

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 48 – BOARD OF PHYSICAL THERAPY EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Physical Therapy Examiners intends to amend the rules cited as 21 NCAC 48B .0102; 48F .0101; 48G .0105, .0203, .0504 and repeal the rules cited as 21 NCAC 48E .0104; and 48F .0103.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncptboard.org/>

Proposed Effective Date: August 1, 2022

Public Hearing:

Date: March 9, 2022

Time: 10:00 a.m.

Location: Offices of NC Board of PT Examiners, 8300 Health Park Suite 233, Raleigh, NC 27615

Reason for Proposed Action: *The NC Board of Physical Therapy Examiners proposes to amend rules in 21 NCAC 48B, 48F and 48G, and repeal rules in 48E and 48F. The changes to the aforementioned rules are being requested to make the rules consistent with current practice and policy by the NCBPTE.*

Comments may be submitted to: Deborah Ragan, 8300 Health Park Suite 233, Raleigh, NC 27615; phone (919) 490-6393; email dragan@ncptboard.org

Comment period ends: March 21, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

SUBCHAPTER 48B - TYPES OF LICENSES

21 NCAC 48B .0102 LICENSES BY ENDORSEMENT

(a) Endorsement. Each application for endorsement shall be considered on an individual basis.

(b) Examination Required. Only those persons initially licensed in another state by virtue of examination shall be considered for endorsement. Only the following examinations shall be considered:

(1) For Physical Therapists:

- (A) Therapists licensed on the basis of a PT exam shall present total scores that meet the North Carolina passing level as set forth in 21 NCAC 48D ~~.0105~~ .0105, in a format approved by the Board. If scores and information are not available from the other state, the applicant shall have the scores issued through the testing agency. If scores are no longer available or destroyed, the Board shall accept a notarized copy of exam scores from another state. If the total score on the examination is unsatisfactory, the exam shall be repeated. The cost of the examination shall be paid by the applicant.
- (B) If licensed in another state by an examination compiled by that Board, the applicant shall supply information for the Board to attempt to obtain the examination in order to determine if it meets the requirements set forth in 21 NCAC 48D .0105. If it cannot be determined that the examination was equal to the North Carolina examination or if the scores received on an acceptable examination did not meet the North Carolina passing requirement, the applicant shall take the PT exam. The cost of the examination shall be paid by the applicant.
- (C) A physical therapist currently licensed in another state whose license in that state was granted on the basis of the American Registry of Physical Therapists Examination shall be considered for endorsement.

- (2) For Physical Therapist Assistants: Only those physical therapist assistants licensed in another state by a PTA exam shall be considered for endorsement. The examination score shall meet the North Carolina passing level as set forth in 21 NCAC 48D .0105. If not, the applicant shall be required to take the PTA exam and pay the cost of the examination.

(c) Active License. An applicant for licensure by endorsement shall submit verification of licensure in effect on the date the application for North Carolina licensure was filed with the Board in accordance with 21 NCAC 48E .0105.

(d) Jurisprudence Exercise. All applicants for licensure by endorsement shall furnish proof of completion of the Jurisprudence Exercise 1 as set forth in 21 NCAC 48G .0105(7).

*History Note: Authority G.S. 90-270.92; 90-270.98(b); 90-270.100;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1998; February 1, 1996; November 1, 1991; December 1, 1990;
October 1, 1989; April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. August 1, 2022; May 1, 2020.*

SUBCHAPTER 48E - APPLICATION FOR LICENSURE

SECTION .0100 - REQUIREMENTS

21 NCAC 48E .0104 EXAMINATION SCORES

~~Persons seeking licensure by endorsement shall have their examination scores sent to the executive director on a form authenticated by the reporting Board.~~

*History Note: Authority G.S. 90-270.92; 90-270.98(b);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2013; August 1, 1998; February 1, 1996; October 1, 1989; April 1, 1989; May 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, ~~2018~~; 2018;
Repealed Eff. August 1, 2022.*

SUBCHAPTER 48F - CERTIFICATES: FEES: INVESTIGATIONS: RECORD OF LICENSEES

SECTION .0100 - CERTIFICATES: FEES: INVESTIGATIONS: RECORD OF LICENSEES

21 NCAC 48F .0101 LICENSURE CERTIFICATE

(a) Names:

- (1) A licensee's name will appear on the certificate as the name of the individual at the time of licensure, except in the case of a person taking the examination who is married during the time between the examination and the actual date of licensure. This person may elect to use her maiden name or her married name, if the marriage takes place prior to the date of licensure.
- (2) If a name is changed after the date of licensure, the licensee may request a new certificate to reflect the name change and pay the cost for a duplicate certificate.
- (3) The licensee shall use the name that is on the license certificate in the workplace.

(b) Date. The date of licensure shall be the day on which the person is given final approval of licensure by the Board.

(c) Replacements. Persons needing a replacement or a duplicate copy of a certificate will be charged a fee for it.

*History Note: Authority G.S. 90-270.92; 90-270.98; 90-270.100;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. May 1, 1988; December 30, 1985; October 28, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, ~~2018~~; 2018;
Amended Eff. August 1, 2022.*

21 NCAC 48F .0103 INVESTIGATIONS

~~Any complaint alleging violations of the North Carolina Physical Therapy Practice Act must be made in writing, signed by the person submitting the complaint, and include the complainant's address and telephone number. Complaints must be sent to the Executive Director.~~

*History Note: Authority G.S. 90-270.92; 90-270.102; 90-270.103;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. December 1, 2006; February 1, 1996; May 1, 1988; October 28, 1979;
Readopted Eff. May 1, ~~2019~~; 2019;*

SUBCHAPTER 48G - RETENTION OF LICENSE

SECTION .0400 - FINAL APPROVAL AND ENFORCEMENT

21 NCAC 48G .0105 DEFINITIONS

As used in this Subchapter, the following definitions apply:

- (1) "Approved provider" means an entity that has been approved by the Board to provide continuing competence activities for licensees as provided in the rules in this Section.
- (2) "Clinical Practice" means physical therapy consultation or patient care or client management or the supervision thereof.
- (3) "Contact Hour" means at least ~~50~~ 60 consecutive minutes of engagement in a continuing competence activity. 0.5 contact hour means at least 30 consecutive minutes of engagement in a continuing competence activity. Two segments of at least 25 consecutive minutes each is equivalent to one contact hour. Breaks and meals are not included in contact hours.
- (4) "Continuing Competence" means the licensee's ongoing activities to augment knowledge, skills, behaviors, and abilities related to the practice of physical therapy.
- (5) "Continuing Education" means courses of study designed to provide learning experiences for physical therapy licensees.
- (6) "Documentation" means evidence of completion of continuing competence activities.
- (7) "Jurisprudence Exercise" is an online set of questions concerning the Physical Therapy Practice Act, Board rules and Position Statements posted on the Board's website at <http://www.ncptboard.org>.
- (8) "Licensee" means a physical therapist or physical therapist assistant licensed in North Carolina.
- (9) "Peer-reviewed" means judged by an independent panel of experts having special knowledge or skills in a particular field of study.
- (10) "Point" means a unit of continuing competence.
- (11) "Registered" means enrollment in a continuing competence activity.
- (12) "Reporting period" means a 25 month period commencing on January 1 during which the licensee must complete all continuing competence requirements. Points earned by a licensee may be counted toward completion during one reporting period only.

History Note: Authority G.S. 90-270.92;
Eff. January 1, 2009;
Amended Eff. January 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, ~~2018~~; 2018;
Amended Eff. August 1, 2022.

SECTION .0200 - LAPSED LICENSES

21 NCAC 48G .0203 REVIVAL OF LAPSED LICENSE

- (a) A license that has been lapsed less than one year may be revived by payment of the revival of lapsed license fee and the current year's renewal fee and by completion of the revival form.
- (b) A license that has lapsed more than one year but less than five years may be revived by completion of the revival form, and:
 - (1) completing 30 units (if reviving a physical therapist license) or 20 units (if reviving a physical therapist assistant license) of continuing competence as provided in the rules in this Subchapter;
 - (2) payment of the revival of lapsed license fee; and
 - (3) payment of the current year's renewal fee.
- (c) A license that has lapsed more than five years may be revived by completion of the application forms; and
 - (1) passing the "PT exam" (if trained as a physical therapist) or the "PTA exam" (if trained as a physical therapist assistant);
 - (2) compiling at least 500 hours within the period of one year in the following manner: between 50 and 200 class hours of course work (ie, refresher course, continuing education, pertinent college courses) approved by the Board as designed to demonstrate proficiency in current physical therapy theory and practice, and the remaining hours working as an aide under the supervision of a licensed physical therapist; or
- ~~(d)(3) endorsement~~ Endorsement of a current license in another state as provided by 21 NCAC 48B .0102.

History Note: Authority G.S. 90-270.92; 90-270.99; 90-270.100;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. January 1, 2009; August 1, 1998; August 1, 1991; October 1, 1989; April 1, 1989; May 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, ~~2018~~;
2018;
Amended Eff. August 1, 2022.

SECTION .0500 - CONTESTED CASE HEARINGS

21 NCAC 48G .0504 COMPLAINTS AND INVESTIGATIONS

(a) In order to file a complaint with the ~~Board~~, Board alleging violations of the North Carolina Physical Therapy Practice Act, the following information shall be submitted to the Board in writing, or by filing a complaint online at the Board's website www.ncptboard.org.

- (1) the name and address of person alleged to have violated the Physical Therapy Practice Act;
- (2) a statement of conduct that is the basis of the complaint; and
- (3) the name, address, signature and telephone number of complainant.

(b) Upon receipt of a written complaint alleging misconduct that may subject a licensee to disciplinary action, or upon the receipt of the information that a violation of the Physical Therapy Practice Act may have occurred, the Board shall investigate the matter to determine whether probable cause exists to institute disciplinary proceedings.

(c) The Executive Director of the Board and a member appointed by the Chair shall serve as an investigative committee. This investigative committee may be assisted by:

- (1) the Board's attorney;
- (2) an investigator; or
- (3) a consultant, who is not a NC PT/PTA licensee, retained by the investigative committee who possesses expertise that will assist the investigative committee in its investigation.

(d) The investigative committee shall investigate the complaint or information set forth in Paragraphs (a) and (b) of this Rule. In conducting its investigation, the Board Chair (or Executive Director, if designated by the Chair) may issue subpoenas in the investigative committee's name for the production of documents pursuant to the provisions of Rule .0512 of this Section. The investigative committee shall determine whether there is probable cause to believe that the licensee has violated any statute or Board rule that justifies a disciplinary hearing. If the investigative committee determines probable cause does not exist, the complaint shall be dismissed, and the complainant shall be notified of the investigative committee's action and its reasons. If the investigative committee determines that probable cause exists, the investigative committee shall offer to confer with the licensee in an attempt to settle the matter through informal means. If the investigative committee and the licensee reach an agreement on the disposition of the matter under investigation, the investigative committee shall cause to be drafted a proposed settlement agreement that shall include findings of fact, conclusions of law, and a consent order for presentation to and consideration by the Board. The settlement agreement shall be presented to and approved by the licensee before it is presented to the Board for consideration and approval.

(e) Prior to a decision rendered by the Board, any materials generated or obtained by the Board in conducting an investigation shall be considered confidential investigation records not subject to the Public Records Act, G.S. 132. However, copies of the materials may be provided to a licensee subject to disciplinary action, or to the licensee's attorney, so long as identifying information concerning the treatment or delivery of professional services to a patient who has not consented to its public disclosure shall be redacted.

(f) If the investigative committee and the licensee are not able to settle the matter under investigation by informal means, the licensee may request a contested case hearing pursuant to Rule .0502 of this Section or the Board shall give notice of a disciplinary or contested case hearing.

(g) If probable cause is found, but it is determined that license suspension or revocation is not warranted, the investigative committee shall recommend that the Board place the licensee on probation, or issue a warning to the licensee. In making this determination, the investigative committee shall consider such factors as harm to the public; nature of the conduct; and prior record of discipline. The investigative committee shall mail or email a copy of its recommendation to the licensee or the licensee's attorney.

(h) Within 20 days after receipt of the recommendation, the licensee may refuse the probation or warning and request a contested case hearing pursuant to this Rule. The refusal and request shall be filed with the Board. The legal counsel for the Board shall thereafter prepare, file, and serve a Notice of Hearing.

(i) In the alternative, within 20 days after receipt of the recommendation, the licensee may request an informal meeting with the Board to discuss the basis of the investigative committee's recommendation and present reasons why the Board should not follow the investigative committee's recommendation. There shall be no sworn testimony presented, nor shall there be a formal record of the proceedings.

(j) If the licensee does not request a contested case hearing or an informal meeting with the Board, the Board shall still determine whether to accept the investigative committee's recommendation.

(k) Participation by a current Board member in the investigation of a complaint shall disqualify that Board member from participating in the decision making process of a contested case hearing.

(l) Subsequent to the issuance of a notice of hearing, the attorney prosecuting the contested case for the Board may not communicate, directly or indirectly, in connection with any issue of fact or question of law, with any party, including the members of the Board assigned to make a decision or to make findings of fact and conclusions of law in the contested case, except on notice and opportunity for all parties to participate. However, the attorney prosecuting the matter for the Board may continue to communicate concerning the contested case with the members of the investigative committee who investigated the matter, with persons not parties to the contested case who may be called as witnesses including the person who filed the complaint, and with the Board members about other matters.

History Note: Authority G.S. 90-270.92; 150B-38; 150B-39; 150B-40;
Eff. October 1, 1995;
Amended Eff. February 1, 2015; July 1, 2013; August 1, 2002; August 1, 1998; February 1, 1996;
Readopted Eff. May 1, 2018;
Amended Eff. August 1, 2022; May 1, 2020.