

Adopted – September 14, 2022 – Board Meeting

North Carolina Board of Physical Therapy Examiners
June 8, 2022
AIHF Conference Room
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
Jamie L. Miner, PT
Rosa Maria Gonzalez, BSN, RN, Public Member
Megan Wentz, PTA
Stephanie Bernard, PTA – Arrived (9:00 am)

Staff Present:

Kathy Arney, PT, Executive Director (ED)
Debbie Ragan, PT, Deputy Director (DD)
Paula Brooks, Office Administrator / Recorder
David Nall, IT Systems Administrator
Joyce Tynes, Finance Manager

David C. Gadd, Board

Attorney

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 8:37 a.m.

The meeting was conducted in-person and open to the public. The meeting was also streamed live via You Tube. The meeting was noticed in the Board office, on its website, and NC Secretary of State website as required by law. T h e r e w e r e n o requests for the meeting agenda prior to the meeting. The Chair conducted a roll call; all members were present as noted above.

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.

Approval of the Minutes

V-065-'22 Passed Minutes March 9, 2022 [Attachment I]

Motion to approve draft **Minutes of the** Board Meeting held on March 9, 2022. (*Edwards*)

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

V-066-'22 Passed Minutes April 28, 2022 [Attachment II]

Motion to approve draft Minutes of the Special Board Meeting held on April 28, 2022. (*Edwards*)

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

Closed Session

V-067-'22 Passed - Closed Session

Motion to go into Closed Session was made at 8:58 am in accordance with GS 143-318.11 (a) (1) and (6) to engage in privileged communications with the Board's counsel concerning Closed Session Minutes of Board Meetings and personnel matters. (*Edwards*)

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

V-068-'22 Passed - Return to "Open Session"

Motion to return to Open Session at approximately 9:35 a.m. (*Edwards*)

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

Motions in Open Session discussed during Closed Session

V-069-'22 Passed – Motion to approve actions from the Closed Session

Motion was made to approve:

- **Hiring Summer Intern for Record Retention projects and status change of Finance Manager to full-time and responsibilities including Licensing Manager**
- **ED Compensation review – 8% Bonus**
- **Adoption of the Closed Session Minutes from March 9, 2022 as written (*Kesler*)**

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

Responses from ED/DD to questions addressed at the previous Board Meeting

The ED informed the Board of Board responses sent to scope of practice questions from the prior meeting including:

- Advanced Training Position Statement -Updated and was posted on Board website.
- Student Performance of internal Pelvic Health-response sent to all questions asker's of Q1-2022
- Binding and Gaffing – response sent to inquiry
- Pessary Fittings – response sent to inquiry
- Perineural Dry Needling – response sent inquiry

Scope of Practice Questions for Board Consideration/Public Protection Task Force (PPTF) [Attachments]

The Board reviewed the following topics related to scope of practice from the May 26, 2022 PPTF meeting. Chair Edwards of the PPTF provided an update from the Committee Internal Pelvic Health – After thorough consideration and research from schools and subject matter experts, the Internal Pelvic Health position statement includes PTAs, PT/PTA students with appropriate supervision by a qualified PT practitioner. Position statement 13 was merged into this position statement to include fitting pessaries by an appropriately trained PTs

V-070– ‘022 Passed Motion to accept the new Position Statement on Pelvic Health and updated Definition of Advanced Training. (Edwards)

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

Virtual PT Platform – UHC Kaia app for virtual physical therapy –Arney received 3 emailed complaints regarding the announcement of this virtual physical therapy app. It appears that no licensee is involved in patient care with this app creating a potential advertising issue. Both APTA and FSBPT issued statements regarding this specific app. The Investigative Committee of the Board has reviewed the complaints and an investigation is underway. The Investigative Committee will report progress as they are able.

NC PT Practice Act definition of “mental health” question – the Board reviewed a question posed by an applicant regarding the physical therapy definition of mental health. The ED proposed a response that included the information from Board rules related to the wording in the practice health of “mental disability” and context of permitted PT practice. Board members recommended additional information about the Board’s inability to answer payer policy questions and specifics related to what areas of practice may be relevant to mental disabilities. Arney was tasked with responding to the applicant.

Imaging update was discussed during the Attorney report.

Attorney's Report

- **General Attorney Update**

- Attorney Gadd reported the MOU was executed with NC Professionals Health Program and a licensee has been referred; additional benefits are referral resources for licensee who contact them for fitness to practice evaluations, substance use disorders and mental health issues.
- The AIHF building is being sold to Thomas Park Assoc., with sale being finalized sometime in June. The Board Chair will sign the Estoppel agreement that is part of our lease; additional changes are not anticipated at this time.

- **Legislative Update**

- Attorney Gadd reviewed bills introduced to the NC General Assembly during the short session. At this time, it does not appear that bills introduced will have significant impact to the Board and Board operations. Proposed changes to NC GS 93B surrounding military applications that include military veterans and veteran spouses were already implemented by Board staff and are included in reporting where military applications/licensee statistics are reported. Gadd will continue to monitor legislative activity.

- **Disciplinary Actions for Board review**

- **PT Lic. #P19816** – David Steinbach, joined the Board for an informal meeting at 1:00 p.m. Prior to the licensee meeting with the Board, Attorney Gadd reviewed facts of the case that led to the Investigative Committee proposing a new Consent Order, which included a violation of a consent order not to dry needle patients without supervision and completing Board required training. The licensee presented information regarding his training, initial patient incident and second incident leading to violation of his consent order, letters of support and character references for the Board's review and consideration. The licensee asked for a change in the proposed new consent order and suggested alternatives. The Board then asked questions to which the licensee responded. The licensee was advised that this was an informal meeting and depending on the Board's decision, he has the option to request a contested case hearing. He was then asked to step out while the Board deliberated, the voted to accept the recommendation of the Investigative Committee of 12 months active suspension, 18 months inactive probation with conditions and paying costs of the investigation. Attorney Gadd will draft the final consent order and sent to the licensee for consideration.

V-071 – '22 Passed - Motion to accept the recommendation of the Investigative Committee for a Consent Order including probation with both active and inactive suspensions and conditions and payment of the costs of investigation for PT Lic. #P19816. (Hale)

Members voting in the affirmative:

Hale, Edwards, Garcia, Kesler,
Wentz, Bernard

Members abstaining:	Gonzalez
Members recusing:	Miner
Members voting in the negative:	None

- **PT Lic.#P13380** – Christopher Emmerich – The Investigative Committee proposed a Consent Order for the licensee based on a complaint regarding an incident of substance impairment at work with potential patient harm. Details of the case were reviewed with the Board regarding the case and recommendations were discussed including a period of active and inactive suspension of 24-months and additional conditions.

V-072 – ‘22 Passed - Motion to accept the recommendation of the Investigative Committee for probation both active and inactive suspension, conditions and payment of costs of the investigation for Lic.#P13380. (Kesler)

Members voting in the affirmative:	Hale, Edwards, Garcia, Kesler, Gonzalez, Wentz, Bernard
Members recusing:	Miner
Members voting in the negative:	None

Board Regulatory Education

- **Mask Mandates** – Guidance to follow the Governors recommendations and reviewed regulations for State and Federal mandates. The Board does not have powers to enforce these madates. NCBPTE makes recommendations to PTs and PT that the Board supports the Governors recommendation and as licensees they have a duty provide safe services for patients.
- **Discrimination against foreign trained applications** – email C. Rodgers
- **Imaging Update** – David Gadd, updated the Board that the Board staff was asked to provide recommendations for Imaging for a bill that a general assembly member would like to introduce regarding imaging ordering for physical therapists. Board Attorney, ED and DD collaborated on recommendations made. This was not introduced in the short session. We will wait until the long session before making a determination on next steps and researching whether there is sufficient statutory authority to create rules related to PTs ordering imaging.

**Executive Director’s (ED) Update
[Attachments IV]**

The Executive Director provided verbal updates including the following:

- AIHF 8300 Health Park
 - Building Sale
 - The Estoppel document will be signed by the Board Chair and returned to Mason Williams properties by June 15, 2022 as requested
 - Potential Sublease – a tenant in the building was referred to Arney to discuss their need for a potential sublease. Issues surrounding a sublease and security concerns were referenced. At this time the majority of the Board was not in favor of granting a sublease.
 - Long-term space considerations – The current lease expires August 31, 2028. The ED recommends continuing working toward a “paperless office” thus future space needs and decisions may not be dependent on a location for completing Board work but other considerations. at this time.

- Current Licensees Count – Quarterly update
 - steady on average 3% growth;
 - growth in compact privileges issued from a year ago is 100%;
 - military permit issuance has slowed.
- Temporary Exemptions for Licensure – The Board office is getting fewer requests for temporary exemptions from PT/PTA licensure in NC due to the current state of emergency in NC. They are aware this exemption will end immediately when the state of emergency is lifted in NC.
 - Temporary exemption requests have slowed to approx. 1-2 per week
 - Once the state of emergency ends all temporary exemption holders will be notified.

- **Strategic Planning for FY 2023 [Attachment]**

V-073 – ‘22 Strategic Planning Task Force – Proposed Strategic Plan FY 2023

Motion made to adopt the strategic plan presented by the ED with minor edits. (*Edwards*)

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

- **NC Professional Health Program** – signed MOU is attached for future reference
- **Retirement Plan Trustee** – New Bylaws have been developed and the Retirement plan was recently reviewed and has been readopted as required periodically it is attached for future reference including newly adopted Bylaws, Plan documents both detailed and summarized for plan participants.
- **Board History** updated 2022 – the ED requested Board member input on the Annual Board History updates. Feedback included the document was very well done but shortening narratives in favor of bulleted lists may be easier to read and digest. Arney will complete the Board History.

Financial Update Attachments]

Update was provided by Joyce Tynes, NCBPTE Finance Manager:

Documents reviewed included

- Financials – Profit and Loss – April 30, 2022 comparison to same period 2021
- Financials – Balance Sheet – April 30, 2022 to same period 2021
- Balance Sheet
- Estimated Final Totals for FY 2022 based on March 31, 2022
- Finance and Audit Committee Recommendations for FY 2023
 - Proposed budget FY 2023 (one-time renewal fee reduction \$20)
 - Use of Reserve
 - Finance Policies – new and updated
 - Taxable – Board / staff amenities
 - Investment of monies into Annuity account at PNC Bank

V-074 – ‘22 Motion to adopt all financial new and updated policies as presented by the Financial Manager. (*Kesler*)

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

V-075 – ‘22 Motion to move \$150,000 to PNC Fixed Annuity Investment for a rate of 3.2% for 3 years. (*Edwards*)

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

V-076 – ‘22 Motion to adopt the proposed budget for FY2023 as presented with an update to ED compensation approved during the closed session. (*Kesler*)

Members voting in the affirmative:	Hale, Edwards, Garcia, Kesler, Miner, , Wentz, Bernard
Members voting in the negative:	None

The Board discussed a recommendation of the Finance Manager and Executive Director (ED) to restructure the Designated Reserves. After discussion the Board provided feedback to make some changes. The recommendations for adjustments to the Designated Reserves will be brought back for review to the September 2022 Board meeting for consideration.

Report from Deputy Director

- Deputy Director Report

V-077– ‘022 Biennial Review of Position Statements

Motion to adopt the:

- **Revised “Performance of Finger Blood Specimens” position statement #6 which now includes position statement #12 on suture/staple removal and other non-physical Therapy Medical procedures (Renamed to: Performance of Non-Physical Therapy Medical Procedures Requested by Physicians in Various Healthcare Settings (Formerly: Performance of Finger Blood Specimens), and**
- **Revised Soft tissue mobilization using biofeedback, electrical stimulation and internal pelvic floor muscle techniques vaginally or rectally by a PTA - which now addresses Internal Pelvic Health Scope of PT Practice broadly**
- **All other position statements readopted as written (*Kesler*)**

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

- Regulatory Flexibility – review and discussion: end of the State of Emergency; the Board staff is prepared to execute any necessary changes when the State of Emergency ends.
- The listing of PT/PTA temporary exemptions from licensure was cross-referenced with the active endorsement application listing in the Board database. Any temporary exemption holders with an active application for NC PT/PTA licenses were contacted to facilitate completion of the existing endorsement application, as this needs to occur before the state of emergency is lifted in NC.
- TOEFL – iBT and Essentials – The TOEFL iBT is a 100% academic English test as compared to the Essentials test which is 50% academic English and 50% general English. The FCCPT does not accept the Essentials TOEFL test. After additional research and discussion with the ED and Board attorney, the Board staff will continue to only accept the TOEFL iBT (either Prometric and/or Home Edition) A statement to this effect has been posted on the website.
- Update on Transcripts – Board staff continue to be satisfied with utilization of third-party transcript services, namely Parchment / Student Clearinghouse. More and more educational institutions are utilizing their services as well, though the Board will still accept mailed transcripts from the primary source.
- Licensing Team Application Questions- The Board staff continues to rely on Board Rules and the NC PT Practice Act as the basis for responding to application questions in a fair and consistent manner. Work History will be removed from the application as it is not being used consistently to evaluate educational background or ethical character.

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V-078 - ‘022 Passed – Motion was made to remove the work history requirement from all initial and revival applications (*Miner*)

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

Work history is not used to make licensure decisions on competence or moral character when conducting application reviews

V-079-‘022- Motion to approve the proposed revival changes to make all revivals consistent in the application portion of the requirements (*Kesler*)

- Revivals – by Payment, CC, Endorsement, 500 Hours, and Exam
The application portion of the revivals will be made more consistent with the addition of:
JE requirement, two-character references, Attestation, Photo, approval by ED and DD
 - The application will no longer require a notary, work history, or Board approval,
 - Future revisions also approved include moving to online payment of revival application fees, and development of the online revival process

Committee on Board Rules [Attachment]

The Board reviewed Rules for amendment, proposed permanent rules cited:

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

And repeal the following rules:

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

V-080 – ‘22 Passed – Motion to adopt the proposed Rules as written (*Kesler*)

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

- Timeline – Next steps:
 - Rules submitted to RRC for review before June 20, 2022
 - RRC reviews rules July 21, 2022
 - Proposed rules effective date August 1, 2022
- Future Rules for consideration
 - Informed Consent - will be added to the next Rule cycle beginning around September 2022

Committee on Information Technology [Attachment]

Written Updates were provided by the IT Department

IT Update – G. Seipp, Director Information Technology

- Conversion to Microsoft 365 has been completed
- The Board will be converting to Teams, which will replace Discord and Zoom

Correspondence with Schools and Annual School Score Reports [Attachment]

- Pass rate (2022) for NC PT and PTA Schools (as of May 16, 2022)
- Pass rate (2021) for NC PT and PTA Schools (as of May 16, 2022)
- Pass rate (2019) for NC PT and PTA schools (as of May 16, 2022)
- Pass rate (2018) for NC PT and PTA schools (as of May 16, 2022)

No recommendations were made for communications with schools regarding pass rates. The Board will continue to monitor quarterly.

Documents provided for review and reference:

- Updated School Addresses and contacts
- A link providing 2022 Exam Schedule and Board Member notification for score days
- School Presentations
 - Arney – High Point University – June 1st Arney – June 3rd – Ragan & Carter
- School Communications
 - Ongoing related to AAP and Transcripts – Licensing Staff

Prometric

- Satisfaction (results for January – March 2021) The Board continues to review and screen the satisfaction scores for NC, while taking into consideration that the survey is taken just after the student finishes taking the NPTE

Ethics Commission [Attachment]

Reminders were issued to the Board members for the following:

- Board Member Ethics Education (required every 2 years)
- Ethics Compliance Report – Board members should refer to this report for their next scheduled training and SEI filing deadlines
- SEI Reminder – Due April 15 annually – ALL Board members – click for filing instructions – <https://ethics.nc.gov/seis>
- Lobbying News and Tips from NC SOS office – Dec 7 2021

PT Compact Commission

Arney provided updates to the PT Compact

- Compact Update-
 - Education about PTCC to licensees – Board thoughts and ideas
 -
- Compact Compliance Reports – NCBPTE continues to remain compliant.

Annual PT Compact Commission Meeting – Orange County, CA October 30, 2022 – Arney will attend

Board Appointments 2022 (1PT and 1PTA) / 2023 Board Appointments

- Eligible for Reappointment
 - Term Limited – Garcia
 - Possible reappointment – Miner & Gonzalez
- APTA NC Nominations open until 6/10/22
 - Posting on APTA NC and NCBPTE website (link to APTA NC)

Submission of Reports to State etc. [Attachment XII-XVII]

- Aetna Insurance Report
- NCBPTE Board member SEI filing – complete
- Catapult – Annual Wage and Salary survey 2022- complete
- Ethics Liaisons filing quarterly expense reports to NC SOS – Arney / Ragan
- 1Q 2022 Disciplinary Action Report – B. Trais
- NC Bold – NC Dept of Commerce for period of 01/01/2021 thru 12/31/21
- US Dept of Commerce – Census of Government – Survey of Public Employment & Payroll-March 2022 State Agencies
- NC Dept of Revenue (DOR) 2022
- NCBPTE Submission of Collections Branch Management of Dept of Archives Board Minutes 2021

- NCQA / CVO request from Andros- primary source education verification
- NEIS Annual Audit – State Farm Insurance Policy
- Annual update of NC Master Dishonesty Policy – Great American ins. – Lis Hale
Renewal Complete 03/01/22 to 03/01/2023
- GASB Standards for financial reporting – Forwarded to Auditor

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

- Appointment by Chair to Public Protection Task Force – Hale, Board Chair, appointed Miner to the PPTF.

Federation (FSBPT)

- FSBPT Webinar – Educational News briefs
- Attendance at FSBPT Annual Meeting Orange Co, CA October 27 / 29, 2022

V-081 – ‘022 Motion to fund 3 Board Members (in addition to FSBPT funded members and ED) to attend the Annual FSBPT meeting in Orange County, CA in October, 2022. *(Miner)*

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

- Delegates – VIRTUAL Delegates Assembly 2022 – October 24, 2022
- FSBPT Virtual Administrator Training – August 19-21, 2022
- FSBP New Member Portal

APTA NC & APTA

- APTA NC
 - Annual Conference – October 14-15 2022 High Point, NC
 - Board member attendance at APTA NC – need volunteer to provide NCBPTE report if asked – Jamie Miner and Rosa Gonzalez will attend and report back to the Board.
 - Newsletters links : https://aptanc.org/page/aptanc_newsletters
- APTA – apta.org
 - APTA Advocacy Network Newsletter
 - APTA Notification of HOD Motion RC 10-22 includes access to prenatal services and 4th trimester proposed

Other regulatory Organizations

- CLEAR – opportunities for education -
<https://www.clearhq.org/>

Credentialing Agencies

No New Updates

Correspondence from ED, Articles, etc. [Attachments]

- FSBPT Treatment of Self, Family, Close Relation Position Statement
- PTA Scope of Practice concerns – J. Hedrick
- PTA Direct Supervision – K. Carrington
- Medicaid – Owners & Managers
- Balancing the Public Good against Barriers to Entry in Professional Licensing (NC)
National Law Review April 2022

V. Future Quarterly NCBPTE Meetings

Upcoming Quarterly Board Meeting Dates and locations – all dates are Wednesdays

- September 14, 2022 – AIHF Conference Room 8300 HealthPark, Raleigh, NC 27615
- December 7, 2022 – Raleigh Marriott Crabtree, 4500 Marriott Drive, Raleigh, NC 27612

AA. Adjourn

Meeting adjourned by T. Hale, Chair, at 3:22 pm

Submitted,

Paula Brooks, Office Administrator
Recording Secretary

C. David Edwards, PT
Secretary-Treasurer