

Adopted – Board Meeting – March 9, 2022

MINUTES
North Carolina Board of Physical Therapy Examiners
December 1, 2021
NCBPTE OFFICE – TELECONFERENCE
8300 HEALTH PARK
Raleigh, North Carolina 27615

Members Present:

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

Excused Absent:

Crystal D. Ostlind, PTA

Staff Present:

Kathy Arney, PT, Executive Director (ED)
Paula Brooks, Office Administrator / Recorder
David C. Gadd, Board Attorney
David Nall, IT Systems Administrator
Debbie Ragan, Deputy Director

The format for the Minutes is as follows: *V-# Summary of Motion (Board Member who introduced motion) (voting on all motions by roll call)*

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

The meeting was conducted remotely by Zoom and is open to the public via live stream 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 conducted a roll call. All Board members were present, except for Crystal Ostlind, PTA who had an excused absence.

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-036-'21 Passed Minutes September 22, 2021 [Attachment I]

Motion to approve draft Minutes of the Board Meeting held on September 22, 2021. (*Rhone*)

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

APPLICATIONS

No applications were presented for review. Arney explained per the Chair’s request, that Board rules approving the Alternate Approval Pathway (AAP) enables FSBPT to approve CAPTE accredited eligible students to sit for the NPTE and review and provide Special Accommodations as deemed appropriate. Foreign-Trained individuals who do not meet substantially equivalent education requirements for their year of graduation and application status are reviewed by the Board. There were no applications from Foreign-Trained students requiring review at this meeting. There were no other applications involving disciplinary action or other requirements for review today.

V-037-'21 Passed “Closed Session”

Motion to go into Closed Session in accordance with GS 143-318.11 (a) (1), (6) and (7) to engage in privileged communications with the Board’s counsel concerning Closed Session Minutes of the Board Meeting December 1, 2021, personnel matters, licensure applications with confidential information and licensee disciplinary matters. (*Kelser*)

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

V-038-'21 Passed Return to “Open Session”

Motion to return to Open Session at 9:40 a.m. was approved. (*Rhone*)

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

Motions in Open Session discussed during Closed Session

Disciplinary Actions

Board Member J. Miner serves as member of the Investigative Committee and will recuse from votes on Disciplinary matter reviewed at the Investigative Committee meetings.

V-39-'21 Motion to approve the recommendation of the Investigative Committee of Summary concerning Revocation of PTA license A4909 in violation of Board Rule 21 NCAC 48G .0601-Failure to Respond to a Board request. (*Kesler*)

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

V-40-'21 Motion to approved the recommendation of the Investigative Committee of license suspension of licensee P19816 for 18 month stayed suspension with conditions (receive advance training in dry needling approved by the Board, 50 supervised clinical hours in dry needling, letter from clinical supervisor who reviews treatment and submits monthly notes, CE course on documentation, jurisprudence exercise completion, compliance with NC PT Practice Act and Board Rules, and reimbursement of costs of the investigation. (*Rhone*) .

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

Personnel Actions

V-41-'21 Motion to approve the Executive Director recommendations discussed during the closed session including hiring and changing employee benefits brokers.

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

Arney will send a draft of the updated Employment Personnel and Policy Manual to the Board for their review after the meeting.

Attorney’s Report

General Attorney update – Attorney Gadd updated the Board on the following:

- NC Legislative Update – Senate bill 545 – Universal Licensure- still in Rules & Operations Committee
- Federal Bill regarding relief of damages and liabilities for occupational licensing Boards while working in an official Board capacity- still in House committee
- Board Member Regulatory Training – Attorney Gadd presented a PowerPoint regarding the statutory authority for “Advanced training” requirements established by the Board referencing NCGSs 150B, 93B, NC PT Practice Act and Board Rules. He will make the presentation available to all Board Member for future reference.

**Responses from ED/DD to questions addressed at the previous Board Meeting
[Attachments II - III]**

Summary of Board Actions – Scope of Practice questions for Board consideration –
September 22nd, 2021

- Update on Posting Scope of Practice (SOP) Questions – Per Board recommendations at the September Board meeting, the new Board website www.ncptboard.org has links on the home page for all scope of practice questions answered by the Board. These are properly dated, searchable and include links to other references for the public and interested parties. The google search on some topics requires additional disclaimers.
- Dry needling education- Google is referencing outdated dry needling educational requirement information. It was recommended to add a disclaimer under the search feature to enlighten the public to this current issue.

**Scope of Practice Questions for Board Consideration/Public Protection Task Force (PPTF)
Update [Attachments IV - V]**

Public Protection Task Force Update – C. David Edwards reviewed the purpose of the PPTF and the minutes from the 9/29/2021 meeting.

Temporary Permits for New Graduates: The Board reviewed the actions of the Public Protection Task force and determined that reinstating the temporary permit for new graduates was not in alignment with the Board’s mission of public protection. There are alternatives for NPTE taking, no extraordinary delays for those with completed applications to become licensed and those without the application criteria of passage of the NPTE are determined to be insufficiently qualified to perform physical therapy services in NC.

V-042 -’21

Motion approved not to support reinstatement of rules regarding temporary permits for new graduates rescinded in 1998. (*Edwards*)

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

The ED will edit the statement prepared for the Board and send it to all NC PT/PTA educational programs and post on the website for the general public.

Imaging – The Board discussed the concept of physical therapists ordering imaging including x-rays. They agreed in concept to update Board rule 21 NCAC 48C .0103 to remove the last clause in the final sentence “...however a physical therapist shall not order radiological examinations.” The Board concurred with the PPTF recommendations that the Wisconsin PT statutes regarding training and qualifications was a good reference point, and that rules allowing imaging include language that it is specific to referral for imaging only, with an appropriately qualified physician or healthcare provider performing and interpreting the results of the imaging. Further discussion included what would be done with the imaging results and the PPTF agreed further review was needed. Reference was made to the fact that NC PT Practice Act allows PTs to have direct access to patients and licensees are responsible for following NC PT statute:

“NC GS§ 90-270.102. Unlawful practice. Except as otherwise authorized in this Article, if any person, firm, or corporation shall: (4) Practice physical therapy and fail to refer to a licensed medical doctor or dentist any patient whose medical condition should have, at the time of evaluation or treatment, been determined to be beyond the scope of practice of a physical therapist.”

Dry Needling and Internal Pelvic Exams – both of these evaluation/intervention techniques require considered advanced skills and training. The ED will respond to those asking questions regarding students and these techniques with the statement on Advanced Training after it is reviewed for posting on the Board website.

V-043 -’21

Motion: There is Board consensus for the concept of allowing PT’s to order X-rays; however, the process will need to include training requirements and guidelines; further review is needed by the PPTF and the Board. The task force will prepare additional materials for an upcoming Board meeting. (*Gonzalez*)

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

Advanced Training Definition

V-044-’21

Motion to approve the drafted statement for guidelines regarding advance training. (*Kesler*)

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

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

The Executive Director provided verbal updates including the following:

- Board contact information – Please send any information changes to the office.
- Current Licensees count – The average of 2.9% is smaller than last quarter. Could be a function of the timing of the count. Smaller percentage increases are expected as program graduate number are stable. Changes may be due to endorsements, PT Compact and Temporary license Exemptions.
- Strategic Planning – Goals & Priorities – NCBPTE & ED - Goals and Priorities for the ED –
 - Updates to the approved Board Goals and Priorities were presented for the quarter
 - Comparative information was provided for the Boards review for the goals and priorities for the Executive Director as related to the Board Goals and Priorities with definitions to clarify each category. This should assist with the annual ED Performance Review for Board members.

- NC Medicaid – NC Medicaid announced it will utilize Occupational Licensing Board websites for Primary Source Verification. NCBPTE needs to assure we properly maintain this status.
- 2022 Renewals – Progress update. The percentage of licensees renewed is lower than last year at this time. Further analysis will be done and actions taken (Blast emails or other notifications) as required. A current license is required for practice in NC. Comments from licensees related to renewals were shared with the Board.
- Temporary Exemptions – update 12-01-2021. The total number of temporary Exemptions from licensure in NC as of the meeting is 416 requests with 23 denials. Staff is prepared to advise those holding Temporary Exemptions as soon as the NC State of Emergency ends that they cannot work in North Carolina.
- Board Office Open to the Public – The Board considered changing the office status to open vs. closed to the public. Discussion ensued and the Board authorized the ED to make decisions. The Board encouraged the office to open, but trust the ED to make that decision.
- Question - Sexual Abuse Reporting – ED reported she responded to a recent question regarding suspected Sexual Abuse. Gadd assisted in the response including NCGS 7B-301 a-c requiring licensees to report concerns to their local NC Dept. of Social Services.

Financial Update- [Attachments IX-X]

The Executive Director reviewed the following with the Board:

- Financials – Profit and Loss – October 31, 2021 comparison to same period 2020
 - Financials – Balance Sheet – October 31, 2020 comparison to same period 2021
 - Adopted Budget FY 2022 for Reference
 - Banking Accounts Updates – 5 accounts are left to consolidate in the end of 2021 through mid-2022; the Board will then have accounts with Pinnacle – Investments (reserve) and PNC – checking and money market for operations.
 - Executive Summary
- No new Financial Recommendations were made to the Board beyond finalizing the account consolidations.

Report from Deputy Director [Attachment XI-XII]

Deputy Director Report

- Deputy Director Report – includes Licensing Team Update – the DD reviewed the report with the Board
- Update – New Graduate satisfaction survey – a new survey was designed by the DD and Executive Assistant to obtain more current feedback on applicant experience with the overall licensing process. Prometric data is at least 3 months delayed and may be affected by the timing of the survey. Staff will review the results of these surveys to refine licensing processes
- Record Retention – Annual licensing files retention will begin December 6, 2021
- Published 2021 Newsletter – in 2022 publishing may be brought in house

- Military permit continues to do well with 2.8 days to get a person license
- Temp Exemptions – Audits were performed to assure those with Exemptions have a current license in their home state. Post-communications all exemptions have current licenses.

Committee on Board Rules - [Attachments XIII]

Update – Rules Committee – most recent meeting was held Sept. 29, 2021 – The Board discussed moving forward with Rule making process for 2021-2022. Five rules for approval:

- 21 NCAC 48B .0102
- 21 NCAC 48F .0101
- 21 NCAC 48G .0105
- 21 NCAC 48G .0203
- 21 NCAC 48G .0504

And to propose repeal of the following rules:

- 21 NCAC 48E .0104
- 21 NCAC 48F .0103

V-045-'21

Motion to accept the recommendation of the Deputy Director for the proposed permanent rule changes. (*Kelser*)

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

- Proposed Timeline for Permanent Rulemaking 2021-2022 – reviewed with the Board
- Notice of Texts to accompany the rules submission were posted for review.

Board technology and Committee Update [Attachment – XIV]

A report from the IT Director, Gregg Seipp was provided to the Board

- IT Team update
- Board website transition – status – complete – will need to work on the google search feature to assure proper documents are found (specific to old information that is pulled up that is no longer current)

Correspondence with Schools and Annual School Reports

The Board reviewed the following:

- Pass rate (2021) for NC PT and PTA schools (as of Nov 8, 2021)
- Pass rate (2020) for NC P and PTA schools (as of Nov 8, 2021)
- Pass rate (2019) for NC PT and PTA schools (as of Nov 8, 2021)
- Pass rate (2018) for NC PT and PTA schools (as of Nov 8, 2021)

No action was proposed after review of these rates. It was noted on scores in 2020 and in 2021 there are a smaller number of test takers overall.

- Updated School Addresses – please see the list for updates and new program directors
- 2021-2022 – Exam Schedule and Board Member Score date notification for score days
- School presentations:
 - Arney – Wingate White Coat Ceremony – February, 2022
- School Communications – Ragan responded to questions with information from NC PT/PTA programs
- NCBPTE School newsletter – A newsletter was sent to all programs with a 1 Year AAP Retrospective
- Updates on requirements for “advanced” techniques being taught at entry level – Arney will publish and provide information on definitions approved by the Board to all NC PT and PTA programs post meeting.
- Confirmation of educational credentials for Military members required for licensure was confirmed upon request by IERF.

Prometric

- NPTE Comments submitted by Exam candidates / NC Customer Satisfaction (July – Sept 30, 2021)

Ethics Commission – [Attachments XV]

The following reminders were discussed with the Board:

- www.sosnc.gov – important reminder requirements for mandatory Board Member Ethics Education (required every 2 years – reminder to submit voucher)
Click for instructions – <https://ethics.nc.gov/education>
- SEI Annual – Reminder due April 15 – ALL Board Members – click for filing instructions: <https://ethics.nc.gov/seis>
- Ethics Compliance Report
- The Annual State Ethics Commission newsletter

PT Licensure Compact [Attachments - XVI]

The following updates regarding the PT Compact were provided to the Board:

- Approved by the PT Compact in October 2021 – amended By-law, Rule and Policy/Procedure changes – go to: <http://ptcompact.org/About-The-Compact/Governance-Documents>
- Arney was elected PT Compact Chair for 2022-2023.
- PT Compact Commission – Data use Agreement (12-01-21) – NC public records law allows email addresses to be provided to the PT Compact. These will be used to provide information about the Compact to licensees.
- PT Compact requirement compliance – NC remains in compliance

Board Appointments 2022 (1PT and 1 PTA) – no new notifications have been received by the Governors office of Boards and Commissions at this time.

Submission of Reports to State, etc.- [Attachments – XVII- XVIII]

The reports noted below were completed, submitted and reviewed with the Board:

- M. Obrochta – Request 3rd Quarter Disciplinary Actions Report
- Annual Report and Financial Audit FY 2021 – per 93B
- Submission of the Board newsletter to the state publications office
- Credentials Primary Source Verification for various organizations – Aetna
- Directors and Officers (D&O) Insurance – annual renewal application

V-046-'21

Motion to approve the Directors and Officers Insurance for annual renewal up to the amount of \$25,000.

David Edward made the motion and Rose Gonzalez seconded.

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

Election of Officers and FSBPT Delegates/Appointment of Standing Committee members

The Board annually elects officers (Chair and Secretary/Treasurer) according to the process outlined in Robert’s Rules of Order. The following were elected for 2022:

V-047-'21

Motion approved for Teresa Hale, PT to serve as Chair for the NC PT Board for 2022.

(Edwards)

David Edwards made the motion and Pearl Rhone seconded.

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

V-048-'21

Motion approved for David Edwards, PT to serve as the Secretary/Treasurer for 2022. (*Rhone*)

Pearl Rhone made the motion and Paul Garcia seconded.

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

Appointment – Committee and Task Forces

After Officers were elected the Chair made the following appointments to Committees and Task Forces for 2022:

- Investigative Committee: Jamie Miner
- Finance and Audit Committee: David Edwards and Leslie Kesler
- Rules Committee: David Edwards and Leslie Kesler
- Protection Task Force: Pearl Rhone with Teresa Hale to serve if Rhone is not reappointed. David Edwards, Rosa Gonzalez and Leslie Kesler will also serve.
- Executive Director Performance Review Task Force: Teresa Hale
- FSBPT Delegate Assembly
 - Delegate- David Edwards
 - Alternate Delegate- Jamie Miner

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

- FSBPT recent Meetings – CBA and Delegate Assembly Oct. 21-23, 2021 – Delegate Assembly - Arney and Hale attended. Arney, Ragan and Brooks attended CBA forum.
- FSBPT Publication – Links – <https://members.fsbpt.org/Members/Newsbriefs.aspx> (login required)
- FSBPT Committee Service
 - Ragan – ELDD Task Force
- FSBPT API Pilot Project – awaiting FSBPT Communications for next steps
- FSBPT Webinar Series – Educational opportunities continue throughout 2021. See the FSBPT website for information if you'd like to attend.

APTA-NC & APTA Updates

APTA-NC

- APTA NC Newsletters – Link – https://aptanc.org/page/aptanc_newsletters
- APTA - 100th anniversary years, see APTA website for information.

Other regulatory organizations

- CLEAR – opportunities for regulatory education that is broad based. See the CLEAR website for information if you'd like to attend. NCBPTE are members and Board members may submit for reimbursement of costs.

Credentialing Agencies

- FCCPT – no new updates

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

- J. Lesh – NC Direct Access
- M. Skorheim – Business Entities & Direct Access
- E. Iwakura – Counting patient pills
- R. Mahon – Trigger Point Injections
- C. Hood – Self Reporting requirements

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

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

- March 09, 2022 (Wednesday)
- June 08, 2022 (Wednesday)
- September 14, 2022 – (Wednesday)
- December 7, 2022 – (Wednesday)

At this time, the March board meeting is scheduled to take place in-person at 8300 Health Park in the Conference Center. This may be updated as safety during the state of emergency dictates. The Board meeting will start promptly at **9:00 am** to allow for Board member travel by car to the meeting.

Adjourned Meeting by T. Hale, Chair, at 2:42 pm

Submitted,

Paula Brooks
Office Administration
Recording Secretary

C. David Edwards, PT
Secretary/Treasurer