

**Here are some points of legal objection to the Oregon Board of Chiropractic Examiners' ("OBCE's") possible expansion of the scope of the Oregon chiropractor's license to include the "dry needling" procedure:**

Dry needling involves the insertion of acupuncture needles into a patient, and is exclusively within the scope of practice of the acupuncture license. The commonly accepted definition of dry needling is as follows:

Dry Needling denotes the insertion of a needle into a myofascial trigger point associated with a hypersensitive palpable module in a taut band. This procedure is used when a patient presents with myofascial or musculoskeletal pain. The procedure consists of piercing a trigger point with a fine, thin gage (25 gage or smaller) needle. If successful, ideally, the myofascial pain may diminish. It is only one step in a multi-step process for diagnosing, treating and preventing reoccurrence of the patient symptoms.

Jan Dommerholt, P.T., MPS, FAAPM, et al., Trigger Point Dry Needling, The Journal of Manual & Manipulative Therapy, E 70-79, Vo.. 4, (2006).

The statutory scope of the Oregon chiropractor's license is located at ORS 684. This statute is the "full expression" of the Oregon State Legislature on the limits of a chiropractors practice of medicine and may not be exceeded by the OBCE. *See, Nickila v. Board Of Chiropractic Examiners*, 124 Or. App. 380, 382 (1993). ORS 684.025(2) specifically prohibits chiropractors from performing procedures that involve penetration of the skin of a patient for a therapeutic purpose.

Neither this section nor ORS 684.010 authorizes the *administration of any substance by the penetration of the skin* or mucous membrane of the human body for a *therapeutic purpose*. (emphasis added).

In order to fully understand the text of this statute, it is essential to carefully define the terms: "administration," "penetration," "substance," and "therapeutic."

1. "Administration" is defined as "[t]he dispensing, applying, or tendering or something, such as an oath, a sacrament, or medicine." The American Heritage Dictionary (4th ed. 2000) at 22 (emphasis added). In the dry needling procedure, an acupuncture needle is "administered" because the tip of the needle is applied to a myofascial trigger point of a patient.
2. "Penetration" is defined as "[t]he act or process of piercing or penetrating something." The American Heritage Dictionary (4th ed. 2000) at 1299 (emphasis added). In the dry needling procedure, the acupuncture needle "penetrates" the skin of a patient because a practitioner must pierce the patient's skin in order to insert the needle into a myofascial trigger point.

3. The term "substance" is defined as "[t]hat which has mass and occupies space; matter." The American Heritage Dictionary (4th ed. 2000) at 1726; *See also, State v. Peck*, 773 N.W.2d 768, 772 (Minn. 2009). According to this definition, the tip of an acupuncture needle is a "substance" under ORS 684.025(2) because it occupies space and is matter.
4. The Oregon Attorney General has defined "therapeutic" as "of or relating to the treatment of disease or disorders by remedial agents or methods." 40 Or. Op. Atty. Gen. 392 (1980) (citing Webster's New Collegiate Dictionary 1210 (1977)). In the dry needling procedure, a needle is inserted into a myofascial trigger point of a patient for the purpose of diminishing pain. The needle, therefore, is clearly used as a "remedial agent or method" to treat disorders.

Based on the definitions of the terms contained in the statute, the dry needling procedure involves the administration of a substance (the tip of the needle) into a myofascial trigger point by the penetration of a needle through the skin for a therapeutic purpose (treating myofascial trigger point pain). This procedure falls within the plain meaning of the ORS 684.025(2) prohibition.

Unlike the chiropractor licensing statute, the acupuncture licensing statute specifically allows the insertion of needles into the skin for treatment purposes.

"Acupuncture" means an Oriental health care practice used to promote health and to treat neurological, organic or functional disorders by the stimulation of specific points on the surface of the body by the *insertion of needles*.

ORS 677.757(1)(a).

Dry needling is a procedure that falls exclusively under the scope of practice for acupuncturists and violates the statutory boundaries for chiropractic care. An OBCE decision to include dry needling within the scope of practice of chiropractors would exceed the authority delegated to the OBCE by the Legislature.