

Adopted – Board Meeting – September 22, 2021

MINUTES
North Carolina Board of Physical Therapy Examiners
June 09, 2021
NCBPTE OFFICE – TELECONFERENCE
8300 HEALTH PARK
Raleigh, North Carolina 27615

Members Present:

Teresa F. Hale, PT, Chair
C. David Edwards, PT, Secretary/Treasurer
Crystal D. Ostlind, PTA,
Paul Garcia, MD
Leslie P. Kesler, PT
Pearl L. Rhone, PTA
Jamie L. Miner, PT
Rosa Maria Gonzalez, BSN, RN, Public Member

Staff Present:

Kathy Arney, PT, Executive Director (ED)
Paula Brooks, Office Administrator
Cindy D. Kiely, Director of Administration / Recorder
David C. Gadd, Board Attorney
Gregg Seipp, IT Director
David Nall, IT Systems Administrator

Guests:

Mary Kay Hannah, PT, DPT – APTA NC President

The format for the Minutes is as follows: *V-# Summary of Motion (Board Member who introduced motion)*

Meeting Called to Order by T. Hale, NCBPTE Board Chair 8:30 a.m.

The meeting is open to the public and was conducted remotely on Zoom and streamed live on YouTube pursuant to Session Law 2020-3. The meeting was noticed in the Board office, on its website and on the NC Secretary of State website. There were no requests for the meeting agenda prior to the meeting. The Board discussed reordering the agenda to move Scope of Practice question discussions to earlier in the day, Imaging request from APTA NC to 2:00 p.m. and the Attorney Board Member Training to after lunch.

Announcements

T. Hale, Chair, announced the following:

Conflict of Interest Reminder by the Chair

T. Hale, Chair, reminded members of their duty to avoid conflicts of interest and appearances of conflicts of interest. In addition, T. Hale asked if there were any known conflicts of interest or appearance of conflicts of interest with respect to any matters that were to be brought before the Board today as required by Executive Order 127. No Board member indicated conflicts of interest with the business before the Board today.

V-014-‘21 Passed Minutes March 10, 2021 [Attachment 1]

Board adopted a motion to approve draft of the Minutes of the Board Meeting held on March 10, 2021. *(Kesler)*

Members voting in the affirmative:	Hale, Edwards, Rhone, Kelsner, Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative:	None

APPLICATIONS

V-015-‘21 Passed – Luketin, Lorna Valerie (PT Endorsement Applicant)

The applicant’s credentials were not considered substantially equivalent to the first professional degree in physical therapy in the United States at the time of graduation based on 04/14/2021 credentials evaluation review from FCCPT using Coursework Tool #2 (CWT#2). Based on CWT#2 the applicant’s credentials evaluation shows a combined General Education and Professional Education total of 182.21 semester credits which does satisfy the minimum requirement of 120 semester credit hours. The evaluation stated that she received 32.40 General Education semester credits. Applicant is lacking one course in Humanities. Professional Education shows 115.81 credits with the following courses outstanding: Administration and Education Techniques.

The Board considered this information and approved her eligibility for licensure, subject to completing deficits in general education and professional requirements. *(Rhone)*

Members voting in the affirmative:	Hale, Edwards, Rhone, Kelsner, Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative:	None

V-016- ‘21 Passed – Chahal, Rajveer (PT Exam Applicant)

The applicant’s credentials were not considered substantially equivalent to the first professional degree in physical therapy in the United States at the time of graduation based on 05/06/2021 credentials evaluation review from IERF using Coursework Tool #6 (CWT#6). Based on CWT#6 the applicant’s credentials evaluation shows a combined General Education and Professional Education total of 142.00 semester credits which does not satisfy the minimum requirement of 170 semester credit hours. The evaluation stated that she received 10.0 General Education semester credits. Applicant is lacking **General Education:** courses in **Biological Science:** 1 course, **Physical Science:** Chemistry Laboratory only and Physics with Laboratory. **Professional Education** shows the following deficits including courses in:

- Basic Health Science: Genetics
- Medical Science: Differential Diagnosis

- Examination: History, screening, Systems Review, Aerobic Capacity/Endurance, Cranial Nerve Integrity, Environmental, Home Work Barriers, Ergonomics, Body Mechanics, Pain
- Evaluation: Findings that Warrant Referral, Prognosis and Goal Formation
- Plan of Care implementation: Supervision of Support Staff, Outcome Assessment, Discharge or Discontinuation
- Related Professional Coursework: Clinical Decision-Making Processes – Evidence-Base Practice, Cultural Competency, Consultation

The Board considered this information and approved her eligibility for licensure, subject to completing deficits in general education, professional requirements and total credits. **(Edwards)**

Members voting in the affirmative: Hale, Ostlind, Garcia, Edwards,
Kesler, Rhone, Miner

Members voting in the negative: None

Board Policy – General Education Requirements

V-017- '21 Passed Board Policy – General Education Requirement – CLEP exam and Chemistry/Physics with lab

Motion to rescind the current policy regarding CLEP Natural Sciences to fulfill the chemistry and physics requirement and adopt a similar policy to FCCPT; the CWT deficiency in chemistry or physics and chemistry or physics with lab can be fulfilled by taking and passing an online lab and virtual course in chemistry or physics and chemistry or physics laboratory courses from a regionally accredited school, at the general education level. **(Edwards)**

Members voting in the affirmative: Hale, Edwards, Rhone, Kelsler,
Ostlind, Garcia, Miner, Gonzalez

Members voting in the negative: None

Scope of Practice

P.E.E.R Review Framework Tool Part 2 - Use in evaluating Scope of Practice Questions posed to the Board [Attachment II]

At its meeting March 10, 2021, the Board adopted use of the PEER Review Framework for researching and evaluating scope of practice questions. The Board discussed the process of how to use the tool going forward and adopted the process.

V-018- '21 Passed Establish a Public Protection Task Force – to analyze Risk and Harm in the practice of physical therapy in North Carolina

Motion to establish a Task Force, named Public Protection Task Force, to evaluate risks and potential harms in practice and make recommendations to the full board for actions that may be useful in mitigating those risks and harms. Task Force will consist of four Board Members assisted by staff and board attorney. Volunteers included: Edwards, Chair, Miner, Kesler, Ostlind and Gonzalez. **(Rhone)**

Members voting in the affirmative: Hale, Edwards, Rhone, Kelsler,
Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative: None

Executive Director’s (ED) Update – [Attachments III - VI]

The Executive Director provided verbal updates including the following:

- Updated Board Addresses - please notify staff of any corrections.
- Licensee Count as of May 20, 2021 and historical NPTE Failures – 5-year lookback for reference
- NCBPTE Goals and Priorities – Proposed for July 1, 2021 – June 30, 2022
 - 1st Quarter 2021 – updates were included
 - Proposed additions for the period July 1, 2021 – June 30, 2022 were reviewed and discussed

V-019-’21 Passed Goals and Priorities

Motion to return to accept the Goals and Priorities with one addition - additional cyber security actions (*Edwards*)

Members voting in the affirmative: Hale, Ostlind, Garcia, Edwards,
Kesler, Rhone, Miner, Gonzalez
Members voting in the negative: None

- Preparation for the end of the State of Emergency
 - Summary of State of Emergency Regulatory Flexibility actions by NCBPTE
 - In preparation for the end of the State of Emergency, the Board reviewed all actions taken through the Governor authorized regulatory flexibility and determined what will continue post-state of emergency.
 - Office Operations – Licensing staff will work remotely; IT staff employees will work remote or hybrid of in-office and remote; Administrative staff will work in the office. Office hours are 7:30 – 4:00 pm daily with staff working 5 – 8-hour days or supervisor approved alternative.
 - Licensing and personnel policy updates- after consideration and discussion, the Board agreed on the proposed recommendations for Board office and licensing procedures.
 - Board Meetings – Policy and Procedure Discussion – in preparation for decreased in-person restrictions and the end of the state of emergency, Board meeting policies were discussed.

V-020- ’21 Passed Board Meeting Policy and Procedure

Motion passed to adopt policy for Quarterly Meetings of the Board. Members will attend meetings in-person, with exceptions for good cause and approved by the Chair. If the member is not able to attend, staff will attempt to assure remote access is possible. (*Miner*)

Members voting in the affirmative: Hale, Edwards, Rhone, Kelsler,
Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative: None

- Board History – update 2021 – the Board history was updated and will be posted on the Board website at this link: <https://ncptboard.org/AboutUs/HistoryOfTheBoard.shtml>
- Updates to Employee Policy and Procedure Manual
 - Elimination of compensatory time for Exempt Employees; concurrent discontinuation of timesheets for exempt employees
 - PTO accrual will be documented bi-monthly to coincide with payroll periods

V-021- '21 Passed Employee Personnel Policy and Procedure Manual update

Motion to update Employee Personnel Policy Manual as presented by ED. (*Edwards*)

Members voting in the affirmative:	Hale, Edwards, Rhone, Kelser, Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative:	None

- Freedom to Work/Occupation Licensing Board Reform – H770 follow-up from Josh Stein Attorney General – The staff prepared a status report to the Board on all required actions in relationship to H770 [Attachment]
- FYI - Arney Invitation by FSBPT CEO to attend American Society of Association Executive Training Program in November.
- FYI - Updated report on Temporary Exemptions to Licensure

Financial Update- [Attachments VII - IX]

The Executive Director reviewed the following with the Board:

- Financials
 - Comparison July 1, 2020 – May 5, 2021 to same period in 2020 (Profit – Loss comparison)
 - Balance Sheet – May 5, 2021 comparison to the same period 2020
- Proposed Budget FY 2020

V-022- '21 Passed Proposed Budget for 2022

Motion to accept the Proposed Budget for 2022. (*Edwards*)

Members voting in the affirmative:	Hale, Edwards, Rhone, Kelser, Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative:	None

In relationship to the Proposed budget for FY2022, the following documents were provided to the Board for review:

- Reference Adopted Budget FY 2021 with December 2021 approved updates
- Update of Financial Recommendation FY 2021
- Renewals 2022 – Fee alteration – verbal update Arney

- Memo to Finance and Audit Committee
- Draft Minutes of Finance and Audit Committee meeting 05-19-21
- Payroll Audit - Final report – All Retirement Plan corrections are completed. The Audit and all required actions are complete for the years 2018-2020.
- HAA&P First Quarter Payroll Tax Return Filing -the taxes and report were appropriately filed to the NC Department of Commerce.

Closed Session

V-023-'21 Passed “Closed Session”

Motion to go into Closed Session in accordance with GS § 143-318.11 (a) (6) to discuss personnel issues. *(Ostlind)*

Members voting in the affirmative:	Hale, Edwards, Rhone, Kelser, Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative:	None

V-024-'21 Passed Return to “Open Session”

Motion to return to Open Session was adopted. *(Kesler)*

Members voting in the affirmative:	Hale, Edwards, Rhone, Kelser, Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative:	None

Closed Session Minutes from March 10, 2021 - V-025-'21 Passed

After a discussion of approval of the Closed Session minutes as written the Board agreed to adopted a motion to approve the draft Closed Session Minutes. *(Kesler)*

Members voting in the affirmative:	Hale, Edwards, Rhone, Kelser, Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative:	None

Motion from Closed Session – Executive Director Compensation – Post-Performance Review FY2021 - V-026'21 Passed

After a discussion, in recognition of excellent service to the Board, the Board adopted a bonus for the Executive Director. *(Hale)*

Members voting in the affirmative:	Hale, Edwards, Rhone, Kelser, Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative:	None

Attorney’s Report

General Attorney update – Gadd - 12 months ago we were gearing up to be ready to license applicants faster, and handle major application aspects remotely. It is up to the Board to

determine what ‘unwinding’ of any regulatory flexibility as the state of emergency comes to an end.

Board Member Attorney Training

- Confidentiality – Investigations/Closed Sessions- Generally, Board meetings are open to the public. Exceptions- closed sessions regarding individual personnel. Those matters should not be discussed out of closed session. Said personnel can attend as needed. Attorney client privilege information can be communicated during closed session and should not be released out of the closed session.
- Investigations- falls under other exceptions allowed by Board Rule and law and are not subject to public record. Investigations remain confidential until a determination has been made. Any criminal history record checks remain confidential due to state and federal laws. Participation in the BON drug rehabilitation program is also confidential.
- Open Meetings – Does not say what liability is regarding talking about confidential matters outside closed session. Since it frustrates the purpose of going into closed session, releasing the information is prohibited.
- The open meetings law in general- the underlying premise is to conduct the business of the public and businesses in the state. 93B defines OLBs. 1951 the NCBPTE was enacted. As a result, the public has the right to attend any and all meetings. All Board meetings have to be noticed in advance. There are other notice requirements for special and emergency meetings and the public can also attend.
- Open meeting law official meetings- majority of board members present (committee, task force) is considered an official meeting and will be noticed. Below a majority, cannot take official action and will take any decisions back to the full Board.
- Legal Requirements for Telehealth-
 - Jurisdiction boundaries- within NC and licensee/patient are in NC, there is no jurisdiction issues
 - Therapy is happening where the patient is currently located. The PT needs to have a license in the state where the patient is located.
 - If the PT in NC wants to provide telehealth in a foreign country where there are no PT regulations. The PT has to be sure that PT is authorized in the country where the patient is located, because that is where the service is still occurring. The burden is on the PT.
 - Students- The PT is still responsible for the care and for making determinations of the best means to deliver the care. There could be additional liability to be aware of, including the fact there is no in person interactions, no hands on treatment, potential for technology issues, potential for medical emergencies.

Legislative Update

- Executive Orders
 - EO 215- just lifted some mask requirements and relaxed social distancing in some settings
 - Bill in the legislature to provide grants for accredited education programs to provide means for diversity initiatives

Federal Legislation – Workforce Diversity Legislation – The Allied Health Workforce Diversity Act (HR3320/S1679) – no action as of this date.

Federation (FSBPT) [Attachment X] – The ED reported the following:

- Future Meeting dates and updates – 2021 were reviewed
- FSBPT Committee Service – Ostlind – Chair Ethics and Remediation; Ragan – ELDD Task Force
- FSBPT News Briefs – <https://www.fsbpt.org/News-Events/News>
- Ongoing FSBPT Webinar Series – Regulatory Education – through 2021
- Potential FSBPT Ethics Exercise – Richard Woolfe – requesting feedback from the ED; they are considering development of an Ethics Educational module for licensees.
- FSBPT NPTE Eligibility Requirements – notification from the FSBPT regarding no change to their policies were discussed
- Exam Licensure and Disciplinary Database (ELDD) – NC is compliant in all areas as of 3/31/2021
- Completed NPDB Registration Renewal of NCBPTE with FSBPT as agent – renewal is biennial

APTA-NC & APTA Updates

APTA-NC

- APTA NC Newsletters – Link – https://aptanc.org/page/aptanc_newsletters
- Fall Conference 2021 – October 8-9, 2021 – Benton Convention Center Winston-Salem- They are still attempting to have that as a live, in-person event.
- Board Appointments – 2022 – (1PT and 1PTA) Nominations close June 11, 2021-if anyone is interested in nominating someone or is eligible for reappointment, please be advised of the closing date.

APTA

- 100 Year Anniversary of Physical Therapy – <https://centennial.apta.org/>
- 2022 CSM – San Antonio, TX – February 2022
- 2022 NEXT – Seattle, WA – October, 2022

APTA Publication – Impact of COVID-19 on the PT Profession over one year – T. Hale Chair found it to be a comprehensive, excellent document with relevant metrics that illustrate the impact of COVID on the PT profession during the past year.

Report from Deputy Director, including Continuing Competence – presented by Arney [Attachment XI]

Deputy Director Report

- Licensing Team update -The licensing team continues to work remotely for the indefinite future. Communications with schools are ongoing with regard to the transition to the FSBPT Alternative Approval Process for applicant NPTE exam eligibility. Regulatory flexibility continues during the ongoing state of emergency during COVID regarding application deadlines and electronic document submissions from primary sources.

- FEDEX and FBI CBC fingerprint update. The envelope picked up by Fed Ex on March 31, 2021 never arrived at its destination (NC SBI). This envelope contained applicant fingerprint cards for submission and processing at the NC State Bureau of Investigation. The affected applicants were notified immediately that a second set of prints would be needed, their CBC fees were refunded, and the SBI was notified. An ongoing case has been established with Fed Ex regarding the whereabouts of this envelope because there is evidence was scanned by Fed Ex initially upon pick up. The SBI has agreed to expedite the processing of those applicants who were negatively impacted by this issue.
- SBI Audit – Due June 17, 2021- The NC Board of PT Examiners received notice of its 3-year audit on May 20, 2021. The NC PT Board completed a lengthy survey, submitted requested policies and procedures, and complete an audit on 100 of the CBC results received at the Board office. The audit was submitted on June 4, 2021 and as of the Board meeting on June 9, we are still awaiting our results and next steps.

Prometric Report [Attachments XII]

CBT comments submitted by examination candidates for January – March 2021 (Note NC results)

Committee on Board Rules - [Attachments XIII- XIV]

- Rules Committee – The Rules Committee will need to reengage in the near future
- Adopting Proposed Rules- The rules listed below were adopted by the Board at this meeting and will be submitted to the Office of Administrative Hearings for review and consideration by the Rules Review Committee. Their next meeting is scheduled for July 15, 2021 at 9 am. If approved these rules will become effective on August 1, 2021.

V-027-'21 Passed - Motion to adopt proposed permanent rules 21 NCAC 48D .0107, 21 NCAC 48D .0109, 21 NCAC 48D .0111, 21 NCAC 48E .0101 (Kesler)

Members voting in the affirmative:	Hale, Edwards, Rhone, Kelsner, Ostlind, Garcia, Miner, Gonzalez
Members voting in the negative:	None

Proposed Rules – Request to consider reinstatement of repealed Board rules Section .0300 Recent Graduates.

New/recent graduates (waiting to take the exam) do not have the ability to practice if waiting for an exam date. 16 of 20 PT/PTA Academic programs in NC submitted a letter requesting reinstatement of the repealed rules. The rules were originally repealed because of the addition of more frequent testing dates. This will involve a rule change and will go to the Rules Subcommittee for review and consideration at its meeting on July 19, 2021. If approved, these rules will become permanent rules effective August 1, 2021.

Correspondence with Schools and Annual School Reports - [Attachments XIV - XIX]

Review of Exam Pass Rates for NC PT & PTA Schools

- Pass rate (2021) for North Carolina PT & PTA schools (as of May 4, 2021)
- Pass rate (2020) for North Carolina PT & PTA schools (as of May 4, 2021)
- Pass rate (2019) for North Carolina PT & PTA schools (as of May 4, 2021)
- Pass rate (2018) for North Carolina PT & PTA schools (as of May 4, 2021)

Updated School Addresses – please see the list for updates and new program directors

2021-2022 – Exam Schedule and Board Member Score date notification – was provided to the Board members

School presentations:

- Arney – Wingate University– May 2021
- Arney/Ragan/Licensing team member – HPU – June 2021

Schools Communications

- Ragan – Communication with Ann Marie Prado, PTA
- Ann Marie Prado, PTA Congratulations on accreditation of Rowan-Cabarrus CC with CAPTE
- Eileen Coleman, Program Director – Surry Community College
- E. White – WSSU request for SHEPS PT MDS data for research – Arney approved

Ethics Commission – [Attachments - XX]

- Board members were reminded www.sosnc.gov – IMPORTANT: Reminder regarding requirements for Mandatory Ethics Education (required every 2 years – submit reimbursement request) and instructions for completion
- SEI Due Annually – April 15 SEI reminder and Online filing instructions
- Ethics Compliance Report – NCBPTE members and liaison are all in compliance
- Ethics Commission Newsletter – March 2021- was provided to the Board for reference

Responses from ED/DD to questions addressed at the previous Board Meeting - [Attachments XXI-XXII]

- K. Byrne, PTA – PT/PTA Administration of Oxygen – What are the NCBPTE guidelines
- L. Johnston, PT – PT Licensee Vaccine Administration

PT Licensure Compact [Attachments XXIII-XXIV]

Board Staff Compact Administration updates were provided to the Board including documents:

- Request for Public Comment for Compact Bylaws, Rules and Policy and Procedure- NCBPTE submitted comments
- NC Medicaid issues Medicaid enrollment to PT Compact Privilege holder – email from S. Spainhour
- PT Compact Commission Update – April, 2021
- PT Compact Attorney – Advisory Opinions – Flagging of Licensees under investigation and encumbrances with Confidential Alternative Programs

Submission of Reports to State, etc.- The reports noted below were completed, submitted and reviewed with the Board:

- Catapult Survey of NC Healthcare Benefits and Cost Survey 2021
- 1Q 2021 Disciplinary Actions Report Request NC – PT – B. Trais
- NEIS, Inc. Premium Audit & Loss Control Services (State Farm Workers Compensation Audit – through March 30, 2021)
- NC BOLD Annual Report of Licensee Data for NC Dept of Commerce
- Select Medical Primary Source Verification attestation for NCQA
- Submission of Board Meetings Minutes for 2020 to State Archives
- US Census Annual Survey of Public Employment & Payroll E1: State Agencies
- Annual Update – Great American Crime Protection Policy Renewal Complete – NC Assoc of Ins. Agents – State Policy
- Ethics Liaison Reporting 1Q 2021 Arney and Ragan
- Board Member SEI filings Complete by April 15, 2021
- Receipt of GASB Standards for Financial Audit – Forwarded to NCBPTE Financial Auditor
- Response to E. Tse – IERF Foreign-Trained educational credentials review agency and additional question – Will NCBPTE accept these from the portal only or is a hard copy still required in addition? The Board office may accept electronic educational credentials reviews from primary sources.

Board technology and Committee Update – Seipp

- Preview – Redesigned NCBPTE Website - The IT team demonstrated the new functionality of the new website. The concepts are to maximize portability throughout the site, maximize the end use experience, and create ‘landing’ pages that explain next steps. The website will be user friendly on computers, tablets, and smart phones and each will be configured to give the end use the best experience. Work on website development is ongoing with a tentative go live date of August 1, 2021.
- Director of IT Report – Cyber Security for NCBPTE - The IT department strongly stresses not opening any attachments that are not readily known or expected. The IT team is developing increased layers of security, such as more complex passwords, and multi- verification log ins to VPN while working or accessing the database remotely.
- Ransomware attacks and recovery basis

Scope of Practice Questions from licensees for Board Consideration -[Attachments XXV]

- Is shockwave therapy within the scope of PT Practice? No documents were submitted by the licensee; thus, it was not reviewed by the Board.
- Request for APTA NC to change Board rules to allow PTs to order imaging – presentation to Board @ 2:00 p.m.
 - Mary Kay Hannah PT, DPT presented evidence both from research and verbally as to why PTs should be able to order imaging. Currently several states do allow PTs to order imaging, along with the military, and select hospital systems across the country. This topic will be forwarded to the Public Protection Task Force as a primary topic. Questions to be addressed include utilization of contrast in

medical imaging, and what practitioner owns the imaging results if ordered by a PT.

Other regulatory organizations

- **CLEAR** – The ED discussed the educational opportunities provided by CLEAR that might of interest to Board members.

Credentialing Agencies

- FCCPT – no new update

Correspondence from ED, Articles, etc. – were provided to the Board for their review

Chair Hale reminded the Board of dates for upcoming Board Meetings:

Location: 8300 Health Park, Raleigh, NC 27615 - AIHF Conference Center or Suite 233

- September 22 (Wednesday) – in person
- December 01, 2021 (Wednesday) – in person
- March 09, 2022 (Wednesday) – in person
- June 08, 2022 (Wednesday) – in person

Adjourned Meeting by T. Hale, Chair, at 3:26 pm

Submitted,

Cindy D. Kiely
Director of Administration
Recording Secretary

C. David Edwards, PT
Secretary/Treasurer