

STATE OF SOUTH DAKOTA
DEPARTMENT OF HEALTH

BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS

DECLARATORY RULING)	FINDINGS OF FACT,
CONCERNING SDCL § 36-29-1.1)	CONCLUSIONS OF LAW, AND
AND THE ABILITY OF ATHLETIC)	DECLARATORY RULING
TRAINERS TO PERFORM DRY)	
NEEDLING)	

This matter came before the South Dakota Board of Medical and Osteopathic Examiners (“Board”) through a petition filed by Mary Beth Zwart – President, S.D. Athletic Trainers Association. The Petition was filed pursuant to SDCL §§ 1-26-15, 36-1C-14, and ARSD § 20:78:02. On June 12, 2025, after due and proper notice, a hearing on the Petition was held before a quorum of the Board. The Board considered all written comments received prior to the hearing and heard oral testimony from the Petition sponsor as well as any other interested person. Now, being otherwise informed as to all matters pertinent thereto, the Board enters the following Declaratory Ruling.

ISSUE

Whether the language of SDCL § 36-29-1.1 authorizes athletic trainers to perform dry needling?

FINDINGS OF FACT

1. The Board has been authorized to regulate the practice of athletic training in South Dakota. SDCL ch. 36-29. Athletic trainers must be licensed by the Board to practice athletic training in the state. SDCL 36-29-1 & 36-29-2.
2. State law defines the practice of athletic training as:

The practice of athletic training is the care, treatment, and prevention, under the direction of and under guidelines established by a physician licensed pursuant to chapter 36-4, of athletic injuries, illnesses, or conditions:

(1) That are related to, or that limit participation in, exercise, athletic activities, recreational activities, or activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina; and

(2) For which an athletic trainer, as a result of the athletic trainer's education and training, is qualified to provide care and to make referrals to an appropriate health care professional.

SDCL § 36-29-1.1.

3. Athletic trainers are otherwise prohibited from practicing medicine.

SDCL § 36-29-4.

4. Dry needling is defined in state law as “a skilled technique ... using filiform needles to penetrate the skin and underlying tissues, to affect change in body structures and physical function capability, for the evaluation and management of neuromusculoskeletal conditions, pain, movement impairments, and disability.” SDCL § 36-10-52.

5. The Petition filed requesting this Declaratory Ruling asserted that the language of SDCL § 36-29-1.1 allowed athletic trainers, who have the requisite knowledge and skill, to perform dry needling.

6. The South Dakota Chapter of the American Physical Therapy Association (SDAPTA) filed written comments in response to the Petition. The SDAPTA argued that the statutory definition of dry needling constituted surgery which constitutes the practice of medicine. The SDAPTA also asserted that the plain language of SDCL § 36-29-1.1 does not expressly authorize dry needling, and that express authorization through statutory amendments was necessary to authorize athletic trainers to perform dry needling.

7. The South Dakota State Medical Association (SDSMA) also filed written comments in response to the Petition. The SDSMA also argued that the Petition failed to establish that dry needling was within the scope of practice of athletic trainers. The SDSMA also noted that the education and training requirements necessary for an athletic trainer to perform dry needling have not been established.

8. Any finding of fact more appropriately labeled a conclusion of law is hereby re-designated as such and incorporated below.

CONCLUSIONS OF LAW

1. The Board has the authority under SDCL §§ 1-26-15, 36-1C-14, and ARSD § 20:78:02 to issue declaratory rulings concerning the applicability and interpretation of the Board's statutory and regulatory provisions.

2. A majority of the Board, after hearing and considering this matter, was unable to reach the determination that the language of SDCL § 36-29-1.1 authorizes athletic trainers to perform dry needling.

3. Any conclusion of law more appropriately designated a finding of fact is hereby re-designated as such and incorporated above.

Dates this 27 day of June, 2025.

BOARD OF MEDICAL AND OSTEPATHIC EXAMINERS


By: Jennifer Tegethoff, MD
President