

**RULES
OF
THE COMMITTEE ON PHYSICIAN ASSISTANTS**

**CHAPTER 1130-02
GENERAL RULES GOVERNING THE PRACTICE
OF AN ORTHOPEDIC PHYSICIAN ASSISTANT**

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1130-02-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meaning ascribed to them:

- (1) Advertising - Informational communication to the public in any manner to attract attention to the practice as an orthopedic physician assistant. Includes, but is not limited to business solicitation, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking, in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, or television broadcasting or other means designed to secure public attention.
- (2) A.M.A. - When the acronym A.M.A. appears in the text of these rules, A.M.A. represents the American Medical Association.
- (3) Applicant - Any individual seeking licensure by the Committee who has submitted an official application and paid the application fee.
- (4) Board - The Tennessee Board of Medical Examiners.
- (5) Closed Files - An administrative action which renders an incomplete or denied file inactive.
- (6) Committee - The Committee on Physician Assistants (C.O.P.A.).
- (7) Committee Administrative Office - The office of the administrator assigned to the Committee.
- (8) Committee Designee - Any person who has received a written delegation of authority from the Committee to perform Committee functions subject to review and ratification by the Committee and the Board where provided by these rules.
- (9) Consultant - Any person who has received a delegation of authority from the Committee to perform Committee functions subject to review and ratification by the Committee and Board where provided by these rules.

(Rule 1130-02-.01, continued)

- (10) Department - Tennessee Department of Health.
- (11) Division - The Division of Health Related Boards, Tennessee Department of Health, from which the Committee receives administrative support.
- (12) Fee - Money, gifts, services, or anything of value offered or received as compensation in return for rendering services; also, the required application fees.
- (13) Good Moral Character - The quality of being well regarded in professional ethics.
- (14) Graduate - An individual who has graduated from a C.O.P.A. approved orthopedic physician assistant program whose transcript shows that graduation has been completed.
- (15) He/she Him/her - When "he" appears in the text of these rules, the word represents both the feminine and masculine genders.
- (16) HRB - When the acronym HRB appears in the text of these rules, HRB represents the Health Related Boards.
- (17) License - The document issued by the Committee to an applicant who has completed the licensure process.
- (18) N.B.C.O.P.A. - When the acronym N.B.C.O.P.A. appears in the text of these rules, N.B.C.O.P.A. represents the National Board for the Certification of Orthopedic Physician Assistants.
- (19) O.P.A. - When the acronym O.P.A. appears in the text of these rules, O.P.A. represents Orthopedic Physician Assistant.
- (20) Orthopedic Physician - A physician or surgeon licensed pursuant to Tennessee Code Annotated, Title 63, Chapter 6 or 9, who is specialty trained as an orthopedic physician or surgeon.
- (21) Person - Any individual, firm, corporation, partnership, organization, or body politic.
- (22) Physician - Any physician licensed pursuant to T.C.A. Title 63, Chapters 6 or 9.
- (23) T.A.P.A. - When the acronym T.A.P.A. appears in the text of these rules, T.A.P.A. represents the Tennessee Academy of Physician Assistants.
- (24) Use of Title or Description - To hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, telephone listings, stationery, announcements, business cards, or other means of professional identification.
- (25) Written Evidence - Includes, but is not limited to, written verification from supervisors or other professional colleagues familiar with the applicant's work.
- (26) Written Protocol - A jointly developed written statement by the supervising orthopedic physician and orthopedic physician assistant. Includes, but not limited to, problems and conditions likely to be encountered by the orthopedic physician assistant and the appropriate treatment for these problems and conditions. This protocol will establish a practice specific range of approved tasks, problems, and conditions. These protocols shall be signed by both the supervising orthopedic physician and the orthopedic physician assistant and reviewed at least every two (2) years.

(Rule 1130-02-.01, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-1-115, 63-6-216, 63-19-102, 63-19-103, 63-19-104, 63-19-201, 63-19-203, 63-19-204, 63-19-205, 63-19-210, and 68-1-701 and Public Chapter 565 of 2021.

Administrative History: Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed June 25, 1998; effective October 30, 1998. Amendment filed August 28, 2002; effective November 11, 2002. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.02 SCOPE OF PRACTICE.

- (1) An orthopedic physician assistant who holds state licensure in accordance with T.C.A. § 63-19-202 may provide selected medical/surgical services only within specialty of orthopedic medicine, as outlined in a written protocol according to T.C.A. § 63-19-204, and when such services are within his skills. The services delegated to the orthopedic physician assistant must form a usual component of the supervising orthopedic physician's scope of practice. Services rendered by the orthopedic physician assistant must be provided under the supervision, direction, and ultimate responsibility of a licensed orthopedic physician accountable to the Board of Medical Examiners or the Board of Osteopathic Examination.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-19-104, 63-19-201, 63-19-202, 63-19-203, 63-19-204, 63-19-205, 63-19-206, 63-19-207, and 63-19-208 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.03 NECESSITY OF LICENSURE.

- (1) Prior to the engagement of the practice as an orthopedic physician assistant in Tennessee, a person must hold a current Tennessee license unless exempted from licensure pursuant to T.C.A. § 63-19-208.
- (2) It is unlawful for any person who is not licensed in the manner prescribed in T.C.A. §§ 63-19-201 et seq. to represent himself as a licensed orthopedic physician assistant or to hold himself out to the public as being licensed by means of using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards, or other instruments of professional identification.
- (3) Use of Titles - Any person who holds a valid license or temporary license from the Committee shall have the right to use the title "orthopedic physician assistant" or the abbreviations "OPA-C" or "OPA" and to practice as an orthopedic physician assistant, as defined in T.C.A. § 63-19-102. Any person licensed by the Committee to whom this rule applies must use one of the titles authorized by this rule in every "advertisement" [as that term is defined in rule 1130-02-.20(2)(a)] he or she publishes or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the orthopedic physician assistant to disciplinary action pursuant to Rule 1130-02-.15(1)(a), (1)(c), (1)(h), (1)(p), and (1)(v).
- (4) The profession of orthopedic physician assistant is one of the healing arts and as such the practice of which is restricted to those persons licensed by the Committee. Persons engaging in the practice as an orthopedic physician assistant without being licensed are in violation of T.C.A. §§ 63-19-202 and 63-19-206.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-116, 63-1-145, 63-1-146, 63-6-101, 63-19-104, 63-19-201, 63-19-202, 63-19-206, 63-19-208, and 63-19-210 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998;

(Rule 1130-02-.03, continued)

effective October 28, 1998. Amendment filed August 5, 2010; effective November 3, 2010. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.04 QUALIFICATIONS FOR LICENSURE.

- (1) Pursuant to T.C.A. § 63-19-202, the Committee and Board shall certify no person as an orthopedic physician assistant unless:
 - (a) The person is a graduate of an orthopedic physician assistant training program approved by the Committee and Board; and
 - (b) The person has successfully completed the examination of the N.B.C.O.P.A.
- (2) Alternative to 1130-02-.04(1), any person who meets both of the following criteria may be considered for licensure as an orthopedic physician assistant:
 - (a) The person was performing services as an orthopedic physician assistant in Tennessee on May 30, 1995 and can provide a notarized letter of verification of that employment; and
 - (b) The person can produce satisfactory evidence of having successfully completed the examination of the N.B.C.O.P.A.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-19-104, 63-19-105, 63-19-201, and 63-19-202 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed April 19, 1999; effective July 3, 1999. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.05 PROCEDURES FOR LICENSURE. To become licensed as an orthopedic physician assistant in Tennessee, a person must comply with the following procedures and requirements:

- (1) An application packet shall be requested from the Committee's administrative office.
- (2) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all documentation and fees required by the form and rules to the Committee's Administrative Office. It is the intent of this rule that activities necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.
- (3) An applicant shall submit with his application a signed and notarized passport type photograph taken within the preceding 12 months and the photo must be affixed to the proper page of the application.
- (4) It is the applicant's responsibility to request that a graduate transcript, from an orthopedic physician assistant education program approved by the Committee and Board, be submitted directly from the program to the Committee's Administrative Office. The transcript must show that graduation has been completed and carry the official seal of the institution.
- (5) An applicant shall submit evidence of good moral character. Such evidence shall be two recent (within the preceding 12 months) original letters from medical professionals, attesting to the applicant's personal character and professional ethics on the signator's letterhead.
- (6) If the applicant intends to immediately commence practice upon licensure he or she must designate a primary supervising orthopedic physician and shall submit directly to the

(Rule 1130-02-.05, continued)

Committee's Administrative Office a letter attesting to the status. Any change in the primary supervising orthopedic physician must be reported in the same manner by the orthopedic physician assistant.

- (7) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.
 - (b) The denial of professional licensure/certification application by any other state or the discipline of licensure/certification in any state.
 - (c) Loss or restriction of licensure/certification.
 - (d) Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory common or case law.
 - (e) Failure of any licensure or certification examination.
- (8) An applicant shall cause to be submitted to the Committee's administrative office directly from the vendor identified in the Committee's licensure application materials, the result of a criminal background check.
- (9) If an applicant holds or has ever held a license/certificate to practice any profession in any other state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of licensure/certification) from each such licensing board which indicates the applicant holds or held an active license/certificate and whether it is in good standing presently or was at the time it became inactive.
- (10) An applicant shall submit the Application Fee and State Regulatory Fee as provided in Rule 1130-02-.06.
- (11) All applicants shall cause to be submitted documentation of successful completion of the examination for licensure as governed by Rule 1130-02-.08 once the exam has been successfully completed. This verification must be submitted by the examining agency directly to the Committee's Administrative Office.
- (12) When necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source. Both versions must be submitted.
- (13) Personal resumes are not acceptable and will not be reviewed.
- (14) Application review and licensure decisions shall be governed by rule 1130-02-.07.
- (15) All documents submitted for qualification of licensure become the property of the State of Tennessee and will not be returned.
- (16) The application form is not acceptable if any portion has been executed and dated prior to one year before filing with the Committee. As used in this part, application means the application form approved by the Committee and shall include, as appropriate:
 - (a) Attached current, notarized passport photograph;

(Rule 1130-02-.05, continued)

- (b) Official college transcript from an orthopedic physician assistant training program;
- (c) Verification of N.B.C.O.P.A. exam;
- (d) Two (2) original letters of professional recommendation;
- (e) Result of a criminal background check;
- (f) Certificate of completion or Diploma from an approved orthopedic physician assistant program; and
- (g) Certification/licensure from other state boards.

(17) All applications shall be sworn to and signed by the applicant and notarized.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-214, 63-19-104, 63-19-201, 63-19-202, 63-19-203, and 63-19-204 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed June 25, 1998; effective October 30, 1998. Amendments filed March 17, 2006; effective May 31, 2006. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.06 FEES.

(1) The fees are as follows:

- (a) Application Fee - A fee to be paid by all applicants. This fee includes the Initial Licensure Fee and State Regulatory Fee. In cases where an applicant is denied licensure or the application file closes due to abandonment, only the portion pertaining to the Initial Licensure Fee and the portion of the State Regulatory Fee that applies to initial licensure will be refundable.
- (b) Biennial Licensure Renewal Fee - A non-refundable fee to be paid prior to the issuance of the “artistically designed” license. This fee must be received on or before the expiration date of the license.
- (c) Initial Licensure Fee - A fee to be paid at the time of application for initial licensure after approval by the Committee on Physician Assistants and the Board of Medical Examiners.
- (d) Late Renewal Fee - A non-refundable fee to be paid when a license holder fails to renew his license on or before the expiration date on the license. This is an additional fee which must be submitted with the Biennial Licensure Renewal Fee and State Regulatory Fee.
- (e) Replacement License Fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed “artistically designed” wall license or renewal certificate.
- (f) State Regulatory Fee - A fee to be paid by all individuals at the time of application and with all renewal applications.

(Rule 1130-02-.06, continued)

- (2) All fees must be submitted to the Committee's administrative office by cashier's check, personal check or money order. Checks or money orders are to be made payable to the Committee on Physician Assistants.

(3) Fee Schedule:	Amount
(a) Application Fee (Total)	\$ 335.00
1. Application Fee	\$ 75.00
2. Initial Licensure Fee	\$ 250.00
3. State Regulatory Fee	\$ 10.00
(b) Biennial Licensure Renewal Fee	\$ 175.00
(c) Late Renewal Fee	\$ 50.00
(d) Replacement License Fee	\$ 25.00
(e) State Regulatory (biennial)	\$ 10.00

- (4) Total Application Fee must be paid at the time of application.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-106, 63-1-108, 63-1-112, 63-19-104, and 63-19-201 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed January 20, 2012; effective April 19, 2012. Amendment filed March 23, 2016; effective June 21, 2016. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.07 APPLICATION REVIEW, APPROVAL AND DENIAL.

- (1) An application packet shall be requested from the committee's administrative office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the Committee's Administrator.
- (3) If an application is incomplete when received by the Committee's Administrative Office, or the reviewing Committee member or the Committee consultant determine additional information is required from an applicant before an initial determination can be made, the Committee's Administrative Office shall notify the applicant of the information required.
- (a) The applicant shall cause the requested information to be received by the Committee's administrative office on or before the ninetieth (90th) day after the initial letter notifying the applicant of the required information is sent.
- (b) If requested information is not timely received, the application file may be considered abandoned and may be closed by the Committee's administrator. If that occurs, the applicant shall be notified that the Committee will not consider issuance of a license until a new application is received pursuant to the rules governing that process, including another payment of all fees applicable to the applicant's circumstances and submission of such new supporting documents as is required by the Committee or the Committee's consultant.

(Rule 1130-02-.07, continued)

- (4) If a license is denied, limited, conditioned or restricted by the Committee and subsequently by the Board, the denial, limitation, condition or restriction shall become final and the following shall occur:
 - (a) A notification of the denial, limitation, condition or restriction shall be sent by the Committee's Administrative Office by certified mail, return receipt requested. Specific reasons for denial, limitation, condition or restriction will be stated, such as incomplete information, unofficial records, examination failure, or matters judged insufficient for licensure, and such notification shall contain all the specific statutory or rule authorities for the denial, limitation, condition or restriction.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-301 et seq.) to contest the denial, limitation, condition or restriction and the procedure necessary to accomplish that action.
 1. An applicant has a right to a contested case hearing only if the adverse decision on an application was based upon subjective or discretionary criteria and only if the request is in writing and received on or before the thirtieth (30th) day after receipt of the notice by the applicant.
 2. An applicant may be granted a contested case hearing if the licensure denial, limitation, condition or restriction is based on an objective, clearly defined criteria only if after review and attempted resolution by the Committee's Administrative Staff, the application can not be approved and the reasons for continued denial, limitation, condition or restriction present genuine issues of fact and/or law which are appropriate for appeal. Requests for a hearing must be made in writing to the Committee within 30 days of the receipt of the notice of denial, limitation, condition or restriction from the Committee.
- (5) If the Committee finds it has erred in the issuance of a license, the Committee will give written notice by certified mail of its intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements for licensure within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license, the applicant shall have the right to proceed according to rule 1130-02-.07(4)(b).

Authority: T.C.A. §§ 4-5-102(3), 4-5-202, 4-5-204, 4-5-301, et seq., 63-19-104, 63-19-105, 63-19-111, 63-19-201, 63-19-202, and 63-19-206 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed September 11, 1998; effective November 25, 1998. Amendment filed August 6, 2002; effective October 20, 2002. Amendment filed August 28, 2002; effective November 11, 2002. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.08 EXAMINATIONS.

- (1) Licensure Examination - All persons intending to apply for licensure as an orthopedic physician assistant in Tennessee must successfully complete an examination pursuant to this Rule. Such examination must be completed prior to application for permanent licensure. Evidence of successful completion must be submitted by the examining agency directly to the Committee Administrative Office as part of the application process contained in Rule 1130-02-.05.

(Rule 1130-02-.08, continued)

- (a) The Committee and Board adopt the N.B.C.O.P.A. examination or its successor examination as its licensure examination. Successful completion of examination is a prerequisite to licensure pursuant to Rule 1130-02-.04(1)(b).
- (b) The Committee and Board adopt the N.B.C.O.P.A. determination as to the passing score on its examination.
- (c) Application for and fees necessary to take the N.B.C.O.P.A. examination must be sent to the N.B.C.O.P.A. and not the Committee.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-19-104, 63-19-201, and 63-19-202 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.09 LICENSURE RENEWAL AND REINSTATEMENT OF AN EXPIRED LICENSE.

- (1) All orthopedic physician assistants must renew their licenses to be able to legally continue in practice. License renewal is governed by the following:
 - (a) The due date for license renewal is its expiration date which is the last day of the month in which a license holder's birthday falls pursuant to the Division of Health Related Boards "biennial birthdate renewal system" contained in rule 1200-10-1-.10.
 - (b) Methods of Renewal - Licensees may accomplish renewal by one of the following methods:
 - 1. Internet Renewals - Individuals may apply for renewal via the Internet. The application to renew can be accessed at:

<https://apps.tn.gov/hlrs/>
 - 2. Paper Renewals - Licensees who have not renewed their authorization online via the Internet, will have a renewal application form mailed to them at the last address provided by them to the Committee. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal. To be eligible for renewal a licensee must submit to the Division of Health Related Boards on or before the license's expiration date the following:
 - (i) A completed and signed renewal application form.
 - (ii) The renewal and state regulatory fees as provided in Rule 1130-02-.06.
 - (c) Any renewal application received after the expiration date but before the last day of the month following the expiration date must be accompanied by the Late Renewal Fee provided in Rule 1130-02-.06.
 - (d) Any individual who fails to comply with the license renewal rules and/or notifications sent to them concerning failure to timely renew shall have their license processed pursuant to rule 1200-10-01-.10.
 - (e) Anyone submitting a signed renewal form or letter which is found to be untrue may be subject to disciplinary action as provided in Rule 1130-02-.15.

(Rule 1130-02-.09, continued)

- (f) Any license holder who receives notice of licensure expiration may, within thirty (30) days of receipt of the notice pursuant to Rule 1130-02-.11, execute and file in the Board's administrative office an affidavit of retirement which will effectively retire the license as of the thirtieth (30th) day after the renewal due date.
- (2) Reinstatement of Expired Licenses - Reinstatement of a license that has expired pursuant to rule 1200-10-1-.10 may be accomplished upon meeting the following conditions:
 - (a) Submission of a completed reinstatement application; and
 - (b) Payment of all past due renewal fees, including late renewal fee; and
 - (c) Proof of the required continuing education.
- (3) Renewal and reinstatement decisions pursuant to this rule may be made administratively and are subject to Committee and Board review.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-19-104, 63-19-201, 63-19-206, and 63-19-209 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed June 25, 1998; effective October 30, 1998. Amendment filed August 28, 2002; effective November 11, 2002. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.10 RANGE OF SERVICES/SUPERVISION.

- (1) Supervision is defined as the active and continuous overview of the orthopedic physician assistant's services to ensure that the supervising orthopedic physician's directions and orders are being implemented properly. The constant physical presence of the orthopedic physician is not required so long as the supervising orthopedic physician and the orthopedic physician assistant are, or can be, immediately in contact with each other by radio, telephone, or telecommunications while the services are being provided. An appropriate degree of supervision includes personal and regular (at least weekly) review of all patient records by the supervising orthopedic physician, as indicated by the physician's signature/initials.
- (2) A supervising orthopedic physician may supervise a maximum of two (2) orthopedic physician assistants.
- (3) An orthopedic physician assistant may provide only those services which are commensurate with the orthopedic physician assistant's education, training, and experience.
- (4) An orthopedic physician assistant may not make any definitive diagnosis or prescribe any treatment program except as set forth in the written protocol and procedures which have been established by the supervising orthopedic physician in consultation with the orthopedic physician assistant.
- (5) An orthopedic physician assistant may not write prescriptions for any drugs and may not use prescriptions which have been pre-signed by the supervising orthopedic physician or anyone else.
- (6) An orthopedic physician assistant may dispense only those medications which have been contemporaneously approved for a patient by the supervising orthopedic physician.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-19-104, 63-19-201, 63-19-203, 63-19-204, 63-19-205, 63-19-206, 63-19-207, and 63-19-208 and Public Chapter 565 of 2021. **Administrative History:** Original rule

(Rule 1130-02-.10, continued)

filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.11 RETIREMENT AND REACTIVATION OF LICENSE.

- (1) A person who holds a current license and does not intend to practice as an orthopedic physician assistant may apply to convert an active license to inactive ("retired") status. An individual who holds a retired license will not be required to pay the renewal fee.
- (2) A person who holds an active license may apply for retired status in the following manner:
 - (a) Obtain, complete, and submit to the Committee's Administrative Office, an affidavit of retirement form.
 - (b) Submit any documentation which may be required to the Committee's Administrative Office.
- (3) License holders whose license has been retired may re-enter active status by doing the following:
 - (a) Submit a written request for license reactivation to the Committee's Administrative Office.
 - (b) Pay the license renewal fees and state regulatory fees as provided in Rule 1130-02-.06.
 - (c) If retirement reactivation is requested prior to the expiration of one year from the date of retirement, the Committee will require payment of the late renewal fee and past due renewal fee.
- (4) License reactivation applications shall be treated as licensure applications and review decisions shall be governed by Rule 1130-02-.07.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-19-104, 63-19-201, 63-19-202, and 63-19-209 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.12 CONTINUING EDUCATION. All orthopedic physician assistants must comply with the following continuing education rules as a prerequisite to licensure renewal.

- (1) Continuing Education - Hours Required
 - (a) All orthopedic physician assistants must biennially complete sixty (60) hours of continuing medical education in courses approved by the A.M.A., N.B.C.O.P.A., or other associations approved by the Committee and Board.
 - (b) The Committee approves a course for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a calendar year toward the required hourly total regardless of the number of times the course is attended or completed by any individual.
 - (c) The committee may waive or otherwise modify the requirements of this rule in cases where there is retirement or an illness, disability or other undue hardship which prevents an orthopedic physician assistant from obtaining the requisite number of

(Rule 1130-02-.12, continued)

continuing education hours required for renewal. Requests for waivers or modification must be sent in writing to the Committee prior to the expiration of the renewal period in which the continuing education is due.

(2) Continuing Education - Proof of Compliance

- (a) The due date for completion of the required continuing education is the expiration date of the orthopedic physician assistant's licensure renewal.
 - (b) All orthopedic physician assistants must, on the licensure renewal form, enter a signature which indicates completion of the required continuing education hours and that such hours were obtained during the calendar years of report.
 - (c) All orthopedic physician assistants must retain independent documentation of completion of all continuing education hours. This documentation must be retained for a period of four (4) years from the end of the renewal period in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the Committee during its verification process. This documentation must consist of one or more of the following:
 - 1. Certificates verifying the licensed individual's completion of the continuing education program(s). The certificates must include the following: Continuing education program's sponsor, date, length in minutes awarded (continuing education units must be converted to clock hours), program title, licensed individual's name, license number and social security number.
 - 2. An original letter on official stationery from the continuing education program's sponsor indicating date, length in minutes awarded (continuing education units must be converted to clock hours), program title, licensed individual's name, license number and social security number.
 - (d) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the Committee will request a written description of the training and how it applies to the practice as an orthopedic physician assistant. If the Committee determines that the training cannot be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.
- (3) Acceptable continuing education - To be utilized for satisfaction of the continuing education requirements of this rule, the continuing education program must be approved in content, structure and format by either the A.M.A., N.B.C.O.P.A., or other associations approved by the Committee and Board.
- (4) Violations
- (a) Any orthopedic physician assistant who falsely attests to completion of the required hours of continuing education may be subject to disciplinary action pursuant to Rule 1130-02-.15.
 - (b) Any orthopedic physician assistant who fails to obtain the required continuing education hours may be subject to disciplinary action pursuant to Rule 1130-02-.15 and may not be allowed to renew licensure.

(Rule 1130-02-.12, continued)

- (c) Education hours obtained as a result of compliance with the terms of a Committee or Board order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-19-104, and 63-19-201 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed June 25, 1998; effective October 30, 1998. Amendment filed July 31, 2000; effective October 14, 2000. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.13 PROFESSIONAL ETHICS. The Committee on Physician Assistants may utilize as guidelines T.A.P.A.'s code of ethics. Violation of this Rule may subject the orthopedic physician assistant to disciplinary action pursuant to Rule 1130-02-.15.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-19-104, 63-19-201, 63-19-206, 63-19-207, and 63-19-210 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.14 RESERVED.

Authority: Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.15 DISCIPLINARY GROUNDS, ACTIONS, AND CIVIL PENALTIES.

- (1) Grounds and Authority For Disciplinary Actions - The Board and the Committee shall have the power to deny, limit, restrict or condition an application for a license to any applicant who applies for the same. The Board and Committee shall have the authority to suspend or revoke, reprimand or otherwise discipline any person holding a license to practice as an orthopedic physician assistant. The grounds upon which the Board and Committee shall exercise such power includes, but are not limited to, the following:
 - (a) Unprofessional, dishonorable, or unethical conduct;
 - (b) Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of the Orthopedic Physician Assistants Act or any lawful order of the Committee and Board issued pursuant thereto, or any criminal statute of the state of Tennessee;
 - (c) Making false statements or representations, being guilty of fraud or deceit in obtaining admission to practice, or being guilty of fraud or deceit in the practice as an orthopedic physician assistant;
 - (d) Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of practice as an orthopedic physician assistant;
 - (e) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants in such manner as to adversely affect the person's ability to practice as an orthopedic physician assistant;
 - (f) Violation of the laws governing abortion;

(Rule 1130-02-.15, continued)

- (g) Willfully betraying a professional secret;
 - (h) The advertising of orthopedic physician assistant business in which untrue or misleading statements are made, or causing the publication or circulation of fraudulent advertising relative to any disease, human ailment, or conditions;
 - (i) Willful violation of the rules and regulations promulgated by the Board and the Committee to regulate advertising by practitioners who are under the jurisdiction of such board;
 - (j) Conviction of a misdemeanor or felony;
 - (k) Making or signing in one's professional capacity any certificate that is known to be false at the time one makes or signs such certificate;
 - (l) Dispensing, prescribing, or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease;
 - (m) Dispensing, prescribing, or otherwise distributing any controlled substance to any person in violation of any law of the state or of the United States of America or any rule of the Board or Committee;
 - (n) Offering, undertaking, or agreeing to cure or treat a disease, injury, ailment or infirmity by a secret means, method, device or instrumentality;
 - (o) Giving or receiving, or aiding or abetting the giving or receiving of rebates, either directly or indirectly for referrals of business or patients;
 - (p) Engaging in the practice of an orthopedic physician assistant under a false or assumed name, or the impersonation of another practitioner, or a like, similar or different name;
 - (q) Engaging in the practice of an orthopedic physician assistant when mentally or physically unable to safely do so;
 - (r) Violation of the continuing education provisions of Rule 1130-02-.12; and
 - (s) Violation of the scope of practice statutes T.C.A. §§ 63-19-203 through 63-19-205 and Rules 1130-02-.02 and 1130-02-.10.
 - (t) Violation of prescribing statutes.
 - (u) Disciplinary action against a person licensed, certified, registered, or permitted to practice as an orthopedic physician assistant by another state or territory of the United States for any acts or omissions which would constitute grounds for discipline of a person licensed in this state. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action from the disciplining state or territory shall constitute prima facie evidence of violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a person licensed in this state.
 - (v) Violation of the correct title statute, T.C.A. § 63-19-210.
- (2) Upon a finding by the Board and Committee that an orthopedic physician assistant has violated any provision of the Orthopedic Physician Assistants Act (T.C.A. §§ 63-19-201 et

(Rule 1130-02-.15, continued)

seq.) or the rules promulgated pursuant thereto, the Board and Committee may take any of the following actions separately or in any combination which is deemed appropriate to the offense;

- (a) Advisory Censure - This is a written action issued for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
- (b) Formal Censure or Reprimand - This is a written action issued for one time and less severe violations. It is a formal disciplinary action.
- (c) Probation - This is a formal disciplinary action which places an orthopedic physician assistant on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.
- (d) License Suspension - This is a formal disciplinary action which suspends the right to practice for a fixed period of time. It contemplates the re-entry into practice under the license previously issued.
- (e) License Revocation - This is the most severe form of disciplinary action which removes a license holder from the practice of the profession and terminates the certification or licensure previously issued. The Committee, in its discretion, may allow reinstatement of a revoked license upon conditions and after a period of time that it deems appropriate. However, No petition for reinstatement and no new application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one (1) year unless otherwise stated in the Committee's revocation order.
- (f) Conditions - Any action deemed appropriate by the Board and Committee to be required of a disciplined licensee in any of the following circumstances:
 - 1. During any period of probation, suspension; or
 - 2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or
 - 3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or
 - 4. As a stand-alone requirement(s) in any disciplinary order.
- (g) Civil penalty - A monetary disciplinary action assessed by the Committee and Board pursuant to paragraph (5) of this rule.
- (h) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-19-201.
- (i) Once ordered, probation, suspension, revocation, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Committee after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties assessed have been paid.

(Rule 1130-02-.15, continued)

- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.

- (a) The Board and Committee will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:

1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

- (b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Committee's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Committee and Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

(Rule 1130-02-.15, continued)

3. If the petition is presented to the Committee and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Committee and Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Committee or Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-01-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Medical Examiners
Committee on Physician Assistants

Petitioner's Name: _____
Petitioner's Mailing Address: _____

Petitioner's E-Mail Address: _____
Telephone Number: _____

Attorney for Petitioner: _____
Attorney's Mailing Address: _____

Attorney's E-Mail Address: _____
Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

(Rule 1130-02-.15, continued)

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously ordered. All such provisions of Committee and Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Committee and Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Committee's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Committee and Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.

(Rule 1130-02-.15, continued)

3. If the petition is presented to the Committee and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Committee and Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Committee or Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-01-.11.

(c) Form Petition

Petition for Order Modification
Board of Medical Examiners
Committee on Physician Assistants

Petitioner's Name: _____
Petitioner's Mailing Address: _____

Petitioner's E-Mail Address: _____
Telephone Number: _____

Attorney for Petitioner: _____
Attorney's Mailing Address: _____

Attorney's E-Mail Address: _____
Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

(Rule 1130-02-.15, continued)

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

(5) Civil Penalties

(a) Purpose - The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134. The Committee and Board may assess these civil penalties in lieu of the civil penalties authorized by T.C.A. § 63-19-201(b)(7).

(b) Schedule of Civil Penalties.

1. A "Type A" Civil Penalty may be imposed whenever the Committee finds a person who is required to be licensed, certified, permitted, or authorized by the Committee, guilty of a willful and knowing violation of the Orthopedic Physician Assistants Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public. For purposes of this section, willfully and knowingly practicing as an orthopedic physician assistant without a permit, license, certificate, or other authorization from the Committee is one of the violations of the Orthopedic Physician Assistants Act for which a "Type A" Civil Penalty is assessable.
2. A "Type B" Civil Penalty may be imposed whenever the Committee finds the person required to be licensed, certified, permitted, or authorized by the Committee is guilty of a violation of the Orthopedic Physician Assistants Act or regulations promulgated pursuant thereto in such manner as to impact directly on the care of patients or the public.
3. A "Type C" Civil Penalty may be imposed whenever the Committee finds the person required to be licensed, certified, permitted, or authorized by the Committee is guilty of a violation of the Orthopedic Physician Assistants Act or regulations promulgated pursuant thereto, which are neither directly detrimental to the patients or public, nor directly impact their care, but have only an indirect relationship to patient care or the public.

(c) Amount of Civil Penalties.

1. "Type A" Civil Penalties shall be assessed in the amount of not less than \$500 nor more than \$1000.
2. "Type B" Civil Penalties may be assessed in the amount of not less than \$100 and not more than \$500.
3. "Type C" Civil Penalties may be assessed in the amount of not less than \$50 and not more than \$100.

(d) Procedures for Assessing Civil Penalties.

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the

(Rule 1130-02-.15, continued)

proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.

2. Civil Penalties may also be initiated and assessed by the Committee during consideration of any Notice of Charges. In addition, the Committee may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the Committee may consider the following factors:
 - (i) Whether the amount imposed will be substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and
 - (v) The interest of the public.
4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of Title 4, Chapter 5, T.C.A.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-102, 63-1-122, 63-1-134, 63-1-144, 63-1-146, 63-6-101, 63-19-104, 63-19-111, 63-19-201, and 63-19-210 and Public Chapter 565 of 2021.

Administrative History: Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed June 25, 1998; effective October 30, 1998. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed August 28, 2002; effective November 11, 2002. Amendment filed September 8, 2004; effective November 22, 2004. Amendment filed June 23, 2006; effective September 6, 2006. Amendment filed August 5, 2010; effective November 3, 2010. Amendments to rules (1)(j), (2), (3), (4), and (5) filed January 20, 2012; effective April 19, 2012. On April 17, 2012, the Board of Medical Examiners filed a withdrawal of amendments to (2), (3), (4), and (5). Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.16 LICENSE.

- (1) Display of License -Every person licensed by the Committee in this state shall display his/her license in a conspicuous place in his/her office and, whenever required, exhibit such license to the Committee or its authorized representatives.
- (2) Replacement License -A license holder whose "artistically designed" license has been lost or destroyed may be issued a replacement document upon receipt of a written request in the Committee's Administrative Office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document and the required fee pursuant to Rule 1130-02-.06.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-106, 63-19-104, and 63-19-201 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.17 CHANGE OF ADDRESS AND/OR NAME.

- (1) Change of Address - Each person holding a license who has had a change of address or place of employment, shall file in writing with the board his/her current address, giving both old and new addresses. Such requests shall be received in the Committee's Administrative Office no later than 30 days after such change is effective and must reference the individual's name, profession, social security number, and license number.
- (2) Change of Name - An individual registered with the Committee shall notify the Committee in writing within 30 days of a name change and will provide both the old and new names. A request for name change must also include a copy of the official document involved and reference the individual's profession, board, social security, and license numbers.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-108, 63-19-104, and 63-19-201 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.18 FREE HEALTH CLINIC AND VOLUNTEER PRACTICE REQUIREMENTS.

- (1) Free Health Clinic Practice Pursuant to T.C.A. § 63-1-201
 - (a) Any orthopedic physician assistant licensed to practice in this state or any other state who has not been disciplined by any licensure board may have his/her license converted to or receive a Tennessee "Special Volunteer License," as defined in T.C.A. § 63-1-201, which will entitle the licensee to practice without remuneration solely within a "free health clinic," as defined by T.C.A. § 63-1-201, at a specified site or setting by doing the following:
 1. Obtaining from the Committee's administrative office a "Special Volunteer License" application, completing it and submitting it along with any required documentation to the Committee's administrative office; and
 2. Have the licensing authority of every state in which the orthopedic physician assistant holds or ever held a license to practice submit directly to the Committee's administrative office the equivalent of a "certificate of fitness" as described in T.C.A. § 63-1-118 which shows that the license has never been subjected to any disciplinary action and is free and clear of all encumbrances; and
 3. For orthopedic physician assistants who have not been licensed in Tennessee, comply with all provisions of paragraphs (3), (5), and (7) of rule 1130-02-.05 and the Health Care Consumer-Right-To-Know Act compiled at T.C.A. §§ 63-51-101, et seq.; and
 4. Submitting the specific location of the site or setting of the free health clinic in which the licensee intends to practice along with proof of the clinic's private, and not-for-profit status.
 - (b) An orthopedic physician assistant holding a Special Volunteer License is not required to pay any fee for its issuance or the required biennial renewal pursuant to the Division of Health Related Board's biennial birthdate renewal system.
 - (c) An orthopedic physician assistant holding a Special Volunteer License may not do any of the following:

(Rule 1130-02-.18, continued)

1. Practice anywhere other than in the free health clinic site or setting specified in the application; and
 2. Charge any fee or receive compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of medical or any other services; and
 3. Practice for any free health clinic that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
- (d) Special Volunteer Licenses are subject to all of the following
1. All rules governing renewal, retirement, reinstatement and reactivation as provided by rules 1130-02-.09 and .11, except those requiring the payment of any fees; and
 2. A requirement to successfully complete twenty (20) hours of Category I continuing medical education annually; and
 3. Disciplinary action for the same causes and pursuant to the same procedures as all other licenses issued by the Committee.
- (2) Practice Pursuant to the "Volunteer Health Care Services Act" T.C.A. §§ 63-6-701, et seq.
- (a) Any orthopedic physician assistant licensed in this or any other state, territory, district or possession of the United States whose license is not under a disciplinary order of suspension or revocation may practice in this state but only under the auspices of an organization that has complied with the provisions of this rule and T.C.A. §§ 63-6-701 through 707 and rule 1200-10-01-.12 of the Division of Health Related Boards.
 - (b) Any person who may lawfully practice in this or any other state, territory, district or possession of the United States under an exemption from licensure and who is not under a disciplinary order of suspension or revocation and who is not and will not "regularly practice," as defined by T.C.A. § 63-6-703(3) may practice in this state but only under the auspices of an organization that has complied with the provisions of this rule and T.C.A. §§ 63-6-701 through 707 and rule 1200-10-01-.12 of the Division of Health Related Boards.
 - (c) An orthopedic physician assistant or anyone who practices under an exemption from licensure pursuant to this rule may not charge any fee or receive compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of medical or any other services; and may not practice for any organization that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
 - (d) Any organization that organizes or arranges for the voluntary provision of health care services on residents of Tennessee may utilize persons described in subparagraphs (a) and (b) to practice only when it has complied with the provisions of T.C.A. §§ 63-6-701 through 707 and rule 1200-10-01-.12 of the Division of Health Related Boards.

(Rule 1130-02-.18, continued)

- (3) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Committee Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).
- (4) Application review and licensure decisions for these types of licensure or organization registration shall be governed by rule 1130-02-.07.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-201, 63-6-701 through 63-6-707, 63-19-115, 63-19-201, 63-19-205, and 63-19-209 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed December 2, 2005; effective February 15, 2006. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.19 COMMITTEE MEMBERS, OFFICERS, CONSULTANTS, RECORDS, DECLARATORY ORDERS AND SCREENING PANELS.

- (1) The Committee shall at its first meeting after July 1 of each year elect from its members the following officers:
 - (a) Chairperson - who shall preside at all meetings of the Committee.
 - (b) Secretary - who along with the Committee Administrator shall be responsible for correspondence from the Committee.
- (2) The Committee has the authority to select a Committee consultant who shall serve as a consultant to the Division and who is vested with the authority to do the following acts:
 - (a) Review complaints and recommend whether and what type disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Division.
 - (b) Recommend whether and upon what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently reviewed, evaluated and ratified by the full Committee and full Board of Medical Examiners before it becomes effective.
 - (c) Undertake any other matter authorized by a majority vote of the Committee or Board of Medical Examiners.
- (3) Responsibilities of the Committee include, but are not limited to:
 - (a) Adopt and revise rules and regulations as may be necessary to carry out its powers and duties.
 - (b) Adopt and/or administer examinations;
 - (c) Examine for, deny, withhold, reactivate, and approve the license of applicants and renew licenses;
 - (d) Appoint designee(s) to assist in the performance of its duties; and
 - (e) Conduct hearings.
- (4) Records and Complaints

(Rule 1130-02-.19, continued)

- (a) Minutes of the Committee meetings and all records, documents, applications and correspondence will be maintained in the Committee's Administrative Offices.
 - (b) All requests, applications, notices, other communications and correspondence shall be directed to the Committee's Administrative Office. Any requests or inquiries requiring a Committee decision or official Committee action except documents relating to disciplinary actions, or hearing requests must be received fourteen (14) days prior to a scheduled meeting and will be retained in the Administrative Office and presented to the Committee at the Committee meeting. Such documents not timely received shall be set over to the next Committee meeting.
 - (c) All records of the Committee, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Division at the Committee's Administrative Office during normal business hours.
 - (d) Copies of public records shall be provided to any person upon payment of a fee.
 - (e) All complaints should be directed to the Division's Investigations Section.
- (5) The Committee members or the Consultant are individually vested with the authority to do the following acts:
- (a) Review and make determination on licensure, renewal and reactivation of licensure applications subject to the rules governing those respective applications and subject to the subsequent ratification by the Committee and Board.
 - (b) Serve as Consultant to the Division to decide the following:
 - 1. Whether and what type disciplinary actions should be instituted upon complaints received or investigations conducted by the Division.
 - 2. Whether and under what terms a complaint, case or disciplinary action might be settled. Any proposed settlement must be subsequently ratified by the Committee and Board.
- (6) The Committee authorizes the member who chaired the Committee for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.
- (7) Requests for Verification of Licensure for Orthopedic Physician Assistants desiring to practice in another state must be made in writing to the Committee's Administrative Office.
- (8) Requests for duplicate or replacement Licenses must be made in writing to the Board Administrative Office and be accompanied by the fee provided in Rule 1130-02-.06.
- (9) Declaratory Orders - The Committee adopts, as if fully set out herein, rule 1200-10-01-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Committee shall be addressed by the Committee pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Committee's administrative office.

(Rule 1130-02-.19, continued)

- (10) Screening Panels - The Committee adopts, as if fully set out herein, rule 1200-10-1-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.

Authority: T.C.A. §§ 4-5-105, 4-5-202, 4-5-204, 4-5-223, 4-5-224, 63-1-115, 63-1-117, 63-1-138, 63-6-101, 63-19-104, 63-19-105, 63-19-201, 63-19-202, and 63-19-209 and Public Chapter 565 of 2021.

Administrative History: Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed April 19, 1999; effective July 3, 1999. Amendment filed June 23, 2006; effective September 6, 2006. Amendment filed April 17, 2007; effective July 1, 2007. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.20 ADVERTISING.

- (1) Policy Statement. The lack of sophistication on the part of many of the public concerning medical services, the importance of the interests affected by the choice of an orthopedic physician assistant and the foreseeable consequences of unrestricted advertising by orthopedic physician assistants which is recognized to pose special possibilities for deception, require that special care be taken by orthopedic physician assistants to avoid misleading the public. The orthopedic physician assistant must be mindful that the benefits of advertising depend upon its reliability and accuracy. Since advertising by orthopedic physician assistants is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.
- (2) Definitions
 - (a) Advertisement. Informational communication to the public in any manner designed to attract public attention to the practice of an orthopedic physician assistant who is licensed to practice in Tennessee.
 - (b) Licensee - Any person holding a license to practice as an orthopedic physician assistant in the State of Tennessee. Where applicable this shall include partnerships and/or corporations.
 - (c) Material Fact - Any fact which an ordinary reasonable and prudent person would need to know or rely upon in order to make an informed decision concerning the choice of practitioners to serve his or her particular needs.
 - (d) Bait and Switch Advertising - An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised service or merchandise, in order to sell something else, usually for a higher fee or on a basis more advantageous to the advertiser.
 - (e) Discounted Fee - Shall mean a fee offered or charged by a person for a product or service that is less than the fee the person or organization usually offers or charges for the product or service. Products or services expressly offered free of charge shall not be deemed to be offered at a "discounted fee".
- (3) Advertising Fees and Services
 - (a) Fixed Fees. Fixed fees may be advertised for any service. It is presumed unless otherwise stated in the advertisement that a fixed fee for a service shall include the

(Rule 1130-02-.20, continued)

cost of all professional recognized components within generally accepted standards that are required to complete the service.

- (b) Range of Fees. A range of fees may be advertised for services and the advertisement must disclose the factors used in determining the actual fee, necessary to prevent deception of the public.
 - (c) Discount Fees. Discount fees may be advertised if:
 - 1. The discount fee is in fact lower than the licensee's customary or usual fee charged for the service; and
 - 2. The licensee provides the same quality and components of service and material at the discounted fee that are normally provided at the regular, non-discounted fee for that service.
 - (d) Related Services and Additional Fees. Related services which may be required in conjunction with the advertised services for which additional fees will be charged must be identified as such in any advertisement.
 - (e) Time Period of Advertised Fees. Advertised fees shall be honored for those seeking the advertised services during the entire time period stated in the advertisement whether or not the services are actually rendered or completed within that time. If no time period is stated in the advertisement of fees, the advertised fee shall be honored for thirty (30) days from the last date of publication or until the next scheduled publication whichever is later whether or not the services are actually rendered or completed within that time.
- (4) Advertising Content. The following acts or omissions in the context of advertisement by any licensee shall constitute unethical and unprofessional conduct, and subject the licensee to disciplinary action pursuant to Rule 1130-01-.15:
- (a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed, employed, or used, or that convey the message that one licensee is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.
 - (b) The misleading use of an unearned or non-health degree in any advertisement.
 - (c) Promotion of professional services which the licensee knows or should know are beyond the licensee's ability to perform.
 - (d) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective patient.
 - (e) Any appeals to an individual's anxiety in an excessive or unfair manner.
 - (f) The use of any personal testimonial attesting to a quality or competency of a service or treatment offered by a licensee that is not reasonably verifiable.
 - (g) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.

(Rule 1130-02-.20, continued)

- (h) The communication of personal identifiable facts, data, or information about a patient without first obtaining patient consent.
- (i) Any misrepresentation of a material fact.
- (j) The knowing suppression, omission or concealment of any material fact or law without which the advertisement would be deceptive or misleading.
- (k) Statements concerning the benefits or other attributes of medical procedures or products that involve significant risks without including:
 - 1. A realistic assessment of the safety and efficiency of those procedures or products; and
 - 2. The availability of alternatives; and
 - 3. Where necessary to avoid deception, descriptions or assessment of the benefits or other attributes of those alternatives.
- (l) Any communication which creates an unjustified expectation concerning the potential results of any treatment.
- (m) Failure to comply with the rules governing advertisement of fees and services, or advertising records.
- (n) The use of "bait and switch" advertisements. Where the circumstances indicate "bait and switch" advertising, the Committee may require the licensee to furnish data or other evidence pertaining to those sales at the advertised fee as well as other sales.
- (o) Misrepresentation of a licensee's credentials, training, experience, or ability.
- (p) Failure to include the corporation, partnership or individual licensee's name, address, and telephone number in any advertisement. Any corporation, partnership or association which advertises by use of a trade name or otherwise fails to list all licensees practicing at a particular location shall:
 - 1. Upon request provide a list of all licensees practicing at that location; and
 - 2. Maintain and conspicuously display at the licensee's office, a directory listing all licensees practicing at that location.
- (q) Failure to disclose the fact of giving compensation or anything of value to representatives of the press, radio, television or other communicative medium in anticipation of or in return for any advertisement (for example, newspaper article) unless the nature, format or medium of such advertisement make the fact of compensation apparent.
- (r) After thirty (30) days of the licensee's departure, the use of the name of any licensee formerly practicing at or associated with any advertised location or on office signs or buildings. This rule shall not apply in the case of a retired or deceased former associate who practiced in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign.
- (s) Stating or implying that a certain licensee provides all services when any such services are performed by another licensee.

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- (t) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services.
- (5) Advertising Records and Responsibility
 - (a) Each licensee who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision shall also include any licensed professional employees acting as an agent of such firm or entity.
 - (b) Any and all advertisements are presumed to have been approved by the licensee named therein.
 - (c) A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media, and a copy of any other form of advertisement shall be retained by the licensee for a period of two (2) years from the last date of broadcast or publication and be made available for review upon request by the Committee or its designee.
 - (d) At the time any type of advertisement is placed, the licensee must possess and rely upon information which, when produced, would substantiate the truthfulness of any assertion, omission or representation of material fact set forth in the advertisement or public communication.
- (6) Severability. It is hereby declared that the sections, clauses, sentences and parts of these rules are severable, are not matters of mutual essential inducement, and any of them shall be rescinded if these rules would otherwise be unconstitutional or ineffective. If any one or more sections, clauses, sentences or parts shall for any reason be questioned in court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-145, 63-1-146, 63-6-101, 63-19-104, and 63-19-201 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed March 22, 2007; effective June 5, 2007. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.21 RESERVED.

Authority: Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.22 UNIVERSAL PRECAUTIONS FOR THE PREVENTION OF HIV TRANSMISSION. The proper application of infection control principles will minimize any risk of transmission of Human Immunodeficiency Virus (HIV) from Health Care Worker to patients, patient to Health Care Workers, or patient to patient. HIV infection alone does not justify or support limiting a Health Care Worker's professional duties. The current assessment of the risk that infected Health Care Workers will transmit HIV to patients during invasive procedures does not justify mandatory testing of Health Care Workers. Limitations, if any, should be determined on a case-by-case basis after consideration of the factors that

(Rule 1130-02-.22, continued)

influence transmission risk, including inability and/or unwillingness to comply with infection control standards and/or functional impairments which interfere with the job performance of the Health Care Worker.

- (1) Definitions - For the purpose of these regulations, the terms used herein are defined as follows:
 - (a) Chief Medical Officer - the state health officer, or his designee, appointed by the commissioner of health, who is responsible for and advises the Commissioner and department on all matters of state health policy, including public health.
 - (b) Commissioner - the Commissioner of Health or his designee.
 - (c) Health Care Worker (HCW) - Any orthopedic physician assistant whose activities involve contact with patients or with blood or other body fluids in a health care setting, including students, residents and trainees.
 - (d) Hospital HIV Confidential Expert Review Panel (Hospital HIV Review Panel) - As established by Tennessee Department of Health rules 1200-14-03-.01 to .03 this is a Tennessee hospital committee, appointed by the hospital Chief of Staff, composed and functioning in accordance with the guidelines of the American Hospital Association and the provisions of Tennessee Code Annotated, Section 63-6-219 which is convened with the purpose of establishing practice standards, on a case by case basis, for any HIV infected HCW, employed at or practicing their profession in the hospital, at the HCW's request.
 - (e) Tennessee Department of Health HIV Confidential Expert Review Panel (TDH HIV Review Panel) - As established by Tennessee Department of health rules 1200-14-03-.01 to .03 this is a Tennessee Department of Health committee, appointed by the Chief Medical Officer of the State, which is convened with the purpose of establishing practice standards for any HIV infected HCW.
 - (f) Universal Precautions - an approach to infection control according to which all human blood and certain human body fluids are to be treated as if known to be infectious for HIV and/or other blood-borne pathogens. In order to prevent the transmission of blood-borne infections, Universal Precautions requires the blanket implementation of infection control procedures, including, in regard to the use and disposal of needles and other sharp instruments, appropriate care and proper utilization of handwashing and protective barriers. Guidelines for Universal Precautions are published by the Centers for Disease Control and Prevention (CDC) and can be found in CDC Recommendations For Prevention of HIV Transmission In Health-Care Settings. [MMWR 1987; 36 (suppl. no. 2S) pp 1-18s] and CDC Update: Universal Precautions For Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens In Health Care Settings. [MMWR 1988; 37: pp 377-82, 387-8,] or their successor publications and/or more current updates.
- (2) Administration and Implementation of the Policy
 - (a) All HCW's shall adhere to Universal Precautions in the provision of health care services. HCW's must comply with current guidelines for disinfection and sterilization of reusable devices used in medical procedures. All HCW's shall receive periodic training in infection control procedures, including Universal Precautions.
 - (b) All HCW's are encouraged to undergo personal assessments to determine their need for HIV testing. These assessments should include consideration of known high-risk

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behavior as well as risks associated with health care-related occupational exposure. If they are at risk, HCW's should determine their HIV status in order to protect and improve their health and to receive appropriate counseling. The decision to be tested for HIV is the responsibility of the individual HCW.

- (c) Pursuant to Tennessee Department of Health rule 1200-14-03-.03, the Chief Medical Officer of the State of Tennessee will, at the request of an HIV infected HCW, convene an expert review panel to provide advice and give guidelines for assuring patient safety in the provision of the HCW's health care services.
- (d) Pursuant to Tennessee Department of Health rule 1200-14-03-.03, the Chief Medical Officer of the State of Tennessee may, at the request of an HIV infected HCW, allow a Tennessee licensed hospital to convene a hospital based Hospital HIV Review Panel to provide advice and give guidelines for assuring patient safety in the provision of the HCW's health care services in lieu of presenting the matter to the TDH HIV Review Panel. All records and information held by the hospital for review by this panel relating to known or suspected cases of infection with HIV in any HCW are strictly confidential, shall not be released or made public by the Department or the hospital or the Hospital HIV Review Panel upon subpoena, court order, discovery, search warrant or otherwise, except as may be authorized under T.C.A. §§10-7-504(a), 63-6-219 or 68-10-113.
- (e) The review panel may recommend modification of procedures, notification of patients, or monitoring of restrictions if the panel determines that a significant risk of transmission to patients may exist. The recommendations of the review panel will then be set out in a written agreement and, if agreed to by the HCW, such agreement will be evidenced by the HCW's signature.
 - 1. If the infected HCW is dissatisfied with the recommendation of the Hospital HIV Review Panel, the HCW may appeal to the TDH HIV Review Panel for a de novo evaluation.
 - 2. If the infected HCW is dissatisfied with the recommendation of the TDH HIV Review Panel, the HCW may request a contested case hearing before the Commissioner, in the manner provided by the terms of the Tennessee Uniform Administrative Procedures Act (UAPA), Title 4, Chapter 5 of the Tennessee Code Annotated.
 - 3. Willful or knowing or repeated rejection or violation of the panel's recommendations by the HCW, or inability to follow the panel's recommendation because of mental or physical disease or defect, shall be reported to the Tennessee Department of Health Division of Health Related Boards as indicated by the evaluation, for appropriate disciplinary action.
- (f) In determining the advisability of voluntary HIV testing and in evaluating the medical practices of an infected HCW, the expert review panel and/or the individual HCW should refer to the current disease control guidelines established by the CDC and disease control standards recognized by national professional medical organizations. In addition, the panel should refer to the following:
 - 1. Many procedures pose negligible risk to the patient of exposure to infection through the HCW's blood when performed using standard infection control techniques, including Universal Precautions. Examples of these procedures include: physical examinations; blood pressure checks; eye examinations; phlebotomy; administration of intramuscular, intradermal or subcutaneous injections (i.e., vaccinations); needle biopsies, needle aspirations or lumbar

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- punctures; angiographic procedures; vaginal, oral or rectal exams; endoscopic and bronchoscopic procedures; and insertion or maintenance of peripheral and central intravascular lines, nasogastric tubes, endotracheal tubes, rectal tubes or urinary catheters. Even if a HCW were to sustain an injury while performing these procedures, it is highly unlikely that the patient would be exposed to the HCW's blood. Thus, no restriction on performance of these procedures are necessary provided that standard infection control practices are used.
2. Those HCW's for whom HIV counseling and testing has been previously recommended by the Public Health Services (PHS), due to occupational or non-occupational exposure to HIV, are encouraged to voluntarily ascertain their HIV antibody status. HCW's (1) who are infected with HIV, and (2) who perform surgical or obstetrical procedures that involve entry into tissues, cavities, or organs, should not continue to perform those procedures until they have sought counsel from the expert review panel.
 3. Among the items the review panel should consider, on an individual basis, in evaluation of an HIV seropositive HCW are the following:
 - (i) Whether the HCW performs procedures in which injury could result in contamination of a patient's body cavity, subcutaneous tissues, or mucous membranes by the HCW's blood (e.g., procedures in which hands may be in contact with sharp instruments, objects, or sharp tissues inside a patient's body cavity, particularly when the hands are not completely visible);
 - (ii) Factors affecting the performance of procedures by the individual HCW (e.g., techniques used, skill and experience, and compliance with recommended infection control practices); and
 - (iii) The medical condition of the HCW (e.g., the presence of physical conditions or mental impairment that may interfere with the HCW's ability to perform these procedures safely).
 4. Depending upon its individualized evaluation, the panel should determine whether or under what circumstances the HCW may continue to perform or be restricted from performing procedures. In some circumstances, the panel may recommend modification and monitoring of procedures performed by the HCW to decrease the risk.
 - (i) If the panel determines that this HCW's performance of all or certain procedures poses a significant risk of infection to patients, and such significant risk cannot be eliminated by reasonable accommodation, then the HCW should be restricted from performing such procedures.
 - (ii) If the panel determines that the HCW's performance does not pose a significant risk for infection of patients during the procedures within HCW's scope of practice, then no restrictions are indicated. Hence, notification of the patient regarding HCW's infection status prior to the performance of such procedures is not necessary.
 - (g) HCW's whose practices are modified because of their HIV infection status should, whenever possible, be provided opportunities to continue appropriate patient-care activities. Career counseling and job retraining should be encouraged to promote the continued use of the HCW's talents, knowledge and skills.

(Rule 1130-02-.22, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-19-104, 63-19-201, and 68-11-222 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.

1130-02-.23 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

- (1) Malpractice Reporting Requirements - The threshold amount below which malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know-Act of 1998" shall be ten thousand dollars (\$10,000).
- (2) Criminal Conviction Reporting Requirements - For purposes of the "Health Care Consumer Right-To-Know-Act of 1998" the following criminal convictions must be reported:
 - (a) Conviction of any felony; and
 - (b) Conviction or adjudication of guilt for any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 1. Sex.
 2. Alcohol or drugs.
 3. Physical injury or threat of injury to any person.
 4. Abuse or neglect of any minor, spouse or the elderly.
 5. Fraud or theft.
 6. Unlicensed practice of any health related profession regulated pursuant to T.C.A. Titles 63 or 68.
 - (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-19-104, 63-51-105 (Public Chapter 1073 of 1998, Section 5, Subsection (5)), and 63-51-106 and Public Chapter 565 of 2021. **Administrative History:** Original rule filed February 10, 2000; effective April 25, 2000. Transferred from chapter 0880-10 on August 16, 2021, pursuant to Public Chapter 565 of 2021.