

# Modernization of the Florida Physical Therapy Practice Act - Summary



Today marks a big moment for physical therapy in the state of Florida. After more than 30 years, the Physical Therapy Practice Act, which defines and governs the practice of physical therapy, has been updated. Florida Governor Ron DeSantis signed FPTA’s major legislative initiative into law on June 29, 2020, clearly defining the practice of physical therapy and recognizing the current set of skills and value physical therapists and physical therapist assistants provide their patients.

The changes to Chapter 486, Florida Statutes were derived from *The Model Practice Act for the Practice of Physical Therapy 6th Edition*, as developed by the Federation of State Boards of Physical Therapy. It is regarded as the preeminent standard and most effective tool available for legislative change when revising and modernizing physical therapy practice acts.

Many people volunteered their time to help modernize physical therapy practice in Florida. In fact, with your help and our digital advocacy campaign, FPTA was able to generate over 40,000 emails to state legislators advocating for the updated law. I would like to thank all of those who contributed to our success including our CEO, Tad Fisher, our COO, Michelle Higdon, our lobbying team at Metz, Husband and Daughton, and Cynthia Mikos, FPTA Legal Counsel, as well as all of our consultants. FPTA leadership worked with many professional organizations across Florida including the Florida Medical Association, Florida Osteopathic Medical Association, Florida Orthopedic Society, Florida Chiropractic Association and the Florida Occupational Therapy Association to ensure there was no resistance to the legislation as it moved forward. Thanks to all of you who were involved.

## Impact of the legislation to Chapter 486, Florida Statutes

**Section 486.021 (10) – “Physical therapy assessment”** Changes in this section more clearly delineate what physical therapy assessment means, for example the new language correctly identifies “human movement system” specifically as a specialization of the physical therapist.

**Section 486.021 (11) – “Practice of physical therapy”** Changes in this section deleted outdated language and defined modern areas of treatment physical therapists are educated and trained to provide to patients. Now expressly included in the new definition are manual therapy, airway clearance and wound care, as well as other clarifying language that brings the definition more in line with modern practice. **Section 486.025 – “Powers and duties of the Board of Physical Therapy Practice”** This revision adds responsibility to the Board for establishing standards of practice for the performance of dry needling by physical therapists who wish to avail themselves of this modern treatment tool.

**Section 486.117 – “Physical Therapist; performance of dry needling”** This new section of law sets out the minimum standards for a physical therapist who wants to perform dry needling in Florida and is described more fully below.

## **Minimum Standards of Practice for the Performance of Dry Needling**

Once HB 467 becomes effective July 1, 2020, licensed physical therapists, who meet the requirements of minimum standards of practice will be able to practice dry needling. Additionally, the Florida Board of Physical Therapy Practice is charged with establishing rules delineating the minimum standards of practice for the performance of dry needling by a physical therapist. Rulemaking discussion has begun but will not be completed for a few months.

Clearly, there are Florida licensed physical therapists currently practicing in Florida who may already meet the minimum standards of practice, which include:

- Completion of 2 years of licensed practice as a physical therapist.
- Completion of 50 hours of face-to-face continuing education from an entity accredited in accordance with s. 486.109 on the topic of dry needling which must include a determination by the physical therapist instructor that the physical therapist demonstrates the requisite psychomotor skills to safely perform dry needling. The continuing education must include instruction in all of the following areas:
  - Theory of dry needling
  - Selection and safe handling of needles and other apparatus or equipment used in dry needling, including instruction on the proper handling of biohazardous waste.
  - Indications and contraindications for dry needling.
  - Psychomotor skills needed to perform dry needling.
  - Postintervention care, including adverse responses, adverse event recordkeeping, and any reporting obligations.
- Completion of at least 25 patient sessions of dry needling performed under the supervision of a physical therapist who holds an active license to practice physical therapy in any state or the District of Columbia, who has actively performed dry needling for at least 1 year, and who documents that he or she has met the supervision and competency requirements and needs no additional supervised sessions to perform dry needling; **or**
- Completion of 25 patient sessions of dry needling performed as a physical therapist licensed in any state or in the United States Armed Forces.
- A requirement that dry needling may not be performed without patient consent and must be a part of a patient's documented plan of care.
- A requirement that dry needling may not be delegated to any person other than a physical therapist who is authorized to engage in dry needling under this chapter.
- The Board of Physical Therapy Practice shall establish additional supervision and training requirements before the performance of dry needling of the head and neck or torso by a physical therapist as the board deems it necessary for patient safety.

### **So, what does this mean?**

Those physical therapists who can demonstrate that they meet all of the statutory criteria will be able to practice dry needling beginning July 1<sup>st</sup>. Once the Board of Physical Therapy Practice establishes rules - there may be a requirement for licensees to attest that they have the competencies needed to practice dry needling. Once the final rule and forms are available from the Board of Physical Therapy Practice, we will share it through FPTA communications. Physical therapist who do not meet the above criteria will need to begin work on completing the hours of education and observed practice as indicated above. As with any other area of practice it will be up to the individual licensee to prove they are competent to practice this intervention should they be called to do so.

I hope this brings some great news during this time of chaos associated with COVID-19. Please stay tuned to your *Weekly Update* and other FPTA communications regarding the impact the changes in the practice act will have on our profession.



Jamie Dyson, PT, DPT

A handwritten signature in black ink that reads "Jamie Dyson". The signature is fluid and cursive, with the first name "Jamie" and last name "Dyson" clearly distinguishable.

President, Florida Physical Therapy Association



## PT Practice Act Modernization: Frequently Asked Questions

- **What is the effective date for this legislation?**
  - July 1, 2020
  
- **What resources were used to develop/propose these changes?**
  - The changes made to section 486, Florida Statutes are derived from *The Model Practice Act for the Practice of Physical Therapy 6th Edition*, as developed by the Federation of State Boards of Physical Therapy. It is regarded as the preeminent standard and most effective tool available for legislative change when revising and modernizing physical therapy practice acts. The continuing movement to update Physical Therapy Practice Acts helps ensure that legislatures provide the legal authority to fully protect the public while allowing for the effective regulation of the profession.
  
  - Additionally, FPTA formed a task force to provide input and direction towards developing these changes. The task force was made up of volunteers from our membership, the Board of Directors, and our legislative team.
  
- **What is the significance of modernizing the language?**
  - By modernizing the language of the Practice Act, definitions of practice are updated to more accurately reflect the current state of practice while also adding clarity and protections to the practice of physical therapy.
  
- **What changed in the definition of “physical therapy assessment” found in Section 486.021 (10), F.S.?**
  - The language in the definition of physical therapy assessment was broadened to include evaluation of “the movement system” instead of only “musculoskeletal or neuromuscular” systems. As changed, the definition now represents the true scope of what physical therapists are trained to do. The movement system describes the collection of systems (cardiovascular, pulmonary, endocrine, integumentary, nervous, and musculoskeletal) that interact to move the body or its component parts. Additionally, the physical therapy assessment definition was expanded to expressly include the therapist’s ability to evaluate not only motor power, but also motor control.

- **What changes were made to the definition of the “practice of physical therapy” found in Section 486.021 (11), F.S.?**
  - This definition was significantly altered to eliminate outdated and confusing language and to specifically identify the scope of practice to include treatment, prevention, and rehabilitation of “disability, injury, disease, or other health condition by alleviating impairments, functional movement limitations, and disabilities, by designing, implementing, and modifying treatment interventions through therapeutic exercise; functional movement training in self-management and in-home, community, or work integration or reintegration; manual therapy; massage; airway clearance techniques; maintaining and restoring the integumentary system and wound care; physical agent or modality; mechanical or electrotherapeutic modality; patient-related instruction;” etc. Now expressly identified in the new definition are manual therapy, airway clearance and wound care, as well as other clarifying language that brings the definition more in line with modern practice.
  - Eliminated were descriptions of how physical therapists use the physical, chemical, and other properties of air, electricity, and water, as well as other references to radiant energy, visible and infrared rays, and acupuncture when no penetration of the skin occurs under non-existent criteria established by the Board of Medicine. The meaning of the previous definition was the source of much confusion by the Administrative Law Judge during the rule challenge about dry needling – where it was made clear to those involved that the definition was in sore need of revision.
  - Lastly, the definition was revised to make plain that the practice of physical therapy does not authorize a physical therapist to perform acupuncture, in addition to the already present prohibition against performing chiropractic spinal manipulation.
  
- **What other definitions were added to Section 486.021, F.S.?**
  - The Legislature also defined “dry needling” in subsection 12 and “myofascial trigger point” in subsection 13. More specifically, the Legislature clarified in these definitions to note that dry needling is not acupuncture by differentiating dry needling as a skilled intervention based on Western Medicine that uses filiform needles to stimulate a myofascial trigger point for the evaluation and management of neuromusculoskeletal conditions, pain, movement impairments and disabilities. A myofascial trigger point is defined as an irritable section of soft tissue often associated with a palpable nodule in a taut band of muscle fibers.
  
- **What new powers were delegated to the Board of Physical Therapy?**
  - Section 486.025, F.S. – “Powers and Duties of the Board of Physical Therapy Practice” – was revised to add responsibility to the Board to establish minimum standards of practice for the performance of dry needling by physical therapists who wish to avail themselves of this modern treatment tool. The revision additionally clarified the Board’s ability to personally inspect a school offering physical therapy courses and its courses.

- **What do I need to do if I want to perform dry needling?**
  - The Legislature established a new statute in the Physical Therapy Practice Act to address dry needling. It is found at Section 486.117, F.S – “Physical therapist; performance of dry needling.” Here, the Legislature mandated that the Board of Physical Therapy engage in rulemaking to set the minimum standards for the performance of dry needling, but also included very specific criteria for the Board to include in the rule.
  - **The statutory criteria are:**
    - Completion of 2 years of practice as a licensed physical therapist;
    - Completion of 50 hours of face-to-face continuing education from an approved, accredited CE provider on dry needling to include specific subject matter on the theory of dry needling, safe handling and disposal of needles, indications and contraindications, psychomotor skills (including a determination from a physical therapist instructor that the licensee has the requisite psychomotor skills to safely needle), and postintervention care, including adverse event reporting and recording;
    - Completion of at least 25 sessions of dry needling performed under the supervision of a licensed physical therapist who has practiced dry needling for at least 1 year and who documents that the PT has successfully completed the supervised sessions and needs no further supervised sessions to dry needle, OR completion of 25 sessions of dry needling as a physical therapist licensed in another state or in the military.
  - The new statute also mandates that patients consent to dry needling, that dry needling cannot be delegated to anyone other than a properly trained and licensed physical therapist, and requires that the Department of Health track certain statistics related to the performance of dry needling, including the number of adverse incidents.
  
- **Does the physical therapist who supervises dry needling sessions have to be physically present when the supervision is done?**
  - This is not addressed in the new statute. However, during the legislative session, lawmakers discussed the ability to use telehealth to complete the supervision. During its initial discussion, the Board also seemed interested in allowing telehealth for supervision, but wanted to ensure that any telehealth allowed required the session to be synchronous and not asynchronous. There is **no published guidance on this issue currently**. Remember, if you choose to use a telehealth vehicle in patient care, patient privacy and consent are important factors to be addressed.

- **When can I practice dry needling?**
  - If a physical therapist already has the requisite training and experience outlined in the statute and can demonstrate compliance in writing if requested, then he or she may practice dry needling immediately.
  - If a physical therapist does not meet the current statutory requirements, he or she must wait until he or she can demonstrate compliance with each of the published criteria.
  - The Board of Physical Therapy has begun a rulemaking process to complete regulations for the minimum standards of performing dry needling. That process will take months and could add requirements for the physical therapist to perform dry needling. Once those rules are finalized, then all physical therapists who want to dry needle will need to meet both the statutory and rule requirements.
  
- **How were the minimum standards of dry needling determined?**
  - Overall, the standards were developed from a review of other state statutes and regulations, and from the experiences of PTs who have practiced dry needling. However, negotiating the standards during the legislative process was pivotal to our success.
  
- **What is the timeline for Board approval?**
  - The timeline started at the Board’s special hearing on rule development for dry needling on June 26. The board will continue development at its hearing on August 28. Once the Board adopts the final rule and procedures, including forms, etc., the rule will be reviewed by the state’s rule review process. Additionally, the rule can be challenged by outside interests.
  - We estimate at this point that the final adoption and approval of the rule will occur sometime during the fall.
  
- **How does modernization of the Physical Therapy Practice Act change or affect my current practice?**
  - By modernizing the language of the Practice Act, definitions of practice are updated to more accurately reflect the current state of practice while also adding clarity and protections to the practice of physical therapy. The modernization of the language in the Physical Therapy Practice Act now aligns with contemporary practice and more clearly defines the practice and interventions used to treat patients, clients and society. This includes the integration of the movement system and its components, which better identifies the practice of physical therapy for educating the public, other providers and payers.
  
- **What was the process in developing, lobbying, and enacting this legislation?**
  - Upon denial of the Dry Needling Rule in 2019, the FPTA Board of Directors created a special task force to develop a legislative option. The task force recommendations were vetted by legal counsel and the lobbying team, and then

negotiations were conducted with special interests we believed would have concerns. These groups included the Florida Orthopedic Society, Florida Medical Association, Florida Osteopathic Medical Association, Florida Chiropractic Association, Florida Occupational Therapy Association, and others. FPTA also negotiated continuously with the Florida State Oriental Medical Association and Florida Acupuncture Association to find agreement on dry needling.

- Along the way, FPTA advocacy and communications strategies using social media systems generated over 40,000 individual messages to legislators and the Governor. HB 467 and SB 792 passed all six committees and the full House of Representatives unanimously and passed the Senate 39-1.

