- 12.) Kuykendall, M.Ed., Emily, letter sent to the AZ State PT BoE, 10/22/12, EmiKuykendall@yahoo.com
- 13.) Arizona : Chapter 120 of House Bill 2123, 2010, http://www.azsos.gov/public_services/Chapter_Laws/2010/49th_legislature_2nd_regular_session/CH_120.pdf
- 14.) ARS Title 32 Chapter 19., 32-2001 definition 6, "Manual Therapies Techniques", www.azleg.gov/formatdocument.asp?inDoc=/ars/32/02001.htm&Title=328DocType=ARS