

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/CS/HB 1063 Practice of Chiropractic Medicine

**SPONSOR(S):** Health & Human Services Committee and Healthcare Regulation Subcommittee, Hunschofsky and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/CS/SB 1474

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**FINAL HOUSE FLOOR ACTION:** 114 Y's

1 N's

**GOVERNOR'S ACTION:** Pending

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### SUMMARY ANALYSIS

CS/CS/HB 1063 passed the House on February 29, 2024, as amended, and subsequently passed the Senate on March 5, 2024.

Chiropractic physicians are regulated by the Board of Chiropractic Medicine (Board) within the Department of Health (DOH) under ch. 460, F.S., which establishes minimum requirements for the safe practice of chiropractic medicine.

Dry needling is a technique used to treat musculoskeletal pain and movement issues. Healthcare providers may incorporate dry needling as a part of a larger pain management plan that could include exercise, stretching, massage, and other techniques. Dry needling may help relieve pain and increase range of motion. Depending on the state, dry needling may be performed by licensed physical therapists, athletic trainers, chiropractors, or medical doctors who have been trained in the procedure. Current Florida law does not address the performance of dry needling by chiropractors, and the Board has not opined on whether it is within their scope of practice.

Current law requires DOH to examine each applicant for chiropractic licensure who the Board certifies meets the necessary education prerequisites. CS/CS/HB 1063 authorizes the Board to certify applicants if they provide a credential evaluation report from a board-approved organization that the Board deems is equivalent to a bachelor's degree. This allows chiropractic physicians who obtained their bachelor's level degree at a non-U.S. educational institution to practice in Florida.

The bill requires the Board to establish minimum practice standards and education requirements by which a chiropractic physician may perform dry needling on patients. Before the Board authorizes a chiropractic physician to perform dry needling, the chiropractic physician must complete the prerequisite hours of in-person course work and pass the written and practical examination. The bill authorizes the Board to waive some or all of the hours or educational requirements if a chiropractor presents satisfactory proof of having completed coursework that constitutes adequate training for dry needling.

The bill has no fiscal impact on state or local governments.

Subject to the Governor's veto power, the bill takes effect upon becoming law.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Background**

#### **Chiropractic Medicine**

##### Practice of Chiropractic Medicine

Under current law s. 460.403, F.S., the practice of chiropractic medicine is a noncombative principle and practice consisting of the science, philosophy, and art of the adjustment, manipulation, and treatment of the human body. Specifically, chiropractic medicine targets vertebral subluxations and other malpositioned articulations and structures that interfere with the normal generation, transmission, and expression of nerve impulse between the brain, organs, and tissue cells of the body. Left untreated, these abnormalities may cause disease. To mitigate the occurrence of disease, chiropractors adjust, manipulate, and treat the human body to restore the normal flow of nerve impulse which produces normal function and consequent health. The practice of chiropractic medicine further contemplates that chiropractic physicians use specific chiropractic adjustment or manipulation techniques taught in chiropractic colleges accredited by the Council on Chiropractic Education (CCE).<sup>1</sup> No person other than a licensed chiropractic physician may render chiropractic services, chiropractic adjustments, or chiropractic manipulations.<sup>2</sup>

Chiropractic physicians may adjust, manipulate, or treat the human body by:

- Manual, mechanical, electrical, or natural methods;
- The use of physical means or physiotherapy, including light, heat, water, or exercise;
- The use of acupuncture; or
- The administration of foods, food concentrates, food extracts, and items for which a prescription is not required.

In addition, chiropractic physicians may apply first aid and hygiene. However, chiropractic physicians are expressly prohibited from prescribing or administering to any person any legend drug except, in emergencies, prescription medical oxygen or topical anesthetics in aerosol form. Chiropractic physicians cannot perform any surgery or practice obstetrics.<sup>3</sup>

Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the chiropractic physician knows or has reason to know that she or he is not competent to perform constitutes grounds for denial of a license or disciplinary action.<sup>4</sup>

##### Chiropractic Licensure

Chiropractic physicians are regulated by the Board of Chiropractic Medicine (Board) within the Department of Health (DOH) under ch. 460, F.S., which establishes minimum requirements for the safe practice of chiropractic medicine. Any person desiring to be licensed as a chiropractor must apply to

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<sup>1</sup> The Council on Chiropractic Education is recognized by the United States Department of Education and the Council for Higher Education Accreditation as the accrediting body for chiropractic programs. United States Department of Education, *Accreditation in the United States*, [https://www2.ed.gov/admins/finaid/accred/accreditation\\_pg3.html](https://www2.ed.gov/admins/finaid/accred/accreditation_pg3.html) (last visited Mar. 14, 2024); Council for Higher Education Accreditation, *Council on Chiropractic Education*, <https://www.chea.org/council-chiropractic-education> (last visited Mar. 14, 2024).

<sup>2</sup> S. 460.403(9)(a), F.S.

<sup>3</sup> S. 460.403(9)(c), F.S.

<sup>4</sup> S. 460.413(1)(t), F.S.

DOH to take the licensure examination and pay a fee.<sup>5</sup> An applicant has the option to take the acupuncture certification exam in conjunction with the chiropractic physician licensure examination.<sup>6</sup>

Before DOH allows an applicant to sit for the licensure examination, the Board must certify to DOH that the applicant:<sup>7</sup>

- Completed the Board application form.
- Provided proof of being age 18 or older.
- Paid both the application and initial license fees.
- Graduated from a CCE-accredited chiropractic college.
- Passed all four parts of the national certification examination and the national physiotherapy examination, both administered by the National Board of Chiropractic Examiners (NBCE), with a score satisfactory to the Board.
- Satisfied one of the following postsecondary education requirements:
  - Completed two years of eligible residence work at an college or university accredited by the United States Department of Education if the applicant enrolled at a chiropractic college before July 2, 1990.
  - Graduated with a bachelor's degree from a college or university accredited by the Commission on Recognition of Postsecondary Accreditation if the applicant enrolled at a chiropractic college after July 1, 1990.
  - Graduated with a bachelor's degree from a college or university accredited by the United States Department of Education if the applicant enrolled at an chiropractic college after July 1, 2000.
- Passed a criminal background check.

DOH allows chiropractic students in the final year of their doctorate program to apply for the licensure examination, sit for the NCBE certification exams, undergo a criminal background check, and pay all the licensure fees. When eligible chiropractic students successfully complete all these steps, the Board may certify these applicants to DOH for licensure once they graduate.<sup>8</sup>

Current law prevents chiropractic physicians who obtained their bachelor's level degrees at non-U.S. undergraduate institutions from being considered for licensure in Florida, even if they graduated from a U.S. chiropractic school.

## Dry Needling

Dry needling is a technique that acupuncturists, physical therapists, and other trained healthcare providers use to treat musculoskeletal pain and movement issues. Healthcare providers may incorporate dry needling as a part of a larger pain management plan that could include exercise, stretching, massage, and other techniques. With dry needling, a healthcare provider inserts thin, sharp needles through a patient's skin to treat underlying myofascial<sup>9</sup> trigger points. Trigger points are knotted, tender areas that develop in muscles which are highly sensitive and can be painful when touched.<sup>10</sup>

When health providers apply dry needling to muscles and tissues, needles may decrease tightness, increase blood flow, and reduce local and referred pain. Providers use solid needles that do not contain

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<sup>5</sup> S. 460.406(1), F.S.

<sup>6</sup> S. 460.406(3), F.S.

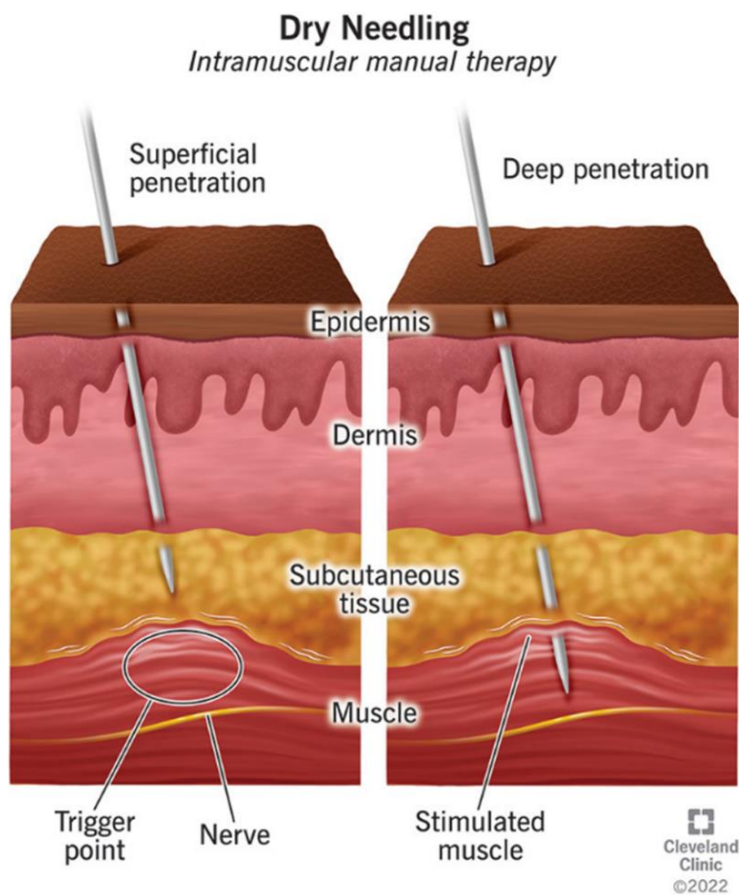
<sup>7</sup> Ss. 460.405, 460.406(1), F.S.; Florida Board of Chiropractic Medicine, *Chiropractic Physician*, <https://floridaschiropracticmedicine.gov/licensing/chiropractic-physician/#tab-requirements> (last visited Mar. 14, 2024).

<sup>8</sup> S. 460.406(5), F.S.

<sup>9</sup> In the word "myofascial," "myo" means "muscle." Fascia is the thin, white connective tissue that wraps around muscles.

<sup>10</sup> The Cleveland Clinic, *Dry Needling*, (last reviewed Feb. 20, 2023) <https://my.clevelandclinic.org/health/treatments/16542-dry-needling> (last visited Mar. 6, 2024).

any kind of medication – hence “dry” needling. Dry needling is also known as intramuscular stimulation. The graphic below illustrates how dry needling works.<sup>11</sup>



When a patient overexerts their muscle, the muscle experiences an energy crisis where the muscle fibers cannot access an adequate supply of blood. Without normal blood supply to the muscle, the muscle cannot get the oxygen and nutrients that allow the muscle to return to its normal resting state. Dry needling may stimulate the trigger point to help draw normal blood supply back to flush out the area and release tension.<sup>12</sup>

Dry needling may help relieve pain and increase range of motion. Conditions that dry needling may treat include:<sup>13</sup>

- Joint issues.
- Disk issues.
- Tendonitis.
- Migraine and tension-type headaches.
- Jaw and mouth problems, such as temporomandibular joint (TMJ) disorders.
- Whiplash.
- Repetitive motion disorders, such as carpal tunnel syndrome.
- Spinal issues.
- Pelvic pain.
- Night cramps.
- Phantom limb pain.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

- Postherpetic neuralgia, a complication of shingles.

There are certain groups of people who should not receive dry needling. Providers do not recommend the procedure for children under the age of 12 because it can be painful. Other groups who should consult with their physician before receiving dry needling include people who:<sup>14</sup>

- Are pregnant.
- Are not able to understand the treatment.
- Are very afraid of needles (trypanophobia).
- Have compromised immune systems.
- Have just had surgery.
- Are on blood thinners.

The most common side effect of dry needling is soreness during and after treatment. Other side effects are typically minor and may include:<sup>15</sup>

- Stiffness.
- Bruising at or near the insertion site.
- Fainting.
- Fatigue.
- Risk of infection.

While both dry needling and acupuncture use needles to treat pain, acupuncture treats musculoskeletal pain and dry needling treats muscle tissue with the goal of pain mitigation, deactivating trigger points, and improving movement.<sup>16</sup> Depending on the state, dry needling is performed by licensed physical therapists, athletic trainers, chiropractors, or medical doctors who have been trained in the procedure.

On November 9, 2023, the Florida Board of Chiropractic Medicine convened a board meeting to discuss, in part, the Florida Chiropractic Association (FCA)'s petition for a declaratory statement<sup>17</sup> that asked whether dry needling is within the scope of practice for chiropractic physicians. The Florida Chiropractic Physician Association (FCPA) appeared in support of adding dry needling to the scope of practice. The Florida Chiropractic Society (FCS) appeared in opposition to adding dry needling to the scope of practice. After debate, the FCA withdrew their declaratory statement petition, and the Board suspended discussion of whether dry needling is within the scope of practice for chiropractic physicians.<sup>18</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Florida Chiropractic Association's Petition for Declaratory Statement Before the Department of Health / Board of Chiropractic Medicine* (Oct. 30, 2023) <https://www.fcachiro.org/wp-content/uploads/2023/08/Petition-for-Declaratory-Statement-dry-needling-1.pdf> (last visited Mar. 6, 2024).

<sup>18</sup> Board of Chiropractic Medicine, *Board Meeting Minutes, November 9, 2023*, Department of Health (Nov. 9, 2023) <https://www10.doh.state.fl.us/pub/hcpr/Chiropractor/2023/Chiro%20Draft%20Minutes%2011.9.23.pdf> (last visited Mar. 6, 2024).

## **Effect of the Bill**

### **Chiropractic Medicine**

#### **Chiropractic Licensure**

Current law requires DOH to examine each applicant whom the Board certifies meets the necessary matriculation prerequisites. CS/CS/HB 1063 gives the Board authority to recognize chiropractic physician applicants for licensure if they provide a credential evaluation report from a board-approved organization that the Board deems is equivalent to a bachelor's degree. The effect of this change is to create a state licensure pathway for chiropractic physicians who graduated from both U.S. chiropractic schools and non-U.S. undergraduate institutions.

#### **Practice of Chiropractic Medicine**

##### ***Dry Needling***

The bill authorizes chiropractic physicians to adjust, manipulate, or treat the human body by the use of monofilament intramuscular stimulation treatment, also known as dry needling, for trigger points or myofascial pain.

The bill requires the Board to establish minimum practice standards and education requirements by which a chiropractic physician may perform dry needling on patients. The bill authorizes a chiropractic physician to practice dry needling after the Board verifies that the chiropractic physician fulfilled all prerequisites and issues the chiropractic physician a letter of certification.

Before the Board authorizes a chiropractic physician to perform dry needling, the chiropractic physician must complete the prerequisite hours of in-person course work and pass the written and practical examination. If a chiropractic physician lacks certification in chiropractic acupuncture, he or she must complete 40 hours of in-person continuing education. For a chiropractic physician certified in chiropractic acupuncture, he or she must complete 24 hours of in-person continuing education. The bill prevents online or distance-based courses from counting towards the required hours.

The bill requires at least one of seven entities<sup>19</sup> to approve dry needling curricula. If a chiropractic physician takes courses outside the approved curricula, those hours do not count towards certification. The bill requires continuing education curricula to include course 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 contradictions for dry needling.
- Psychomotor skills need to perform dry needling.
- Postintervention care, including adverse responses, adverse event recordkeeping, and any reporting obligations.

The bill requires a course instructor to:

- Be a licensed chiropractic physician, allopathic physician, osteopathic physician, or a physical therapist who holds a doctorate degree in physical therapy.

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<sup>19</sup> These seven entities are the Board, the American Chiropractic Association, the International Chiropractic Association, Providers of Approved Continuing Education, the American Medical Association, the American Osteopathic Association, and any entity accredited in accordance with s. 460.408, F.S.

- Have practicing dry needling for at least 5 years, either as an dry needling instructor at an accredited institution of higher education or as a duly authorized professional treating patients in a professional office setting.

In addition to the required course hours, chiropractic physicians must complete at least 10 supervised patient sessions of dry needling before certification. The bill requires the supervisor to be a licensed chiropractic physician, allopathic physician, osteopathic physician, or a physical therapist holding a doctorate degree in physical therapy, and to have actively performed dry needling for at least 1 year.

The bill authorizes the Board to waive some or all of the hours or educational requirements if a chiropractor presents satisfactory proof of having completed coursework prior to July 1, 2024, that constitutes adequate training for dry needling.

The bill prohibits a chiropractic physician from treating patients with dry needling without first securing the patient's informed consent on the risks of the treatment and possible adverse events. The bill requires a chiropractic physician to document the patient's informed consent in the patient's care plan.

The bill also prohibits a certified chiropractic physician from delegating dry needling to any one other than another certified chiropractic physician.

The bill takes effect upon becoming law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

None.