

**RULES
OF
THE TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
BUREAU OF WORKERS' COMPENSATION**

**CHAPTER 0800-02-33
WORKERS' COMPENSATION CERTIFIED PHYSICIAN PROGRAM**

TABLE OF CONTENTS

0800-02-33-.01	Definitions	0800-02-33-.06	Requirements of Certified Physicians
0800-02-33-.02	Purpose and Scope	0800-02-33-.07	Removal of Certified Physicians from
0800-02-33-.03	Severability		CPP Registry
0800-02-33-.04	Requisite Physician Qualifications for	0800-02-33-.08	Inactive Status
	Certification	0800-02-33-.09	Appeals
0800-02-33-.05	Application Procedure for Appointment to		
	the CPP Registry		

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.

(Rule 0800-02-33-.01, continued)

- (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) "Inactive Status" means a physician has voluntarily requested to be listed as temporarily inactive on the online CPP Registry listing on the Bureau's website because the physician is not currently accepting workers' compensation patients.
- (13) "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.
- (14) "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.
- (15) "Physician" means a person currently licensed in good standing to practice as a Doctor of Medicine, Doctor of Osteopathy, or Doctor of Chiropractic.
- (16) "Program Coordinator" means the administrative officer of the Certified Physician Program, appointed by the Administrator.
- (17) "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. §§ 4-5-102, 50-6-102, 50-6-126, 50-6-204, and 50-6-233. **Administrative History:** New rules filed June 16, 2023; effective September 14, 2023.

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.

(Rule 0800-02-33-.02, continued)

Authority: T.C.A. §§ 4-5-102, 50-6-102, 50-6-126, 50-6-204, and 50-6-233. **Administrative History:** New rules filed June 16, 2023; effective September 14, 2023.

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. §§ 4-5-102, 50-6-126, 50-6-204, and 50-6-233. **Administrative History:** New rules filed June 16, 2023; effective September 14, 2023.

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 licensure 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 and allow 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 has met other minimum requirements pursuant to this rule.

(Rule 0800-02-33-.04, continued)

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. §§ 4-5-102, 50-6-126, 50-6-204, and 50-6-233. **Administrative History:** New rules filed June 16, 2023; effective September 14, 2023.

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 0800-02-33-.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 a physician 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's decision is the final decision. Any physician whose application is denied may reapply in the future after a period of one (1) year following the Administrator's final decision.
- (6) At the request of a physician whose application is denied, the Administrator or designee may hold an informal conference for the purpose of discussing any issues involving a physician whose application to the Certified Physician Program is denied. If the physician requests the conference, an affected physician will be afforded an opportunity to participate. Counsel at such conference may represent any party. This informal conference is not a contested case hearing.
- (7) 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. §§ 4-5-102, 50-6-126, 50-6-204, and 50-6-233. **Administrative History:** New rules filed June 16, 2023; effective September 14, 2023.

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, or chiropractic, 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 and agree that removal from the CPP Registry during this probationary period is at the Administrator's discretion.
- (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.

(Rule 0800-02-33-.06, continued)

Authority: T.C.A. §§ 4-5-102, 50-6-126, 50-6-204, and 50-6-233. **Administrative History:** New rules filed June 16, 2023; effective September 14, 2023.

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. Any removal from the CPP Registry is subject to the UAPA contested case hearing rules in 0800-02-13.
- (3) 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. §§ 4-5-102, 50-6-126, 50-6-204, and 50-6-233. **Administrative History:** New rules filed June 16, 2023; effective September 14, 2023.

0800-02-33-.08 INACTIVE STATUS.

- (1) 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.
- (2) 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. §§ 4-5-102, 50-6-126, 50-6-204, and 50-6-233. **Administrative History:** New rules filed June 16, 2023; effective September 14, 2023.

0800-02-33-.09 APPEALS.

- (1) Any physician who is at risk of removal from the CPP registry may request a contested case hearing regarding any such decision directly to the Administrator. Said request must be submitted in writing within fifteen (15) calendar days of the notice to the physician that the physician is at risk of removal from the CPP registry. The Administrator or designee shall hear the contested case in accordance with the provision of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, and in accordance with Tenn. R. and Regs. 0800-02-13.

(Rule 0800-02-33-.09, continued)

- (2) If the Administrator believes that the public health, safety, or welfare requires emergency action, the Administrator may summarily suspend any physician from the CPP Registry pending proceedings for final removal under the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, and in accordance with Tenn. R. and Regs. 0800-02-13.

Authority: T.C.A. §§ 4-5-102, 4-5-202, 50-6-126, 50-6-204, and 50-6-233. **Administrative History:** New rules filed June 16, 2023; effective September 14, 2023.