

SUBCHAPTER 48G - RETENTION OF LICENSE

SECTION .0100 - LICENSURE RENEWAL

21 NCAC 48G .0101 RENEWAL TIME

21 NCAC 48G .0102 RENEWAL APPLICATION

History Note: Authority G.S. 90-270.26; 90-270.32; P.L. 93-641;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. October 28, 1979;
Repealed Eff. December 30, 1985.

21 NCAC 48G .0103 RENEWAL FEE

All applications for renewal must be accompanied by the payment of the current renewal fee.

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. April 1, 1989; January 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 48G .0104 RENEWAL

(a) If on active duty, and to whom G.S. 105-249.2 grants an extension of time to file a tax return, a member of the United States Armed Services is exempt from compliance with renewal requirements.

(b) The Board shall make available to each licensee having an active license, a renewal certificate bearing the current name of the licensee, license number and a January 31 expiration date.

History Note: Authority G.S. 90-270.92; 90-270.99; 93B-15; 105-249.2;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2013; 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.

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 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.

21 NCAC 48G .0106 CONTINUING COMPETENCE REQUIREMENT

- (a) For individuals licensed prior to January 1, 2009, during each reporting period thereafter, each physical therapist must accumulate 30 points, and each physical therapist assistant must accumulate 20 points of continuing competence activities to be eligible for license renewal.
- (b) For individuals whose date of initial licensure is after January 1, 2009, commencing on January 1 following the date of initial licensure, each physical therapist must accumulate 30 points and each physical therapist assistant must accumulate 20 points of continuing competence activities during the reporting period to be eligible for license renewal.
- (c) Up to 10 extra points earned during one reporting period may be carried over to the next reporting period, except that points earned for the Jurisprudence Exercise, Clinical Practice and Self-Assessment categories may not be carried forward.

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.

21 NCAC 48G .0107 STANDARDS FOR CONTINUING COMPETENCE ACTIVITIES

The Board shall approve continuing competence activities which meet the following standards and provisions:

- (1) They have intellectual or practical content based on best available scientific evidence and the primary objective is to increase the participant's professional competence and proficiency as a licensee;
- (2) They constitute learning experiences dealing with matters directly related to the practice of physical therapy or patient welfare;
- (3) Live instruction, mechanically or electronically recorded, reproduced or transmitted material, other electronic media, or a computer website accessed via the Internet are used;
- (4) Continuing competence materials are prepared, and activities conducted, by an individual or group qualified by practical or academic experience in a setting physically suitable to the educational activity of the program or clinical experience and, when appropriate, equipped with suitable writing surfaces or sufficient space for taking notes;
- (5) Written materials are distributed to all attendees at or before the time a course is presented. These may include scientific materials based on written references printed from a computer presentation, computer website, or other electronic media. A written agenda, objectives or outline for a presentation satisfies this requirement when written reference materials are not suitable or readily available for a particular subject;
- (6) The provider remits costs as required by Rule .0112 of this Subchapter and keeps and maintains attendance records of each continuing competence experience sponsored by it in North Carolina; and
- (7) For activities that are directed to more than one discipline, or are directed primarily to another health care discipline, the Board is satisfied that the content of the activity would enhance physical therapy skills or aid in the practice of physical therapy.

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

21 NCAC 48G .0108 APPROVAL OF PROVIDERS AND ACTIVITIES

- (a) The Board shall approve a provider if it is satisfied that the provider's programs have met the standards set forth in Rule .0107 of this Section.
- (b) Once a provider is approved, the continuing competence activities offered by that organization are approved for credit and no application must be made to the Board for approval.

- (c) The following organizations are approved providers:
- (1) Any agency or board responsible for licensing individuals to practice physical therapy in the United States or Canada;
 - (2) The American Physical Therapy Association (APTA), including any Sections, credentialed residencies and fellowships and its accrediting subsidiary;
 - (3) State Chapters of APTA;
 - (4) The Federation of State Boards of Physical Therapy (FSBPT), and any accrediting subsidiary;
 - (5) The International Association for Continuing Education and Training (IACET);
 - (6) Any providers approved or accredited by the agencies or organizations listed in Subparagraphs (1) through (5) of this Paragraph;
 - (7) Physical therapist and physical therapist assistant programs approved by an agency recognized by either the U.S. Department of Education or the Council on Postsecondary Accreditation; and
 - (8) The North Carolina Department of Public Instruction, North Carolina Division of Public Health and North Carolina Area Health Education Centers with regard to activities directly related to physical therapy.
- (d) The Board may at any time revoke the approval of a provider for failure to satisfy the requirements of Rule .0107 of this Section. The Board may evaluate an activity presented by an approved provider and, upon a determination that the activity does not satisfy the requirements of Rule .0107 of this Section, notify the approved provider that any presentation of the same activity is not approved for credit. The notice shall be sent by the Board to the approved provider within 30 days after receipt of the notification. The approved provider may request reconsideration of the decision by submitting a letter of appeal to the Board's Executive Director within 15 days of receipt of the notice of disapproval.
- (e) Any organization not approved as a provider that desires approval of a course or activity to be offered in North Carolina shall apply to the Board at least 60 days prior to the date the activity is scheduled. The application shall include the name and address of the activity provider, the date, location and schedule for the activity, a description of the qualifications of the presenters and the content of the activity, including written materials. An activity shall be deemed approved if notice of denial is not furnished to the organization within 30 days of the scheduled activity. An applicant denied approval of a program may request reconsideration of the decision by submitting a letter of appeal to the Board's Executive Director within 15 days of receipt of the notice of disapproval.
- (f) A licensee desiring approval of a course or activity that has not otherwise been approved shall apply to the Board at least 30 days prior to the date the activity is scheduled. The licensee shall furnish the name and address of the activity provider, the date, location and schedule of the activity and a description of the qualifications of the presenters and the content of the activity, including written materials. An activity shall be deemed approved if notice of denial is not furnished to the licensee within 10 days of the scheduled activity. An applicant denied approval of a program may request reconsideration of the decision by submitting a letter of appeal to the Board's Executive Director within 15 days of receipt of the notice of disapproval.
- (g) For continuing competence activities offered for credit in this State, the providers shall furnish to the Board the activity code number assigned by the Board and a list of all licensees completing the activity, including full name and license number, within 90 days of the completion of the approved activity.

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

21 NCAC 48G .0109 CONTINUING COMPETENCE ACTIVITIES

- (a) Continuing Education activities are eligible for points as follows:
- (1) A registered attendee at courses or conferences offered live in real time by approved providers earns one point for each contact hour. The maximum number of points allowed during any reporting period shall be 29. The maximum number of points allowed during any reporting period for an interactive course offered through electronic media shall be 15. Credit shall not be given for the same course or conference more than once during any reporting period. The licensee shall retain the Certificate of Attendance issued by the approved provider.
 - (2) For registered participation in an academic course related to physical therapy offered for credit in a post-baccalaureate program unless the course is required for licensure, one semester hour earns 15 points, and the maximum number of points allowed during any reporting period shall be 29. The licensee shall obtain a letter grade of "C" or better, or "P" if offered on a pass/fail basis. Credit shall not be given for the same

course more than one time. The licensee shall retain a transcript published by the approved provider or furnished by the academic institution.

- (3) For attendance or participation in an activity related to physical therapy for which no assessment is received, two contact hours earns one point. The maximum number of points allowed during any reporting period shall be five. Credit shall not be given for the same activity more than one time. The licensee shall retain a certificate of completion, or if that is not available, a summary of the objectives of the activity and the time spent in the activity.
 - (4) For registered participation in a non-interactive course offered by an approved provider by videotape, satellite transmission, webcast, DVD, or other electronic media, one hour of participation earns one point. The maximum number of points allowed during any reporting period shall be 10. Credit shall not be given for the same course more than once during a reporting period. The licensee shall retain a certificate of completion provided by the course provider.
 - (5) For participation in a study group consisting of at least three licensees conducted either live or in real time through electronic media, whose purpose is to advance the knowledge and skills of the participants related to the practice of physical therapy, two hours of participation in the study group earns one point. The maximum number of points allowed during any reporting period shall be 10. The licensee shall retain a biography of each participant, a statement of the goals of the study group, attendance records for each participant, assignments for each participant and an analysis by each participant specifying the knowledge and skills enhanced by participating in the study group.
 - (6) For participation in a self-designed home study program for the purpose of advancing the knowledge and skill of the participant related to the practice of physical therapy, three hours of home study earns one point. The maximum number of points allowed for home study during any reporting period shall be five. The licensee shall retain a description of the plans and objectives of the me study, an analysis of the manner in which the plans and objectives were met, and a certification of the time spent on the project.
 - (7) For participation in continuing education required by credentialed residencies and fellowships, one point shall be granted for each contact hour. The maximum number of points for each reporting period shall be 29. The licensee shall retain the certificate of attendance issued by the American Physical Therapy Association ("APTA") credentialed residency or fellowship.
 - (8) For completion of a home study physical therapy program furnished by an approved provider, one hour of home study earns one point. The maximum number of points during any one reporting period allowed shall be 10. The licensee shall retain a certificate of completion issued by the approved provider.
- (b) Points are awarded for advanced training as follows:
- (1) For fellowships conferred by organizations credentialed by the APTA in a specialty area of the practice of physical therapy, 10 points shall be awarded for each full year of clinical participation, up to a maximum of 20 points per reporting period for this activity. The licensee shall retain the certificate conferred on the licensee or evidence that all requirements of the fellowship program have been met.
 - (2) For completion of a residency program in physical therapy offered by an APTA credentialed organization, 10 points shall be awarded for each full year of clinical participation, up to a maximum of 20 points per reporting period for this activity. The licensee shall retain the certificate conferred on the licensee or evidence that all requirements of the residency program have been met.
 - (3) For specialty certification or specialty recertification by the American Board of Physical Therapy Specialization ("ABPTS"), 20 points shall be awarded upon receipt of such certification or recertification during any reporting period. The licensee shall retain evidence from ABPTS that the certification or recertification has been granted.
 - (4) For a physical therapist assistant, Advanced Proficiency designation by the APTA for the PTA earns 19 points per reporting period. The licensee shall retain evidence from APTA that the designation has been awarded.
- (c) Achieving a passing score on the Federation's Practice Review Tool ("PRT") earns 10 points. Taking the PRT without achieving a passing score earns five points. The licensee shall retain the certificate of completion and performance report. Points shall be awarded only one time for any specific practice area.
- (d) Clinical Education activities are eligible for points as follows:
- (1) For completion of a course offered by an approved provider for a licensee to become a Credentialed Clinical Instructor recognized by APTA, one course hour earns one point, and the maximum number of points awarded during any reporting period shall be 29. The licensee shall retain a credential certificate issued by the approved provider. Credit for completing the same course shall be given only once.

- (2) For enrollment in a course offered by APTA for a licensee to become a Credentialed Clinical Instructor Trainer, one course hour earns one point, and the maximum number of points awarded during any reporting period shall be 29. The licensee shall retain a Trainer certificate issued by APTA. Credit for completing the same course shall be given only once.
 - (3) For serving as a Clinical Instructor for a physical therapist or physical therapist assistant student, resident, or fellow for a period of at least 80 hours, 40 hours of direct on-site supervision earns one point, and the maximum number of points awarded during any reporting period shall be eight. The licensee shall retain verification of the clinical affiliation agreement with the accredited educational program for the student supervised and a log showing the number of hours spent supervising the student.
- (e) Presenting or teaching for an accredited physical therapy educational program; a transitional Doctor of Physical Therapy ("DPT") program; an accredited program for health care practitioners licensed under the provisions of Chapter 90 of the North Carolina General Statutes; or a state, national, or international workshop, seminar or professional health care conference earns two points for each hour of presentation or teaching. The licensee shall retain written materials advertising the presentation or teaching, or other evidence of the date, subject, goals and objectives of the presentation, and any written materials prepared by the licensee. A maximum of six points shall be allowed during any reporting period, and credit shall not be given for teaching or presenting the same subject matter more than one time during any reporting period.
- (f) Research and published books or articles shall be eligible to accumulate up to a maximum of 15 points as follows:
- (1) Submission of a request to a funding agency for a research grant as a Principal or Co-Principal Investigator earns 10 points. The licensee shall retain a copy of the research grant that shall include the title, an abstract, the funding agency, and the grant period. Points shall be awarded only one time during any reporting period.
 - (2) Having a research grant funded as a Principal Investigator or Co-Principal Investigator earns 10 points. The licensee shall retain a copy of the research grant that shall include the title, an abstract, the funding agency, the grant period and documentation of the funding received in a given period. Points shall be awarded only one time during a reporting period.
 - (3) Service as a Grants Reviewer earns one point for each two hours of grant review and a maximum of five points shall be allowed. The licensee shall retain a description of all grants reviewed and any reports generated in connection with the reviews, including the dates of service, the agency for whom the review was performed, and the hours spent on the grant review. Points shall be awarded only once for each grant reviewed during the reporting period.
 - (4) The author or editor of a book published by a third party entity dealing with a subject related to the practice of physical therapy earns 10 points. The licensee shall retain a copy of the published book and a list of consulted resources. Points shall be awarded only one time during any reporting period.
 - (5) The author or editor of a chapter in a book published by a third party entity dealing with a subject related to the practice of physical therapy earns five points. The licensee shall retain a copy of the published book and a list of consulted resources. Points shall be awarded only one time during any reporting period.
 - (6) The author of a published peer-reviewed article relating to the practice of physical therapy earns 10 points. The licensee shall retain the article, names and employers of the reviewers, and a list of consulted resources. Points shall be awarded only one time during any reporting period.
 - (7) The author of a published non peer-reviewed article or book-review or abstract relating to the practice of physical therapy earns four points. The licensee shall retain the article and a list of consulted resources. Each article, book-review, or abstract shall count one time only. A maximum of four points shall be awarded during any reporting period.
 - (8) The author of a published peer-reviewed abstract, book review, or peer-reviewed abstract for a poster or presentation related to the practice of physical therapy to a professional health care group earns five points for a presentation, up to a maximum of 15 points during any reporting period, and credit for the same poster or presentation shall not be awarded more than one time. The licensee shall retain a copy of the poster or presentation and a list of consulted resources.
- (g) Clinical practice shall be eligible for points as follows:
- (1) For each year during the reporting period that a licensee is engaged in clinical practice for 1,750 hours or more, three points shall be awarded. The licensee shall retain certification from the employer(s) for whom the services were performed including year and hours worked or document practice hours as the owner of a practice.
 - (2) For each year during the reporting period that a licensee is engaged in clinical practice for at least 1,000 hours but less than 1,750 hours, two points shall be awarded. The licensee shall retain a certification from

the employer(s) for whom the services were performed including year and hours worked or document practice hours as the owner of a practice.

- (3) For each year during the reporting period that a licensee is engaged in clinical practice for at least 200 hours but less than 1,000 hours, one point shall be awarded. The licensee shall retain a certification from the employer(s) for whom the services were performed including year and hours worked or document practice hours as the owner of a practice.

(h) Professional Self-Assessment earns five points for completion of an approved Reflective Practice Exercise. This exercise shall be approved if it is a process for a licensee to evaluate current professional practice abilities, to establish goals to improve those abilities, to develop a plan to meet those goals, and to document that the objectives are being accomplished. The licensee shall retain evidence of completion of all elements of the Reflective Practice Exercise. Points shall be awarded only one time during any reporting period.

(i) Workplace Education shall be eligible for points as follows:

- (1) Presentation or attendance at an in-service session related to the practice of physical therapy, including health care issues related to the practice of physical therapy, shall be allowed. The licensee shall retain a roster or certificate of attendance signed by a representative of the employer. Two hours of attendance earns one point. One hour of presentation earns one point. A maximum of five points may be earned during any one reporting period. Credit for the same in-service shall not be granted more than one time.
- (2) Presentation or attendance at an in-service session devoted to general patient safety, emergency procedures, or governmental regulatory requirements shall be allowed. The licensee shall retain a roster or certificate of attendance signed by a representative of the employer. Two contact hours of in-service are equivalent to one point, which shall be the maximum credit granted during any reporting period. Credit for the same in-service shall not be granted more than one time during any reporting period.

(j) Professional Service shall be eligible for points as follows:

- (1) Participation in a national physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee, physical therapy services task force member, or delegate to a national assembly earns five points for each full year of participation, up to a maximum of 10 points during any reporting period. The licensee shall retain organizational materials listing the licensee's participation, a statement of the responsibilities of the position, and a summary of the activities of the licensee.
- (2) Participation in a state physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee earns four points for each full year of participation, up to a maximum of eight points during any reporting period. The licensee shall retain organizational materials listing the licensee's participation, a statement of the responsibilities of the position, and a summary of the activities of the licensee.
- (3) Participation in a local or regional physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy service committee earns two points for each full year of participation, up to a maximum of four points during any reporting period. The licensee shall retain organizational materials listing the licensee's participation, a statement of the responsibilities of the position, and a summary of the activities of the licensee.
- (4) Participation as a member of a physical therapy professional organization committee involved with physical therapy services earns one point for each full year of participation, up to a maximum of two points during any reporting period. The licensee shall retain organizational materials listing the licensee's participation, a statement of the responsibilities of the committee, and a summary of the work of the committee.
- (5) Participation in unpaid volunteer service to the general public and healthcare professionals related to physical therapy earns one point for at least 20 hours spent on service activities during each year, up to a maximum of two points during any reporting period. The licensee shall retain published materials describing the service activity.
- (6) Membership in the APTA for one year earns one point. A point may be earned for each year of membership during the reporting period. The licensee shall retain proof of membership in the APTA.
- (7) Membership in an APTA Section for one year earns one-half point. The licensee shall retain proof of membership in the APTA Section. Points shall not be awarded for membership in more than one Section.
- (8) Selection by the Federation for participation as an item writer of exam questions for the National Physical Therapy Examination (NPTE) or by the American Board of Physical Therapy Specialties (ABPTS) earns five points for each year of participation. The licensee shall retain documentation of participation by the Federation or ABPTS.

- (9) Participation in clinical research, clinical trials, or research projects related to the practice of physical therapy earns 1 point for each hour of participation, up to a maximum of 10 hours per reporting period. The licensee shall retain a log of hours of participation including date, activity performed, location of the research, and primary investigator.
- (k) During each reporting period, every licensee shall complete a jurisprudence exercise provided by the Board. The jurisprudence exercise shall be available online at the Board's website, at <http://www.ncptboard.org> and a certificate of completion shall be issued to a licensee at the conclusion of the exercise, at which time one point shall be awarded to the licensee. The maximum number of points allowed during a reporting period is three.

*History Note: Authority G.S. 90-270.92;
Eff. January 1, 2009;
Amended Eff. April 1, 2015; February 1, 2015; January 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. May 1, 2020.*

21 NCAC 48G .0110 EVIDENCE OF COMPLIANCE

- (a) Each licensee shall submit a completed Continuing Competence Reporting Form with an application for license renewal. The form shall be found on the Board's website at <http://www.ncptboard.org>.
- (b) Licensees shall retain evidence of compliance with continuing competence requirements for a period of four years following the end of the reporting period for which credit is sought for an activity.
- (c) Documentary evidence for continuing education activities shall include the following for each activity:
- (1) name of approved provider;
 - (2) name of accrediting organization;
 - (3) title;
 - (4) date;
 - (5) hours for presentation; and
 - (6) record of attendance or participation by provider.
- (d) The Board shall conduct random audits to ensure continuing competence compliance. Within 30 days from receipt of an Audit Notice from the Board, the licensee shall furnish the Board with the documentary evidence required by Rule .0109 of this Section showing completion of the points required for the audited reporting period.
- (e) Requests for extensions of time for up to an additional 30 days to respond to the Audit Notice shall be submitted to and granted by the Board's Executive Director. For circumstances beyond the control of the licensee related to physical or medical hardship sustained by the applicant or his or her immediate family, the Board shall grant an additional period of time to respond to the Audit Notice.
- (f) If the results of the audit show a licensee has not completed the required points, and the number of additional points needed by the licensee is 10 or fewer, the licensee shall complete the remaining points within 90 days from the date the Board notifies the licensee by electronic communication or U.S. Postal Service mail of the deficiency. For circumstances beyond the control of the licensee or for personal hardship, the Board shall grant an additional period of time to respond to the Audit Notice.
- (g) Failure to respond to the Board's Audit Notice in a timely fashion, or failure to provide the necessary documentary evidence of compliance pursuant to this Rule shall subject the licensee to disciplinary action pursuant to 21 NCAC 48G .0601(a)(10).

*History Note: Authority G.S. 90-270.92;
Eff. January 1, 2009;
Amended Eff. February 1, 2015; January 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0111 EXEMPTIONS

- (a) To qualify for an exemption from the rules in this Subchapter, a licensee must furnish the applicable information required on the Continuing Competence Compliance Form.
- (b) A member of the United States Armed Services is exempt pursuant to Rule .0104 of this Section from compliance if on active duty for such period of time as G.S. 105-249.2 would grant an extension to file a tax return. The reporting period shall commence on January 1 following the licensee's discharge from active duty.

- (c) The Board shall grant an exemption from completing applicable continuing competence requirements to any licensee who becomes disabled or sustains a personal hardship that makes completion of continuing competence requirements impractical. The exemption may last for a period not to exceed two years, which shall be granted to the applicant based upon the applicant's documented treatment of care.
- (d) In cases of personal or family hardships, including medical issues or deployment, the Board shall allow the licensee up to an additional one year to complete the applicable continuing competence requirements.
- (e) Upon written application to the Board, any licensee who is 65 years of age or older and is not engaged in practice or patient treatment shall be granted an exemption from completing continuing competence requirements.
- (f) Other requests for partial exemptions for hardships or circumstances beyond the control of the licensee shall be granted by the Board upon written application of the licensee.
- (g) A licensee seeking an exemption pursuant to this Rule shall provide written documentation to the Board to support the exemption.

*History Note: Authority G.S. 90-270.92; 93B-15;
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Amended Eff. January 1, 2014;
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21 NCAC 48G .0112 COSTS

- (a) The Board shall not assess a fee for approval of continuing competence activities offered by approved providers.
- (b) The Board shall charge one hundred fifty dollars (\$150.00) per activity to a non-approved provider seeking approval of a continuing competence activity offered to licensees in this State.
- (c) The Board shall charge twenty-five dollars (\$25.00) to a licensee seeking approval of a continuing competence activity that is not offered by an approved provider.

*History Note: Authority G.S. 90-270.92;
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SECTION .0200 - LAPSED LICENSES

21 NCAC 48G .0201 DATE LICENSE LAPSES

A license automatically lapses on February 1 of any year in which the renewal fee is not paid.

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21 NCAC 48G .0202 NOTIFICATION

A licensee shall renew his or her license by January 31 close of business of each year. Any license not renewed by January 31 close of business shall lapse and the Board shall notify the licensee by written communication at the last known mailing or email address on record with the Board. Any person with a lapsed license shall notify his or her employer.

*History Note: Authority G.S. 90-270.92; 90-270.99;
Eff. February 1, 1976;
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Amended Eff. August 1, 2002; August 1, 1998; April 1, 1989; December 30, 1985; October 28, 1979;
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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
 - (3) endorsement of a current license in another state as provided by 21 NCAC 48B .0102.

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 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.

21 NCAC 48G .0204 RESTRICTED LICENSE

An individual reinstating a lapsed license shall successfully demonstrate to the Board competency in the practice of physical therapy or shall serve an internship under a restricted license. A "restricted license" is one on which the Board places restrictions or conditions, or both, for up to six months as to scope of practice, place of practice, supervision of practice, duration of license status, or type or condition of patient or client to whom the licensee may provide service.

History Note: Authority G.S. 90-270.92; 90-270.99;
 Eff. August 1, 2002;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .0300 - REFUSAL TO RENEW OR GRANT LICENSE: SUSPENSION OR REVOCATION

- 21 NCAC 48G .0301 GROUNDS FOR REFUSAL OF LICENSE**
21 NCAC 48G .0302 PROCEDURE FOR SUSPENSION OR REVOCATION
21 NCAC 48G .0303 NOTICE TO LICENSEE
21 NCAC 48G .0304 OPPORTUNITY FOR HEARING

History Note: Authority G.S. 90-270.26; 90-270.35; 150A-3; 150A-23(a),(b),(c);
 Eff. February 1, 1976;
 Readopted Eff. September 30, 1977;
 Amended Eff. October 28, 1979;
 Repealed Eff. December 30, 1985.

21 NCAC 48G .0305 FINES

History Note: Authority G.S. 90-270.26; 90-270.35; 90-270.36;
 Eff. October 28, 1979;
 Repealed Eff. March 15, 1980.

21 NCAC 48G .0306 CONDITIONS ON RENEWAL

(a) The Board may refuse to renew the license of an individual who has been denied licensure in another jurisdiction for engaging in conduct that would also violate the North Carolina Physical Therapy Practice Act.

(b) The Board may impose restrictions as to scope of practice, place of practice, supervision of practice or type or condition of patient or client to whom the licensee may provide services when another jurisdiction has placed the same restrictions on an individual renewing a license for conduct that would also violate the North Carolina Physical Therapy Practice Act.

History Note: Authority G.S. 90-270.92; 90-270.102; 90-270.103;
Eff. December 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .0400 - PROBATION OR WARNING

21 NCAC 48G .0401 GROUNDS FOR PROBATION

The Board may place any licensee on probation for a period of time not greater than three years for engaging in conduct prohibited by G.S. 90-270.102 or G.S. 90-270.103 or 21 NCAC 48 when the Board determines that such conduct does not warrant revocation or suspension of a license.

History Note: Authority G.S. 90-270.92; 90-270.102; 90-270.103;
Eff. October 28, 1979;
Amended Eff. August 1, 2002; December 30, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. September 1, 2019.

21 NCAC 48G .0402 GROUNDS FOR WARNING

The Board may issue a warning to any licensee who engages in conduct that might lead to the revocation or suspension of a license for the commission of acts prohibited by G.S. 90-270.102 or G.S. 90-270.103 or 21 NCAC 48.

History Note: Authority G.S. 90-270.92; 90-270.102; 90-270.103;
Eff. October 28, 1979;
Amended Eff. August 1, 2002; August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. September 1, 2019.

21 NCAC 48G .0403 CONDITIONS FOR PROBATION OR WARNING

The Board may require any licensee placed on probation and any licensee to whom a warning is issued to furnish the Board with a certified statement that the licensee will not engage in conduct prohibited by G.S. 90-270.102 or G.S. 90-270.103 or 21 NCAC 48.

History Note: Authority G.S. 90-270.92; 90-270.102; 90-270.103;
Eff. October 28, 1979;
Amended Eff. August 1, 2002; August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. September 1, 2019.

21 NCAC 48G .0404 NOTIFICATION AND HEARING

Any licensee subject to being placed on probation or receiving a warning shall be notified by the Board of the alleged acts or conduct warranting the intended action. Upon request of the licensee, the licensee shall be granted an informal meeting with the Board to show why the licensee should not be placed on probation or receive a warning. Provided, however, nothing herein shall limit a licensee's right to request a contested case hearing.

History Note: Authority G.S. 90-270.92; 90-270.102; 90-270.103;
Eff. October 28, 1979;
Amended Eff. July 1, 2013; August 1, 1998; May 1, 1989;

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

21 NCAC 48G .0405 GROUNDS FOR REPRIMAND

*History Note: Authority G.S. 90-270.26; 90-270.35; 90-270.36;
Eff. December 30, 1985;
Amended Eff. August 1, 2002;
Repealed Eff. July 1, 2013.*

SECTION .0500 - CONTESTED CASE HEARINGS

21 NCAC 48G .0501 RIGHT TO HEARING

When the Board acts or proposes to act, other than in rulemaking or declaratory ruling proceedings, in a manner which will affect the rights, duties, or privileges of a specific, identifiable person, such person has the right to a contested case hearing. When the Board proposes to act in such a manner, it shall give any such affected person notice of right to a hearing personally or by mailing by certified mail to the last address provided to the Board a notice of the proposed action and a notice of a right to a hearing.

*History Note: Authority G.S. 90-270.92; 150B-38;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0502 REQUEST FOR HEARING

(a) When a person believes that his or her rights, duties, or privileges have been substantially affected by the Board's action without notice of a right to a contested case hearing being provided, that person may file with the Board a formal request for a hearing.

(b) Any person substantially affected or aggrieved by the Board's action or proposed action must file a request for a contested case hearing in the Board's office so that it is received by the Board within 30 days of the date such person receives notice of the Board's action or proposed action. For purposes of this Rule, "notice" is given by the Board and received by the person:

- (1) for an action taken or proposed to be taken by the entire Board, on the date notice of such action is personally delivered to or is mailed by the Board to the person at the last address provided to the Board;
- (2) for an action proposed by a committee of the Board, including a probable cause or investigatory committee, from the date the proposed resolution, proposal for settlement, or other proposed action is personally delivered to or is mailed to the person at the last known address provided to the Board. Provided, however, that if within 15 days of receipt of such notice the person proposes in writing to continue informal negotiations to settle the matters at issue, the Board or its committee handling such matter may, in its discretion, agree to toll the running of the 30 day period or extend the 30 day period on such terms as the Board deems appropriate;
- (3) for any person substantially affected by a decision of the Board concerning licensure, including an approval or rejection of an application form for licensure, or the failure to renew or reinstate a license, from the date notice of such decision is personally delivered to or is mailed to the person at the last address provided to the Board.

(c) To request a contested case hearing, the person shall submit a request bearing the following notations to the Board's office: REQUEST FOR CONTESTED CASE HEARING. The request shall contain the following information:

- (1) name and address of the petitioner,
- (2) a concise statement of the action taken by the Board which is challenged,
- (3) a concise statement of the way in which the petitioner has been aggrieved, and
- (4) a clear and specific statement of request for a hearing.

(d) The request will be acknowledged promptly and, if deemed appropriate by the Board in accordance with Rule .0503 of this Section, a hearing will be scheduled.

*History Note: Authority G.S. 90-270.92; 150B-38;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0503 GRANTING OR DENYING HEARING REQUEST

- (a) The Board will grant a request for a hearing if it determines that the party requesting the hearing is a "person aggrieved" within the meaning of G.S. 150B-2(6).
- (b) The denial of a request for a hearing will be issued immediately upon decision, and in no case later than 60 days after the submission of the request. Such denial shall contain a statement of the reasons leading the Board to deny the request.
- (c) Approval of a request for a hearing will be signified by the issuing of a notice as required by G.S. 150B-38(b) and explained in Rule .0505 of this Section.

*History Note: Authority G.S. 90-270.92; 150B-38;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0504 COMPLAINTS AND INVESTIGATIONS

- (a) In order to file a complaint with the Board, 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, 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. May 1, 2020.

21 NCAC 48G .0505 NOTICE OF HEARING

(a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the hearing. Said notice shall contain the following information, in addition to the items specified in G.S. 150B-38(b):

- (1) the name, position, address and telephone number of a person at the office of the Board to contact for further information or discussion;
- (2) the date, time, and place for a pre-hearing conference, if any; and
- (3) any other relevant information regarding the procedure of the hearing.

(b) If the Board determines that the public health, safety, or welfare requires emergency action, it may issue an order summarily suspending a license. Upon service of the order, the licensee to whom the order is directed shall immediately cease the practice of physical therapy in North Carolina, and deliver said license to the Board in the manner specified in the order. The Board shall promptly give notice of hearing pursuant to G.S. 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

History Note: Authority G.S. 90-270.92; 90-270.103(9); 150B-3(c); 150B-38;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 48G .0506 WRITTEN RESPONSE TO THE NOTICE OF HEARING

Any party served with a notice of hearing may file a written response. Such response shall be served on the Board by certified mail at the address specified in the notice of hearing. The written response must be mailed to all parties to the proceeding not less than 10 days prior to the hearing.

History Note: Authority G.S. 90-270.92; 150B-38;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 48G .0507 WHO SHALL HEAR CONTESTED CASES

(a) All contested case hearings shall be conducted by the Board, a panel consisting of a majority of the members of the Board, or an administrative law judge designated to hear the case pursuant to G.S. 150B-40(e).

(b) The Board may employ an attorney to advise the presiding officer on matters of procedure and evidentiary rulings.

History Note: Authority G.S. 90-270.92; 150B-38; 150B-40;
Eff. October 1, 1995;

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

21 NCAC 48G .0508 PRE-HEARING CONFERENCE

- (a) The Board may direct the parties to attend an informal pre-hearing conference, or the parties may request such a conference, at a time and place selected by mutual agreement. If the parties do not agree on the time and place for the pre-hearing conference within a reasonable time, the Board through its attorneys may set the time and place of the pre-hearing conference, giving reasonable written notice to all parties in the proceedings. The board may designate one of its staff members or attorneys to conduct the conference.
- (b) Upon the agreement of the parties, all or part of the pre-hearing conference may be conducted by telephone or other electronic means, if each party has an opportunity to participate while the conference is taking place.
- (c) The parties shall conduct the pre-hearing conference to deal, where applicable, with:
- (1) exploring settlement possibilities;
 - (2) formulating, clarifying, and simplifying the issues to be contested at the hearing;
 - (3) preparing stipulations of facts or findings;
 - (4) specifying the identity and number of witnesses;
 - (5) determining the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, video tape, or other electronic means will be used as a substitute for proceedings in person;
 - (6) determining what depositions, discovery orders, or subpoenas will be needed;
 - (7) determining the need for consolidation of cases or joint hearing;
 - (8) determining the order of presentation of evidence and cross-examination; and
 - (9) considering any other matters which may promote the prompt, orderly, and efficient disposition of the case.

*History Note: Authority G.S. 90-270.92; 150B-38;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0509 PETITION FOR INTERVENTION

- (a) A person desiring to intervene in a contested case shall file a written petition with the Board's office. The petition shall bear the notation: PETITION TO INTERVENE IN THE CASE OF (Name of Case).
- (b) The petition shall include the following information:
- (1) the name and address of petitioner;
 - (2) the business or occupation of petitioner, where relevant;
 - (3) a full identification of the hearing in which petitioner is seeking to intervene;
 - (4) the statutory or non-statutory grounds for intervention;
 - (5) any claim or defense in respect of which intervention is sought; and
 - (6) a summary of the arguments or evidence petitioner seeks to present.
- (c) If the Board determines to allow intervention, notice of that decision shall be issued promptly to all parties, and to the petitioner. In cases of discretionary intervention, such notification shall include a statement of any limitations of time, subject matter, evidence or whatever else is deemed necessary which are imposed on the intervenor.
- (d) If the Board's decision is to deny intervention, the petitioner shall be notified promptly. Such notice shall be in writing, shall identify the reasons for the denial, and shall be issued to the petitioner and all parties.

*History Note: Authority G.S. 90-270.92; 150B-38;
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.*

21 NCAC 48G .0510 TYPES OF INTERVENTION

- (a) Intervention of Right. A petition to intervene as a right, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the petition is timely.
- (b) Permissive Intervention. A petition to intervene permissively, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the Board determines that:
- (1) there is sufficient legal or factual similarity between the petitioner's claimed rights, privileges, or duties and those of the parties to the hearings; and

- (2) permitting the petitioner to intervene as a party would aid the purpose of the hearing.
- (c) Discretionary Intervention. The Board may allow discretionary intervention, with whatever limits and restrictions are deemed appropriate.

History Note: Authority G.S. 90-270.92; 150B-38;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 48G .0511 DISQUALIFICATION OF BOARD MEMBERS

- (a) Self-disqualification. No Board member shall discuss with any party the merits of any case pending before the Board. Any Board member who has direct knowledge about a case prior to the commencement of the proceeding shall disqualify himself or herself from any participation in the case. If for any other reason a Board member determines that personal bias or other factors render that member unable to hear a contested case and perform all duties in an impartial manner, that Board member shall voluntarily decline to participate in the hearing or decision.
- (b) Petition for Disqualification. If for any reason any party in a contested case believes that a Board member is personally biased or otherwise unable to hear a contested case and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board.
- (c) Contents of Affidavit. The affidavit must state all facts the party deems to be relevant to the disqualification of the Board member.
- (d) Timeliness and Effect of Affidavit. An affidavit of disqualification will be considered timely if filed 10 days before commencement of the hearing. Any other affidavit will be considered timely provided it is filed at the first opportunity after the party becomes aware of facts which give rise to a reasonable belief that a Board member may be disqualified under this Rule.
- (e) Where a petition for disqualification is filed less than 10 days before or during the course of a hearing, the hearing shall continue with the challenged Board member sitting. Petitioner shall have the opportunity to present evidence supporting the petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification the disqualified member will not participate in further deliberation or decision of the case.
- (f) Procedure for Determining Disqualification:
- (1) The Board will appoint a board member or the Board's attorney to investigate the allegations of the affidavit.
 - (2) At a special proceeding convened to consider the petition for disqualification, the investigator will report to the Board the findings of the investigation.
 - (3) The Board shall decide whether to disqualify the challenged individual, and issue its decision in the record.
 - (4) The person whose disqualification is to be determined will not participate in the decision but may be called upon to furnish information at the special proceeding.
 - (5) When a Board member is disqualified prior to the commencement of the hearing or after the hearing has begun, such hearing will continue with the remaining members sitting provided that the remaining members still constitute a majority of the Board.
 - (6) If a sufficient number of Board members are disqualified pursuant to this Rule so that a majority of the Board cannot conduct the hearing, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

History Note: Authority G.S. 90-270.92; 150B-40;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 48G .0512 SUBPOENAS

- (a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either pursuant to an investigation, a Board proceeding, at a hearing, or for the purposes of discovery, shall be made in writing to the Board, shall identify any document sought with specificity, and shall include the full name, home or business address of all persons to be subpoenaed, and the date, time, and place for responding to the subpoena. The Board may deny the issuance of any subpoena that is determined by the Board to have the intent of harassing or intimidating a witness. The Board Chair or Executive Director of the Board shall issue the requested subpoenas within three business days of receipt of the request.
- (b) Subpoenas shall contain:

- (1) the caption of the case or the name of the licensee or matter being investigated;
- (2) the name and address of the person subpoenaed;
- (3) the date, hour, and location of the hearing in which the witness is commanded to appear;
- (4) a particularized description of the books, papers, records, or objects the witness is directed to bring to the hearing, if any;
- (5) the identity of the party on whose application the subpoena was issued;
- (6) the date of issue;
- (7) the signature of the presiding officer or his designee; and
- (8) a "return of service". The "return of service" form, as filled out, shall show the name and capacity of the person serving the subpoena, the date on which the subpoena was delivered to the person directed to make service, the date on which service was made, the person on whom service was made, the manner in which service was made, and the signature of the person making service.

(c) Subpoenas for the production of documents for copying or inspection, the subpoena shall contain a particularized description of the books, papers, records or objects to be produced.

(d) Subpoenas shall be served as provided by the Rules of Civil Procedure, G.S. 1A-1, Rule 4. The cost of service, fees, and expenses of any witnesses or any documents subpoenaed shall be paid by the party requesting the subpoena. The subpoena shall be issued in duplicate, with a "return of service" form attached to each copy. A person serving the subpoena shall fill out the "return of service" form for each copy and properly return one copy to the Board with the attached "return of service" form completed.

(e) Any person receiving a subpoena from the Board may object by filing a written objection with the Board's office within 10 business days of receipt of the subpoena. The objection shall include a concise statement of reasons why the subpoena should be quashed or modified. These reasons may include lack of relevancy of the evidence sought, or any other reason sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be unduly burdensome as determined by the Board in light of the significance of the evidence sought, or other undue hardship.

(f) Any objection to a subpoena shall be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.

(g) The party who requested the subpoena may file a written response to the objection within 10 business days after receipt of the objection. The written response shall be filed with the Board and served by the requesting party on the objecting witness.

(h) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested the subpoena and the party objecting to the subpoena, and may notify any other party or parties of an open hearing before the presiding officer, to be scheduled as soon as practicable. At the hearing, evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.

(i) Within 30 days after the close of such hearing, the presiding officer shall rule on the challenge and issue a written decision. A copy of the decision shall be issued to all parties and made a part of the record.

History Note: Authority G.S. 90-270.92; 90-270.92(10); 150B-39; 150B-40; Eff. October 1, 1995; Amended Eff. February 1, 2015; August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 48G .0513 WITNESSES

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded. At the request of a party or upon the Board's own motion, the presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

History Note: Authority G.S. 90-270.92; 150B-40; 150B-43; Eff. October 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 48G .0514 CONTINUANCES

A request for a continuance shall be addressed to the Board, and shall be granted if in the Board's opinion it will promote the ends of justice.

History Note: Authority G.S. 90-270.92; 150B.38; 150B-40; Eff. October 1, 1995;

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

21 NCAC 48G .0515 FINAL DECISION

In all cases heard by the Board, the Board will issue its decision within 60 days after its next regularly scheduled meeting following the close of the hearing. This decision will be the prerequisite "final agency decision" for the right to judicial review.

*History Note: Authority G.S. 90-270.92; 150B-38; 150B-42;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0516 PROPOSALS FOR DECISION

(a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(e), a "proposal for decision" shall be served on all parties to the proceeding at their mailing address or upon their counsel of record. The parties may file written exceptions to this "Proposal for decision" and submit their own proposed findings of fact and conclusions of law. The exceptions and alternative proposals must be filed with the Board within 15 days after the party has received the "proposal for decision" as drafted by the administrative law judge, and must be served on all other parties at the same time it is filed with the Board.

(b) Any party may file a written argument to the Board within 15 days after receipt of the proposal for decision. Any party may file a request to present oral argument to the Board. Such request must be filed within 15 days of the receipt of the proposal for decision.

(c) Upon receipt of a request for oral argument, notice will be issued promptly to all parties designating the time and place for such oral argument.

(d) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered will be a part of the record and a copy thereof given to all parties. The decision as adopted or modified becomes the "final agency decision" for the right to judicial review. Said decision will be rendered by the Board within 60 days of the next regularly scheduled meeting following the oral arguments, or if none, within 60 days of the next regularly scheduled Board meeting following receipt of the last document filed in the case.

*History Note: Authority G.S. 90-270.92; 150B-38; 150B-40; 150B-42;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0517 MODIFICATION OF DECISION

(a) A person who has been disciplined by the Board may apply to the Board for modification of the discipline at any time after the effective date of the Board's decision imposing it; however, if any previous application has been made with respect to the same discipline, no additional application shall be considered before the lapse of one year following the Board's decision on that previous application. Provided, however, that an application to modify permanent revocation shall not be considered until after two years from the date of the original discipline, nor more often than two years after the Board's last decision on any prior application for modification.

(b) The application for modification of discipline shall be in writing, shall set out and shall demonstrate good cause for the relief sought.

(c) "Good cause" as used in Paragraph (b) of this Rule means that the applicant is completely rehabilitated with respect to the conduct which was the basis of the discipline. Evidence demonstrating such rehabilitation shall include evidence:

- (1) that such person has not engaged in any conduct during the discipline period which, if that person had been licensed during such period, would have constituted the basis for discipline by the Board; and
- (2) that, with respect to any criminal conviction which constituted any part of the previous discipline, the person has completed the sentence imposed.

(d) In determining good cause, the Board may consider all the applicant's activities since the disciplinary penalty was imposed, the offense for which the applicant was disciplined, the applicant's activities during the time the applicant was in good standing with the Board, the applicant's rehabilitative efforts, restitution to damaged parties in the matter for which the penalty was imposed, and the applicant's general reputation for truth and professional probity.

(e) No application for modification of discipline shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or suspended sentence, any of which are imposed as a result of having been convicted or plead to a criminal charge.

(f) An application shall ordinarily be ruled upon by the Board on the basis of the evidence submitted in support thereof. However, the Board may make additional inquiries of any person or persons, or request additional evidence it deems appropriate.

*History Note: Authority: G.S. 90-270.92; 150B-42;
Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

SECTION .0600 - DISCIPLINARY ACTION

21 NCAC 48G .0601 PROHIBITED ACTIONS

(a) Behaviors and activities that may result in disciplinary action by the Board pursuant to G.S. 90-270.103(1), (6), (7), (8), and (9) and G.S. 90-270.102(4) include the following:

- (1) recording false or misleading data, measurements, or notes regarding a patient;
- (2) delegating responsibilities to a person when the licensee delegating knows or has reason to know that the competency of that person is impaired by physical or psychological ailments, or by alcohol or other pharmacological agents, prescribed or not;
- (3) practicing or offering to practice beyond the scope permitted by law;
- (4) accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;
- (5) performing, without adequate supervision as described in the rules in this Chapter, professional services that the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;
- (6) harassing, abusing, inappropriately touching, as defined in Rule 48A .0105(7) of this Chapter or intimidating a patient either physically or verbally;
- (7) failure to exercise supervision over persons who are authorized to practice only under the supervision of the licensed professional;
- (8) promoting an unnecessary device, treatment intervention, nutritional supplement, product, or service for the financial gain of the practitioner or of a third party as determined by the investigative committee;
- (9) offering, giving, soliciting, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a client;
- (10) failure to file a report, filing a false report, or failure to respond to an inquiry from the Board within 30 days from the date of issuance, required by the rules in this Subchapter, or impeding or obstructing such filing or inducing another person to do so;
- (11) revealing identifiable data, or information obtained in a professional capacity, without prior consent of the patient, except as authorized or required by law;
- (12) guaranteeing that a patient will benefit from the performance of professional services;
- (13) altering a license or renewal card by changing any information appearing thereon;
- (14) using a license or renewal card that has been altered;
- (15) permitting or allowing another person to use his or her license or renewal card for the practice of physical therapy;
- (16) delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such a person is not qualified by training, by experience, or by licensure to perform such responsibilities;
- (17) violating any term of probation, condition, or limitation imposed on the licensee by the Board;
- (18) soliciting or engaging in any activities of a sexual nature, including kissing, fondling, or touching any person while the person is under the care of a physical therapist or physical therapist assistant;
- (19) billing or charging for services or treatment not performed;
- (20) making treatment recommendations or basing a patient's continued treatment on the extent of third party benefits instead of the patient's condition;
- (21) willfully or intentionally communicating false or misleading information regarding a patient;

- (22) harassing, abusing, or intimidating any person, either physically or verbally, while engaged in the practice of physical therapy;
- (23) using a form of a license or renewal card that was not issued by the Board or is not current;
- (24) failing to record patient data within a reasonable period of time following evaluation, assessment, or intervention;
- (25) failing to pay the costs of investigation or otherwise to comply with an order of discipline;
- (26) failing to maintain legible patient records that contain an evaluation of objective findings, a diagnosis, a plan of care including desired outcomes, the treatment record including all elements of 21 NCAC 48C .0102(l) or 21 NCAC 48C .0201(f), a discharge summary or episode of care including the results of the intervention, and sufficient information to identify the patient and the printed name and title of each person making an entry in the patient record;
- (27) charging fees not supported by documentation in the patient record;
- (28) furnishing false or misleading information on an application for licensure and licensure renewal; and
- (29) engaging in misrepresentation or deceit, or exercising undue influence over a patient or former patient for the financial gain of the licensee.

(b) When a person licensed to practice physical therapy in North Carolina is also licensed in another jurisdiction and that other jurisdiction takes disciplinary action against the licensee, the North Carolina Board of Physical Therapy Examiners shall determine whether the conduct found by the other jurisdiction also violates the North Carolina Physical Therapy Practice Act. The Board may impose the same or lesser disciplinary action upon receipt of the other jurisdiction's actions. The licensee may request a hearing. At the hearing, the issues shall be limited to:

- (1) whether the person against whom action was taken by the other jurisdiction and the North Carolina licensee are the same person;
- (2) whether the conduct found by the other jurisdiction also violates the North Carolina Physical Therapy Practice Act; and
- (3) whether the sanction imposed by the other jurisdiction is lawful under North Carolina law.

(c) In accordance with G.S. 150B-3(c) a license may be summarily suspended if the Board determines the public health, safety, or welfare requires emergency action.

(d) When the Board receives a notice from a Clerk of Superior Court that the license of a physical therapist or a physical therapist assistant has been forfeited pursuant to G.S. 15A-1331A, the licensee shall surrender the license to the Board within 24 hours and shall not engage in the practice of physical therapy during the period of forfeiture. Forfeiture under this Section shall not limit the Board's authority to take further disciplinary action against the licensee in accordance with the Board's rules.

History Note: Authority G.S. 15A-1331.1; 90-270.90; 90-270.92; 90-270.102(4); 90-270.103; 150B-3; Eff. October 1, 1995;
Amended Eff. February 1, 2015; July 1, 2013; December 1, 2006; August 1, 2002; 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. September 1, 2019.

21 NCAC 48G .0602 SANCTIONS; REAPPLICATION

(a) The Board may, upon proof of a violation of G.S. 90-270.103 or the rules in this Chapter, impose any of the following sanctions:

- (1) issue a warning to a licensee;
- (2) place a licensee on probation;
- (3) suspend a license, the duration of which shall be determined by the Board;
- (4) revoke any license;
- (5) refuse to issue or renew a license;
- (6) accept a voluntary surrender of a license; and
- (7) charge the reasonable costs of investigation and hearing to a licensee who is disciplined.

(b) The Board may also impose restrictions and conditions on a license including scope of practice, place of practice, supervision of practice, duration of licensed status, whether a licensee may work alone or supervise others, or type or condition of patient or client served, including requiring a licensee to submit regular reports to the Board on matters related to the restricted license.

(c) A person whose license has been revoked or who surrenders a license:

- (1) is not permitted to reapply for a license for a period of two years from the date of revocation;

- (2) is not permitted to reapply for a license for a period not to exceed two years from the date of surrender;
- (3) must submit as part of the reapplication process all materials requested by the Board related to the revocation or surrender and shall be required to meet with the Board; and
- (4) may have the restrictions specified in Paragraph (b) of this Rule imposed in conjunction with the issuance of a license.

*History Note: Authority G.S. 90-270.92;
Eff. August 1, 2002;
Amended Eff. July 1, 2013; December 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. September 1, 2019.*

SECTION .0700 – IMPAIRED LICENSEE

21 NCAC 48G .0701 DEFINITIONS

- (a) "Impairment" is a condition caused by substance abuse or mental illness that impacts a licensee's ability to provide physical therapy services.
- (b) "Participant" is a licensee enrolled in a Program designed to treat substance abuse or mental illness.
- (c) "Program" is a specific course of action for health care practitioners who suffer from substance abuse or mental illness to the extent it impairs professional competence.

*History Note: Authority G.S. 90-270.92(11);
Eff. February 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0702 PROGRAMS

- (a) Before participating in a Program, a licensee shall be referred to the Program by the Board.
- (b) If the Board does not offer a Program, it may make arrangements for licensees with impairments to participate in Programs administered by other North Carolina health care licensing boards or by other physical therapy licensing boards that are members of the Federation. Such Programs shall provide for:
 - (1) investigation, review, and evaluation of records, reports, complaints, litigation, and other information about the practice and practice patterns of licensed physical therapists and physical therapist assistants as may relate to impaired physical therapists and physical therapist assistants;
 - (2) identification, intervention, treatment, referral, and follow up care of impaired physical therapists and physical therapist assistants; and
 - (3) due process rights for any subject physical therapist or physical therapist assistant.
- (c) Any licensee enrolled in a Program shall comply with its requirements. Any licensee terminated by a Program before successfully completing the Program may be subject to disciplinary action.

*History Note: Authority G.S.90-270.92(11);
Eff. February 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0703 INFORMATION OF IMPAIRMENT

- (a) When information of suspected impairment of a licensee is received by the Board, the Board shall conduct an investigation and routine inquiries to determine the validity of the report prior to referring the licensee to a Program.
- (b) Licensees suspected of impairment may be required to submit to personal interviews if the investigation and inquiries indicate the report of impairment may be valid.

*History Note: Authority G.S. 90-270.92(11);
Eff. February 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0704 CONFIDENTIALITY

Information received by the Program shall remain confidential in accordance with the Program's policies and procedures. However, information received as a result of a Board referral shall be freely exchanged with the Board or its authorized agents.

*History Note: Authority G.S. 90-270.92;
Eff. February 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0705 REPORTS

Following an investigation, intervention, treatment, or upon receipt of a complaint or other information, a program participating with the Board pursuant to Rule .0702(b) of this Section shall report to the Board detailed information about any physical therapist or physical therapist assistant licensed by the Board, if it is determined that:

- (1) the physical therapist or physical therapist assistant constitutes an imminent danger to the public or to himself or herself; or
- (2) the physical therapist or physical therapist assistant refuses to cooperate with the Program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence; or
- (3) it reasonably appears that there are other grounds for disciplinary action.

*History Note: Authority G.S. 90-270.92;
Eff. February 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

21 NCAC 48G .0706 PROGRAM STANDARDS

Any Program receiving referrals of licensees from the Board shall be monitored on an annual basis to determine its ability to provide:

- (1) adequate staffing to supervise participants in the Program;
- (2) referrals for treatment to professionals, group counseling and facilities; and
- (3) appropriate post-treatment support.

*History Note: Authority G.S. 90-270.92;
Eff. February 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*