

Dear Senators HEIDER, Souza, Jordan, and
Representatives WOOD, Packer, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Bureau of Occupational Licenses - Physical Therapy Licensure Board:
IDAPA 24.13.01 - Rules Governing the Physical Therapy Licensure Board - Proposed Rule (Docket No. 24-1301-1801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 11/05/2018. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/05/2018.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Matt Drake

DATE: October 17, 2018

SUBJECT: Bureau of Occupational Licenses - Physical Therapy Licensure Board

IDAPA 24.13.01 - Rules Governing the Physical Therapy Licensure Board - Proposed Rule (Docket No. 24-1301-1801)

Summary and Stated Reasons for the Rule

The Bureau of Occupational Licenses submits notice of proposed rulemaking related to the Physical Therapy Licensure Board at IDAPA 24.13.01. The proposed rule responds to House Bill 505 of 2018, which added the practice of dry needling to the Physical Therapy Act. Under House Bill 505, licensed physical therapists in Idaho may perform dry needling after completion of certain education and training requirements. The proposed rules implement the practice of dry needling by establishing those education and training requirements. Specifically, the proposed rule addresses the requisite length of an education and training course, mandatory inclusion of safety training, course approval, and proficiency assessment. The rule also addressed documentation of training as well as informed consent requirements.

Negotiated Rulemaking / Fiscal Impact

The Bureau states that negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board and in stakeholder meetings with interested parties. There is no fiscal impact.

Statutory Authority

The proposed rulemaking is authorized under sections 54-2206 and 54-2225, Idaho Code.

cc: Bureau of Occupational Licenses - Physical Therapy Licensure Board
Tana Cory

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.13.01 – RULES GOVERNING THE PHYSICAL THERAPY LICENSURE BOARD

DOCKET NO. 24-1301-1801

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2206 and 54-2225, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In 2018, the Legislature passed and the Governor signed into law House Bill 505. This legislation added dry needling to the Physical Therapy Practice Act, allowing licensed physical therapists in Idaho to perform dry needling after completion of certain education and training. The Physical Therapy Licensure Board is proposing rules to implement the practice of dry needling, including establishing education and training requirements, as well as informed consent requirements.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board and in stakeholder meetings with interested parties.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jennifer Carr at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018.

Dated this 30th day of August, 2018.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-1301-1801
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS (RULE 10).

- 01. Board.** The Physical Therapy Licensure Board. (3-19-07)
- 02. Bureau.** Bureau means the Idaho Bureau of Occupational Licenses as created in section 67-2602, Idaho Code. (3-19-07)
- 03. Physical Therapist.** An individual who meets all the requirements of Title 54, Chapter 22, Idaho Code, holds an active license and who engages in the practice of physical therapy. (3-19-07)
- 04. Physical Therapist Assistant.** An individual who meets the requirements of Title 54, Chapter 22, Idaho Code, holds an active license, and who performs physical therapy procedures and related tasks that have been selected and delegated only by a supervising physical therapist. (3-19-07)
- 05. Supportive Personnel.** An individual, or individuals, who are neither a physical therapist or a physical therapist assistant, but who are employed by and/or trained under the direction of a licensed physical therapist to perform designated non-treatment patient related tasks and routine physical therapy tasks. (3-19-07)
- 06. Non-Treatment Patient Related Tasks.** Actions and procedures related to patient care that do not involve direct patient treatment or direct personal supervision, but do require a level of supervision not less than general supervision, including, but not limited to: treatment area preparation and clean-up, equipment set-up, heat and cold pack preparation, preparation of a patient for treatment by a physical therapist or physical therapist assistant, transportation of patients to and from treatment, and assistance to a physical therapist or physical therapist assistant when such assistance is requested by a physical therapist or physical therapist assistant when safety and effective treatment would so require. (3-19-07)
- 07. Routine Physical Therapy Tasks.** Actions and procedures within the scope of practice of physical therapy, which do not require the special skills or training of a physical therapist or physical therapist assistant, rendered directly to a patient by supportive personnel at the request of and under the direct personal supervision of a physical therapist or physical therapist assistant. (3-19-07)
- 08. Testing.** (3-19-07)
- a.** Standard methods and techniques used in the practice of physical therapy to gather data about individuals including: (3-19-07)
- i.** Electrodiagnostic and electrophysiological measurements; (3-19-07)
 - ii.** Assessment or evaluation of muscle strength, force, endurance and tone; (3-19-07)
 - iii.** Reflexes; (3-19-07)
 - iv.** Automatic reactions; (3-19-07)
 - v.** Posture and body mechanics; (3-19-07)
 - vi.** Movement skill and accuracy; (3-19-07)
 - vii.** Joint range of motion and stability; (3-19-07)
 - viii.** Sensation; (3-19-07)

- ix. Perception; (3-19-07)
 - x. Peripheral nerve function integrity; (3-19-07)
 - xi. Locomotor skills; (3-19-07)
 - xii. Fit, function and comfort of prosthetic, orthotic, and other assistive devices; (3-19-07)
 - xiii. Limb volume, symmetry, length and circumference; (3-19-07)
 - xiv. Clinical evaluation of cardiac and respiratory status to include adequacy of pulses, noninvasive assessment of peripheral circulation, thoracic excursion, vital capacity, and breathing patterns; (3-19-07)
 - xv. Vital signs such as pulse, respiratory rate, and blood pressure; (3-19-07)
 - xvi. Activities of daily living; and the physical environment of the home and work place; and (3-19-07)
 - xvii. Pain patterns, localization and modifying factors; and (3-19-07)
 - xviii. Photosensitivity. (3-19-07)
- b.** Specifically excluded are the ordering of electromyographic study, electrocardiography, thermography, invasive vascular study, selective injection tests, or complex cardiac or respiratory function studies without consultation and direction of a physician. (3-19-07)
- 09. Functional Mobility Training.** Includes gait training, locomotion training, and posture training. (3-19-07)
- 10. Manual Therapy.** Skilled hand movements to mobilize or manipulate soft tissues and joints for the purpose of: (3-19-07)
- a.** Modulating pain, increasing range of motion, reducing or eliminating soft tissue swelling, inflammation or restriction; (3-19-07)
 - b.** Inducing relaxation; (3-19-07)
 - c.** Improving contractile and non-contractile tissue extensibility; and (3-19-07)
 - d.** Improving pulmonary function. (3-19-07)
- 11. Dry Needling.** A skilled intervention performed by a physical therapist that uses a thin filiform needle to penetrate the skin and stimulate underlying neural, muscular, and connective tissues for the evaluation and management of neuromusculoskeletal conditions, pain and movement impairments. ()
- 12. Physical Agents or Modalities.** Thermal, acoustic, radiant, mechanical, or electrical energy used to produce physiologic changes in tissues. (3-19-07)
- 13. General Supervision.** A physical therapist's availability at least by means of telecommunications, which does not require a physical therapist to be on the premises where physical therapy is being provided, for the direction of a physical therapist assistant. (3-19-07)
- 14. Direct Supervision.** A physical therapist's or physical therapist assistant's physical presence and availability to render direction in person and on the premises where physical therapy is being provided. (3-19-07)
- 15. Direct Personal Supervision.** A physical therapist's or physical therapist assistant's direct and continuous physical presence and availability to render direction, in person and on the premises where physical

therapy is being provided. The physical therapist or physical therapist assistant must have direct contact with the patient during each session and assess patient response to delegated treatment. (3-19-07)

156. Supervising Physical Therapist. A licensed physical therapist who developed and recorded the initial plan of care and/or who has maintained regular treatment sessions with a patient. Such physical therapist's designation of another licensed physical therapist if the physical therapist who developed and recorded the initial plan of care or maintained regular treatment sessions is not available to provide direction at least by means of telecommunications. (3-19-07)

167. Nationally Accredited School. A school or course of physical therapy or physical therapist assistant with a curriculum approved by: (3-19-07)

a. The American Physical Therapy Association (APTA) from 1926 to 1936; or the APTA Accreditation Commission; or (3-19-07)

b. The Council on Medical Education and Hospitals of the American Medical Association from 1936 to 1960; or (3-19-07)

c. An accrediting agency recognized by the U.S. Department of Education, the Council on Postsecondary Accreditation, or a successor entity, or both. (4-7-11)

178. Examination. The examination shall be the National Physical Therapy Examination (NPTE) administered by Federation of State Boards of Physical Therapy. The examination may also include a jurisprudence examination adopted by the Board. (4-2-08)

011. -- 015. (RESERVED)

016. SUPERVISION (RULE 16).

A physical therapist shall supervise and be responsible for patient care given by physical therapist assistants, supportive personnel, physical therapy students, and physical therapist assistant students. (3-19-07)

01. Procedures and Interventions Performed Exclusively by Physical Therapist. The following procedures and interventions shall be performed exclusively by a physical therapist: (3-19-07)

a. Interpretation of a referral for physical therapy if a referral has been received. (3-19-07)

b. Performance of the initial patient evaluation and problem identification including a diagnosis for physical therapy and a prognosis for physical therapy. (3-19-07)

c. Development or modification of a treatment plan of care which is based on the initial evaluation and which includes long-term and short-term physical therapy treatment goals. (3-19-07)

d. Assessment of the competence of physical therapist assistants, physical therapy students, physical therapist assistant students, and supportive personnel to perform assigned procedures, interventions and routine tasks. (3-19-07)

e. Selection and delegation of appropriate portions of treatment procedures, interventions and routine physical therapy tasks to the physical therapist assistants, physical therapy students, physical therapist assistant students, and supportive personnel. (3-19-07)

f. Performance of a re-evaluation when any change in a patient's condition occurs that is not consistent with the physical therapy treatment plan of care, patient's anticipated progress, and physical therapy treatment goals. (3-19-07)

g. Performance and documentation of a discharge evaluation and summary of the physical therapy treatment plan. (3-19-07)

h. **Performance of dry needling.** **()**

02. Supervision of Physical Therapist Assistants. A physical therapist assistant shall be supervised by a physical therapist by no less standard than general supervision. (3-19-07)

a. A physical therapist assistant shall not change a procedure or intervention unless such change of procedure or intervention has been included within the treatment plan of care as set forth by a physical therapist. (3-19-07)

b. A physical therapist assistant may not continue to provide treatment as specified under a treatment plan of care if a patient's condition changes such that further treatment necessitates a change in the established treatment plan of care unless the physical therapist assistant has consulted with the supervising physical therapist prior to the patient's next appointment for physical therapy, and a re-evaluation is completed by the supervising physical therapist. (3-19-07)

c. The supervising physical therapist shall provide direct personal contact with the patient and assess the plan of care on or before every ten (10) visits or once a week if treatment is performed more than once per day but no less often than once every sixty (60) days. The supervising therapist's assessment shall be documented in the patient record. (3-20-14)

d. A physical therapist assistant may refuse to perform any procedure, intervention, or task delegated by a physical therapist when such procedure, intervention, or task is beyond the physical therapist assistant's skill level or scope of practice standards. (3-19-07)

e. A physical therapist shall not be required to co-sign any treatment related documents prepared by a physical therapist assistant, unless required to do so in accordance with law, or by a third-party. (3-19-07)

03. Supervision of Supportive Personnel. Any routine physical therapy tasks performed by supportive personnel shall require direct personal supervision. (3-19-07)

04. Supervision of Physical Therapy and Physical Therapist Assistant Students. Supervision of physical therapy students and physical therapist assistant students shall require direct supervision. (3-19-07)

a. A physical therapy student shall only be supervised by the direct supervision of a physical therapist. (3-19-07)

b. A physical therapy student shall be required to sign all treatment notes with the designation "SPT" after their name, and all such signatures shall require the co-signature of the supervising physical therapist. (3-19-07)

c. A physical therapist assistant student shall be required to sign all treatment notes with the designation "SPTA" after their name, and all such signatures shall require the co-signature of the supervising physical therapist or supervising physical therapist assistant. (3-19-07)

05. Supervision Ratios. (3-19-07)

a. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistants providing such treatment be more than twice in number of such supervising physical therapist(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

b. At no time during the treatment of a patient or patients for physical therapy shall the number of supportive personnel performing routine physical therapy tasks be more than twice in number of such supervising physical therapist(s) or supervising physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

c. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapy students performing delegated supervised physical therapy tasks be more than twice in number of such supervising physical therapist(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

d. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistant students performing delegated supervised physical therapy tasks be more than twice in number of such supervising physical therapist(s) or supervising physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

e. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistants, physical therapy students, physical therapist assistants students, and supportive personnel, or a combination thereof, performing delegated supervised physical therapy or routine physical therapy tasks be more than three (3) times in number of such physical therapist(s) providing physical therapy treatment at any physical therapy practice or site; nor shall the number of physical therapist assistant students or supportive personnel, or a combination thereof, performing delegated and supervised physical therapy tasks or routine physical therapy tasks be more than twice in number of such physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

176. -- 179. (RESERVED)

180. REQUIREMENTS TO PRACTICE DRY NEEDLING (RULE 180).

A physical therapist, with at least one (1) year of practice as a licensed physical therapist, may perform dry needling upon successful completion of education and training in dry needling that meets the following requirements: ()

01. Length of Course. The education and training consists of a minimum of twenty-seven (27) hours of in-person instruction of which no less than sixteen (16) hours must be hands-on application of dry needling techniques by the physical therapist; ()

02. Safety Training. The education and training includes instruction and training on indications/contraindications for dry needling, safe needling technique, and blood borne pathogens; ()

03. Course Approval. Each course is approved by the Federation of State Boards of Physical Therapy (FSBPT) or another nationally recognized accrediting body of physical therapy that is approved by the Board; and ()

04. Proficiency Assessment. Each course requires successful completion of an assessment of proficiency in dry needling, which includes a practical demonstration of the physical therapist's dry needling skills. ()

05. Course Completion. Completion of this education and training may have occurred prior to the effective date of these rules. ()

181. PRACTICE OF DRY NEEDLING (RULE 181).

A physical therapist who practices dry needling must maintain documentation of having satisfied the requirements of Section 180 of these rules and must obtain and maintain documentation of written informed consent from patients. ()

01. Documentation of Training. Upon request by the Board, a physical therapist must produce documentation of having satisfied the education and training requirements in Section 180 of these rules. ()

02. Written Informed Consent. Prior to performing dry needling on a patient, the physical therapist must provide the patient with information that includes a definition and description of the practice of dry needling and a description of the risks, benefits, and potential side effects of dry needling and obtain the patient's written consent to treatment, which documentation must be maintained as part of the patient record. ()

182. -- 199. (RESERVED)