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Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Labor and Workforce Development
Division:	Bureau of Workers' Compensation
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Address 1:	Workers' Comp. Large Conference Room		
Address 2:	220 French Landing Drive, 1-A		
City:	Nashville, TN		
Zip:	37243		
Hearing Date:	June 28, 2022		
Hearing Time:	1:00 pm	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Written comments will be accepted until close of business on July 12, 2022 and can be sent to troy.haley@tn.gov.

	Amendment
X	New
	Repeal

RDA 1693

accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0800-02-33	Workers' Compensation Certified Physician Program
Rule Number	Rule Title
0800-02-33-.01	Definitions
0800-02-33-.02	Purpose and Scope
0800-02-33-.03	Severability
0800-02-33-.04	Requisite Physician Qualifications for Certification
0800-02-33-.05	Application Procedure for Physicians Seeking Certification
0800-02-33-.06	Requirements of Certified Physicians
0800-02-33-.07	Removal of Certified Physicians from CPP Registry
0800-02-33-.08	Inactive Status

New Rules
Chapter 0800-02-33
Workers' Compensation Certified Physician Program

0800-02-33-.01 Definitions.

The following definitions are for the purpose of this chapter only.

- (1) "Administrator" means the chief administrative officer of the Bureau of Workers' Compensation with full authority over the Certified Physician Program, or the Administrator's designee.
- (2) "AMA Guides™" means the edition of the American Medical Association Guides to the Evaluation of Permanent Impairment designated by the general assembly in T.C.A. §§ 50-6-102(2) and 50-6-204(k).
- (3) "Application" means the "Physician Application for Appointment to the Certified Physicians Program (CPP) and/or Medical Impairment Rating (MIR) Registry" , available upon request from the Bureau or online at <https://www.tn.gov/workforce/injuries-at-work.html>.
- (4) "Best Practices for Treating and Evaluating Injured Workers" means the document developed by the Bureau for the Certified Physician Program curriculum that contains the evidence-based recommendations that the Bureau has accepted as being most effective for achieving optimal medical outcomes, available upon request from the Bureau or online at <https://www.tn.gov/workforce/injuries-at-work.html>.
- (5) "Bureau" means the Tennessee Bureau of Workers' Compensation.
- (6) "Certified Physician" means a physician who is appointed by the Administrator to serve on the CPP Registry and whose credentials and qualifications pursuant to Rule 080-01-33-.04 are current, active, and unrestricted.
- (7) "Certified Physician Program" or "CPP" is the administrative work unit within the Bureau that manages the Certified Physician Program Registry.
- (8) "Certified Physician Program Advisory Committee" or "CPP Advisory Committee" means the group, appointed by the Administrator, whose members review applications for the purpose of making recommendations of physicians to the Administrator for listing on the CPP Registry and for recommending removal of a Certified Physician from the CPP Registry pursuant to these rules.
- (9) "Certified Physician Program Registry" or "CPP Registry" means the listing of physicians appointed by the Administrator and whose credentials and qualifications, pursuant to Rule 0800-02-.33.04, are current, active, and unrestricted.
- (10) "Conflict of interest" means to be incompatible or at variance between the professional or personal interests of a health care provider and his or her professional responsibilities

toward a patient.

- (11) “Employer” means an employer as defined in T.C.A. § 50-6-102, but also includes for the purposes of this rule an employer’s insurer, third party administrator, self-insured employers, self-insured pools and trusts, as well as the employer’s legally authorized representative or legal counsel, as applicable.
- (12) “Medical Director” means the medical director of the Bureau of Workers’ Compensation as described in T.C.A. § 50-6-126 and includes assistant medical directors of the Bureau of Workers’ Compensation.
- (13) “Permanent Impairment Rating” means the analysis and rationale for assigning permanent impairment based on an injured worker’s history, physical examination findings, and medical records, as expressed in a physician’s notes or records or on the Bureau-promulgated Form C-30A and/or Form C-32.
- (14) “Physician” means a person currently licensed in good standing to practice as a Doctor of Medicine, Doctor of Osteopathy, Doctor of Chiropractic, Doctor of Dental Medicine or Doctor of Dental Surgery.
- (15) “Program Coordinator” means the administrative officer of the Certified Physician Program, appointed by the Administrator.
- (16) “Treatment Guidelines” means the published medical care evidence-based recommendations adopted by the Administrator for treating workers’ compensation injuries in Tenn. Comp. R. and Regs. 0800-02-25, including any suggested changes published on the Bureau’s website in effect on the date the treatment is requested.

Authority: T.C.A. §§ 50-6-102, 204, 233.

0800-02-33-.02 Purpose and Scope.

- (1) Purpose. The purpose of the Certified Physician Program is to provide education to eligible physicians, who voluntarily agree to participate in the program in the best practices and adoption thereof for treating and evaluating injured workers within the Tennessee workers’ compensation system.
- (2) Scope. The CPP is a voluntary program available to qualified physicians who agree to participate in compliance with these rules. Certified Physicians shall accept Tennessee workers’ compensation patients for treatment within the norms of their specialty and established medical practice and shall be entitled to additional reimbursement as provided in the Medical Fee Schedule rules in Tenn. Comp. R. and Regs. 0800-02-18. The additional reimbursement to a Certified Physician specified in the Medical Fee Schedule rules is only applicable to the Certified Physician for medical services directly rendered by the Certified Physician and is not available as an additional reimbursement for other providers. Listing on the CPP Registry qualifies the physician for additional payments under the Medical Fee Schedule but does not imply or grant additional presumptions in terms of utilization review, causation determination, or impairment rating over or above those already granted by other statutes or rules.

Authority T.C.A. §§ 50-6-233.

0800-02-33-.03 Severability.

If any provision of these Rules or the application thereof to any person or circumstance is, for any reason, held to be invalid, the remainder of the Rules and the application of the provisions to other persons or circumstances shall not be affected in any respect whatsoever.

Authority T.C.A. §§ 50-6-233.

0800-02-33-.04 Requisite Physician Qualifications for Certification.

- (1) Physicians seeking a listing on the CPP Registry shall submit a completed and signed Physician Application to the Program Coordinator and must satisfy the following qualifications:
- (a) Possess a license to practice medicine, osteopathy, or chiropractic, in Tennessee, which is current, active, and unrestricted, and furnish satisfactory evidence of license to the Bureau;
 - (b) Be board-certified or board-eligible in his/her medical specialty by a board recognized by the American Board of Medical Specialties, the American Osteopathic Association or another organization acceptable to the Administrator, and furnish satisfactory evidence of certification or eligibility to the Bureau;
 - (c) Have successfully completed a training course, approved by the Administrator, dedicated to the proper application of the AMA Guides™ to the Evaluation of Permanent Impairment and furnish satisfactory evidence of course completion to the Bureau;
 - (d) Have successfully completed the Bureau-conducted training course within the last year, approved by the Administrator, providing instruction in the best practices for treating and evaluating injured workers within the Tennessee workers' compensation system and furnish satisfactory evidence of completion to the Bureau, with the following conditions:
 - 1. The successful completion of the course includes viewing all of the material and passing the Bureau-conducted comprehensive test.
 - 2. This comprehensive test will be a minimum of 50 questions allowing 2 hours for completion.
 - 3. A passing score is 80% correct answers on the comprehensive test.
 - 4. If a physician fails the comprehensive test, the physician may retake it a second time within six (6) months. If the physician fails the second time, the physician must retake the entire course before taking the test again.
 - 5. There is no limit to the number of times the physician may retake the comprehensive test provided the physician completes the entire training course every two attempts.
 - 6. A physician will not be considered for appointment to the CPP Registry until the physician has completed the best practices training course, has passed the comprehensive test, and met other minimum requirements pursuant to this rule.
 - 7. Any available Continuing Medical Education (CME) credits will be awarded only after completion of the course and passing the test.
 - (e) Furnish satisfactory proof of carrying the minimum medical malpractice insurance coverage amounts enumerated in T.C.A. § 29-20-403.

Authority T.C.A. §§ 50-6-233.

0800-02-33-.05 Application Procedure for Appointment to the CPP Registry.

- (1) Physicians seeking appointment to the CPP Registry shall submit to the Program Coordinator a signed Application, a current Curriculum Vitae, and the necessary proofs enumerated in 0800-0-33-.04.
- (2) The Bureau may charge physicians a nonrefundable application fee for processing the Application.

- (3) The Administrator may create a CPP Advisory Committee to be chaired by the Medical Director, whose members review applications for the purpose of recommending or not recommending listing on the CPP Registry. All members of the committee shall be voting members and shall include the Bureau's Medical Director and Assistant Medical Director(s), the CPP Program Coordinator, with additional physicians as deemed appropriate by the Administrator. The committee members shall serve a term of three (3) years and may be reappointed by the Administrator.
- (4) The Administrator shall have the sole and exclusive authority to appoint members to the CPP Advisory Committee and to approve or reject applications for appointment to the CPP Registry. A physician who meets the qualifications for an appointment is not guaranteed an appointment.
- (5) Physicians denied appointment to the CPP Registry on their initial application may seek reconsideration of their application by submitting a request for reconsideration stating the grounds for such reconsideration to the Program Coordinator within fifteen (15) calendar days of the issuance of the Notice of Denial of their application. The Administrator may affirm or reverse the initial determination upon reconsideration of the initial decision. The Administrator shall issue a Notice of Final Determination which shall be the final decision. If the Administrator does not act on the request for reconsideration within twenty (20) calendar days, then the request shall be deemed to have been denied, which shall be the final administrative decision.
- (6) Appointment on the CPP Registry shall expire three years after the listing except when the expiration date has been extended in writing at the Administrator's discretion. Physicians wishing to continue serving on the registry after their appointment has expired shall reapply for appointment by submitting another Physician Application with an updated Curriculum Vitae and satisfactory evidence of credentials, as required in 0800-02-33-.04.

Authority T.C.A. § 50-6-233.

0800-02-33-.06 Requirements of Certified Physicians.

- (1) Upon listing, Certified Physicians shall comply with the following conditions:
 - (a) Agree to have their name, clinic address, medical specialty and board certification published on the Bureau's website in a listing of Certified Physicians on the CPP Registry who are available to treat Tennessee workers' compensation injuries when selected in compliance with the Tennessee Workers' Compensation Law;
 - (b) Agree to treat Tennessee workers' compensation patients within the norms of their specialty and in compliance with the Tennessee Workers' Compensation Law and the Medical Fee Schedule rules in Tenn. Comp. R. and Regs. 0800-02-18;
 - (c) While serving as a Certified Physician, agree to maintain an active and unrestricted license to practice medicine, osteopathy, chiropractic, dentistry, or dental surgery in Tennessee, to maintain all board certifications listed on the application, and to immediately notify the Administrator of any change in the status of their license or board certification, including any restrictions;
 - (d) Conduct all evaluations and treatment for Tennessee workers' compensation claims in an objective and impartial manner, and shall:
 1. Conduct all evaluations and treatment only in a facility where the primary use of the site is for medical service, except in instances of telehealth, as permitted under the Tennessee Workers' Compensation Law;
 2. Comply with all local, state, and federal laws, regulations, and other requirements with regard to business operations, including specific requirements for the provision of medical services;

3. Decline to treat or evaluate workers' compensation patients with whom the physician has a conflict of interest; and
 4. Agree to treat and evaluate injured workers in a timely manner appropriate to the circumstances and medical specialty.
- (e) Adopt and consistently apply the CPP's "Best Practices for Treating Injured Workers" and the Treatment Guidelines adopted by the Bureau;
 - (f) While serving as a Certified Physician, submit his or her first three permanent impairment ratings with supporting medical records to the Bureau for peer review by a licensed physician appointed by the Administrator and adopt recommended changes, when appropriate;
 - (g) Comply with the Certified Physician Program Rules; and
 - (h) Agree to a probationary period of one year.
- (2) Physicians who fail to comply with any portion of these rules during their probation period, as determined by the Administrator, may have their certification revoked.
 - (3) Physicians shall be notified in writing of the Administrator's decision to revoke the listing pursuant to this rule.

Authority: T.C.A. § 50-6-233.

0800-02-33-.07 Removal of Certified Physicians from CPP Registry.

- (1) After the physician probation period has ended, the Administrator may, upon advisement of the CPP Advisory Committee, revoke certification based upon any of the following grounds:
 - (a) Misrepresentation on the Physician Application.
 - (b) Refusal or substantial failure of the Certified Physician to comply with the provisions of these rules, including, but not limited to:
 1. A pattern of incorrectly applying the AMA Guides™ in the preparation of permanent impairment ratings.
 2. Failure to adhere to the Medical Fee Schedule.
- (2) Written complaints regarding a Certified Physician's refusal or substantial failure to comply with the provisions of these rules shall be submitted to the Administrator. Upon receipt of a complaint regarding a Certified physician, the Administrator shall send a written "Notice of Complaint" to such physician, stating the grounds, and notifying the physician that they may be at risk of being removed from the CPP Registry.
- (3) The physician shall have thirty (30) calendar days from the date of the Notice of Complaint in which to respond in writing to the complaint(s) and may submit any responsive supporting documentation to the Program Coordinator for consideration. Failure of the physician to submit a timely response to the Notice of Complaint may result in the removal of the physician from the CPP Registry.
- (4) The Administrator shall consider complaint(s) and any response(s) from the physician in reaching a decision as to whether the physician shall be removed from the CPP Registry and may consult with the CPP Advisory Committee and Medical Director for such purposes.
- (5) Upon reaching a determination on the complaint(s), the Administrator shall issue a written Notice of Determination and set forth the basis for the decision in such Notice. The determination set forth shall become final fifteen (15) calendar days after issuance of the

Notice of Determination unless a timely request for reconsideration is received.

- (6) A Certified Physician may seek reconsideration of an adverse decision from the Administrator by submitting a request for reconsideration stating the grounds for such reconsideration to the Administrator within fifteen (15) calendar days of the issuance of the Notice of Determination. The Administrator may affirm, modify, or reverse the initial determination upon reconsideration of the initial decision. The Administrator shall issue a Notice of Determination upon Reconsideration which shall be the final decision. If the Administrator does not act on the request for reconsideration within twenty (20) calendar days, then the request shall be deemed to have been denied, which shall be the final decision.
- (7) A physician who has been removed from the CPP Registry by the Administrator may apply for reinstatement three years after the date of removal by submitting a written request to the Program Coordinator, along with an updated application and satisfactory evidence of credentials, as required in 0800-02-33-.05, subject to the review and approval of the CPP Advisory Committee.

Authority: T.C.A. § 50-6-233.

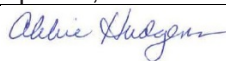
0800-.02-33-.08 Inactive Status.

- (1) In lieu of removing a physician from the CPP Registry, the Administrator, at his or her sole discretion, may move the physician to inactive status pending the fulfillment of additional training or other administrative requirements, as designated in writing to the physician. Physicians involuntarily moved to inactive status pursuant to this rule shall not have recourse or reconsideration.
- (2) Certified Physicians who voluntarily wish to move to inactive status must request to do so in writing to the Program Coordinator, who shall confirm a physician's change to inactive status in writing.
- (3) Certified Physicians who are currently inactive on the CPP Registry shall not be entitled to additional reimbursement as provided in the Medical Fee Schedule rules in Tenn. Comp. R. and Regs. 0800-02-18.

Authority: T.C.A. § 50-6-233.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: April 29, 2022

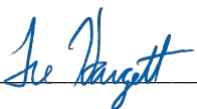
Signature: 

Name of Officer: Abbie Hudgens

Title of Officer: Administrator

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Filed with the Department of State on: 5/2/2022



Tre Hargett
Secretary of State

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