

MINUTES
North Carolina Board of Physical Therapy Examiners
Wednesday, July 8, 2020

Remotely hosted from NC Board of PT Examiners – 8300 Health Park, Suite 233. The meeting was conducted by use of simultaneous communication (Zoom) as allowed by Session Law 2020-3, effective May 2, 2020. Board members and staff were present for the entirety of the meeting and were provided with all materials used during the meeting in advance. Other attendees also participated using simultaneous communication (NCPT Board – YouTube Channel)

Members Present:

Teresa Hale, PT, Chairman
David Edwards, PT
Dr. Paul Garcia, **MD**
Rosa Gonzalez, BSN, RN, Public Member
Leslie P. Kesler, PT
Jamie Miner, PT
Pearl Rhone, PTA

Members Absent (excused):

Crystal Ostlind, PTA, Secretary/Treasurer

Staff Present:

Deborah Ragan, PT, Deputy Director/Rules Coordinator
David Gadd, Attorney

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

Meeting Called to Order by Teresa Hale, Chair, at 1:00 p.m.

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, Ms. 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. Board members responded in the negative.

Public Hearing

T. Hale, Chair discussed the purpose of today's public hearing, namely to address public comments regarding proposed temporary rule changes to +21 NCAC 48B .0103, 48D .0107, 48D .0109, 48D .0111, and 48E .0101. The reasons for the proposed action were stated in the Notice of Hearing, which also included the rules themselves and the notice of the public hearing to be held at 1:00 p.m. on July 8, 2020. In light of the COVID-19 pandemic, the meeting was held via electronic video conference to protect the safety and welfare of our Board members and interested public. The initiation of the public hearing was at 1:04 pm.

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The Chair asked if any public comments had been received and Ragan reported none had been received during the public comment period. Ragan further reported several comments were received prior to the public comment period which were related to continuing competence rules effective during the COVID-19 pandemic.

The Chair asked if any citizens attending the meeting wished to speak. Hearing none, the hearing portion of the meeting was closed at 1:07pm.

Board members discussed 21 NCAC 48D .0107 and the rationale for adding a clause to address the appeal procedure when an applicant is refused examination permission by the FSBPT. The applicant would appeal to the FSBPT according to the NPTE policies and Candidate Handbook.

V-36-'20* Passed Proposed Additional Amendment to 21 NCAC 48D .0107

Motion to accept the additional proposed amendment to 21 NCAC 48D .0107 to add clarity to the proposed rule:

(d) Any applicant who is refused permission to take the examination by the Federation has the option to appeal using the policies outlined in the FSBPT Candidate Handbook and NPTE policies (www.febpt.org). (Rhone)

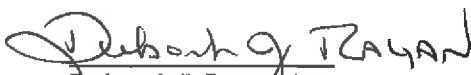
Members voting in the affirmative:	Hale, Edwards, Garcia, Gonzalez, Kesler, Miner, Rhone
Members absent (<i>excused</i>)	Ostlind
Members voting in the negative:	None
Members abstaining:	None

Chair reminded Board of the following date and locations for the upcoming Board meeting:

- September 2, 2020 (Wednesday)

Meeting adjourned at 1:14 p.m.

Submitted,


 Deborah J. Ragan, PT
 Deputy Director
 Recorder

*Indicates unanimous approval



**PROPOSED TEMPORARY RULE FOR
PUBLICATION ON THE OAH WEBSITE**

OFFICE USE ONLY

Published on the OAH
website:

CHECK APPROPRIATE BOX:

Proposed Temporary Rule [G.S. 150B-21.1(a3)]

Proposed Temporary Rule simultaneously adopted as an emergency rule [G.S. 150B-21.1A(a)]

1. Rule-Making Agency: NC Board of Physical Therapy Examiners

2. Proposed Action -- Mark the appropriate box(es) and list rule citation(s) beside proposed action:

ADOPTION:

AMENDMENT: 21 NCAC 48B .0103, 48D .0107, 48D .0109, 48D .0111, and 48E .0101

REPEAL:

3. Public Hearing: <https://zoom.us/j/91475936456?pwd=TmttaEFQdTJON1ZWRkYekFCWEIXdz09>

Date: July 8, 2020

Time: 1:00pm

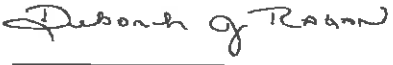
Location: Zoom Remote hearing. Meeting ID 914 7593 6456 Password: 720772

4. Reason for agency adopting rule(s) under temporary action:

- A serious and unforeseen threat to the public health, safety or welfare.**
 The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
 A recent change in federal or state budgetary policy.
Effective date of change:
 A recent federal regulation.
Cite:
Effective date:
 A recent court order.
Cite order:
 Other: Executive Order 130, Section 3a

Explain: Please justify the need for the temporary rules here.

On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The World Health Organization, the Center of Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. Section 16 of Executive Order No. 116 temporarily waives licensure requirements for healthcare providers licensed in other states, territories, and the District of Columbia. The North Carolina Board of Physical Therapy Examiners seeks to help increase the pool of qualified healthcare providers who can provide assistance with a COVID-19 outbreak by creating an expedited process by which physical therapists and physical therapist assistants can be licensed. Furthermore, qualified physical therapists and physical therapist assistants will be essential in the rehabilitation process for many persons recovering from the residual effects of COVID-19.

5. Comments from the public shall be directed to: Name: Deborah J. Ragan, PT, DPT Address: 8300 Health Park Suite 233 Raleigh, NC 27615 Phone (optional): 919-490-6393 or 919-418-6146 (during State of Emergency) Fax (optional): E-Mail (optional): dragan@ncptboard.org	
6. Comment Period Starts: June 17, 2020	Comment Period Ends: July 10, 2020
7. Rule-making Coordinator: Deborah J. Ragan, PT, DPT Address: 8300 Health Park Suite 233 Raleigh, NC 27615 Phone: 919-490-6393 E-Mail: dragan@ncptboard.org Agency contact, if any: Same as above Phone: Same as above E-mail: Same as above	8. The Agency formally proposed the text of this rule(s) on Date: June 10, 2020
	9. Signature of Agency* Head or Rule-making Coordinator:  <hr/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Deborah J. Ragan, PT, DPT Title: Rulemaking Coordinator

Join Zoom Meeting

<https://zoom.us/j/91475936456?pwd=TmttaEFQdTJON1ZWRkYekFCWEIXdz09>

Meeting ID: 914 7593 6456

Password: 720772

Note from the Codifier: The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days. For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email oah.postmaster@oah.nc.gov.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 48 – BOARD OF PHYSICAL THERAPY EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.1 that the Board of Physical Therapy Examiners intends to amend the rules cited as 21 NCAC 48B .0103; 48D .0107, .0109, .0111; 48E .0101.

Codifier of Rules received for publication the following notice and proposed temporary rule on June 10, 2020.

Public Hearing:

Date: July 8, 2020

Time: 1:00 p.m.

Location: Zoom remote hearing: [https://zoom.us/j/91475936456?pwd=TmttaEFQdTJONlZWRklYekFCWEIXdz09](https://zoom.us/j/91475936456?pwd=TmttaEFQdTJONlZWRklYekFCWEIXdz09;); Meeting ID 914 7593 6456 Password: 720772

Reason for Proposed Temporary Action: *A serious and unforeseen threat to the public, health, or safety and Executive Order 130, Section 3a. On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The World Health Organization, the Center of Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. Section 16 of Executive Order No. 116 temporarily waives licensure requirements for healthcare providers licensed in other states, territories, and the District of Columbia. The North Carolina Board of Physical Therapy Examiners seeks to help increase the pool of qualified healthcare providers who can provide assistance with a COVID-19 outbreak by creating an expedited process by which physical therapists and physical therapist assistants can be licensed. Furthermore, qualified physical therapists and physical therapist assistants will be essential in the rehabilitation process for many persons recovering from the residual effects of COVID-19.*

Comment Procedures: *Comments from the public shall be directed to: Deborah J. Ragan, PT, DPT, 8300 Heath Park, Suite 233, Raleigh, NC 27615; phone (919) 490-6393 or (919) 418-6146 (during State of Emergency); email dragan@ncptboard.org. The comment period begins June 17, 2020 and ends July 13, 2020.*

SUBCHAPTER 48B - TYPES OF LICENSES

21 NCAC 48B .0103 LICENSES BY EXAMINATION

(a) Applicants. An applicant seeking an initial license or who fails to meet the requirements in Rule .0102 of this Section for endorsement must pass a computer-based examination set forth in Subchapter 48D of this Chapter to practice in North Carolina following the approval of the applicant's credentials.

(b) ~~Timing of Examination. The applicant shall take the examination within one year following the Board's approval of his or her application. If the applicant does not do so, the applicant must submit his or her credentials to the Board for review before he or she can take the exam.~~ Incomplete Applications – Any application received in accordance with this Rule that remains incomplete one year after the initial application filing shall be considered to be abandoned and no further processing shall be undertaken with respect to that application. Applicants shall reapply, pay the application fee and provide updated application requirements after an application has been abandoned.

(c) Examination Taken in Another State. Applicants not previously licensed who take a PT exam or a PTA exam in another state may be licensed in North Carolina if they provide scores that meet the North Carolina passing level set forth in Rule 48D .0105 of this Chapter and meet all other requirements set forth in this Chapter and the Physical Therapy Practice Act for North Carolina licensure in effect at the time of application.

(d) Jurisprudence Exercise. All applicants for licensure for 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; 90-270.95; 90-270.97;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2013; August 1, 2002; October 1, 1989; April 1, 1989; December 30, 1985; October 28, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;

Amended Eff. May 1, 2020; 2020;

Temporary Amendment Eff. October 1, 2020.

21 NCAC 48D .0107 PERSONS REFUSED EXAMINATION PERMISSION

(a) The Board shall refuse permission to take the examination to any person who:

- (1) Does not meet the requirements as set forth in the Physical Therapy Practice Act;
- (2) Furnishes false information to the Board on the application; or
- (3) Fails to furnish personal background information as required by these Rules.

(b) The Board has authority to approve an applicant's exam eligibility and may delegate its authority to the Federation. Upon delegation of said authority, the Federation may grant permission to take the examination pursuant to National Physical Therapy Examination policies and as agreed upon by the Board.

~~(b)~~(c) Any applicant who is refused permission to take the examination shall be entitled to petition the Board for a contested case hearing pursuant to Subchapter 48G, Section .0500 of this Chapter.

*History Note: Authority G.S. 90-270.92; 90-270.95; 90-270.97; 90-270.103;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. December 1, 2006; August 1, 2002; December 30, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; 2018;
Temporary Amended Eff. October 1, 2020.*

21 NCAC 48D .0109 RETAKING EXAMINATION

(a) Arrangements for Retake. To retake the examination, the applicant shall notify the Board in writing, and pay the retake fee as specified in 21 NCAC 48F .0102 The examination cost as set forth by the Federation (www.fsbpt.org) is hereby incorporated by reference and includes subsequent amendments and editions. A copy of the retake application may be obtained from the Board's website at no charge. If the Federation approves exam eligibility, the Federation shall administer the retake process according to NPTE policies.

~~(b) Retake Examination. The Board shall administer a particular form of the examination to an applicant only one time.~~

~~(e)~~(b) Limitations. An applicant shall be limited to taking the examination the number of times allowed by the Federation as indicated on the Federation's website (www.fsbpt.org).

*History Note: Authority G.S. 90-270.92; 90-270.95; 90-270.97; 90-270.100;
Emergency Regulation Eff. July 23, 1979, for a period of 120 days to expire on November 20, 1979;
Made Permanent Eff. November 20, 1979;
Amended Eff. February 1, 2015; February 1, 1996; November 1, 1993; August 1, 1988; May 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; 2018;
Temporary Amendment Eff. October 1, 2020.*

21 NCAC 48D .0111 APPLICANTS WITH SPECIAL NEEDS

Examination candidates who need special accommodations for the examination as a result of a medical or physical dysfunction shall file an Accommodation Request Form and supporting documentation with the executive director at least 60 days before the examination date in order for the request to be considered by the Board. If the Federation grants exam eligibility, the accommodation request shall be made pursuant to Federation testing accommodation policy.

*History Note: Authority G.S. 90-270.92; P.L. 101-336;
Eff. October 1, 1995;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; 2018;
Temporary Amendment Eff. October 1, 2020.*

SUBCHAPTER 48E - APPLICATION FOR LICENSURE

SECTION .0100 - REQUIREMENTS

21 NCAC 48E .0101 FILING APPLICATION

(a) An applicant for licensure shall ensure that his or her credentials are filed with the executive director in accordance with the rules of this Subchapter.

~~(b) To be~~ If the Board has not delegated the authority to grant exam eligibility to the Federation, and, to be certain an applicant will be considered for a desired examination date, the applicant shall submit all application requirements to the executive director at least 30 days prior to the examination.

(c) The Board shall not approve an application until the applicant has graduated as defined by 21 NCAC 48A .0105(6).

*History Note: Authority G.S. 90-270.92; 90-270.95; 90-270.98(b);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. May 1, 1988; December 30, 1985; October 28, 1979;
Recodified Paragraph (c) to 21 NCAC 48C .0501 Eff. January 25, 1989;
Amended Eff. July 1, 2013; August 1, 1998; February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. May 1, 2020; 2020;*

Temporary Amendment Eff. October 1, 2020.