

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

PHYSICAL THERAPY GOVERNING BOARD

**In Re: Jane Swain, PT
Renewal Applicant for Physical Therapist
Lic# 1422**

Docket No.: 25-PT-001

**NOTICE OF ADJUDICATIVE HEARING
ON APPLICATION -
02/18/2025 @ 9:30 AM**

I. CASE SUMMARY/PROCEDURAL HISTORY:

On 01/21/2025, the New Hampshire Physical Therapy Governing Board (“Board”) received a renewal application for licensure as a physical therapist from Jane Swain, (“Applicant”). After reviewing the application at its 01/21/2025 regular meeting, the Board determined it needed more information from the Applicant relative to her request for a waiver of Phy 401.01 where it does not appear that she has been “active in the profession” during her prior renewal cycle. The Board voted to hold an adjudicatory hearing on the Applicant’s application. This Notice of Adjudicative Hearing on Application follows.

II. ORDERS:

(a) Pursuant to RSA 310:10, X and N.H. Code Admin. R. Plc 206.06(a) (“Rules”), the Board hereby notifies the parties that the Board has scheduled an **adjudicative hearing on application** for:

Date: 02/18/25

Time: 9:30 am

Place: OPLC, 7 Eagle Square, Concord, NH 03301. If you require reasonable accommodations, a translator, or wish to participate remotely (Rule 206.08(f)), you may file a motion with the Board.

Please advise if this hearing is anticipated to last longer than 30 minutes by filing a motion explaining with particularity the necessity for the additional time. **INFORMATION REGARDING A PREHEARING CONFERENCE CAN BE FOUND IN SECTION II, r OF THIS NOTICE.**

(b) STATUTORY AUTHORITY: This adjudicative hearing shall be conducted pursuant to RSA 310:11 and Rule 206.06 et seq. To the extent that the Plc rules do not address an issue of policy or procedures, the Board shall rely upon RSA 328-A, RSA 541-A, RSA 310, and N.H. Admin. R. Ann., Title Jus, Part 800.

(c) ISSUES PRESENTED: Pursuant to Rule 206.06(b)(3), the issues to be considered at the hearing in this matter are as follows:

(1) Whether the Applicant can demonstrate, by a preponderance of the evidence, that she meets the requirements of Phy 402.12 et seq. where it appears she may not have been active in the profession for the last two years. See Phy 401.01 et seq.

(2) If the Applicant fails to demonstrate, by a preponderance of the evidence, that she meets the renewal requirements pursuant to Issue#1 above, whether the Applicant is otherwise qualified for licensure or deserved of a waiver of Phy 402.12 pursuant to Plc 211 et seq.

(d) PRESIDING OFFICER: Pursuant to RSA 310:11, III(b) and (c) and Rule 206.03 et seq., an individual employed as Administrative Law Judge with the New Hampshire Office of Professional Licensure & Certification shall act as the presiding officer in this proceeding.

(e) ATTORNEYS: Pursuant to RSA 310:11, IV and Rule 206.06(b)(10), each party has the right to have an attorney represent them at the party's own expense.

(f) VOLUNTARY EXCHANGE OF DOCUMENTS: Pursuant to Rule 206.18, the parties shall attempt to agree among themselves concerning the mutual exchange of relevant information. If these efforts prove unsuccessful, upon motion, discovery shall be further ordered when the parties cannot adequately address said issues voluntarily.

(g) MOTIONS: Pursuant to Rule 206.12, parties shall file any motions or other requested relief in this matter with the Presiding Officer's Office, and provide a copy to the other parties. Unless good cause exists, all motions shall be filed at least ten (10) days before the date of any hearing, conference, event or deadline which would be affected by the requested relief.

(h) OBJECTIONS: Pursuant to Rule 206.12(d), any responses or objections to motions or other requested relief shall be filed in similar fashion within ten (10) days of receipt of such motion or other requested relief.

(i) EXHIBITS: Pursuant to Rule 206.18(d), parties shall provide a final witness list, including a brief summary of their testimony, a list of proposed exhibits, and a copy of any proposed exhibits to the Presiding Officer's Office and the other parties no later than fourteen (14) days prior to the hearing. Respondent's exhibits shall be pre-marked for identification with capital letters; Hearing Counsel's exhibits shall be pre-marked for identification with Arabic numerals.

(j) MAILING ADDRESS FOR THE PRESIDING OFFICER'S OFFICE: Pursuant to Rule 206.10(a), any and all petitions, motions, pleadings, proposed exhibits, or other documents shall be filed with the Presiding Officer:

Thomas Pappas, Jr., Hearings Clerk
The Presiding Officer's Office
7 Eagle Square
Concord NH 03301
hearingsclerk@oplc.nh.gov

(k) COMMUNICATIONS WITH THE BOARD AND PRESIDING OFFICER: Routine procedural inquiries may be made by contacting Thomas Pappas, Jr. Any other communications with the Board or Presiding Officer must be in writing and filed as provided above. *Ex parte* communications (meaning "without the other party present and/or included") with the Presiding Officer and/or Board are specifically forbidden by law. *See, i.e.*, Rule 206.10(b) and RSA 541-A:36.

(l) EMAIL COMMUNICATIONS: The parties and the Presiding Officer's Office have the option to agree to exchange e-mail addresses and the parties may agree that e-mail service of any and all documents going forward may be considered in compliance with Rule 206.11(a)(3) and 206.11(b)(3).

(m) CONTINUANCES: Pursuant to Rule 206.16, if you are unable to appear at any scheduled hearing, you must request a continuance from the Presiding Officer in writing and it shall be granted if the Presiding Officer determines that a continuance would assist in resolving the matter fairly under Rule 206.16(b).

(n) **INTERVENTION: COMPLAINANT IS HEREBY NOTIFIED OF ITS RIGHT TO PETITION FOR INTERVENTION PURSUANT TO RULE 206.14. ANY FILED PETITION SHOULD STATE WITH PARTICULARITY: 1) THE PETITIONER'S INTEREST IN THE SUBJECT MATTER OF THE HEARING; 2) WHY THE INTERESTS OF THE EXISTING PARTICIPANTS AND THE ORDERLY AND PROMPT CONDUCT OF THE PROCEEDING WOULD NOT BE IMPAIRED BY ALLOWING THE PETITIONER TO INTERVENE; AND 3) ANY OTHER REASONS WHY THE PETITIONER SHOULD BE PERMITTED TO INTERVENE. THE INTERVENING PARTY SHALL CONTEMPORANEOUSLY COPY ALL PARTIES ON THE FILED PLEADING PURSUANT TO RULE 206.11. COMPLAINANT SHALL FILE ANY SUCH QUALIFYING PETITION TO INTERVENE NO LATER THAN THREE DAYS PRIOR TO A FINAL HEARING.**

(o) **NON-ATTENDANCE AT HEARING: PURSUANT TO RULE 206.25, THE FAILURE OF A PARTY TO APPEAR AT THE TIME/PLACE SPECIFIED ABOVE MAY RESULT IN THE HEARING BEING HELD IN ABSENTIA (WITHOUT THAT PARTY PRESENT) AND THE BOARD MAY ISSUE A FINAL DECISION WITHOUT FURTHER NOTICE OR OPPORTUNITY TO BE HEARD.**

- (p) RECORDING: A recording of the hearings shall be taken and preserved.
- (q) PUBLIC HEARING: Pursuant to RSA 310:11, V: Licensing proceedings shall be open to the public in accordance with RSA 91-A, which allows the Board to hold nonpublic sessions for the types of matters listed in RSA 91-A:3, II.
- (r) All prior consistent orders remain in full force and effect.

DATED: 2/3/2025

_____/s/ Shane D. Goulet, Esq._____
Shane D. Goulet, Esq., Administrative Law Judge
Presiding Officer
New Hampshire Office of
Professional Licensure & Certification
7 Eagle Square
Concord, NH 03301