

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Physical Therapy Examiners

RULE CITATION: 21 NCAC 48B .0102 LICENSES BY ENDORSEMENT

DEADLINE FOR RECEIPT: July 11, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

(b)(1)(A), Page 1, Line 8-10: How will the presentment be made? By mail? If the Board is going to require a format, it must adopt the format by administrative rule. Has a rule been adopted specifying the format? The Rule references 21 NCAC 48D .0105 regarding acceptable scores; however, 21 NCAC 48D .0105 only addresses testing prior to July 1, 1993. What is an acceptable score thereafter?

(b)(1)(A), Page 1, Line 13: What criteria will be used in determining whether the total score is satisfactory? This is unclear and ambiguous.

(b)(1)(B), Page 1, Lines 15-20: This Part is confusing. Consider re-writing it. What information? The Rule references 21 NCAC 48D .0105 regarding acceptable scores; however, 21 NCAC 48D .0105 only addresses testing prior to July 1, 1993. What is an acceptable score thereafter? By the use of the term "equal", does the Board mean "the same as" or that it covers the same fields of study and demonstrates comparable knowledge?

(b)(2)(C), Page 1, Line 21-23: Is the criteria used by the Board in its consideration addressed in another rule?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: June 24, 2022

1 **21 NCAC 48B .0102 is amended as published in 36:14 NCR 1255-1256 as follows:**

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3 **21 NCAC 48B .0102 LICENSES BY ENDORSEMENT**

4 (a) Endorsement. Each application for endorsement shall be considered on an individual basis.

5 (b) Examination Required. Only those persons initially licensed in another state by virtue of examination shall be
6 considered for endorsement. Only the following examinations shall be considered:

7 (1) For Physical Therapists:

8 (A) Therapists licensed on the basis of a PT exam shall present total scores that meet the North
9 Carolina passing level as set forth in 21 NCAC 48D ~~.0105~~. .0105, in a format approved by
10 the Board. If scores and information are not available from the other state, the applicant
11 shall have the scores issued through the testing agency. If scores are no longer available or
12 destroyed, the Board shall accept a notarized copy of exam scores from another state. If the
13 total score on the examination is unsatisfactory, the exam shall be repeated. The cost of the
14 examination shall be paid by the applicant.

15 (B) If licensed in another state by an examination compiled by that Board, the applicant shall
16 supply information for the Board to attempt to obtain the examination in order to determine
17 if it meets the requirements set forth in 21 NCAC 48D .0105. If it cannot be determined
18 that the examination was equal to the North Carolina examination or if the scores received
19 on an acceptable examination did not meet the North Carolina passing requirement, the
20 applicant shall take the PT exam. The cost of the examination shall be paid by the applicant.

21 (C) A physical therapist currently licensed in another state whose license in that state was
22 granted on the basis of the American Registry of Physical Therapists Examination shall be
23 considered for endorsement.

24 (2) For Physical Therapist Assistants: Only those physical therapist assistants licensed in another state
25 by a PTA exam shall be considered for endorsement. The examination score shall meet the North
26 Carolina passing level as set forth in 21 NCAC 48D .0105. If not, the applicant shall be required to
27 take the PTA exam and pay the cost of the examination.

28 (c) Active License. An applicant for licensure by endorsement shall submit verification of licensure in effect on the
29 date the application for North Carolina licensure was filed with the Board in accordance with 21 NCAC 48E .0105.

30 (d) Jurisprudence Exercise. All applicants for licensure by endorsement shall furnish proof of completion of the
31 Jurisprudence Exercise 1 as set forth in 21 NCAC 48G .0105(7).

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33 *History Note: Authority G.S. 90-270.92; 90-270.98(b); 90-270.100;*

34 *Eff. February 1, 1976;*

35 *Readopted Eff. September 30, 1977;*

36 *Amended Eff. August 1, 1998; February 1, 1996; November 1, 1991; December 1, 1990;*

37 *October 1, 1989; April 1, 1989;*

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*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. August 1, 2022; May 1, 2020.*

1 **21 NCAC 48E .0104 is repealed as published in 36:14 NCR 1256-1257 as follows:**

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3 **21 NCAC 48E .0104 EXAMINATION SCORES**

4 ~~Persons seeking licensure by endorsement shall have their examination scores sent to the executive director on a form~~
5 ~~authenticated by the reporting Board.~~

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7 *History Note: Authority G.S. 90-270.92; 90-270.98(b);*

8 *Eff. February 1, 1976;*

9 *Readopted Eff. September 30, 1977;*

10 *Amended Eff. July 1, 2013; August 1, 1998; February 1, 1996; October 1, 1989; April 1, 1989; May*
11 *1, 1988;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, ~~2018.~~*
13 *2018;*

14 *Repealed Eff. August 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Physical Therapy Examiners

RULE CITATION: 21 NCAC 48F .0101 LICENSURE CERTIFICATE

DEADLINE FOR RECEIPT: July 11, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

(a)(1), Page 1, Lines 9-12: The agency may want to have agency legal counsel review this subparagraph for issues the Rules Review Commission does not consider.

(a)(3), Page 1, Line 15: Explain the Board's authority to adopt this subparagraph.

(c), Page 1, Line 27-31: Has the Board established a fee by rule or is there an exemption?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: June 24, 2022

1 **21 NCAC 48F .0101 is amended as published in 36:14 NCR 1257 as follows:**

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3 **SUBCHAPTER 48F - CERTIFICATES: FEES: INVESTIGATIONS: RECORD OF LICENSEES**

4
5 **SECTION .0100 - CERTIFICATES: FEES: INVESTIGATIONS: RECORD OF LICENSEES**

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7 **21 NCAC 48F .0101 LICENSURE CERTIFICATE**

8 (a) Names:

9 (1) A licensee's name will appear on the certificate as the name of the individual at the time of licensure,
10 except in the case of a person taking the examination who is married during the time between the
11 examination and the actual date of licensure. This person may elect to use her maiden name or her
12 married name, if the marriage takes place prior to the date of licensure.

13 (2) If a name is changed after the date of licensure, the licensee may request a new certificate to reflect
14 the name change and pay the cost for a duplicate certificate.

15 (3) The licensee shall use the name that is on the license certificate in the workplace.

16 (b) Date. The date of licensure shall be the day on which the person is given final approval of licensure by the Board.

17 (c) Replacements. Persons needing a replacement or a duplicate copy of a certificate will be charged a fee for it.

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19 *History Note: Authority G.S. 90-270.92; 90-270.98; 90-270.100;*

20 *Eff. February 1, 1976;*

21 *Readopted Eff. September 30, 1977;*

22 *Amended Eff. May 1, 1988; December 30, 1985; October 28, 1979;*

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

24 *2018;*

25 *Amended Eff. August 1, 2022.*

1 **21 NCAC 48F .0103 is repealed as published in 36:14 NCR 1257 as follows:**

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3 **21 NCAC 48F .0103 INVESTIGATIONS**

4 ~~Any complaint alleging violations of the North Carolina Physical Therapy Practice Act must be made in writing,~~
5 ~~signed by the person submitting the complaint, and include the complainant's address and telephone number.~~

6 ~~Complaints must be sent to the Executive Director.~~

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8 *History Note: Authority G.S. 90-270.92; 90-270.102; 90-270.103;*

9 *Eff. February 1, 1976;*

10 *Readopted Eff. September 30, 1977;*

11 *Amended Eff. December 1, 2006; February 1, 1996; May 1, 1988; October 28, 1979;*

12 *~~Readopted Eff. May 1, 2019. 2019;~~*

13 *Repealed Eff. August 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Physical Therapy Examiners

RULE CITATION: 21 NCAC 48G .0105 DEFINITIONS

DEADLINE FOR RECEIPT: July 11, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the Rule: Each of the definitions are a paragraph, and this should be (a), (b), (c), and not (1), (2), (3).

(3), Page 1, Line 10: Does the agency mean at least 30 minutes but less than 60 minutes? Also, it appears that the agency is defining a new term, to wit “.05 contact hour”. Consider whether this should be a new paragraph.

(7), Page 1, Line 19: “rules” should be capitalized. “Position Statements” is not a defined term. It should therefore not be capitalized or, in the alternative, defined.

(12), Page 1, Line 26: Consider whether the second sentence would be better placed in another Rule rather than a definition.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: June 24, 2022

1 **21 NCAC 48G .0105 is amended as published in 36:14 NCR 1257 as follows:**

2
3 **21 NCAC 48G .0105 DEFINITIONS**

4 As used in this Subchapter, the following definitions apply:

- 5 (1) "Approved provider" means an entity that has been approved by the Board to provide continuing
6 competence activities for licensees as provided in the rules in this Section.
- 7 (2) "Clinical Practice" means physical therapy consultation or patient care or client management or the
8 supervision thereof.
- 9 (3) "Contact Hour" means at least ~~50~~ 60 consecutive minutes of engagement in a continuing competence
10 activity. 0.5 contact hour means at least 30 consecutive minutes of engagement in a continuing
11 competence activity. Two segments of at least 25 consecutive minutes each is equivalent to one
12 contact hour. Breaks and meals are not included in contact hours.
- 13 (4) "Continuing Competence" means the licensee's ongoing activities to augment knowledge, skills,
14 behaviors, and abilities related to the practice of physical therapy.
- 15 (5) "Continuing Education" means courses of study designed to provide learning experiences for
16 physical therapy licensees.
- 17 (6) "Documentation" means evidence of completion of continuing competence activities.
- 18 (7) "Jurisprudence Exercise" is an online set of questions concerning the Physical Therapy Practice Act,
19 Board rules and Position Statements posted on the Board's website at <http://www.ncptboard.org>.
- 20 (8) "Licensee" means a physical therapist or physical therapist assistant licensed in North Carolina.
- 21 (9) "Peer-reviewed" means judged by an independent panel of experts having special knowledge or
22 skills in a particular field of study.
- 23 (10) "Point" means a unit of continuing competence.
- 24 (11) "Registered" means enrollment in a continuing competence activity.
- 25 (12) "Reporting period" means a 25 month period commencing on January 1 during which the licensee
26 must complete all continuing competence requirements. Points earned by a licensee may be counted
27 toward completion during one reporting period only.

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29 *History Note: Authority G.S. 90-270.92;*
30 *Eff. January 1, 2009;*
31 *Amended Eff. January 1, 2014;*
32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1,*
33 *~~2018.~~ 2018;*
34 *Amended Eff. August 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Physical Therapy Examiners

RULE CITATION: 21 NCAC 48G .0203 REVIVAL OF LAPSED LICENSE

DEADLINE FOR RECEIPT: July 11, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the Rule: If the agency requires an applicant to use a form, the contents or substantive requirements of the form must be prescribed by rule. Please see G.S. 150B-2(8a) d.

(b)(1), Page 1, Lines 8-9: What is a "unit"? Is that the same as a "point" defined in 21 NCAC 48G .0105?

(c)(2), Page 1, Line 15- 19: Is "hours" the same "contact hours"? Is there a citation that could be referenced with regard to the Board's authority to approve courses? (Ex. pursuant to 21 NCAC 48G .0107)

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: June 24, 2022

1 **21 NCAC 48G .0203 is amended as published in 36:14 NCR 1257-1258 as follows:**

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3 **21 NCAC 48G .0203 REVIVAL OF LAPSED LICENSE**

4 (a) A license that has been lapsed less than one year may be revived by payment of the revival of lapsed license fee
5 and the current year's renewal fee and by completion of the revival form.

6 (b) A license that has lapsed more than one year but less than five years may be revived by completion of the revival
7 form, and:

8 (1) completing 30 units (if reviving a physical therapist license) or 20 units (if reviving a physical
9 therapist assistant license) of continuing competence as provided in the rules in this Subchapter;

10 (2) payment of the revival of lapsed license fee; and

11 (3) payment of the current year's renewal fee.

12 (c) A license that has lapsed more than five years may be revived by completion of the application forms; and

13 (1) passing the "PT exam" (if trained as a physical therapist) or the "PTA exam" (if trained as a physical
14 therapist assistant);

15 (2) compiling at least 500 hours within the period of one year in the following manner: between 50 and
16 200 class hours of course work (ie, refresher course, continuing education, pertinent college courses)
17 approved by the Board as designed to demonstrate proficiency in current physical therapy theory
18 and practice, and the remaining hours working as an aide under the supervision of a licensed physical
19 therapist; or

20 ~~(d) (3) endorsement~~ Endorsement of a current license in another state as provided by 21 NCAC 48B .0102.

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22 *History Note: Authority G.S. 90-270.92; 90-270.99; 90-270.100;*

23 *Eff. February 1, 1976;*

24 *Readopted Eff. September 30, 1977;*

25 *Amended Eff. January 1, 2009; August 1, 1998; August 1, 1991; October 1, 1989; April 1, 1989;*

26 *May 1, 1988;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*
28 *2018;*

29 *Amended Eff. August 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Physical Therapy Examiners

RULE CITATION: 21 NCAC 48G .0504 COMPLAINTS AND INVESTIGATIONS

DEADLINE FOR RECEIPT: July 11, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

(d), Page 1, Lines 8-9: What is a "unit"? Is that the same as a "point" defined in 21 NCAC 48G .0105?

(c)(2), Page 1, Line 20-22: Identify the Chair's authority, or the investigative committee's authority, to issue a subpoena. GS 90-270.92 vests the power of subpoena with the Board, not the Chair.

(e), Page 1, Lines 32-36: Identify the Board's authority to determine that which is or is not subject to the Public Records Act. If this a restatement of the law of a statute, is it reasonably necessary pursuant to GS 150B-21.9(a)(3)?

(g), Page 2, Line 4: Consider adding "by the investigative committee" after "determined" for clarity.

(h), Page 2, Line 10: Is it pursuant to "this Rule" or "Rule .0502 of this Section"? How does the licensee file the refusal? In writing? Electronically? To what address?

(j), Page 1, Line 17: What is meant by "recommendation"? If the licensee does not request a hearing or an informal meeting of the Board, can the Board revoke the license without a hearing? If it does not change the meaning of the Rule, consider adding "of probation or warning" after "recommendation" for clarity.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: June 24, 2022

1 **21 NCAC 48G .0504 is amended as published in 36:14 NCR 1258-1259 as follows:**

2
3 **21 NCAC 48G .0504 COMPLAINTS AND INVESTIGATIONS**

4 (a) In order to file a complaint with the ~~Board~~, Board alleging violations of the North Carolina Physical Therapy
5 Practice Act, the following information shall be submitted to the Board in writing, or by filing a complaint online at
6 the Board's website www.ncptboard.org.

- 7 (1) the name and address of person alleged to have violated the Physical Therapy Practice Act;
8 (2) a statement of conduct that is the basis of the complaint; and
9 (3) the name, address, signature and telephone number of complainant.

10 (b) Upon receipt of a written complaint alleging misconduct that may subject a licensee to disciplinary action, or upon
11 the receipt of the information that a violation of the Physical Therapy Practice Act may have occurred, the Board shall
12 investigate the matter to determine whether probable cause exists to institute disciplinary proceedings.

13 (c) The Executive Director of the Board and a member appointed by the Chair shall serve as an investigative
14 committee. This investigative committee may be assisted by:

- 15 (1) the Board's attorney;
16 (2) an investigator; or
17 (3) a consultant, who is not a NC PT/PTA licensee, retained by the investigative committee who
18 possesses expertise that will assist the investigative committee in its investigation.

19 (d) The investigative committee shall investigate the complaint or information set forth in Paragraphs (a) and (b) of
20 this Rule. In conducting its investigation, the Board Chair (or Executive Director, if designated by the Chair) may
21 issue subpoenas in the investigative committee's name for the production of documents pursuant to the provisions of
22 Rule .0512 of this Section. The investigative committee shall determine whether there is probable cause to believe
23 that the licensee has violated any statute or Board rule that justifies a disciplinary hearing. If the investigative
24 committee determines probable cause does not exist, the complaint shall be dismissed, and the complainant shall be
25 notified of the investigative committee's action and its reasons. If the investigative committee determines that probable
26 cause exists, the investigative committee shall offer to confer with the licensee in an attempt to settle the matter through
27 informal means. If the investigative committee and the licensee reach an agreement on the disposition of the matter
28 under investigation, the investigative committee shall cause to be drafted a proposed settlement agreement that shall
29 include findings of fact, conclusions of law, and a consent order for presentation to and consideration by the Board.
30 The settlement agreement shall be presented to and approved by the licensee before it is presented to the Board for
31 consideration and approval.

32 (e) Prior to a decision rendered by the Board, any materials generated or obtained by the Board in conducting an
33 investigation shall be considered confidential investigation records not subject to the Public Records Act, G.S. 132.
34 However, copies of the materials may be provided to a licensee subject to disciplinary action, or to the licensee's
35 attorney, so long as identifying information concerning the treatment or delivery of professional services to a patient
36 who has not consented to its public disclosure shall be redacted.

1 (f) If the investigative committee and the licensee are not able to settle the matter under investigation by informal
2 means, the licensee may request a contested case hearing pursuant to Rule .0502 of this Section or the Board shall
3 give notice of a disciplinary or contested case hearing.

4 (g) If probable cause is found, but it is determined that license suspension or revocation is not warranted, the
5 investigative committee shall recommend that the Board place the licensee on probation, or issue a warning to the
6 licensee. In making this determination, the investigative committee shall consider such factors as harm to the public;
7 nature of the conduct; and prior record of discipline. The investigative committee shall mail or email a copy of its
8 recommendation to the licensee or the licensee's attorney.

9 (h) Within 20 days after receipt of the recommendation, the licensee may refuse the probation or warning and request
10 a contested case hearing pursuant to this Rule. The refusal and request shall be filed with the Board. The legal counsel
11 for the Board shall thereafter prepare, file, and serve a Notice of Hearing.

12 (i) In the alternative, within 20 days after receipt of the recommendation, the licensee may request an informal meeting
13 with the Board to discuss the basis of the investigative committee's recommendation and present reasons why the
14 Board should not follow the investigative committee's recommendation. There shall be no sworn testimony presented,
15 nor shall there be a formal record of the proceedings.

16 (j) If the licensee does not request a contested case hearing or an informal meeting with the Board, the Board shall
17 still determine whether to accept the investigative committee's recommendation.

18 (k) Participation by a current Board member in the investigation of a complaint shall disqualify that Board member
19 from participating in the decision making process of a contested case hearing.

20 (l) Subsequent to the issuance of a notice of hearing, the attorney prosecuting the contested case for the Board may
21 not communicate, directly or indirectly, in connection with any issue of fact or question of law, with any party,
22 including the members of the Board assigned to make a decision or to make findings of fact and conclusions of law
23 in the contested case, except on notice and opportunity for all parties to participate. However, the attorney prosecuting
24 the matter for the Board may continue to communicate concerning the contested case with the members of the
25 investigative committee who investigated the matter, with persons not parties to the contested case who may be called
26 as witnesses including the person who filed the complaint, and with the Board members about other matters.

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28 *History Note: Authority G.S. 90-270.92; 150B-38; 150B-39; 150B-40;*

29 *Eff. October 1, 1995;*

30 *Amended Eff. February 1, 2015; July 1, 2013; August 1, 2002; August 1, 1998; February 1, 1996;*

31 *Readopted Eff. May 1, 2018;*

32 *Amended Eff. August 1, 2022; May 1, 2020.*