SUBCHAPTER A. IMPAIRMENT INCOME BENEFITS.
28 TAC §130.1.

§130.1. Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment.

(a) - (b) (No change.)

(c) Assignment of Impairment Rating.

(1) An impairment rating is the percentage of permanent impairment of the whole body resulting from the current compensable injury. A zero percent (0%) impairment may be a valid rating.

(2) For examinations on or after January 1, 2028 (tentative date), a [~~A~~] doctor who certifies that an injured employee has reached MMI must [~~shall~~] assign an impairment rating for the current compensable injury using the rating criteria contained in the sixth [~~appropriate~~] edition of the AMA Guides to the Evaluation of Permanent Impairment, published by the American Medical Association on December 2, 2025, (AMA Guides Sixth) and any subsequent nonsubstantive updates to AMA Guides Sixth. For examinations conducted before January 1, 2028 (tentative date), the requirements in effect at the time of the examination apply.

[~~(A) The appropriate edition of the AMA Guides to use for all certifying examinations conducted before October 15, 2001 is the third edition, second printing, dated February, 1989.~~]

[~~(B) The appropriate edition of the AMA Guides to use for certifying examinations conducted on or after October 15, 2001 is:~~]

[~~(i) the fourth edition of the AMA Guides (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the AMA prior to May 16, 2000). If a subsequent printing(s) of the fourth edition of the AMA Guides occurs, and it~~

~~contains no substantive changes from the previous printing, the division by vote at a public meeting may authorize the use of the subsequent printing(s); or~~]

[~~(ii) the third edition, second printing, dated February, 1989 if, at the time of the certifying examination, there is a certification of MMI by a doctor pursuant to subsection (b) of this section made prior to October 15, 2001 which has not been previously withdrawn through agreement of the parties or previously overturned by a final decision.~~]

(C) This subsection will [~~shall~~] be implemented to ensure that in the event of an impairment rating dispute, only ratings using the appropriate edition of the AMA Guides will [~~shall~~] be considered. Impairment ratings assigned using the wrong edition of the AMA Guides will [~~shall~~] not be considered valid.

(3) Assignment of an impairment rating for the current compensable injury must [~~shall~~] be based on the injured employee's condition on the MMI date considering the medical record and the certifying examination. An impairment rating is invalid if it is based on the injured employee's condition on a date that is not the MMI date. An impairment rating and the corresponding MMI date must be included in the Report of Medical Evaluation to be valid. The doctor assigning the impairment rating must [~~shall~~]:

(A) identify objective clinical or laboratory findings of permanent impairment for the current compensable injury;

(B) document specific laboratory or clinical findings of an impairment;

(C) analyze specific clinical and laboratory findings of an impairment;

(D) compare the results of the analysis with the impairment criteria and provide the following:

(i) A description and explanation of specific clinical findings related to each impairment, including zero percent (0%) impairment ratings; and

(ii) A description of how the findings relate to and compare with the criteria described in the applicable chapter of the AMA Guides. The doctor's inability to obtain required measurements must be explained.

(E) assign one whole body impairment rating for the current compensable injury;

(F) be responsible for referring the injured employee to another doctor or health care provider for testing, or evaluation, if additional medical information is required. The certifying doctor is responsible for incorporating all additional information obtained into the report required by this rule:

(i) Additional information must be documented and incorporated into the impairment rating and acknowledged in the required report.

(ii) If the additional information is not consistent with the clinical findings of the certifying doctor, then the documentation must clearly explain why the information is not being used as part of the impairment rating.

(4) After January 1, 2028 (tentative date), any additional testing [~~September 1, 2003, if range of motion, sensory, and strength testing~~] required by the AMA Guides that is not performed by the certifying doctor[~~,~~] must [~~the testing shall~~] be performed by a health care practitioner, who within the two years before [~~prior to~~] the date the injured employee is evaluated, has had the impairment rating training module required by §180.23 ([~~relating to Division Required~~] Division-Required Training for Doctors) for a doctor to be certified to assign impairment ratings. The [~~It is the responsibility of the~~] certifying doctor must [~~to~~] ensure compliance with the requirements of this subsection [~~are complied with~~].

(5) If an impairment rating is assigned in violation of subsection (c)(4), the rating is invalid and the evaluation and report are not reimbursable. If an insurance carrier pays a provider for an evaluation or report that is invalid under this subsection, the provider must [~~A provider that is paid for an evaluation and/or report that is invalid under this subsection shall~~] refund the payment to the insurance carrier.

(d) - (e) (No change.)