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Sequence Number: 03-42-16
 Rule ID(s): 6165
 File Date: 3/31/16
 Effective Date: 6/29/16

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

| | |
|---------------------------------|--|
| Agency/Board/Commission: | Board of Physical Therapy |
| Division: | |
| Contact Person: | Thomas Aumann, Assistant General Counsel |
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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

| Chapter Number | Chapter Title |
|----------------|--|
| 1150-01 | General Rules Governing the Practice of Physical Therapy |
| Rule Number | Rule Title |
| 1150-01-.08 | Examinations |
| 1150-01-.22 | Dry Needling |

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1150-01
General Rules Governing the Practice of Physical Therapy

Amendments

Rule 1150-01-.08 Examinations is amended by deleting paragraph (9) in its entirety and substituting instead the following language, so that as amended, the new paragraph (9) shall read:

- (9) Effective July 1, 2015, the Board will no longer approve individualized structured remediation plans. However, those remediation plans already in effect prior to July 1, 2015 must be completed by the applicant. An applicant who fails the examination two (2) or more times after July 1, 2015 must submit proof of ten (10) hours of additional clinical training and ten (10) hours of additional coursework to the Board administrator before the Board will approve a reapplication for subsequent testing beyond two attempts. These ten (10) hours of additional clinical training and ten (10) hours of additional coursework are required after each subsequent failure beyond two (2) times before an applicant can be approved for reapplication for subsequent testing.

Authority: T.C.A. §§ 63-13-301, 63-13-304, 63-13-306, and 63-13-307.

New Rule
1150-01-.22

Dry Needling

New Table of Contents

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| 1150-01-.22 | Dry Needling |

New Rule: 1150-01-.22 Dry Needling

- (1) In order to perform dry needling, a physical therapist must obtain all of the educational instruction described in paragraphs (2)(a) and (2)(b) herein. All such educational instruction must be obtained in person and may not be obtained online or through video conferencing.
- (2) Mandatory Training - Before performing dry needling, a practitioner must complete educational requirements in each of the following areas:

- (a) Fifty (50) hours of instruction, to include instruction in each of the four (4) areas listed herein, which are generally satisfied during the normal course of study in physical therapy school:
 - 1. Musculoskeletal and Neuromuscular systems;
 - 2. Anatomical basis of pain mechanisms, chronic pain, and referred pain;
 - 3. Trigger Points;
 - 4. Universal Precautions; and
- (b) Twenty-four (24) hours of dry needling specific instruction.
 - 1. The twenty-four (24) hours must include instruction in each of the following six (6) areas:
 - (i) Dry needling technique;
 - (ii) Dry needling indications and contraindications;
 - (iii) Documentation of dry needling;
 - (iv) Management of adverse effects;
 - (v) Practical psychomotor competency; and
 - (vi) Occupational Safety and Health Administration's Bloodborne Pathogens Protocol.
 - 2. Each instructional course shall specify what anatomical regions are included in the instruction and describe whether the course offers introductory or advanced instruction in dry needling.
 - 3. Each course must be pre-approved or approved by the Board or its consultant, or the Board may delegate the approval process to recognized health-related organizations or accredited physical therapy educational institutions.
- (3) A newly-licensed physical therapist shall not practice dry needling for at least one (1) year from the date of initial licensure, unless the practitioner can demonstrate compliance with paragraph (2) through his or her pre-licensure educational coursework.
- (4) Any physical therapist who obtained the requisite twenty-four (24) hours of instruction as described in paragraph (2)(b) in another state or country must provide the same documentation to the Board, as described in paragraph (2)(b), that is required of a course provider. The Board or its consultant must approve the practitioner's dry needling coursework before the therapist can practice dry needling in this state.
- (5) Dry needling may only be performed by a licensed physical therapist and may not be delegated to a physical therapist assistant or support personnel.
- (6) A physical therapist practicing dry needling must supply written documentation, upon request by the Board, that substantiates appropriate training as required by this rule.
- (7) All physical therapy patients receiving dry needling shall be provided with information from the patient's physical therapist 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.

Authority: T.C.A. §§ 63-13-304 and 63-13-305.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|--------------------|-----|----|---------|--------|-------------------------|
| Vacant | | | | | |
| Bethany R. Buttrey | X | | | | |
| David Harris | X | | | | |
| David Finch | X | | | | |
| Minty R. Ballard | X | | | | |

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Physical Therapy (board/commission/ other authority) on 01/11/2016 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 11/18/15 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 01/11/16 (mm/dd/yy)

Date: 1/28/16

Signature: [Handwritten Signature]

Name of Officer: Thomas Aumann

Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: _____

Notary Public Signature: [Handwritten Signature]

My commission expires on: 11/19, 2017



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]

Herbert H. Slatery III
Attorney General and Reporter

3/24/2016

Date

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Filed with the Department of State on: 3/31/16

Effective on: 6/29/16

[Handwritten Signature]

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Physical Therapy Rulemaking Hearing January 11, 2016 Public Comments

There was one written comment received regarding the proposed rules as well as several oral comments. For clarity, the comments are grouped according to the specific paragraph of the rule under consideration.

1150-01-.22(2)(b)(2) - Anatomical Regions of the Body

A written comment was received from J. Randy Walker, Associate Dean of the University of Tennessee at Chattanooga. Mr. Walker had two concerns regarding the proposed rules. First, Mr. Walker was concerned that the new rules will allow a therapist to practice dry needling with only twenty-four (24) hours of specific dry needling education. Mr. Walker requested that the Board require specific instruction in each anatomical region – “anatomical regional courses – one for UE [upper extremities] and one for the LE [lower extremities].” He also wrote that David Harris, Physical Therapy Board member, had in earlier meetings wanted to allow a physical therapist to exercise professional judgement and integrity so as to not practice on parts of the body for which the therapist receives no instruction. Mr. Walker concurred with this view; however, Mr. Walker wrote that he did not see this deference to professional judgment reflected in the rule. Mr. Walker requested clarification on the matter.

Scott Newton, President of the Tennessee Physical Therapy Association (“TPTA”), also commented on this issue. Mr. Newton stated that while TPTA would not be opposed to the rule, other educational programs throughout the country were not unified in how the classes addressed different anatomical regions of the body and that adopting Mr. Walker’s proposed changes would serve a disadvantage to those therapists who had previously practiced dry needling. Mr. Newton said that this was more of an issue of a physical therapist practicing outside of his or her own comfort zone than an issue for the Board.

Craig O’Neal with Results Physiotherapy stated that he was against making any changes to this paragraph.

The Board responded to comments on paragraph 1150-01-.22(2)(b)(2). David Harris stated that the Board did not want to be intrusive, so the decision was made not to require any specific instruction as to anatomical regions in the educational requirements. David Finch proposed a line that said that physical therapists may only practice dry needling on areas of the body regarding which they receive training. Bethany Buttrey agreed with Mr. Finch’s suggested wording and stated that, as to specific educational instruction, she felt the Board originally intended to include such a requirement. Mr. Harris reiterated that the issue of practicing on areas of the body regarding which a physical therapist did or did not receive training is more of a professionalism issue than an issue about which the Board should make a rule. The Board voted to make no changes to paragraph 1150-01-.22(2)(b)(2).

1150-01-.22(7) - Informed Consent

Mr. Walker’s second concern involved paragraph (7) - informed consent. Mr. Walker listed his concerns as follows: 1) a second request for informed consent will unnecessarily raise issues for the patient, 2) a written consent form is unnecessary because all other physical therapy modalities only require verbal consent, and 3) no matter how much education a therapist has received in dry needling and shared with the patient, such disclosure does not better inform the patient, and this required disclosure rises above that required for every other modality. Lastly, Mr. Walker wrote that only Colorado, the District of Columbia, and Mississippi require the specific written consent articulated in the proposed rule, while Virginia and Arizona require a less specific written consent. Mr. Walker further commented that Georgia, Kentucky, and North Carolina do not require specific consent, and he requested that the Board adopt this approach and not require specific consent for dry needling.

Craig O'Neal requested that the Board delete paragraph (7) in its entirety. Mr. O'Neal said that the manner in which consent is obtained should be an organizational responsibility. Additionally, he stated that the general public does not fully know about the practice of physical therapy nor what therapists do and requiring such consent specifically for dry needling would be confusing to the patient.

Scott Newton stated that requiring a therapist to specifically enumerate all training he or she has received regarding the practice of dry needling would be overkill and confusing to therapists.

Alan Meade agreed with the suggestions of Finch and Buttrey (see below in the Board comments paragraph) and further stated that it would satisfy the Tennessee Medical Association by giving additional protections to the public. He questioned what would happen when a patient receives treatment without consent and then later seeks action. He stated that the suggested amendment would alleviate those concerns by leaving part of the requirement in the rules.

The Board responded to comments on paragraph 1150-01-.22(7). David Harris said that apprehension exists among the Board with respect to requiring specific written informed consent. Mr. Harris stated that there exists the possibility that requiring specific consent for dry needling will lead to similar requirements for other modalities in the future, and that such a requirement would be overstepping the intent of the rule. Mr. Harris further stated that it should not be the responsibility of the Board to keep up with the practices' paperwork – that the decision should be left up to the practice/practitioner. David Finch stated that it was proper to inform patients about what dry needling is because dry needling is an invasive procedure. Mr. Finch also commented that perhaps the Board could adopt a less burdensome standard, suggesting that the rule require that a physical therapist "give information" about the practice of dry needling and the physical therapist's own training in dry needling as opposed to requiring the providing of such information specifically in written form. Mr. Finch also suggested adding a period after the word "needling" and before the word "a." Bethany Buttrey agreed with the deleting the remainder of the paragraph but also suggested adding the words "as well as a description of the risks, benefits, and potential side effects of dry needling."

The Board ultimately decided to amend the language of paragraph (7) to read: "All physical therapy patients receiving dry needling shall be provided with information from the patient's physical therapist 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."

1150-01-.22(2)(b)(3) – Pre-Approval of Dry Needling Courses by the Board

Scott Newton requested that the Board strike provision (2)(b)(3) which, as written, requires the Board to approve each educational program offering dry needling education. Mr. Newton stated that the Board does not need to approve these programs as TPTA currently approves educational programs, and the Board looks at the information to determine a therapist's compliance. Furthermore, Mr. Newton expressed concern that the use of the phrase "pre-approved" in provision (2)(b)(3) would complicate matters for physical therapists who have already taken the proposed requisite dry needling courses.

Craig O'Neal added that the approval requirement for the practice of dry needling would greatly burden the Board and be a different approach compared to approval of continuing education courses and other modalities. Additionally, Mr. O'Neal said that this requirement would be a great burden on practitioners who were previously engaged in the practice of dry needling and urged the Board to strike provision (2)(b)3.

Alan Meade again addressed the Board with sample language to remedy the issues addressed regarding provision (2)(b)(3). Dr. Meade suggested removing the first paragraph and adding language "to be approved by the accrediting bodies" to the end of the part.

Mr. Newton commented that the precise wording used to label the types of organizations/institutions that can pre-approve or approve dry needling courses should match specific wording used in the new Rule 1150-01-.12(d) and (e) (regarding the categories of approved course providers) that was passed by the Board at the August 14, 2015 rulemaking hearing and is now at the Attorney General's Office pending approval.

The Board considered the above comments and chose to amend Rule 1150-01-.22(2)(b)3 to read instead: "Each course must be pre-approved or approved by the Board or its consultant, or the Board may delegate the approval process to recognized health-related organizations or accredited physical therapy educational institutions."

Amended Rule 1150-01-.08(9)

No public comments were made regarding the proposed amendment to Rule 1150-01-.08(9). The Board approved the amendment as drafted.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(1) The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

The rules do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule or rules.

The rules are established with clarity, conciseness, and lack of ambiguity.

(3) The establishment of flexible compliance and/or reporting requirements for small businesses.

The rules do not establish flexible compliance or reporting requirements for small businesses.

(4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.

The rules do not establish friendly schedules or deadlines for compliance or reporting requirements for small businesses.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

The rules do not consolidate or simplify compliance or reporting requirements for small businesses.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

The rules do not establish performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

The rules do not unnecessarily create barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Physical Therapy

Rulemaking hearing date: 01/11/2016

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

The amendment to Rule 1150-01-.08 simply clarifies what steps a physical therapist licensing applicant must take after failing the licensing examination two or more times. New Rule 1150-01-.22 affects physical therapists wishing to provide dry needling treatments pursuant to 2015 Public Chapter 124 (codified in T.C.A. §§ 63-13-304 and 63-13-305). Those individuals affected by the amendment will bear the costs of the continuing education classes necessary to retake the examination. Those individuals affected by the new rule will bear the costs of classes required to practice dry needling services.

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

The amendment to Rule 1150-01-.08 simply clarifies what steps a physical therapist licensing applicant must take after failing the licensing examination two or more times. The new rule (1150-01-.22) would require physical therapists who want to practice dry needling to complete additional course work before being allowed to practice, which would cost the practitioner some money. The practitioner or the practitioner's employer would also have to provide some basic information to the patient before engaging in dry needling. Neither rule should require additional reporting, recordkeeping, or administrative costs.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

Small businesses and consumers should be positively impacted by the new dry needling rule (1150-01-.22). Physical therapy clinics will now be able to offer dry needling to patients without fear of practicing outside the scope of the practice act. The dry needling rule will also provide some liability protection to those practitioners who comply with the rule if they are ever sued for negligence.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

There are no less burdensome, less intrusive or less costly methods of achieving the purpose and/or objectives of the proposed amended rule (1150-01-.08) and new rule (1150-01-.22).

- 5. Comparison of the proposed rule with any federal or state counterparts:**

Federal: None.

State: The new dry needling rule embodies many of the requirements contained in rules promulgated by counterpart boards in other jurisdictions. Some have more requirements (Maryland) and some have a few less (Georgia). The Board considered similar rules from other jurisdictions in crafting the proposed rule.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

Neither the rule amendment (1150-01-.08) nor the new rule (1150-01-.22) provides exemptions for small businesses. In actuality, the new rule (1150-01-.22) affects only those practitioners who wish to offer dry needling. There is no additional requirement for a clinic as a standalone entity, except for the preparing of the basic information sheet to be given to a patient before receiving dry needling.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rules should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amendment to Rule 1150-01-.08 will clear up confusion regarding how many times an applicant may fail the licensing examination before having to complete additional continuing education hours that must be approved by the Board.

Rule 1150-01-.22 is a new rule regarding the practice of dry needling that was created to comply with 2015 Public Chapter 124 (codified in Tennessee Code Annotated Sections 63-13-304 and 63-13-305).

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The amendment to Rule 1150-01-.08 simply clarifies what steps a physical therapist licensing applicant must take after failing the licensing examination two or more times. New Rule 1150-01-.22 affects physical therapists wishing to provide dry needling treatments pursuant to 2015 Public Chapter 124 (codified in T.C.A. §§ 63-13-304 and 63-13-305). Those individuals affected by the amendment will bear the costs of the continuing education classes necessary to retake the examination. Those individuals affected by the new rule will bear the costs of classes required to practice dry needling services.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules should not result in any increase or decrease in state or local government revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Thomas Aumann, Assistant General Counsel, Department of Health.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Thomas Aumann, Assistant General Counsel, Department of Health.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Thomas.Aumann@tn.gov.

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

(Rule 1150-01-.07, continued)

2. The applicant fails to sit for the written exam, if applicable, within six (6) months after being notified of eligibility.
- (b) Whenever the applicant fails to complete the application process as stated in (a) above, written notification will be mailed to the applicant notifying him that the file has been closed. An applicant whose file has been closed shall subsequently be considered for licensure only upon the filing of a new application and payment of all appropriate fees.
- (10) If an applicant requests an entrance for licensure and, after Board review, wishes to change that application to a different type of entrance, a new application with supporting documents and an additional application fee must be submitted, e.g., reciprocity to examination.
- (11) An applicant shall submit an original letter of recommendation from a physical therapist or physical therapist assistant licensed in the United States that attests to the applicant's good moral character. The letter cannot be from a relative of the applicant.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-301, 63-13-108, 63-13-301, 63-13-304, 63-13-306, 63-13-307, and 63-13-312. **Administrative History:** Original rule filed September 30, 1987; effective November 14, 1987. Amendment filed March 26, 1991; effective May 10, 1991. Repeal and new rule filed February 21, 1996; effective May 6, 1996. Amendment filed September 24, 1998; effective December 8, 1998. Repeal and new rule filed March 16, 2000; effective May 30, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed December 2, 2014; effective March 2, 2015.

1150-01-.08 EXAMINATIONS. In addition to having filed an application, an individual seeking licensure shall be required to pass an examination.

- (1) The Board adopts as its examination for physical therapists and physical therapist assistants the National Physical Therapy Examinations endorsed by the Federation of State Boards of Physical Therapy or successor examinations.
- (2) Examination Application
 - (a) All applicants for examination shall apply for admission directly with the Federation of State Boards of Physical Therapy (FSBPT) by contacting:

| | | |
|--|-----------|----------------|
| Federation of State Boards of Physical Therapy | Telephone | (703) 299-3100 |
| 509 Wythe Street | Fax | (703) 299-3110 |
| Alexandria, VA 22314 | Internet | www.fsbpt.org |

Application forms and instructions will be provided by the Board's administrative office.
 - (b) All educational requirements must be completed prior to filing an application for licensure or examination.
- (3) Eligibility Approval
 - (a) Only a person who has filed the required application, paid the fees, and been notified of acceptance by the Board shall be permitted to take the examination.
 - (b) The FSBPT will compile an applicant list and forward to the Board. The Board will review the applicant list provided by the FSBPT, determine the eligible applicants, and notify the FSBPT of such determination.

(Rule 1150-01-.08, continued)

- (c) An examination shall be administered only to bona fide candidates for initial licensure or candidates who are not licensed in another jurisdiction and do not have a qualifying exam score in another jurisdiction.
 - (d) An applicant for licensure and/or examination who has not met the requirements as set forth in T.C.A. §63-13-306 and §63-13-307 shall be refused permission to take the examination.
- (4) Eligibility Notification
- (a) The FSBPT will compile eligibility lists and forward to the Computer Based Testing Provider. The FSBPT will send a letter to each candidate containing a toll-free number to call to schedule the examination.
 - (b) The candidate will contact the Computer Based Testing Provider to schedule the examination at the location of their choice.
 - 1. Candidates must take the examination within sixty (60) days of the date on the eligibility letter provided by the FSBPT. If the candidate does not take the examination within this time period, they will be removed from the eligibility listings of the Computer Based Testing Provider and will be required to begin the examination application process again.
 - 2. Candidates may reschedule the examination up to two (2) working days prior to the scheduled test date by calling the toll-free number provided to them in their eligibility letter without penalty. Candidates who fail to give such notice to the Computer Based Testing Provider, and who fail to sit for the Examination as scheduled, will forfeit the examination fees paid and will be required to begin the examination application process.
- (5) Administration
- (a) Candidates must arrive at the test site at least fifteen (15) minutes prior to their scheduled appointment with the Computer Based Testing Provider.
 - (b) Candidates must have government-issued photo identification (passport, driver's license, etc.) as well as another piece of identification which contains a signature.
 - (c) All candidates will be thumb-printed and photographed at the testing center.
 - (d) All sessions will be videotaped.
- (6) Passing level. Candidates qualifying for licensure by examination must pass the examination with a criterion reference passing point. This passing point shall be set to equal a scaled score of six hundred (600) based on a scale ranging from two hundred to eight hundred (200-800).
- (7) Results
- (a) No information regarding pass/fail status will be available to candidates at the test site.
 - (b) Upon receipt of the examination group score reports in the Board's administrative office, the results will be mailed to each candidate with ten (10) working days. Scores will not be provided except in writing and by mail.

(Rule 1150-01-.08, continued)

- (c) Hand scoring services are available from the FSBPT at the request of the candidate. The FSBPT may charge a fee for this service.

(8) Retaking

- (a) A candidate who fails the examination is eligible to repeat the licensure examination process described in this rule. An applicant who fails to qualify for licensure after a total of two (2) examination attempts, in any state, shall wait at least three (3) months after the last unsuccessful attempt before reapplying for examination.
- (b) If the individual neglects, fails to pass, or refuses to take the examination within twelve (12) months after being deemed eligible to sit for the examination, the application shall be denied and the file shall be closed. However, such individual may thereafter, make a new application pursuant to Rule 1150-01-.04, 1150-01-.05, 1150-01-.07, and 1150-01-.08.

~~(9) Effective July 1, 2015, the Board will no longer approve individualized structured remediation plans. However, those remediation plans already in effect prior to July 1, 2015 must be completed by the applicant. An applicant who fails the examination more than two (2) times after July 1, 2015 must submit proof of ten (10) hours of additional clinical training and ten (10) hours of additional coursework to the Board administrator before the Board will approve a reapplication for subsequent testing beyond two attempts.~~

~~(9) Effective July 1, 2015, the Board will no longer approve individualized structured remediation plans. However, those remediation plans already in effect prior to July 1, 2015 must be completed by the applicant. An applicant who fails the examination two (2) or more times after July 1, 2015 must submit proof of ten (10) hours of additional clinical training and ten (10) hours of additional coursework to the Board administrator before the Board will approve a reapplication for subsequent testing beyond two attempts. These ten (10) hours of additional clinical training and ten (10) hours of additional coursework are required after each subsequent failure beyond two (2) times before an applicant can be approved for reapplication for subsequent testing.~~

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Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, 63-13-301, 63-13-304, 63-13-306, and 63-13-307.
Administrative History: Original rule filed August 16, 1990; effective September 30, 1990. Repeal filed March 26, 1991; effective May 10, 1991. Repeal and new rule filed February 21, 1996; effective May 6, 1996. Amendment filed September 24, 1998; effective December 8, 1998. Amendment filed January 31, 2000; effective April 15, 2000. Repeal and new rule filed March 16, 2000; effective May 30, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed January 19, 2005; effective April 4, 2005. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed August 19, 2010; effective November 17, 2010. Amendment filed April 6, 2015; effective July 5, 2015.

1150-01-.09 RENEWAL OF LICENSE.

(1) Renewal Application

- (a) The due date for license renewal is the expiration date indicated on the licensee's renewal certificate.
- (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

(Rule 1150-01-.20, continued)

need not be reported pursuant to the "Health Care Consumer Right-To-Know Act of 1998" shall be ten thousand dollars (\$10,000).

(2) Criminal conviction reporting requirements. For purposes of the "Health Care Consumer Right-To-Know Act of 1998", the following criminal convictions must be reported:

- (a) Conviction of any felony.
- (b) Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 - 1. Sex.
 - 2. Alcohol or drugs.
 - 3. Physical injury or threat of injury to any person.
 - 4. Abuse or neglect of any minor, spouse or the elderly.
 - 5. Fraud or theft.
- (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-104, 63-51-101, et seq., and Public Chapter 373 of the Public Acts of 1999. **Administrative History:** Original rule filed February 10, 2000; effective April 25, 2000.

1150-01-.21 PROFESSIONAL PEER ASSISTANCE. As an alternative to disciplinary action, or as part of a disciplinary action, the Board shall utilize the services of a professional assistance program, as approved by the Board, for situations regarding licensee substance abuse, chemical abuse, or lapses in professional and/or ethical judgments. Information regarding persons entering the program upon referral by this Board shall be confidential.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, 63-13-304, and 63-13-312. **Administrative History:** Original rule filed March 16, 2000; effective May 30, 2000.

1150-01-.22 Dry Needling

(1) In order to perform dry needling, a physical therapist must obtain all of the educational instruction described in paragraphs (2)(a) and (2)(b) herein. All such educational instruction must be obtained in person and may not be obtained online or through video conferencing. **Formatted: Indent: Left: 0.38", Hanging: 0.38"**

(2) Mandatory Training - Before performing dry needling, a practitioner must complete educational requirements in each of the following areas: **Formatted: Indent: Left: 0.38", Hanging: 0.38"**

(a) Fifty (50) hours of instruction, to include instruction in each of the four (4) areas listed herein, which are generally satisfied during the normal course of study in physical therapy school: **Formatted: Indent: Left: 0.75", Hanging: 0.38"**

1. Musculoskeletal and Neuromuscular systems; **Formatted: Indent: Left: 1.13", Hanging: 0.38"**

2. Anatomical basis of pain mechanisms, chronic pain, and referred pain; **Formatted: Indent: Left: 1.13", Hanging: 0.38"**

3. Trigger Points; **Formatted: Indent: Left: 1.13", Hanging: 0.38"**

(Rule 1150-01-.21, continued)

4. Universal Precautions; and

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(b) Twenty-four (24) hours of dry needling specific instruction.

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1. The twenty-four (24) hours must include instruction in each of the following six (6) areas:

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(i) Dry needling technique;

(ii) Dry needling indications and contraindications;

(iii) Documentation of dry needling;

(iv) Management of adverse effects;

(v) Practical psychomotor competency; and

(vi) Occupational Safety and Health Administration's Bloodborne Pathogens Protocol.

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2. Each instructional course shall specify what anatomical regions are included in the instruction and describe whether the course offers introductory or advanced instruction in dry needling.

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3. Each course must be pre-approved or approved by the Board or its consultant, or the Board may delegate the approval process to recognized health-related organizations or accredited physical therapy educational institutions.

(3) A newly-licensed physical therapist shall not practice dry needling for at least one (1) year from the date of initial licensure, unless the practitioner can demonstrate compliance with paragraph (2) through his or her pre-licensure educational coursework.

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(4) Any physical therapist who obtained the requisite twenty-four (24) hours of instruction as described in paragraph (2)(b) in another state or country must provide the same documentation to the Board, as described in paragraph (2)(b), that is required of a course provider. The Board or its consultant must approve the practitioner's dry needling coursework before the therapist can practice dry needling in this state.

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(5) Dry needling may only be performed by a licensed physical therapist and may not be delegated to a physical therapist assistant or support personnel.

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(6) A physical therapist practicing dry needling must supply written documentation, upon request by the Board, that substantiates appropriate training as required by this rule.

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(7) All physical therapy patients receiving dry needling shall be provided with information from the patient's physical therapist 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.

Authority: T.C.A. §§ 63-13-304 and 63-13-305.

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