

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 510**

**Representative Cera**

**Representatives Ramos, Leland, O'Brien, M., Slesnick, O'Brien, S., Sheehy,  
Howse, Antonio, Bishoff, Phillips**

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**A BILL**

To amend sections 109.84, 126.30, 145.2915, 1  
2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 2  
3121.899, 3701.741, 3963.10, 4115.03, 4121.03, 3  
4121.12, 4121.121, 4121.125, 4121.127, 4121.129, 4  
4121.30, 4121.31, 4121.32, 4121.34, 4121.36, 5  
4121.41, 4121.44, 4121.441, 4121.442, 4121.444, 6  
4121.45, 4121.50, 4121.61, 4123.15, 4123.26, 7  
4123.291, 4123.311, 4123.32, 4123.324, 4123.34, 8  
4123.341, 4123.343, 4123.35, 4123.351, 4123.353, 9  
4123.402, 4123.441, 4123.442, 4123.444, 4123.47, 10  
4123.51, 4123.511, 4123.512, 4123.53, 4123.54, 11  
4123.542, 4123.57, 4123.571, 4123.65, 4123.68, 12  
4123.93, 4123.931, 4125.03, 4125.04, 4131.01, 13  
4729.80, 5145.163, and 5503.08 and to enact 14  
sections 4133.01 to 4133.16 of the Revised Code 15  
to modify workers' compensation benefit amounts 16  
for occupational pneumoconiosis claims and to 17  
create the Occupational Pneumoconiosis Board to 18  
determine medical findings for such claims. 19

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 109.84, 126.30, 145.2915, 20  
2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 3701.741, 21  
3963.10, 4115.03, 4121.03, 4121.12, 4121.121, 4121.125, 22  
4121.127, 4121.129, 4121.30, 4121.31, 4121.32, 4121.34, 4121.36, 23  
4121.41, 4121.44, 4121.441, 4121.442, 4121.444, 4121.45, 24  
4121.50, 4121.61, 4123.15, 4123.26, 4123.291, 4123.311, 4123.32, 25  
4123.324, 4123.34, 4123.341, 4123.343, 4123.35, 4123.351, 26  
4123.353, 4123.402, 4123.441, 4123.442, 4123.444, 4123.47, 27  
4123.51, 4123.511, 4123.512, 4123.53, 4123.54, 4123.542, 28  
4123.57, 4123.571, 4123.65, 4123.68, 4123.93, 4123.931, 4125.03, 29  
4125.04, 4131.01, 4729.80, 5145.163, and 5503.08 be amended and 30  
sections 4133.01, 4133.02, 4133.03, 4133.04, 4133.05, 4133.06, 31  
4133.07, 4133.08, 4133.09, 4133.10, 4133.11, 4133.12, 4133.13, 32  
4133.14, 4133.15, and 4133.16 of the Revised Code be enacted to 33  
read as follows: 34

**Sec. 109.84.** (A) Upon the written request of the governor, 35  
the industrial commission, the administrator of workers' 36  
compensation, or upon the attorney general's becoming aware of 37  
criminal or improper activity related to Chapter 4121.~~or, 4123.,~~ 38  
4123., or 4133. of the Revised Code, the attorney general shall 39  
investigate any criminal or civil violation of law related to 40  
Chapter 4121.~~or, 4123.,~~ 4133. of the Revised Code. 41

(B) When it appears to the attorney general, as a result 42  
of an investigation under division (A) of this section, that 43  
there is cause to prosecute for the commission of a crime or to 44  
pursue a civil remedy, ~~he~~ the attorney general may refer the 45  
evidence to the prosecuting attorney having jurisdiction of the 46  
matter, or to a regular grand jury drawn and impaneled pursuant 47  
to sections 2939.01 to 2939.24 of the Revised Code, or to a 48  
special grand jury drawn and impaneled pursuant to section 49  
2939.17 of the Revised Code, or ~~he~~ the attorney general may 50

initiate and prosecute any necessary criminal or civil actions 51  
in any court or tribunal of competent jurisdiction in this 52  
state. When proceeding under this section, the attorney general 53  
has all rights, privileges, and powers of prosecuting attorneys, 54  
and any assistant or special counsel designated by ~~him~~ the 55  
attorney general for that purpose has the same authority. 56

(C) The attorney general shall be reimbursed by the bureau 57  
of workers' compensation for all actual and necessary costs 58  
incurred in conducting investigations requested by the governor, 59  
the commission, or the administrator and all actual and 60  
necessary costs in conducting the prosecution arising out of 61  
such investigation. 62

**Sec. 126.30.** (A) Any state agency that purchases, leases, 63  
or otherwise acquires any equipment, materials, goods, supplies, 64  
or services from any person and fails to make payment for the 65  
equipment, materials, goods, supplies, or services by the 66  
required payment date shall pay an interest charge to the person 67  
in accordance with division (E) of this section, unless the 68  
amount of the interest charge is less than ten dollars. Except 69  
as otherwise provided in division (B), (C), or (D) of this 70  
section, the required payment date shall be the date on which 71  
payment is due under the terms of a written agreement between 72  
the state agency and the person or, if a specific payment date 73  
is not established by such a written agreement, the required 74  
payment date shall be thirty days after the state agency 75  
receives a proper invoice for the amount of the payment due. 76

(B) If the invoice submitted to the state agency contains 77  
a defect or impropriety, the agency shall send written 78  
notification to the person within fifteen days after receipt of 79  
the invoice. The notice shall contain a description of the 80

defect or impropriety and any additional information necessary 81  
to correct the defect or impropriety. If the agency sends such 82  
written notification to the person, the required payment date 83  
shall be thirty days after the state agency receives a proper 84  
invoice. 85

(C) In applying this section to claims submitted to the 86  
department of job and family services by providers of equipment, 87  
materials, goods, supplies, or services, the required payment 88  
date shall be the date on which payment is due under the terms 89  
of a written agreement between the department and the provider. 90  
If a specific payment date is not established by a written 91  
agreement, the required payment date shall be thirty days after 92  
the department receives a proper claim. If the department 93  
determines that the claim is improperly executed or that 94  
additional evidence of the validity of the claim is required, 95  
the department shall notify the claimant in writing or by 96  
telephone within fifteen days after receipt of the claim. The 97  
notice shall state that the claim is improperly executed and 98  
needs correction or that additional information is necessary to 99  
establish the validity of the claim. If the department makes 100  
such notification to the provider, the required payment date 101  
shall be thirty days after the department receives the corrected 102  
claim or such additional information as may be necessary to 103  
establish the validity of the claim. 104

(D) In applying this section to invoices submitted to the 105  
bureau of workers' compensation for equipment, materials, goods, 106  
supplies, or services provided to employees in connection with 107  
an employee's claim against the state insurance fund, the public 108  
work-relief employees' compensation fund, the coal-workers 109  
pneumoconiosis fund, or the marine industry fund as compensation 110  
for injuries or occupational disease pursuant to Chapter 4123., 111

4127., ~~or 4131.~~, or 4133. of the Revised Code, the required 112  
payment date shall be the date on which payment is due under the 113  
terms of a written agreement between the bureau and the 114  
provider. If a specific payment date is not established by a 115  
written agreement, the required payment date shall be thirty 116  
days after the bureau receives a proper invoice for the amount 117  
of the payment due or thirty days after the final adjudication 118  
allowing payment of an award to the employee, whichever is 119  
later. Nothing in this section shall supersede any faster 120  
timetable for payments to health care providers contained in 121  
sections 4121.44 and 4123.512 of the Revised Code. 122

For purposes of this division, a "proper invoice" includes 123  
the claimant's name, claim number and date of injury, employer's 124  
name, the provider's name and address, the provider's assigned 125  
payee number, a description of the equipment, materials, goods, 126  
supplies, or services provided by the provider to the claimant, 127  
the date provided, and the amount of the charge. If more than 128  
one item of equipment, materials, goods, supplies, or services 129  
is listed by a provider on a single application for payment, 130  
each item shall be considered separately in determining if it is 131  
a proper invoice. 132

If prior to a final adjudication the bureau determines 133  
that the invoice contains a defect, the bureau shall notify the 134  
provider in writing at least fifteen days prior to what would be 135  
the required payment date if the invoice did not contain a 136  
defect. The notice shall contain a description of the defect and 137  
any additional information necessary to correct the defect. If 138  
the bureau sends a notification to the provider, the required 139  
payment date shall be redetermined in accordance with this 140  
division after the bureau receives a proper invoice. 141

For purposes of this division, "final adjudication" means 142  
the later of the date of the decision or other action by the 143  
bureau, the industrial commission, or a court allowing payment 144  
of the award to the employee from which there is no further 145  
right to reconsideration or appeal that would require the bureau 146  
to withhold compensation and benefits, or the date on which the 147  
rights to reconsideration or appeal have expired without an 148  
application therefor having been filed or, if later, the date on 149  
which an application for reconsideration or appeal is withdrawn. 150  
If after final adjudication, the administrator of the bureau of 151  
workers' compensation or the industrial commission makes a 152  
modification with respect to former findings or orders, pursuant 153  
to Chapter 4123., 4127., ~~or 4131.~~, or 4133. of the Revised Code 154  
or pursuant to court order, the adjudication process shall no 155  
longer be considered final for purposes of determining the 156  
required payment date for invoices for equipment, materials, 157  
goods, supplies, or services provided after the date of the 158  
modification when the propriety of the invoices is affected by 159  
the modification. 160

(E) The interest charge on amounts due shall be paid to 161  
the person for the period beginning on the day after the 162  
required payment date and ending on the day that payment of the 163  
amount due is made. The amount of the interest charge that 164  
remains unpaid at the end of any thirty-day period after the 165  
required payment date, including amounts under ten dollars, 166  
shall be added to the principal amount of the debt and 167  
thereafter the interest charge shall accrue on the principal 168  
amount of the debt plus the added interest charge. The interest 169  
charge shall be at the rate per calendar month that equals one- 170  
twelfth of the rate per annum prescribed by section 5703.47 of 171  
the Revised Code for the calendar year that includes the month 172

for which the interest charge accrues. 173

(F) No appropriations shall be made for the payment of any 174  
interest charges required by this section. Any state agency 175  
required to pay interest charges under this section shall make 176  
the payments from moneys available for the administration of 177  
agency programs. 178

If a state agency pays interest charges under this 179  
section, but determines that all or part of the interest charges 180  
should have been paid by another state agency, the state agency 181  
that paid the interest charges may request the attorney general 182  
to determine the amount of the interest charges that each state 183  
agency should have paid under this section. If the attorney 184  
general determines that the state agency that paid the interest 185  
charges should have paid none or only a part of the interest 186  
charges, the attorney general shall notify the state agency that 187  
paid the interest charges, any other state agency that should 188  
have paid all or part of the interest charges, and the director 189  
of budget and management of the attorney general's decision, 190  
stating the amount of interest charges that each state agency 191  
should have paid. The director shall transfer from the 192  
appropriate funds of any other state agency that should have 193  
paid all or part of the interest charges to the appropriate 194  
funds of the state agency that paid the interest charges an 195  
amount necessary to implement the attorney general's decision. 196

(G) Not later than forty-five days after the end of each 197  
fiscal year, each state agency shall file with the director of 198  
budget and management a detailed report concerning the interest 199  
charges the agency paid under this section during the previous 200  
fiscal year. The report shall include the number, amounts, and 201  
frequency of interest charges the agency incurred during the 202

previous fiscal year and the reasons why the interest charges 203  
were not avoided by payment prior to the required payment date. 204  
The director shall compile a summary of all the reports 205  
submitted under this division and shall submit a copy of the 206  
summary to the president and minority leader of the senate and 207  
to the speaker and minority leader of the house of 208  
representatives no later than the thirtieth day of September of 209  
each year. 210

**Sec. 145.2915.** (A) As used in this section, "workers' 211  
compensation" means benefits paid under Chapter 4121.~~or,~~ 212  
4123., or 4133. of the Revised Code. 213

(B) A member of the public employees retirement system may 214  
purchase service credit under this section for any period during 215  
which the member was out of service with a public employer and 216  
receiving workers' compensation if the member returns to 217  
employment covered by this chapter. 218

(C) For credit purchased under this section: 219

(1) If the member is employed by one public employer, for 220  
each year of credit, the member shall pay to the system for 221  
credit to the employees' savings fund an amount equal to the 222  
employee contribution required under section 145.47 of the 223  
Revised Code that would have been paid had the member not been 224  
out of service based on the salary of the member before the 225  
member was out of service. To this amount shall be added an 226  
amount equal to compound interest at a rate established by the 227  
public employees retirement board from the first date the member 228  
was out of service to the final date of payment. 229

(2) If the member is employed by more than one public 230  
employer, the member is eligible to purchase credit under this 231

section and make payments under division (C) (1) of this section 232  
only for the position for which the member received workers' 233  
compensation. For each year of credit, the member shall pay to 234  
the system for credit to the employees' savings fund an amount 235  
equal to the employee contribution required under section 145.47 236  
of the Revised Code that would have been paid had the member not 237  
been out of service based on the salary of the member earned for 238  
the position for which the member received workers' compensation 239  
before the member was out of service. To this amount shall be 240  
added an amount equal to compound interest at a rate established 241  
by the public employees retirement board from the first date the 242  
member was out of service to the final date of payment. 243

(D) The member may choose to purchase only part of such 244  
credit in any one payment, subject to board rules. 245

(E) If a member makes a payment under division (C) of this 246  
section, the employer to which workers' compensation benefits 247  
are attributed shall pay to the system for credit to the 248  
employers' accumulation fund an amount equal to the employer 249  
contribution required under section 145.48 or 145.49 of the 250  
Revised Code corresponding to that payment that would have been 251  
paid had the member not been out of service based on the salary 252  
of the member before the member was out of service. 253

Compound interest at a rate established by the board from 254  
the later of the member's date of re-employment or January 7, 255  
2013, to the date of payment shall be added to this amount if 256  
the employer pays all or any portion of the amount after the end 257  
of the earlier of the following: 258

(1) A period of five years; 259

(2) A period that is three times the period during which 260

the member was out of service and receiving workers' 261  
compensation. 262

The period described in division (E) (1) or (2) of this 263  
section begins with the later of the member's date of re- 264  
employment or January 7, 2013. 265

(F) The number of years purchased under this section shall 266  
not exceed three. Credit purchased under this section may be 267  
combined pursuant to section 145.37 of the Revised Code with 268  
credit purchased or obtained under Chapter 3307. or 3309. of the 269  
Revised Code for periods the member was out of service and 270  
receiving workers' compensation, but not more than a total of 271  
three years of credit may be used in determining retirement 272  
eligibility or calculating benefits under section 145.37 of the 273  
Revised Code. 274

**Sec. 2307.84.** As used in sections 2307.84 to 2307.90 and 275  
2307.901 of the Revised Code: 276

(A) "AMA guides to the evaluation of permanent impairment" 277  
means the American medical association's guides to the 278  
evaluation of permanent impairment (fifth edition 2000) as may 279  
be modified by the American medical association. 280

(B) "Board-certified internist" means a medical doctor who 281  
is currently certified by the American board of internal 282  
medicine. 283

(C) "Board-certified occupational medicine specialist" 284  
means a medical doctor who is currently certified by the 285  
American board of preventive medicine in the specialty of 286  
occupational medicine. 287

(D) "Board-certified oncologist" means a medical doctor 288  
who is currently certified by the American board of internal 289

medicine in the subspecialty of medical oncology.	290
(E) "Board-certified pathologist" means a medical doctor	291
who is currently certified by the American board of pathology.	292
(F) "Board-certified pulmonary specialist" means a medical	293
doctor who is currently certified by the American board of	294
internal medicine in the subspecialty of pulmonary medicine.	295
(G) "Certified B-reader" means an individual qualified as	296
a "final" or "B-reader" as defined in 42 C.F.R. section	297
37.51(b), as amended.	298
(H) "Civil action" means all suits or claims of a civil	299
nature in a state or federal court, whether cognizable as cases	300
at law or in equity or admiralty. "Civil action" does not	301
include any of the following:	302
(1) A civil action relating to any workers' compensation	303
law;	304
(2) A civil action alleging any claim or demand made	305
against a trust established pursuant to 11 U.S.C. section	306
524(g);	307
(3) A civil action alleging any claim or demand made	308
against a trust established pursuant to a plan of reorganization	309
confirmed under Chapter 11 of the United States Bankruptcy Code,	310
11 U.S.C. Chapter 11.	311
(I) "Competent medical authority" means a medical doctor	312
who is providing a diagnosis for purposes of constituting prima-	313
facie evidence of an exposed person's physical impairment that	314
meets the requirements specified in section 2307.85 or 2307.86	315
of the Revised Code, whichever is applicable, and who meets the	316
following requirements:	317

(1) The medical doctor is a board-certified internist, 318  
pulmonary specialist, oncologist, pathologist, or occupational 319  
medicine specialist. 320

(2) The medical doctor is actually treating or has treated 321  
the exposed person and has or had a doctor-patient relationship 322  
with the person. 323

(3) As the basis for the diagnosis, the medical doctor has 324  
not relied, in whole or in part, on any of the following: 325

(a) The reports or opinions of any doctor, clinic, 326  
laboratory, or testing company that performed an examination, 327  
test, or screening of the claimant's medical condition in 328  
violation of any law, regulation, licensing requirement, or 329  
medical code of practice of the state in which that examination, 330  
test, or screening was conducted; 331

(b) The reports or opinions of any doctor, clinic, 332  
laboratory, or testing company that performed an examination, 333  
test, or screening of the claimant's medical condition that was 334  
conducted without clearly establishing a doctor-patient 335  
relationship with the claimant or medical personnel involved in 336  
the examination, test, or screening process; 337

(c) The reports or opinions of any doctor, clinic, 338  
laboratory, or testing company that performed an examination, 339  
test, or screening of the claimant's medical condition that 340  
required the claimant to agree to retain the legal services of 341  
the law firm sponsoring the examination, test, or screening. 342

(4) The medical doctor spends not more than twenty-five 343  
per cent of the medical doctor's professional practice time in 344  
providing consulting or expert services in connection with 345  
actual or potential tort actions, and the medical doctor's 346

medical group, professional corporation, clinic, or other 347  
affiliated group earns not more than twenty per cent of its 348  
revenues from providing those services. 349

(J) "Exposed person" means either of the following, 350  
whichever is applicable: 351

(1) A person whose exposure to silica is the basis for a 352  
silicosis claim under section 2307.85 of the Revised Code; 353

(2) A person whose exposure to mixed dust is the basis for 354  
a mixed dust disease claim under section 2307.86 of the Revised 355  
Code. 356

(K) "ILO scale" means the system for the classification of 357  
chest x-rays set forth in the international labour office's 358  
guidelines for the use of ILO international classification of 359  
radiographs of pneumoconioses (2000), as amended. 360

(L) "Lung cancer" means a malignant tumor in which the 361  
primary site of origin of the cancer is inside the lungs. 362

(M) "Mixed dust" means a mixture of dusts composed of 363  
silica and one or more other fibrogenic dusts capable of 364  
inducing pulmonary fibrosis if inhaled in sufficient quantity. 365

(N) "Mixed dust disease claim" means any claim for 366  
damages, losses, indemnification, contribution, or other relief 367  
arising out of, based on, or in any way related to inhalation 368  
of, exposure to, or contact with mixed dust. "Mixed dust disease 369  
claim" includes a claim made by or on behalf of any person who 370  
has been exposed to mixed dust, or any representative, spouse, 371  
parent, child, or other relative of that person, for injury, 372  
including mental or emotional injury, death, or loss to person, 373  
risk of disease or other injury, costs of medical monitoring or 374  
surveillance, or any other effects on the person's health that 375

are caused by the person's exposure to mixed dust. 376

(O) "Mixed dust pneumoconiosis" means the interstitial 377  
lung disease caused by the pulmonary response to inhaled mixed 378  
dusts. 379

(P) "Nonmalignant condition" means a condition, other than 380  
a diagnosed cancer, that is caused or may be caused by either of 381  
the following, whichever is applicable: 382

(1) Silica, as provided in section 2307.85 of the Revised 383  
Code; 384

(2) Mixed dust, as provided in section 2307.86 of the 385  
Revised Code. 386

(Q) "Pathological evidence of mixed dust pneumoconiosis" 387  
means a statement by a board-certified pathologist that more 388  
than one representative section of lung tissue uninvolved with 389  
any other disease process demonstrates a pattern of 390  
peribronchiolar and parenchymal stellate (star-shaped) nodular 391  
scarring and that there is no other more likely explanation for 392  
the presence of the fibrosis. 393

(R) "Pathological evidence of silicosis" means a statement 394  
by a board-certified pathologist that more than one 395  
representative section of lung tissue uninvolved with any other 396  
disease process demonstrates a pattern of round silica nodules 397  
and birefringent crystals or other demonstration of crystal 398  
structures consistent with silica (well-organized concentric 399  
whorls of collagen surrounded by inflammatory cells) in the lung 400  
parenchyma and that there is no other more likely explanation 401  
for the presence of the fibrosis. 402

(S) "Physical impairment" means any of the following, 403  
whichever is applicable: 404

(1) A nonmalignant condition that meets the minimum 405  
requirements of division (B) of section 2307.85 of the Revised 406  
Code or lung cancer of an exposed person who is a smoker that 407  
meets the minimum requirements of division (C) of section 408  
2307.85 of the Revised Code; 409

(2) A nonmalignant condition that meets the minimum 410  
requirements of division (B) of section 2307.86 of the Revised 411  
Code or lung cancer of an exposed person who is a smoker that 412  
meets the minimum requirements of division (C) of section 413  
2307.86 of the Revised Code. 414

(T) "Premises owner" means a person who owns, in whole or 415  
in part, leases, rents, maintains, or controls privately owned 416  
lands, ways, or waters, or any buildings and structures on those 417  
lands, ways, or waters, and all privately owned and state-owned 418  
lands, ways, or waters leased to a private person, firm, or 419  
organization, including any buildings and structures on those 420  
lands, ways, or waters. 421

(U) "Radiological evidence of mixed dust pneumoconiosis" 422  
means a chest x-ray showing bilateral rounded or irregular 423  
opacities in the upper lung fields graded by a certified B- 424  
reader as at least 1/1 on the ILO scale. 425

(V) "Radiological evidence of silicosis" means a chest x- 426  
ray showing bilateral small rounded opacities (p, q, or r) in 427  
the upper lung fields graded by a certified B-reader as at least 428  
1/1 on the ILO scale. 429

(W) "Regular basis" means on a frequent or recurring 430  
basis. 431

(X) "Silica" means a respirable crystalline form of 432  
silicon dioxide, including, but not limited to, alpha quartz, 433

crystalite, and trydymite. 434

(Y) "Silicosis claim" means any claim for damages, losses, 435  
indemnification, contribution, or other relief arising out of, 436  
based on, or in any way related to inhalation of, exposure to, 437  
or contact with silica. "Silicosis claim" includes a claim made 438  
by or on behalf of any person who has been exposed to silica, or 439  
any representative, spouse, parent, child, or other relative of 440  
that person, for injury, including mental or emotional injury, 441  
death, or loss to person, risk of disease or other injury, costs 442  
of medical monitoring or surveillance, or any other effects on 443  
the person's health that are caused by the person's exposure to 444  
silica. 445

(Z) "Silicosis" means an interstitial lung disease caused 446  
by the pulmonary response to inhaled silica. 447

(AA) "Smoker" means a person who has smoked the equivalent 448  
of one-pack year, as specified in the written report of a 449  
competent medical authority pursuant to section 2307.85 or 450  
2307.86 and section 2307.87 of the Revised Code, during the last 451  
fifteen years. 452

(BB) "Substantial contributing factor" means both of the 453  
following: 454

(1) Exposure to silica or mixed dust is the predominate 455  
cause of the physical impairment alleged in the silicosis claim 456  
or mixed dust disease claim, whichever is applicable. 457

(2) A competent medical authority has determined with a 458  
reasonable degree of medical certainty that without the silica 459  
or mixed dust exposures the physical impairment of the exposed 460  
person would not have occurred. 461

(CC) "Substantial occupational exposure to silica" means 462

employment for a cumulative period of at least five years in an 463  
industry and an occupation in which, for a substantial portion 464  
of a normal work year for that occupation, the exposed person 465  
did any of the following: 466

(1) Handled silica; 467

(2) Fabricated silica-containing products so that the 468  
person was exposed to silica in the fabrication process; 469

(3) Altered, repaired, or otherwise worked with a silica- 470  
containing product in a manner that exposed the person on a 471  
regular basis to silica; 472

(4) Worked in close proximity to other workers engaged in 473  
any of the activities described in division (CC) (1), (2), or (3) 474  
of this section in a manner that exposed the person on a regular 475  
basis to silica. 476

(DD) "Substantial occupational exposure to mixed dust" 477  
means employment for a cumulative period of at least five years 478  
in an industry and an occupation in which, for a substantial 479  
portion of a normal work year for that occupation, the exposed 480  
person did any of the following: 481

(1) Handled mixed dust; 482

(2) Fabricated mixed dust-containing products so that the 483  
person was exposed to mixed dust in the fabrication process; 484

(3) Altered, repaired, or otherwise worked with a mixed 485  
dust-containing product in a manner that exposed the person on a 486  
regular basis to mixed dust; 487

(4) Worked in close proximity to other workers engaged in 488  
any of the activities described in division (DD) (1), (2), or (3) 489  
of this section in a manner that exposed the person on a regular 490

basis to mixed dust.	491
(EE) "Tort action" means a civil action for damages for injury, death, or loss to person. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code. "Tort action" does not include a civil action for damages for a breach of contract or another agreement between persons.	492 493 494 495 496 497
(FF) "Veterans' benefit program" means any program for benefits in connection with military service administered by the veterans' administration under <del>title</del> <u>Title</u> 38 of the United States Code.	498 499 500 501
(GG) "Workers' compensation law" means Chapters 4121., 4123., 4127., <del>and</del> <u>4131., and 4133.</u> of the Revised Code.	502 503
<b>Sec. 2307.91.</b> As used in sections 2307.91 to 2307.96 of the Revised Code:	504 505
(A) "AMA guides to the evaluation of permanent impairment" means the American medical association's guides to the evaluation of permanent impairment (fifth edition 2000) as may be modified by the American medical association.	506 507 508 509
(B) "Asbestos" means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated or altered.	510 511 512 513
(C) "Asbestos claim" means any claim for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos. "Asbestos claim" includes a claim made by or on behalf of any person who has been exposed to asbestos, or any representative, spouse, parent, child, or other relative of that person, for injury, including	514 515 516 517 518 519

mental or emotional injury, death, or loss to person, risk of 520  
disease or other injury, costs of medical monitoring or 521  
surveillance, or any other effects on the person's health that 522  
are caused by the person's exposure to asbestos. 523

(D) "Asbestosis" means bilateral diffuse interstitial 524  
fibrosis of the lungs caused by inhalation of asbestos fibers. 525

(E) "Board-certified internist" means a medical doctor who 526  
is currently certified by the American board of internal 527  
medicine. 528

(F) "Board-certified occupational medicine specialist" 529  
means a medical doctor who is currently certified by the 530  
American board of preventive medicine in the specialty of 531  
occupational medicine. 532

(G) "Board-certified oncologist" means a medical doctor 533  
who is currently certified by the American board of internal 534  
medicine in the subspecialty of medical oncology. 535

(H) "Board-certified pathologist" means a medical doctor 536  
who is currently certified by the American board of pathology. 537

(I) "Board-certified pulmonary specialist" means a medical 538  
doctor who is currently certified by the American board of 539  
internal medicine in the subspecialty of pulmonary medicine. 540

(J) "Certified B-reader" means an individual qualified as 541  
a "final" or "B-reader" as defined in 42 C.F.R. section 542  
37.51(b), as amended. 543

(K) "Certified industrial hygienist" means an industrial 544  
hygienist who has attained the status of diplomate of the 545  
American academy of industrial hygiene subject to compliance 546  
with requirements established by the American board of 547

industrial hygiene.	548
(L) "Certified safety professional" means a safety professional who has met and continues to meet all requirements established by the board of certified safety professionals and is authorized by that board to use the certified safety professional title or the CSP designation.	549 550 551 552 553
(M) "Civil action" means all suits or claims of a civil nature in a state or federal court, whether cognizable as cases at law or in equity or admiralty. "Civil action" does not include any of the following:	554 555 556 557
(1) A civil action relating to any workers' compensation law;	558 559
(2) A civil action alleging any claim or demand made against a trust established pursuant to 11 U.S.C. section 524(g);	560 561 562
(3) A civil action alleging any claim or demand made against a trust established pursuant to a plan of reorganization confirmed under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. Chapter 11.	563 564 565 566
(N) "Exposed person" means any person whose exposure to asbestos or to asbestos-containing products is the basis for an asbestos claim under section 2307.92 of the Revised Code.	567 568 569
(O) "FEV1" means forced expiratory volume in the first second, which is the maximal volume of air expelled in one second during performance of simple spirometric tests.	570 571 572
(P) "FVC" means forced vital capacity that is maximal volume of air expired with maximum effort from a position of full inspiration.	573 574 575

(Q) "ILO scale" means the system for the classification of chest x-rays set forth in the international labour office's guidelines for the use of ILO international classification of radiographs of pneumoconioses (2000), as amended.

(R) "Lung cancer" means a malignant tumor in which the primary site of origin of the cancer is inside the lungs, but that term does not include mesothelioma.

(S) "Mesothelioma" means a malignant tumor with a primary site of origin in the pleura or the peritoneum, which has been diagnosed by a board-certified pathologist, using standardized and accepted criteria of microscopic morphology and appropriate staining techniques.

(T) "Nonmalignant condition" means a condition that is caused or may be caused by asbestos other than a diagnosed cancer.

(U) "Pathological evidence of asbestosis" means a statement by a board-certified pathologist that more than one representative section of lung tissue uninvolved with any other disease process demonstrates a pattern of peribronchiolar or parenchymal scarring in the presence of characteristic asbestos bodies and that there is no other more likely explanation for the presence of the fibrosis.

(V) "Physical impairment" means a nonmalignant condition that meets the minimum requirements specified in division (B) of section 2307.92 of the Revised Code, lung cancer of an exposed person who is a smoker that meets the minimum requirements specified in division (C) of section 2307.92 of the Revised Code, or a condition of a deceased exposed person that meets the minimum requirements specified in division (D) of section

2307.92 of the Revised Code. 605

(W) "Plethysmography" means a test for determining lung 606  
volume, also known as "body plethysmography," in which the 607  
subject of the test is enclosed in a chamber that is equipped to 608  
measure pressure, flow, or volume changes. 609

(X) "Predicted lower limit of normal" means the fifth 610  
percentile of healthy populations based on age, height, and 611  
gender, as referenced in the AMA guides to the evaluation of 612  
permanent impairment. 613

(Y) "Premises owner" means a person who owns, in whole or 614  
in part, leases, rents, maintains, or controls privately owned 615  
lands, ways, or waters, or any buildings and structures on those 616  
lands, ways, or waters, and all privately owned and state-owned 617  
lands, ways, or waters leased to a private person, firm, or 618  
organization, including any buildings and structures on those 619  
lands, ways, or waters. 620

(Z) "Competent medical authority" means a medical doctor 621  
who is providing a diagnosis for purposes of constituting prima- 622  
facie evidence of an exposed person's physical impairment that 623  
meets the requirements specified in section 2307.92 of the 624  
Revised Code and who meets the following requirements: 625

(1) The medical doctor is a board-certified internist, 626  
pulmonary specialist, oncologist, pathologist, or occupational 627  
medicine specialist. 628

(2) The medical doctor is actually treating or has treated 629  
the exposed person and has or had a doctor-patient relationship 630  
with the person. 631

(3) As the basis for the diagnosis, the medical doctor has 632  
not relied, in whole or in part, on any of the following: 633

(a) The reports or opinions of any doctor, clinic, laboratory, or testing company that performed an examination, test, or screening of the claimant's medical condition in violation of any law, regulation, licensing requirement, or medical code of practice of the state in which that examination, test, or screening was conducted;

(b) The reports or opinions of any doctor, clinic, laboratory, or testing company that performed an examination, test, or screening of the claimant's medical condition that was conducted without clearly establishing a doctor-patient relationship with the claimant or medical personnel involved in the examination, test, or screening process;

(c) The reports or opinions of any doctor, clinic, laboratory, or testing company that performed an examination, test, or screening of the claimant's medical condition that required the claimant to agree to retain the legal services of the law firm sponsoring the examination, test, or screening.

(4) The medical doctor spends not more than twenty-five per cent of the medical doctor's professional practice time in providing consulting or expert services in connection with actual or potential tort actions, and the medical doctor's medical group, professional corporation, clinic, or other affiliated group earns not more than twenty per cent of its revenues from providing those services.

(AA) "Radiological evidence of asbestosis" means a chest x-ray showing small, irregular opacities (s, t) graded by a certified B-reader as at least 1/1 on the ILO scale.

(BB) "Radiological evidence of diffuse pleural thickening" means a chest x-ray showing bilateral pleural thickening graded

by a certified B-reader as at least B2 on the ILO scale and 663  
blunting of at least one costophrenic angle. 664

(CC) "Regular basis" means on a frequent or recurring 665  
basis. 666

(DD) "Smoker" means a person who has smoked the equivalent 667  
of one-pack year, as specified in the written report of a 668  
competent medical authority pursuant to sections 2307.92 and 669  
2307.93 of the Revised Code, during the last fifteen years. 670

(EE) "Spirometry" means the measurement of volume of air 671  
inhaled or exhaled by the lung. 672

(FF) "Substantial contributing factor" means both of the 673  
following: 674

(1) Exposure to asbestos is the predominate cause of the 675  
physical impairment alleged in the asbestos claim. 676

(2) A competent medical authority has determined with a 677  
reasonable degree of medical certainty that without the asbestos 678  
exposures the physical impairment of the exposed person would 679  
not have occurred. 680

(GG) "Substantial occupational exposure to asbestos" means 681  
employment for a cumulative period of at least five years in an 682  
industry and an occupation in which, for a substantial portion 683  
of a normal work year for that occupation, the exposed person 684  
did any of the following: 685

(1) Handled raw asbestos fibers; 686

(2) Fabricated asbestos-containing products so that the 687  
person was exposed to raw asbestos fibers in the fabrication 688  
process; 689

(3) Altered, repaired, or otherwise worked with an 690  
asbestos-containing product in a manner that exposed the person 691  
on a regular basis to asbestos fibers; 692

(4) Worked in close proximity to other workers engaged in 693  
any of the activities described in division (GG) (1), (2), or (3) 694  
of this section in a manner that exposed the person on a regular 695  
basis to asbestos fibers. 696

(HH) "Timed gas dilution" means a method for measuring 697  
total lung capacity in which the subject breathes into a 698  
spirometer containing a known concentration of an inert and 699  
insoluble gas for a specific time, and the concentration of the 700  
inert and insoluble gas in the lung is then compared to the 701  
concentration of that type of gas in the spirometer. 702

(II) "Tort action" means a civil action for damages for 703  
injury, death, or loss to person. "Tort action" includes a 704  
product liability claim that is subject to sections 2307.71 to 705  
2307.80 of the Revised Code. "Tort action" does not include a 706  
civil action for damages for a breach of contract or another 707  
agreement between persons. 708

(JJ) "Total lung capacity" means the volume of air 709  
contained in the lungs at the end of a maximal inspiration. 710

(KK) "Veterans' benefit program" means any program for 711  
benefits in connection with military service administered by the 712  
veterans' administration under ~~title~~ Title 38 of the United 713  
States Code. 714

(LL) "Workers' compensation law" means Chapters 4121., 715  
4123., 4127., ~~and~~ 4131., and 4133. of the Revised Code. 716

**Sec. 2307.97.** (A) As used in this section: 717

- (1) "Asbestos" means chrysotile, amosite, crocidolite, 718  
tremolite asbestos, anthophyllite asbestos, actinolite asbestos, 719  
and any of these minerals that have been chemically treated or 720  
altered. 721
- (2) "Asbestos claim" means any claim, wherever or whenever 722  
made, for damages, losses, indemnification, contribution, or 723  
other relief arising out of, based on, or in any way related to 724  
asbestos. "Asbestos claim" includes any of the following: 725
- (a) A claim made by or on behalf of any person who has 726  
been exposed to asbestos, or any representative, spouse, parent, 727  
child, or other relative of that person, for injury, including 728  
mental or emotional injury, death, or loss to person, risk of 729  
disease or other injury, costs of medical monitoring or 730  
surveillance, or any other effects on the person's health that 731  
are caused by the person's exposure to asbestos; 732
- (b) A claim for damage or loss to property that is caused 733  
by the installation, presence, or removal of asbestos. 734
- (3) "Corporation" means a corporation for profit, 735  
including the following: 736
- (a) A domestic corporation that is organized under the 737  
laws of this state; 738
- (b) A foreign corporation that is organized under laws 739  
other than the laws of this state and that has had a certificate 740  
of authority to transact business in this state or has done 741  
business in this state. 742
- (4) "Successor" means a corporation or a subsidiary of a 743  
corporation that assumes or incurs, or had assumed or incurred, 744  
successor asbestos-related liabilities or had successor 745  
asbestos-related liabilities imposed on it by court order. 746

(5) (a) "Successor asbestos-related liabilities" means any 747  
liabilities, whether known or unknown, asserted or unasserted, 748  
absolute or contingent, accrued or unaccrued, liquidated or 749  
unliquidated, or due or to become due, if the liabilities are 750  
related in any way to asbestos claims and either of the 751  
following applies: 752

(i) The liabilities are assumed or incurred by a successor 753  
as a result of or in connection with an asset purchase, stock 754  
purchase, merger, consolidation, or agreement providing for an 755  
asset purchase, stock purchase, merger, or consolidation, 756  
including a plan of merger. 757

(ii) The liabilities were imposed by court order on a 758  
successor. 759

(b) "Successor asbestos-related liabilities" includes any 760  
liabilities described in division (A) (5) (a) (i) of this section 761  
that, after the effective date of the asset purchase, stock 762  
purchase, merger, or consolidation, are paid, otherwise 763  
discharged, committed to be paid, or committed to be otherwise 764  
discharged by or on behalf of the successor, or by or on behalf 765  
of a transferor, in connection with any judgment, settlement, or 766  
other discharge of those liabilities in this state or another 767  
jurisdiction. 768

(6) "Transferor" means a corporation or its shareholders 769  
from which successor asbestos-related liabilities are or were 770  
assumed or incurred by a successor or were imposed by court 771  
order on a successor. 772

(B) The limitations set forth in division (C) of this 773  
section apply to a corporation that is either of the following: 774

(1) A successor that became a successor prior to January 775

1, 1972, if either of the following applies:	776
(a) In the case of a successor in a stock purchase or an asset purchase, the successor paid less than fifteen million dollars for the stock or assets of the transferor.	777 778 779
(b) In the case of a successor in a merger or consolidation, the fair market value of the total gross assets of the transferor, at the time of the merger or consolidation, excluding any insurance of the transferor, was less than fifty million dollars.	780 781 782 783 784
(2) Any successor to a prior successor if the prior successor met the requirements of division (B) (1) (a) or (b) of this section, whichever is applicable.	785 786 787
(C) (1) Except as otherwise provided in division (C) (2) of this section, the cumulative successor asbestos-related liabilities of a corporation shall be limited to either of the following:	788 789 790 791
(a) In the case of a corporation that is a successor in a stock purchase or an asset purchase, the fair market value of the acquired stock or assets of the transferor, as determined on the effective date of the stock or asset purchase;	792 793 794 795
(b) In the case of a corporation that is a successor in a merger or consolidation, the fair market value of the total gross assets of the transferor, as determined on the effective date of the merger or consolidation.	796 797 798 799
(2) (a) If a transferor had assumed or incurred successor asbestos-related liabilities in connection with a prior purchase of assets or stock involving a prior transferor, the fair market value of the assets or stock purchased from the prior transferor, determined as of the effective date of the prior	800 801 802 803 804

purchase of the assets or stock, shall be substituted for the 805  
limitation set forth in division (C) (1) (a) of this section for 806  
the purpose of determining the limitation of the liability of a 807  
corporation. 808

(b) If a transferor had assumed or incurred successor 809  
asbestos-related liabilities in connection with a merger or 810  
consolidation involving a prior transferor, the fair market 811  
value of the total gross assets of the prior transferor, 812  
determined as of the effective date of the prior merger or 813  
consolidation, shall be substituted for the limitation set forth 814  
in division (C) (1) (b) of this section for the purpose of 815  
determining the limitation of the liability of a corporation. 816

(3) A corporation described in division (C) (1) or (2) of 817  
this section shall have no responsibility for any successor 818  
asbestos-related liabilities in excess of the limitation of 819  
those liabilities as described in the applicable division. 820

(D) (1) A corporation may establish the fair market value 821  
of assets, stock, or total gross assets under division (C) of 822  
this section by means of any method that is reasonable under the 823  
circumstances, including by reference to their going-concern 824  
value, to the purchase price attributable to or paid for them in 825  
an arm's length transaction, or, in the absence of other readily 826  
available information from which fair market value can be 827  
determined, to their value recorded on a balance sheet. Assets 828  
and total gross assets shall include intangible assets. A 829  
showing by the successor of a reasonable determination of the 830  
fair market value of assets, stock, or total gross assets is 831  
prima-facie evidence of their fair market value. 832

(2) For purposes of establishing the fair market value of 833  
total gross assets under division (D) (1) of this section, the 834

total gross assets include the aggregate coverage under any 835  
applicable liability insurance that was issued to the transferor 836  
the assets of which are being valued for purposes of the 837  
limitations set forth in division (C) of this section, if the 838  
insurance has been collected or is collectable to cover the 839  
successor asbestos-related liabilities involved. Those successor 840  
asbestos-related liabilities do not include any compensation for 841  
any liabilities arising from the exposure of workers to asbestos 842  
solely during the course of their employment by the transferor. 843  
Any settlement of a dispute concerning the insurance coverage 844  
described in this division that is entered into by a transferor 845  
or successor with the insurer of the transferor before ~~the~~ 846  
~~effective date of this section~~ April 7, 2005, is determinative 847  
of the aggregate coverage of the liability insurance that is 848  
included in the determination of the transferor's total gross 849  
assets. 850

(3) After a successor has established a reasonable 851  
determination of the fair market value of assets, stock, or 852  
total gross assets under divisions (D) (1) and (2) of this 853  
section, a claimant that disputes that determination of the fair 854  
market value has the burden of establishing a different fair 855  
market value. 856

(4) (a) Subject to divisions (D) (4) (b), (c), and (d) of 857  
this section, the fair market value of assets, stock, or total 858  
gross assets at the time of the asset purchase, stock purchase, 859  
merger, or consolidation increases annually, at a rate equal to 860  
the sum of the following: 861

(i) The prime rate as listed in the first edition of the 862  
wall street journal published for each calendar year since the 863  
effective date of the asset purchase, stock purchase, merger, or 864

consolidation, or, if the prime rate is not published in that 865  
edition of the wall street journal, the prime rate as reasonably 866  
determined on the first business day of the year; 867

(ii) One per cent. 868

(b) The rate that is determined pursuant to division (D) 869  
(4) (a) of this section shall not be compounded. 870

(c) The adjustment of the fair market value of assets, 871  
stock, or total gross assets shall continue in the manner 872  
described in division (D) (4) (a) of this section until the 873  
adjusted fair market value is first exceeded by the cumulative 874  
amounts of successor asbestos-related liabilities that are paid 875  
or committed to be paid by or on behalf of a successor or prior 876  
transferor, or by or on behalf of a transferor, after the time 877  
of the asset purchase, stock purchase, merger, or consolidation 878  
for which the fair market value of assets, stock, or total gross 879  
assets is determined. 880

(d) No adjustment of the fair market value of total gross 881  
assets as provided in division (D) (4) (a) of this section shall 882  
be applied to any liability insurance that is otherwise included 883  
in total gross assets as provided in division (D) (2) of this 884  
section. 885

(E) (1) The limitations set forth in division (C) of this 886  
section shall apply to the following: 887

(a) All asbestos claims, including asbestos claims that 888  
are pending on ~~the effective date of this section~~ April 7, 2005, 889  
and all litigation involving asbestos claims, including 890  
litigation that is pending on ~~the effective date of this section~~ 891  
April 7, 2005; 892

(b) Successors of a corporation to which this section 893

applies. 894

(2) The limitations set forth in division (C) of this 895  
section do not apply to any of the following: 896

(a) Workers' compensation benefits that are paid by or on 897  
behalf of an employer to an employee pursuant to any provision 898  
of Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the 899  
Revised Code or comparable workers' compensation law of another 900  
jurisdiction; 901

(b) Any claim against a successor that does not constitute 902  
a claim for a successor asbestos-related liability; 903

(c) Any obligations arising under the "National Labor 904  
Relations Act," 49 Stat. 449, 29 U.S.C. 151 et seq., as amended, 905  
or under any collective bargaining agreement; 906

(d) Any contractual rights to indemnification. 907

(F) The courts in this state shall apply, to the fullest 908  
extent permissible under the Constitution of the United States, 909  
this state's substantive law, including the provisions of this 910  
section, to the issue of successor asbestos-related liabilities. 911

**Sec. 2317.02.** The following persons shall not testify in 912  
certain respects: 913

(A) (1) An attorney, concerning a communication made to the 914  
attorney by a client in that relation or concerning the 915  
attorney's advice to a client, except that the attorney may 916  
testify by express consent of the client or, if the client is 917  
deceased, by the express consent of the surviving spouse or the 918  
executor or administrator of the estate of the deceased client. 919  
However, if the client voluntarily reveals the substance of 920  
attorney-client communications in a nonprivileged context or is 921

deemed by section 2151.421 of the Revised Code to have waived 922  
any testimonial privilege under this division, the attorney may 923  
be compelled to testify on the same subject. 924

The testimonial privilege established under this division 925  
does not apply concerning either of the following: 926

(a) A communication between a client in a capital case, as 927  
defined in section 2901.02 of the Revised Code, and the client's 928  
attorney if the communication is relevant to a subsequent 929  
ineffective assistance of counsel claim by the client alleging 930  
that the attorney did not effectively represent the client in 931  
the case; 932

(b) A communication between a client who has since died 933  
and the deceased client's attorney if the communication is 934  
relevant to a dispute between parties who claim through that 935  
deceased client, regardless of whether the claims are by testate 936  
or intestate succession or by inter vivos transaction, and the 937  
dispute addresses the competency of the deceased client when the 938  
deceased client executed a document that is the basis of the 939  
dispute or whether the deceased client was a victim of fraud, 940  
undue influence, or duress when the deceased client executed a 941  
document that is the basis of the dispute. 942

(2) An attorney, concerning a communication made to the 943  
attorney by a client in that relationship or the attorney's 944  
advice to a client, except that if the client is an insurance 945  
company, the attorney may be compelled to testify, subject to an 946  
in camera inspection by a court, about communications made by 947  
the client to the attorney or by the attorney to the client that 948  
are related to the attorney's aiding or furthering an ongoing or 949  
future commission of bad faith by the client, if the party 950  
seeking disclosure of the communications has made a prima-facie 951

showing of bad faith, fraud, or criminal misconduct by the 952  
client. 953

(B) (1) A physician or a dentist concerning a communication 954  
made to the physician or dentist by a patient in that relation 955  
or the physician's or dentist's advice to a patient, except as 956  
otherwise provided in this division, division (B) (2), and 957  
division (B) (3) of this section, and except that, if the patient 958  
is deemed by section 2151.421 of the Revised Code to have waived 959  
any testimonial privilege under this division, the physician may 960  
be compelled to testify on the same subject. 961

The testimonial privilege established under this division 962  
does not apply, and a physician or dentist may testify or may be 963  
compelled to testify, in any of the following circumstances: 964

(a) In any civil action, in accordance with the discovery 965  
provisions of the Rules of Civil Procedure in connection with a 966  
civil action, or in connection with a claim under Chapter 4123.  
or 4133. of the Revised Code, under any of the following 967  
circumstances: 968  
969

(i) If the patient or the guardian or other legal 970  
representative of the patient gives express consent; 971

(ii) If the patient is deceased, the spouse of the patient 972  
or the executor or administrator of the patient's estate gives 973  
express consent; 974

(iii) If a medical claim, dental claim, chiropractic 975  
claim, or optometric claim, as defined in section 2305.113 of 976  
the Revised Code, an action for wrongful death, any other type 977  
of civil action, or a claim under Chapter 4123. or 4133. of the 978  
Revised Code is filed by the patient, the personal 979  
representative of the estate of the patient if deceased, or the 980

patient's guardian or other legal representative.	981
(b) In any civil action concerning court-ordered treatment	982
or services received by a patient, if the court-ordered	983
treatment or services were ordered as part of a case plan	984
journalized under section 2151.412 of the Revised Code or the	985
court-ordered treatment or services are necessary or relevant to	986
dependency, neglect, or abuse or temporary or permanent custody	987
proceedings under Chapter 2151. of the Revised Code.	988
(c) In any criminal action concerning any test or the	989
results of any test that determines the presence or	990
concentration of alcohol, a drug of abuse, a combination of	991
them, a controlled substance, or a metabolite of a controlled	992
substance in the patient's whole blood, blood serum or plasma,	993
breath, urine, or other bodily substance at any time relevant to	994
the criminal offense in question.	995
(d) In any criminal action against a physician or dentist.	996
In such an action, the testimonial privilege established under	997
this division does not prohibit the admission into evidence, in	998
accordance with the Rules of Evidence, of a patient's medical or	999
dental records or other communications between a patient and the	1000
physician or dentist that are related to the action and obtained	1001
by subpoena, search warrant, or other lawful means. A court that	1002
permits or compels a physician or dentist to testify in such an	1003
action or permits the introduction into evidence of patient	1004
records or other communications in such an action shall require	1005
that appropriate measures be taken to ensure that the	1006
confidentiality of any patient named or otherwise identified in	1007
the records is maintained. Measures to ensure confidentiality	1008
that may be taken by the court include sealing its records or	1009
deleting specific information from its records.	1010

(e) (i) If the communication was between a patient who has since died and the deceased patient's physician or dentist, the communication is relevant to a dispute between parties who claim through that deceased patient, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased patient when the deceased patient executed a document that is the basis of the dispute or whether the deceased patient was a victim of fraud, undue influence, or duress when the deceased patient executed a document that is the basis of the dispute.

(ii) If neither the spouse of a patient nor the executor or administrator of that patient's estate gives consent under division (B) (1) (a) (ii) of this section, testimony or the disclosure of the patient's medical records by a physician, dentist, or other health care provider under division (B) (1) (e) (i) of this section is a permitted use or disclosure of protected health information, as defined in 45 C.F.R. 160.103, and an authorization or opportunity to be heard shall not be required.

(iii) Division (B) (1) (e) (i) of this section does not require a mental health professional to disclose psychotherapy notes, as defined in 45 C.F.R. 164.501.

(iv) An interested person who objects to testimony or disclosure under division (B) (1) (e) (i) of this section may seek a protective order pursuant to Civil Rule 26.

(v) A person to whom protected health information is disclosed under division (B) (1) (e) (i) of this section shall not use or disclose the protected health information for any purpose other than the litigation or proceeding for which the

information was requested and shall return the protected health 1041  
information to the covered entity or destroy the protected 1042  
health information, including all copies made, at the conclusion 1043  
of the litigation or proceeding. 1044

(2) (a) If any law enforcement officer submits a written 1045  
statement to a health care provider that states that an official 1046  
criminal investigation has begun regarding a specified person or 1047  
that a criminal action or proceeding has been commenced against 1048  
a specified person, that requests the provider to supply to the 1049  
officer copies of any records the provider possesses that 1050  
pertain to any test or the results of any test administered to 1051  
the specified person to determine the presence or concentration 1052  
of alcohol, a drug of abuse, a combination of them, a controlled 1053  
substance, or a metabolite of a controlled substance in the 1054  
person's whole blood, blood serum or plasma, breath, or urine at 1055  
any time relevant to the criminal offense in question, and that 1056  
conforms to section 2317.022 of the Revised Code, the provider, 1057  
except to the extent specifically prohibited by any law of this 1058  
state or of the United States, shall supply to the officer a 1059  
copy of any of the requested records the provider possesses. If 1060  
the health care provider does not possess any of the requested 1061  
records, the provider shall give the officer a written statement 1062  
that indicates that the provider does not possess any of the 1063  
requested records. 1064

(b) If a health care provider possesses any records of the 1065  
type described in division (B) (2) (a) of this section regarding 1066  
the person in question at any time relevant to the criminal 1067  
offense in question, in lieu of personally testifying as to the 1068  
results of the test in question, the custodian of the records 1069  
may submit a certified copy of the records, and, upon its 1070  
submission, the certified copy is qualified as authentic 1071

evidence and may be admitted as evidence in accordance with the 1072  
Rules of Evidence. Division (A) of section 2317.422 of the 1073  
Revised Code does not apply to any certified copy of records 1074  
submitted in accordance with this division. Nothing in this 1075  
division shall be construed to limit the right of any party to 1076  
call as a witness the person who administered the test to which 1077  
the records pertain, the person under whose supervision the test 1078  
was administered, the custodian of the records, the person who 1079  
made the records, or the person under whose supervision the 1080  
records were made. 1081

(3) (a) If the testimonial privilege described in division 1082  
(B) (1) of this section does not apply as provided in division 1083  
(B) (1) (a) (iii) of this section, a physician or dentist may be 1084  
compelled to testify or to submit to discovery under the Rules 1085  
of Civil Procedure only as to a communication made to the 1086  
physician or dentist by the patient in question in that 1087  
relation, or the physician's or dentist's advice to the patient 1088  
in question, that related causally or historically to physical 1089  
or mental injuries that are relevant to issues in the medical 1090  
claim, dental claim, chiropractic claim, or optometric claim, 1091  
action for wrongful death, other civil action, or claim under 1092  
Chapter 4123. of the Revised Code. 1093

(b) If the testimonial privilege described in division (B) 1094  
(1) of this section does not apply to a physician or dentist as 1095  
provided in division (B) (1) (c) of this section, the physician or 1096  
dentist, in lieu of personally testifying as to the results of 1097  
the test in question, may submit a certified copy of those 1098  
results, and, upon its submission, the certified copy is 1099  
qualified as authentic evidence and may be admitted as evidence 1100  
in accordance with the Rules of Evidence. Division (A) of 1101  
section 2317.422 of the Revised Code does not apply to any 1102

certified copy of results submitted in accordance with this 1103  
division. Nothing in this division shall be construed to limit 1104  
the right of any party to call as a witness the person who 1105  
administered the test in question, the person under whose 1106  
supervision the test was administered, the custodian of the 1107  
results of the test, the person who compiled the results, or the 1108  
person under whose supervision the results were compiled. 1109

(4) The testimonial privilege described in division (B) (1) 1110  
of this section is not waived when a communication is made by a 1111  
physician to a pharmacist or when there is communication between 1112  
a patient and a pharmacist in furtherance of the physician- 1113  
patient relation. 1114

(5) (a) As used in divisions (B) (1) to (4) of this section, 1115  
"communication" means acquiring, recording, or transmitting any 1116  
information, in any manner, concerning any facts, opinions, or 1117  
statements necessary to enable a physician or dentist to 1118  
diagnose, treat, prescribe, or act for a patient. A 1119  
"communication" may include, but is not limited to, any medical 1120  
or dental, office, or hospital communication such as a record, 1121  
chart, letter, memorandum, laboratory test and results, x-ray, 1122  
photograph, financial statement, diagnosis, or prognosis. 1123

(b) As used in division (B) (2) of this section, "health 1124  
care provider" means a hospital, ambulatory care facility, long- 1125  
term care facility, pharmacy, emergency facility, or health care 1126  
practitioner. 1127

(c) As used in division (B) (5) (b) of this section: 1128

(i) "Ambulatory care facility" means a facility that 1129  
provides medical, diagnostic, or surgical treatment to patients 1130  
who do not require hospitalization, including a dialysis center, 1131

ambulatory surgical facility, cardiac catheterization facility, 1132  
diagnostic imaging center, extracorporeal shock wave lithotripsy 1133  
center, home health agency, inpatient hospice, birthing center, 1134  
radiation therapy center, emergency facility, and an urgent care 1135  
center. "Ambulatory health care facility" does not include the 1136  
private office of a physician or dentist, whether the office is 1137  
for an individual or group practice. 1138

(ii) "Emergency facility" means a hospital emergency 1139  
department or any other facility that provides emergency medical 1140  
services. 1141

(iii) "Health care practitioner" has the same meaning as 1142  
in section 4769.01 of the Revised Code. 1143

(iv) "Hospital" has the same meaning as in section 3727.01 1144  
of the Revised Code. 1145

(v) "Long-term care facility" means a nursing home, 1146  
residential care facility, or home for the aging, as those terms 1147  
are defined in section 3721.01 of the Revised Code; a 1148  
residential facility licensed under section 5119.34 of the 1149  
Revised Code that provides accommodations, supervision, and 1150  
personal care services for three to sixteen unrelated adults; a 1151  
nursing facility, as defined in section 5165.01 of the Revised 1152  
Code; a skilled nursing facility, as defined in section 5165.01 1153  
of the Revised Code; and an intermediate care facility for 1154  
individuals with intellectual disabilities, as defined in 1155  
section 5124.01 of the Revised Code. 1156

(vi) "Pharmacy" has the same meaning as in section 4729.01 1157  
of the Revised Code. 1158

(d) As used in divisions (B) (1) and (2) of this section, 1159  
"drug of abuse" has the same meaning as in section 4506.01 of 1160

the Revised Code. 1161

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 1162  
section apply to doctors of medicine, doctors of osteopathic 1163  
medicine, doctors of podiatry, and dentists. 1164

(7) Nothing in divisions (B) (1) to (6) of this section 1165  
affects, or shall be construed as affecting, the immunity from 1166  
civil liability conferred by section 307.628 of the Revised Code 1167  
or the immunity from civil liability conferred by section 1168  
2305.33 of the Revised Code upon physicians who report an 1169  
employee's use of a drug of abuse, or a condition of an employee 1170  
other than one involving the use of a drug of abuse, to the 1171  
employer of the employee in accordance with division (B) of that 1172  
section. As used in division (B) (7) of this section, "employee," 1173  
"employer," and "physician" have the same meanings as in section 1174  
2305.33 of the Revised Code. 1175

(C) (1) A cleric, when the cleric remains accountable to 1176  
the authority of that cleric's church, denomination, or sect, 1177  
concerning a confession made, or any information confidentially 1178  
communicated, to the cleric for a religious counseling purpose 1179  
in the cleric's professional character. The cleric may testify 1180  
by express consent of the person making the communication, 1181  
except when the disclosure of the information is in violation of 1182  
a sacred trust and except that, if the person voluntarily 1183  
testifies or is deemed by division (A) (4) (c) of section 2151.421 1184  
of the Revised Code to have waived any testimonial privilege 1185  
under this division, the cleric may be compelled to testify on 1186  
the same subject except when disclosure of the information is in 1187  
violation of a sacred trust. 1188

(2) As used in division (C) of this section: 1189

(a) "Cleric" means a member of the clergy, rabbi, priest, 1190  
Christian Science practitioner, or regularly ordained, 1191  
accredited, or licensed minister of an established and legally 1192  
cognizable church, denomination, or sect. 1193

(b) "Sacred trust" means a confession or confidential 1194  
communication made to a cleric in the cleric's ecclesiastical 1195  
capacity in the course of discipline enjoined by the church to 1196  
which the cleric belongs, including, but not limited to, the 1197  
Catholic Church, if both of the following apply: 1198

(i) The confession or confidential communication was made 1199  
directly to the cleric. 1200

(ii) The confession or confidential communication was made 1201  
in the manner and context that places the cleric specifically 1202  
and strictly under a level of confidentiality that is considered 1203  
inviolable by canon law or church doctrine. 1204

(D) Husband or wife, concerning any communication made by 1205  
one to the other, or an act done by either in the presence of 1206  
the other, during coverture, unless the communication was made, 1207  
or act done, in the known presence or hearing of a third person 1208  
competent to be a witness; and such rule is the same if the 1209  
marital relation has ceased to exist; 1210

(E) A person who assigns a claim or interest, concerning 1211  
any matter in respect to which the person would not, if a party, 1212  
be permitted to testify; 1213

(F) A person who, if a party, would be restricted under 1214  
section 2317.03 of the Revised Code, when the property or thing 1215  
is sold or transferred by an executor, administrator, guardian, 1216  
trustee, heir, devisee, or legatee, shall be restricted in the 1217  
same manner in any action or proceeding concerning the property 1218

or thing. 1219

(G) (1) A school guidance counselor who holds a valid 1220  
educator license from the state board of education as provided 1221  
for in section 3319.22 of the Revised Code, a person licensed 1222  
under Chapter 4757. of the Revised Code as a licensed 1223  
professional clinical counselor, licensed professional 1224  
counselor, social worker, independent social worker, marriage 1225  
and family therapist or independent marriage and family 1226  
therapist, or registered under Chapter 4757. of the Revised Code 1227  
as a social work assistant concerning a confidential 1228  
communication received from a client in that relation or the 1229  
person's advice to a client unless any of the following applies: 1230

(a) The communication or advice indicates clear and 1231  
present danger to the client or other persons. For the purposes 1232  
of this division, cases in which there are indications of 1233  
present or past child abuse or neglect of the client constitute 1234  
a clear and present danger. 1235

(b) The client gives express consent to the testimony. 1236

(c) If the client is deceased, the surviving spouse or the 1237  
executor or administrator of the estate of the deceased client 1238  
gives express consent. 1239

(d) The client voluntarily testifies, in which case the 1240  
school guidance counselor or person licensed or registered under 1241  
Chapter 4757. of the Revised Code may be compelled to testify on 1242  
the same subject. 1243

(e) The court in camera determines that the information 1244  
communicated by the client is not germane to the counselor- 1245  
client, marriage and family therapist-client, or social worker- 1246  
client relationship. 1247

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(2) Nothing in division (G) (1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent who takes part in mediation in accordance with the order and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of parenting time rights in relation to their children;

(I) A communications assistant, acting within the scope of 1278  
the communication assistant's authority, when providing 1279  
telecommunications relay service pursuant to section 4931.06 of 1280  
the Revised Code or Title II of the "Communications Act of 1281  
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 1282  
communication made through a telecommunications relay service. 1283  
Nothing in this section shall limit the obligation of a 1284  
communications assistant to divulge information or testify when 1285  
mandated by federal law or regulation or pursuant to subpoena in 1286  
a criminal proceeding. 1287

Nothing in this section shall limit any immunity or 1288  
privilege granted under federal law or regulation. 1289

(J) (1) A chiropractor in a civil proceeding concerning a 1290  
communication made to the chiropractor by a patient in that 1291  
relation or the chiropractor's advice to a patient, except as 1292  
otherwise provided in this division. The testimonial privilege 1293  
established under this division does not apply, and a 1294  
chiropractor may testify or may be compelled to testify, in any 1295  
civil action, in accordance with the discovery provisions of the 1296  
Rules of Civil Procedure in connection with a civil action, or 1297  
in connection with a claim under Chapter 4123. of the Revised 1298  
Code, under any of the following circumstances: 1299

(a) If the patient or the guardian or other legal 1300  
representative of the patient gives express consent. 1301

(b) If the patient is deceased, the spouse of the patient 1302  
or the executor or administrator of the patient's estate gives 1303  
express consent. 1304

(c) If a medical claim, dental claim, chiropractic claim, 1305  
or optometric claim, as defined in section 2305.113 of the 1306

Revised Code, an action for wrongful death, any other type of 1307  
civil action, or a claim under Chapter 4123. or 4133. of the 1308  
Revised Code is filed by the patient, the personal 1309  
representative of the estate of the patient if deceased, or the 1310  
patient's guardian or other legal representative. 1311

(2) If the testimonial privilege described in division (J) 1312  
(1) of this section does not apply as provided in division (J) 1313  
(1)(c) of this section, a chiropractor may be compelled to 1314  
testify or to submit to discovery under the Rules of Civil 1315  
Procedure only as to a communication made to the chiropractor by 1316  
the patient in question in that relation, or the chiropractor's 1317  
advice to the patient in question, that related causally or 1318  
historically to physical or mental injuries that are relevant to 1319  
issues in the medical claim, dental claim, chiropractic claim, 1320  
or optometric claim, action for wrongful death, other civil 1321  
action, or claim under Chapter 4123. of the Revised Code. 1322

(3) The testimonial privilege established under this 1323  
division does not apply, and a chiropractor may testify or be 1324  
compelled to testify, in any criminal action or administrative 1325  
proceeding. 1326

(4) As used in this division, "communication" means 1327  
acquiring, recording, or transmitting any information, in any 1328  
manner, concerning any facts, opinions, or statements necessary 1329  
to enable a chiropractor to diagnose, treat, or act for a 1330  
patient. A communication may include, but is not limited to, any 1331  
chiropractic, office, or hospital communication such as a 1332  
record, chart, letter, memorandum, laboratory test and results, 1333  
x-ray, photograph, financial statement, diagnosis, or prognosis. 1334

(K)(1) Except as provided under division (K)(2) of this 1335  
section, a critical incident stress management team member 1336

concerning a communication received from an individual who 1337  
receives crisis response services from the team member, or the 1338  
team member's advice to the individual, during a debriefing 1339  
session. 1340

(2) The testimonial privilege established under division 1341  
(K) (1) of this section does not apply if any of the following 1342  
are true: 1343

(a) The communication or advice indicates clear and 1344  
present danger to the individual who receives crisis response 1345  
services or to other persons. For purposes of this division, 1346  
cases in which there are indications of present or past child 1347  
abuse or neglect of the individual constitute a clear and 1348  
present danger. 1349

(b) The individual who received crisis response services 1350  
gives express consent to the testimony. 1351

(c) If the individual who received crisis response 1352  
services is deceased, the surviving spouse or the executor or 1353  
administrator of the estate of the deceased individual gives 1354  
express consent. 1355

(d) The individual who received crisis response services 1356  
voluntarily testifies, in which case the team member may be 1357  
compelled to testify on the same subject. 1358

(e) The court in camera determines that the information 1359  
communicated by the individual who received crisis response 1360  
services is not germane to the relationship between the 1361  
individual and the team member. 1362

(f) The communication or advice pertains or is related to 1363  
any criminal act. 1364

- (3) As used in division (K) of this section: 1365
- (a) "Crisis response services" means consultation, risk 1366  
assessment, referral, and on-site crisis intervention services 1367  
provided by a critical incident stress management team to 1368  
individuals affected by crisis or disaster. 1369
- (b) "Critical incident stress management team member" or 1370  
"team member" means an individual specially trained to provide 1371  
crisis response services as a member of an organized community 1372  
or local crisis response team that holds membership in the Ohio 1373  
critical incident stress management network. 1374
- (c) "Debriefing session" means a session at which crisis 1375  
response services are rendered by a critical incident stress 1376  
management team member during or after a crisis or disaster. 1377
- (L) (1) Subject to division (L) (2) of this section and 1378  
except as provided in division (L) (3) of this section, an 1379  
employee assistance professional, concerning a communication 1380  
made to the employee assistance professional by a client in the 1381  
employee assistance professional's official capacity as an 1382  
employee assistance professional. 1383
- (2) Division (L) (1) of this section applies to an employee 1384  
assistance professional who meets either or both of the 1385  
following requirements: 1386
- (a) Is certified by the employee assistance certification 1387  
commission to engage in the employee assistance profession; 1388
- (b) Has education, training, and experience in all of the 1389  
following: 1390
- (i) Providing workplace-based services designed to address 1391  
employer and employee productivity issues; 1392

(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;	1393 1394 1395 1396
(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;	1397 1398 1399 1400
(iv) Selecting and evaluating available community resources;	1401 1402
(v) Making appropriate referrals;	1403
(vi) Local and national employee assistance agreements;	1404
(vii) Client confidentiality.	1405
(3) Division (L)(1) of this section does not apply to any of the following:	1406 1407
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;	1408 1409 1410 1411 1412
(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;	1413 1414 1415
(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;	1416 1417 1418 1419

(d) A civil proceeding to determine an individual's mental 1420  
competency or a criminal action in which a plea of not guilty by 1421  
reason of insanity is entered; 1422

(e) A civil or criminal malpractice action brought against 1423  
the employee assistance professional; 1424

(f) When the employee assistance professional has the 1425  
express consent of the client or, if the client is deceased or 1426  
disabled, the client's legal representative; 1427

(g) When the testimonial privilege otherwise provided by 1428  
division (L)(1) of this section is abrogated under law. 1429

**Sec. 2913.48.** (A) No person, with purpose to defraud or 1430  
knowing that the person is facilitating a fraud, shall do any of 1431  
the following: 1432

(1) Receive workers' compensation benefits to which the 1433  
person is not entitled; 1434

(2) Make or present or cause to be made or presented a 1435  
false or misleading statement with the purpose to secure payment 1436  
for goods or services rendered under Chapter 4121., 4123., 1437  
4127., ~~or 4131.,~~ or 4133. of the Revised Code or to secure 1438  
workers' compensation benefits; 1439

(3) Alter, falsify, destroy, conceal, or remove any record 1440  
or document that is necessary to fully establish the validity of 1441  
any claim filed with, or necessary to establish the nature and 1442  
validity of all goods and services for which reimbursement or 1443  
payment was received or is requested from, the bureau of 1444  
workers' compensation, or a self-insuring employer under Chapter 1445  
4121., 4123., 4127., ~~or 4131.,~~ or 4133. of the Revised Code; 1446

(4) Enter into an agreement or conspiracy to defraud the 1447

bureau or a self-insuring employer by making or presenting or 1448  
causing to be made or presented a false claim for workers' 1449  
compensation benefits; 1450

(5) Make or present or cause to be made or presented a 1451  
false statement concerning manual codes, classification of 1452  
employees, payroll, paid compensation, or number of personnel, 1453  
when information of that nature is necessary to determine the 1454  
actual workers' compensation premium or assessment owed to the 1455  
bureau by an employer; 1456

(6) Alter, forge, or create a workers' compensation 1457  
certificate to falsely show current or correct workers' 1458  
compensation coverage; 1459

(7) Fail to secure or maintain workers' compensation 1460  
coverage as required by Chapter 4123. of the Revised Code with 1461  
the intent to defraud the bureau of workers' compensation. 1462

(B) Whoever violates this section is guilty of workers' 1463  
compensation fraud. Except as otherwise provided in this 1464  
division, a violation of this section is a misdemeanor of the 1465  
first degree. If the value of premiums and assessments unpaid 1466  
pursuant to actions described in division (A) (5), (6), or (7) of 1467  
this section, or of goods, services, property, or money stolen 1468  
is one thousand dollars or more and is less than seven thousand 1469  
five hundred dollars, a violation of this section is a felony of 1470  
the fifth degree. If the value of premiums and assessments 1471  
unpaid pursuant to actions described in division (A) (5), (6), or 1472  
(7) of this section, or of goods, services, property, or money 1473  
stolen is seven thousand five hundred dollars or more and is 1474  
less than one hundred fifty thousand dollars, a violation of 1475  
this section is a felony of the fourth degree. If the value of 1476  
premiums and assessments unpaid pursuant to actions described in 1477

division (A) (5), (6), or (7) of this section, or of goods, 1478  
services, property, or money stolen is one hundred fifty 1479  
thousand dollars or more, a violation of this section is a 1480  
felony of the third degree. 1481

(C) Upon application of the governmental body that 1482  
conducted the investigation and prosecution of a violation of 1483  
this section, the court shall order the person who is convicted 1484  
of the violation to pay the governmental body its costs of 1485  
investigating and prosecuting the case. These costs are in 1486  
addition to any other costs or penalty provided in the Revised 1487  
Code or any other section of law. 1488

(D) The remedies and penalties provided in this section 1489  
are not exclusive remedies and penalties and do not preclude the 1490  
use of any other criminal or civil remedy or penalty for any act 1491  
that is in violation of this section. 1492

(E) As used in this section: 1493

(1) "False" means wholly or partially untrue or deceptive. 1494

(2) "Goods" includes, but is not limited to, medical 1495  
supplies, appliances, rehabilitative equipment, and any other 1496  
apparatus or furnishing provided or used in the care, treatment, 1497  
or rehabilitation of a claimant for workers' compensation 1498  
benefits. 1499

(3) "Services" includes, but is not limited to, any 1500  
service provided by any health care provider to a claimant for 1501  
workers' compensation benefits and any and all services provided 1502  
by the bureau as part of workers' compensation insurance 1503  
coverage. 1504

(4) "Claim" means any attempt to cause the bureau, an 1505  
independent third party with whom the administrator or an 1506

employer contracts under section 4121.44 of the Revised Code, or 1507  
a self-insuring employer to make payment or reimbursement for 1508  
workers' compensation benefits. 1509

(5) "Employment" means participating in any trade, 1510  
occupation, business, service, or profession for substantial 1511  
gainful remuneration. 1512

(6) "Employer," "employee," and "self-insuring employer" 1513  
have the same meanings as in section 4123.01 of the Revised 1514  
Code. 1515

(7) "Remuneration" includes, but is not limited to, wages, 1516  
commissions, rebates, and any other reward or consideration. 1517

(8) "Statement" includes, but is not limited to, any oral, 1518  
written, electronic, electronic impulse, or magnetic 1519  
communication notice, letter, memorandum, receipt for payment, 1520  
invoice, account, financial statement, or bill for services; a 1521  
diagnosis, prognosis, prescription, hospital, medical, or dental 1522  
chart or other record; and a computer generated document. 1523

(9) "Records" means any medical, professional, financial, 1524  
or business record relating to the treatment or care of any 1525  
person, to goods or services provided to any person, or to rates 1526  
paid for goods or services provided to any person, or any record 1527  
that the administrator of workers' compensation requires 1528  
pursuant to rule. 1529

(10) "Workers' compensation benefits" means any 1530  
compensation or benefits payable under Chapter 4121., 4123., 1531  
4127., ~~or 4131.~~, or 4133. of the Revised Code. 1532

**Sec. 3121.899.** (A) The new hire reports filed with the 1533  
department of job and family services pursuant to section 1534  
3121.891 of the Revised Code shall not be considered public 1535

records for purposes of section 149.43 of the Revised Code. The 1536  
director of job and family services may adopt rules under 1537  
section 3125.51 of the Revised Code governing access to, and use 1538  
and disclosure of, information contained in the new hire 1539  
reports. 1540

(B) The department of job and family services may disclose 1541  
information in the new hire reports to all of the following: 1542

(1) Any child support enforcement agency and any agent 1543  
under contract with a child support enforcement agency for the 1544  
purposes listed in division (A) of section 3121.898 of the 1545  
Revised Code; 1546

(2) Any county department of job and family services and 1547  
any agent under contract with a county department of job and 1548  
family services for the purposes listed in division (B) of 1549  
section 3121.898 of the Revised Code; 1550

(3) Employees of the department of job and family services 1551  
and any agent under contract with the department of job and 1552  
family services for the purposes listed in divisions (B) and (C) 1553  
of section 3121.898 of the Revised Code; 1554

(4) The administrator of workers' compensation for the 1555  
purpose of administering the workers' compensation system 1556  
pursuant to Chapters 4121., 4123., 4127., ~~and 4131.~~, and 4133. 1557  
of the Revised Code; 1558

(5) To state agencies operating employment security and 1559  
workers compensation programs for the purpose of administering 1560  
those programs, pursuant to division (D) of section 3121.898 of 1561  
the Revised Code. 1562

**Sec. 3701.741.** (A) Each health care provider and medical 1563  
records company shall provide copies of medical records in 1564

accordance with this section. 1565

(B) Except as provided in divisions (C) and (E) of this 1566  
section, a health care provider or medical records company that 1567  
receives a request for a copy of a patient's medical record 1568  
shall charge not more than the amounts set forth in this 1569  
section. 1570

(1) If the request is made by the patient or the patient's 1571  
personal representative, total costs for copies and all services 1572  
related to those copies shall not exceed the sum of the 1573  
following: 1574

(a) Except as provided in division (B) (1) (b) of this 1575  
section, with respect to data recorded on paper or 1576  
electronically, the following amounts adjusted in accordance 1577  
with section 3701.742 of the Revised Code: 1578

(i) Two dollars and seventy-four cents per page for the 1579  
first ten pages; 1580

(ii) Fifty-seven cents per page for pages eleven through 1581  
fifty; 1582

(iii) Twenty-three cents per page for pages fifty-one and 1583  
higher; 1584

(b) With respect to data resulting from an x-ray, magnetic 1585  
resonance imaging (MRI), or computed axial tomography (CAT) scan 1586  
and recorded on paper or film, one dollar and eighty-seven cents 1587  
per page; 1588

(c) The actual cost of any related postage incurred by the 1589  
health care provider or medical records company. 1590

(2) If the request is made other than by the patient or 1591  
the patient's personal representative, total costs for copies 1592

and all services related to those copies shall not exceed the 1593  
sum of the following: 1594

(a) An initial fee of sixteen dollars and eighty-four 1595  
cents adjusted in accordance with section 3701.742 of the 1596  
Revised Code, which shall compensate for the records search; 1597

(b) Except as provided in division (B) (2) (c) of this 1598  
section, with respect to data recorded on paper or 1599  
electronically, the following amounts adjusted in accordance 1600  
with section 3701.742 of the Revised Code: 1601

(i) One dollar and eleven cents per page for the first ten 1602  
pages; 1603

(ii) Fifty-seven cents per page for pages eleven through 1604  
fifty; 1605

(iii) Twenty-three cents per page for pages fifty-one and 1606  
higher. 1607

(c) With respect to data resulting from an x-ray, magnetic 1608  
resonance imaging (MRI), or computed axial tomography (CAT) scan 1609  
and recorded on paper or film, one dollar and eighty-seven cents 1610  
per page; 1611

(d) The actual cost of any related postage incurred by the 1612  
health care provider or medical records company. 1613

(C) (1) On request, a health care provider or medical 1614  
records company shall provide one copy of the patient's medical 1615  
record and one copy of any records regarding treatment performed 1616  
subsequent to the original request, not including copies of 1617  
records already provided, without charge to the following: 1618

(a) The bureau of workers' compensation, in accordance 1619  
with Chapters 4121. ~~and~~ , 4123., and 4133. of the Revised Code 1620

and the rules adopted under those chapters; 1621

(b) The industrial commission, in accordance with Chapters 1622  
4121. ~~and~~, 4123., and 4133. of the Revised Code and the rules 1623  
adopted under those chapters; 1624

(c) The occupational pneumoconiosis board, in accordance 1625  
with Chapter 4133. of the Revised Code; 1626

(d) The department of medicaid or a county department of 1627  
job and family services, in accordance with Chapters 5160., 1628  
5161., 5162., 5163., 5164., 5165., 5166., and 5167. of the 1629  
Revised Code and the rules adopted under those chapters; 1630

~~(d)~~ (e) The attorney general, in accordance with sections 1631  
2743.51 to 2743.72 of the Revised Code and any rules that may be 1632  
adopted under those sections; 1633

~~(e)~~ (f) A patient, patient's personal representative, or 1634  
authorized person if the medical record is necessary to support 1635  
a claim under Title II or Title XVI of the "Social Security 1636  
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended, 1637  
and the request is accompanied by documentation that a claim has 1638  
been filed. 1639

(2) Nothing in division (C) (1) of this section requires a 1640  
health care provider or medical records company to provide a 1641  
copy without charge to any person or entity not listed in 1642  
division (C) (1) of this section. 1643

(D) Division (C) of this section shall not be construed to 1644  
supersede any rule of the bureau of workers' compensation, the 1645  
industrial commission, or the department of medicaid. 1646

(E) A health care provider or medical records company may 1647  
enter into a contract with either of the following for the 1648

copying of medical records at a fee other than as provided in 1649  
division (B) of this section: 1650

(1) A patient, a patient's personal representative, or an 1651  
authorized person; 1652

(2) An insurer authorized under Title XXXIX of the Revised 1653  
Code to do the business of sickness and accident insurance in 1654  
this state or health insuring corporations holding a certificate 1655  
of authority under Chapter 1751. of the Revised Code. 1656

(F) This section does not apply to medical records the 1657  
copying of which is covered by section 173.20 of the Revised 1658  
Code or by 42 C.F.R. 483.10. 1659

**Sec. 3963.10.** This chapter does not apply with respect to 1660  
any of the following: 1661

(A) A contract or provider agreement between a provider 1662  
and the state or federal government, a state agency, or federal 1663  
agency for health care services provided through a program for 1664  
medicaid or medicare; 1665

(B) A contract for payments made to providers for 1666  
rendering health care services to claimants pursuant to claims 1667  
made under Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of 1668  
the Revised Code; 1669

(C) An exclusive contract between a health insuring 1670  
corporation and a single group of providers in a specific 1671  
geographic area to provide or arrange for the provision of 1672  
health care services. 1673

**Sec. 4115.03.** As used in sections 4115.03 to 4115.16 of 1674  
the Revised Code: 1675

(A) "Public authority" means any officer, board, or 1676

commission of the state, or any political subdivision of the 1677  
state, authorized to enter into a contract for the construction 1678  
of a public improvement or to construct the same by the direct 1679  
employment of labor, or any institution supported in whole or in 1680  
part by public funds and said sections apply to expenditures of 1681  
such institutions made in whole or in part from public funds. 1682

(B) "Construction" means any of the following: 1683

(1) Except as provided in division (B)(3) of this section, 1684  
any new construction of a public improvement, the total overall 1685  
project cost of which is fairly estimated to be more than the 1686  
following amounts and performed by other than full-time 1687  
employees who have completed their probationary periods in the 1688  
classified service of a public authority: 1689

(a) One hundred twenty-five thousand dollars, beginning on 1690  
September 29, 2011, and continuing for one year thereafter; 1691

(b) Two hundred thousand dollars, beginning when the time 1692  
period described in division (B)(1)(a) of this section expires 1693  
and continuing for one year thereafter; 1694

(c) Two hundred fifty thousand dollars, beginning when the 1695  
time period described in division (B)(1)(b) of this section 1696  
expires. 1697

(2) Except as provided in division (B)(4) of this section, 1698  
any reconstruction, enlargement, alteration, repair, remodeling, 1699  
renovation, or painting of a public improvement, the total 1700  
overall project cost of which is fairly estimated to be more 1701  
than the following amounts and performed by other than full-time 1702  
employees who have completed their probationary period in the 1703  
classified civil service of a public authority: 1704

(a) Thirty-eight thousand dollars, beginning on September 1705

29, 2011, and continuing for one year thereafter; 1706

(b) Sixty thousand dollars, beginning when the time period 1707  
described in division (B) (2) (a) of this section expires and 1708  
continuing for one year thereafter; 1709

(c) Seventy-five thousand dollars, beginning when the time 1710  
period described in division (B) (2) (b) of this section expires. 1711

(3) Any new construction of a public improvement that 1712  
involves roads, streets, alleys, sewers, ditches, and other 1713  
works connected to road or bridge construction, the total 1714  
overall project cost of which is fairly estimated to be more 1715  
than seventy-eight thousand two hundred fifty-eight dollars 1716  
adjusted biennially by the director of commerce pursuant to 1717  
section 4115.034 of the Revised Code and performed by other than 1718  
full-time employees who have completed their probationary 1719  
periods in the classified service of a public authority; 1720

(4) Any reconstruction, enlargement, alteration, repair, 1721  
remodeling, renovation, or painting of a public improvement that 1722  
involves roads, streets, alleys, sewers, ditches, and other 1723  
works connected to road or bridge construction, the total 1724  
overall project cost of which is fairly estimated to be more 1725  
than twenty-three thousand four hundred forty-seven dollars 1726  
adjusted biennially by the director of commerce pursuant to 1727  
section 4115.034 of the Revised Code and performed by other than 1728  
full-time employees who have completed their probationary 1729  
periods in the classified service of a public authority. 1730

(C) "Public improvement" includes all buildings, roads, 1731  
streets, alleys, sewers, ditches, sewage disposal plants, water 1732  
works, and all other structures or works constructed by a public 1733  
authority of the state or any political subdivision thereof or 1734

by any person who, pursuant to a contract with a public 1735  
authority, constructs any structure for a public authority of 1736  
the state or a political subdivision thereof. When a public 1737  
authority rents or leases a newly constructed structure within 1738  
six months after completion of such construction, all work 1739  
performed on such structure to suit it for occupancy by a public 1740  
authority is a "public improvement." "Public improvement" does 1741  
not include an improvement authorized by section 940.06 of the 1742  
Revised Code that is constructed pursuant to a contract with a 1743  
soil and water conservation district, as defined in section 1744  
940.01 of the Revised Code, or performed as a result of a 1745  
petition filed pursuant to Chapter 6131., 6133., or 6135. of the 1746  
Revised Code, wherein no less than seventy-five per cent of the 1747  
project is located on private land and no less than seventy-five 1748  
per cent of the cost of the improvement is paid for by private 1749  
property owners pursuant to Chapter 940., 6131., 6133., or 6135. 1750  
of the Revised Code. 1751

(D) "Locality" means the county wherein the physical work 1752  
upon any public improvement is being performed. 1753

(E) "Prevailing wages" means the sum of the following: 1754

(1) The basic hourly rate of pay; 1755

(2) The rate of contribution irrevocably made by a 1756  
contractor or subcontractor to a trustee or to a third person 1757  
pursuant to a fund, plan, or program; 1758

(3) The rate of costs to the contractor or subcontractor 1759  
which may be reasonably anticipated in providing the following 1760  
fringe benefits to laborers and mechanics pursuant to an 1761  
enforceable commitment to carry out a financially responsible 1762  
plan or program which was communicated in writing to the 1763

laborers and mechanics affected:	1764
(a) Medical or hospital care or insurance to provide such;	1765
(b) Pensions on retirement or death or insurance to provide such;	1766 1767
(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. <del>and</del> , <u>4123.</u> , <u>and 4133.</u> of the Revised Code;	1768 1769 1770 1771
(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;	1772 1773
(e) Life insurance;	1774
(f) Disability and sickness insurance;	1775
(g) Accident insurance;	1776
(h) Vacation and holiday pay;	1777
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;	1778 1779 1780
(j) Other bona fide fringe benefits.	1781
None of the benefits enumerated in division (E) (3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.	1782 1783 1784 1785
(F) "Interested party," with respect to a particular contract for construction of a public improvement, means:	1786 1787
(1) Any person who submits a bid for the purpose of securing the award of the contract;	1788 1789

(2) Any person acting as a subcontractor of a person	1790
described in division (F) (1) of this section;	1791
(3) Any bona fide organization of labor which has as	1792
members or is authorized to represent employees of a person	1793
described in division (F) (1) or (2) of this section and which	1794
exists, in whole or in part, for the purpose of negotiating with	1795
employers concerning the wages, hours, or terms and conditions	1796
of employment of employees;	1797
(4) Any association having as members any of the persons	1798
described in division (F) (1) or (2) of this section.	1799
(G) Except as used in division (A) of this section,	1800
"officer" means an individual who has an ownership interest or	1801
holds an office of trust, command, or authority in a	1802
corporation, business trust, partnership, or association.	1803
<b>Sec. 4121.03.</b> (A) The governor shall appoint from among	1804
the members of the industrial commission the chairperson of the	1805
industrial commission. The chairperson shall serve as	1806
chairperson at the pleasure of the governor. The chairperson is	1807
the head of the commission and its chief executive officer.	1808
(B) The chairperson shall appoint, after consultation with	1809
other commission members and obtaining the approval of at least	1810
one other commission member, an executive director of the	1811
commission. The executive director shall serve at the pleasure	1812
of the chairperson. The executive director, under the direction	1813
of the chairperson, shall perform all of the following duties:	1814
(1) Act as chief administrative officer for the	1815
commission;	1816
(2) Ensure that all commission personnel follow the rules	1817
of the commission;	1818

(3) Ensure that all orders, awards, and determinations are properly heard and signed, prior to attesting to the documents;

(4) Coordinate, to the fullest extent possible, commission activities with the bureau of workers' compensation activities;

(5) Do all things necessary for the efficient and effective implementation of the duties of the commission.

The responsibilities assigned to the executive director of the commission do not relieve the chairperson from final responsibility for the proper performance of the acts specified in this division.

(C) The chairperson shall do all of the following:

(1) Except as otherwise provided in this division, employ, promote, supervise, remove, and establish the compensation of all employees as needed in connection with the performance of the commission's duties under this chapter and Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the Revised Code and may assign to them their duties to the extent necessary to achieve the most efficient performance of its functions, and to that end may establish, change, or abolish positions, and assign and reassign duties and responsibilities of every employee of the commission. The civil service status of any person employed by the commission prior to November 3, 1989, is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred

under that chapter to public employees or to any bargaining unit. 1848  
1849

(2) Hire district and staff hearing officers after 1850  
consultation with other commission members and obtaining the 1851  
approval of at least one other commission member; 1852

(3) Hire staff and district hearing officers when the 1853  
chairperson finds appropriate after obtaining the approval of at 1854  
least one other commission member; 1855

(4) Maintain the office for the commission in Columbus; 1856

(5) To the maximum extent possible, use electronic data 1857  
processing equipment for the issuance of orders immediately 1858  
following a hearing, scheduling of hearings and medical 1859  
examinations, tracking of claims, retrieval of information, and 1860  
any other matter within the commission's jurisdiction, and shall 1861  
provide and input information into the electronic data 1862  
processing equipment as necessary to effect the success of the 1863  
claims tracking system established pursuant to division (B) (14) 1864  
of section 4121.121 of the Revised Code; 1865

(6) Exercise all administrative and nonadjudicatory powers 1866  
and duties conferred upon the commission by Chapters 4121., 1867  
4123., 4127., ~~and 4131.~~ and 4133. of the Revised Code; 1868

(7) Approve all contracts for special services. 1869

(D) The chairperson is responsible for all administrative 1870  
matters and may secure for the commission facilities, equipment, 1871  
and supplies necessary to house the commission, any employees, 1872  
and files and records under the commission's control and to 1873  
discharge any duty imposed upon the commission by law, the 1874  
expense thereof to be audited and paid in the same manner as 1875  
other state expenses. For that purpose, the chairperson, 1876

separately from the budget prepared by the administrator of  
workers' compensation, shall prepare and submit to the office of  
budget and management a budget for each biennium according to  
sections 101.532 and 107.03 of the Revised Code. The budget  
submitted shall cover the costs of the commission and staff and  
district hearing officers in the discharge of any duty imposed  
upon the chairperson, the commission, and hearing officers by  
law.

(E) A majority of the commission constitutes a quorum to  
transact business. No vacancy impairs the rights of the  
remaining members to exercise all of the powers of the  
commission, so long as a majority remains. Any investigation,  
inquiry, or hearing that the commission may hold or undertake  
may be held or undertaken by or before any one member of the  
commission, or before one of the deputies of the commission,  
except as otherwise provided in this chapter and Chapters 4123.,  
4127., ~~and 4131.~~ and 4133. of the Revised Code. Every order  
made by a member, or by a deputy, when approved and confirmed by  
a majority of the members, and so shown on its record of  
proceedings, is the order of the commission. The commission may  
hold sessions at any place within the state. The commission is  
responsible for all of the following:

(1) Establishing the overall adjudicatory policy and  
management of the commission under this chapter and Chapters  
4123., 4127., ~~and 4131.~~ and 4133. of the Revised Code, except  
for those administrative matters within the jurisdiction of the  
chairperson, bureau of workers' compensation, and the  
administrator of workers' compensation under those chapters;

(2) Hearing appeals and reconsiderations under this  
chapter and Chapters 4123., 4127., ~~and 4131.~~ and 4133. of the

Revised Code; 1907

(3) Engaging in rulemaking where required by this chapter 1908  
or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code. 1909

**Sec. 4121.12.** (A) There is hereby created the bureau of 1910  
workers' compensation board of directors consisting of eleven 1911  
members to be appointed by the governor with the advice and 1912  
consent of the senate. One member shall be an individual who, on 1913  
account of the individual's previous vocation, employment, or 1914  
affiliations, can be classed as a representative of employees; 1915  
two members shall be individuals who, on account of their 1916  
previous vocation, employment, or affiliations, can be classed 1917  
as representatives of employee organizations and at least one of 1918  
these two individuals shall be a member of the executive 1919  
committee of the largest statewide labor federation; three 1920  
members shall be individuals who, on account of their previous 1921  
vocation, employment, or affiliations, can be classed as 1922  
representatives of employers, one of whom represents self- 1923  
insuring employers, one of whom is a state fund employer who 1924  
employs one hundred or more employees, and one of whom is a 1925  
state fund employer who employs less than one hundred employees; 1926  
two members shall be individuals who, on account of their 1927  
vocation, employment, or affiliations, can be classed as 1928  
investment and securities experts who have direct experience in 1929  
the management, analysis, supervision, or investment of assets 1930  
and are residents of this state; one member who shall be a 1931  
certified public accountant; one member who shall be an actuary 1932  
who is a member in good standing with the American academy of 1933  
actuaries or who is an associate or fellow with the casualty 1934  
actuarial society; and one member shall represent the public and 1935  
also be an individual who, on account of the individual's 1936  
previous vocation, employment, or affiliations, cannot be 1937

classed as either predominantly representative of employees or 1938  
of employers. The governor shall select the chairperson of the 1939  
board who shall serve as chairperson at the pleasure of the 1940  
governor. 1941

None of the members of the board, within one year 1942  
immediately preceding the member's appointment, shall have been 1943  
employed by the bureau of workers' compensation or by any 1944  
person, partnership, or corporation that has provided to the 1945  
bureau services of a financial or investment nature, including 1946  
the management, analysis, supervision, or investment of assets. 1947

(B) Of the initial appointments made to the board, the 1948  
governor shall appoint the member who represents employees, one 1949  
member who represents employers, and the member who represents 1950  
the public to a term ending one year after June 11, 2007; one 1951  
member who represents employers, one member who represents 1952  
employee organizations, one member who is an investment and 1953  
securities expert, and the member who is a certified public 1954  
accountant to a term ending two years after June 11, 2007; and 1955  
one member who represents employers, one member who represents 1956  
employee organizations, one member who is an investment and 1957  
securities expert, and the member who is an actuary to a term 1958  
ending three years after June 11, 2007. Thereafter, terms of 1959  
office shall be for three years, with each term ending on the 1960  
same day of the same month as did the term that it succeeds. 1961  
Each member shall hold office from the date of the member's 1962  
appointment until the end of the term for which the member was 1963  
appointed. 1964

Members may be reappointed. Any member appointed to fill a 1965  
vacancy occurring prior to the expiration date of the term for 1966  
which the member's predecessor was appointed shall hold office 1967

as a member for the remainder of that term. A member shall 1968  
continue in office subsequent to the expiration date of the 1969  
member's term until a successor takes office or until a period 1970  
of sixty days has elapsed, whichever occurs first. 1971

(C) In making appointments to the board, the governor 1972  
shall select the members from the list of names submitted by the 1973  
workers' compensation board of directors nominating committee 1974  
pursuant to this division. The nominating committee shall submit 1975  
to the governor a list containing four separate names for each 1976  
of the members on the board. Within fourteen days after the 1977  
submission of the list, the governor shall appoint individuals 1978  
from the list. 1979

At least thirty days prior to a vacancy occurring as a 1980  
result of the expiration of a term and within thirty days after 1981  
other vacancies occurring on the board, the nominating committee 1982  
shall submit an initial list containing four names for each 1983  
vacancy. Within fourteen days after the submission of the 1984  
initial list, the governor either shall appoint individuals from 1985  
that list or request the nominating committee to submit another 1986  
list of four names for each member the governor has not 1987  
appointed from the initial list, which list the nominating 1988  
committee shall submit to the governor within fourteen days 1989  
after the governor's request. The governor then shall appoint, 1990  
within seven days after the submission of the second list, one 1991  
of the individuals from either list to fill the vacancy for 1992  
which the governor has not made an appointment from the initial 1993  
list. If the governor appoints an individual to fill a vacancy 1994  
occurring as a result of the expiration of a term, the 1995  
individual appointed shall begin serving as a member of the 1996  
board when the term for which the individual's predecessor was 1997  
appointed expires or immediately upon appointment by the 1998

governor, whichever occurs later. With respect to the filling of 1999  
vacancies, the nominating committee shall provide the governor 2000  
with a list of four individuals who are, in the judgment of the 2001  
nominating committee, the most fully qualified to accede to 2002  
membership on the board. 2003

In order for the name of an individual to be submitted to 2004  
the governor under this division, the nominating committee shall 2005  
approve the individual by an affirmative vote of a majority of 2006  
its members. 2007

(D) All members of the board shall receive their 2008  
reasonable and necessary expenses pursuant to section 126.31 of 2009  
the Revised Code while engaged in the performance of their 2010  
duties as members and also shall receive an annual salary not to 2011  
exceed sixty thousand dollars in total, payable on the following 2012  
basis: 2013

(1) Except as provided in division (D)(2) of this section, 2014  
a member shall receive two thousand five hundred dollars during 2015  
a month in which the member attends one or more meetings of the 2016  
board and shall receive no payment during a month in which the 2017  
member attends no meeting of the board. 2018

(2) A member may receive no more than thirty thousand 2019  
dollars per year to compensate the member for attending meetings 2020  
of the board, regardless of the number of meetings held by the 2021  
board during a year or the number of meetings in excess of 2022  
twelve within a year that the member attends. 2023

(3) Except as provided in division (D)(4) of this section, 2024  
if a member serves on the workers' compensation audit committee, 2025  
workers' compensation actuarial committee, or the workers' 2026  
compensation investment committee, the member shall receive two 2027

thousand five hundred dollars during a month in which the member  
attends one or more meetings of the committee on which the  
member serves and shall receive no payment during any month in  
which the member attends no meeting of that committee.

(4) A member may receive no more than thirty thousand  
dollars per year to compensate the member for attending meetings  
of any of the committees specified in division (D) (3) of this  
section, regardless of the number of meetings held by a  
committee during a year or the number of committees on which a  
member serves.

The chairperson of the board shall set the meeting dates  
of the board as necessary to perform the duties of the board  
under this chapter and Chapters 4123., 4125., 4127., 4131.,  
4133., and 4167. of the Revised Code. The board shall meet at  
least twelve times a year. The administrator of workers'  
compensation shall provide professional and clerical assistance  
to the board, as the board considers appropriate.

(E) Before entering upon the duties of office, each  
appointed member of the board shall take an oath of office as  
required by sections 3.22 and 3.23 of the Revised Code and file  
in the office of the secretary of state the bond required under  
section 4121.127 of the Revised Code.

(F) The board shall:

(1) Establish the overall administrative policy for the  
bureau for the purposes of this chapter and Chapters 4123.,  
4125., 4127., 4131., 4133., and 4167. of the Revised Code;

(2) Review progress of the bureau in meeting its cost and  
quality objectives and in complying with this chapter and  
Chapters 4123., 4125., 4127., 4131., 4133., and 4167. of the

Revised Code;	2057
(3) Submit an annual report to the president of the senate, the speaker of the house of representatives, and the governor and include all of the following in that report:	2058 2059 2060
(a) An evaluation of the cost and quality objectives of the bureau;	2061 2062
(b) A statement of the net assets available for the provision of compensation and benefits under this chapter and Chapters 4123., 4127., <del>and 4131.</del> , and <u>4133.</u> of the Revised Code as of the last day of the fiscal year;	2063 2064 2065 2066
(c) A statement of any changes that occurred in the net assets available, including employer premiums and net investment income, for the provision of compensation and benefits and payment of administrative expenses, between the first and last day of the fiscal year immediately preceding the date of the report;	2067 2068 2069 2070 2071 2072
(d) The following information for each of the six consecutive fiscal years occurring previous to the report:	2073 2074
(i) A schedule of the net assets available for compensation and benefits;	2075 2076
(ii) The annual cost of the payment of compensation and benefits;	2077 2078
(iii) Annual administrative expenses incurred;	2079
(iv) Annual employer premiums allocated for the provision of compensation and benefits.	2080 2081
(e) A description of any significant changes that occurred during the six years for which the board provided the	2082 2083

information required under division (F) (3) (d) of this section 2084  
that affect the ability of the board to compare that information 2085  
from year to year. 2086

(4) Review all independent financial audits of the bureau. 2087  
The administrator shall provide access to records of the bureau 2088  
to facilitate the review required under this division. 2089

(5) Study issues as requested by the administrator or the 2090  
governor; 2091

(6) Contract with all of the following: 2092

(a) An independent actuarial firm to assist the board in 2093  
making recommendations to the administrator regarding premium 2094  
rates; 2095

(b) An outside investment counsel to assist the workers' 2096  
compensation investment committee in fulfilling its duties; 2097

(c) An independent fiduciary counsel to assist the board 2098  
in the performance of its duties. 2099

(7) Approve the investment policy developed by the 2100  
workers' compensation investment committee pursuant to section 2101  
4121.129 of the Revised Code if the policy satisfies the 2102  
requirements specified in section 4123.442 of the Revised Code-; 2103

(8) Review and publish the investment policy no less than 2104  
annually and make copies available to interested parties-; 2105

(9) Prohibit, on a prospective basis, any specific 2106  
investment it finds to be contrary to the investment policy 2107  
approved by the board-; 2108

(10) Vote to open each investment class and allow the 2109  
administrator to invest in an investment class only if the 2110

board, by a majority vote, opens that class; 2111

(11) After opening a class but prior to the administrator 2112  
investing in that class, adopt rules establishing due diligence 2113  
standards for employees of the bureau to follow when investing 2114  
in that class and establish policies and procedures to review 2115  
and monitor the performance and value of each investment class; 2116

(12) Submit a report annually on the performance and value 2117  
of each investment class to the governor, the president and 2118  
minority leader of the senate, and the speaker and minority 2119  
leader of the house of representatives; 2120

(13) Advise and consent on all of the following: 2121

(a) Administrative rules the administrator submits to it 2122  
pursuant to division (B) (5) of section 4121.121 of the Revised 2123  
Code for the classification of occupations or industries, for 2124  
premium rates and contributions, for the amount to be credited 2125  
to the surplus fund, for rules and systems of rating, rate 2126  
revisions, and merit rating; 2127

(b) The duties and authority conferred upon the 2128  
administrator pursuant to section 4121.37 of the Revised Code; 2129

(c) Rules the administrator adopts for the health 2130  
partnership program and the qualified health plan system, as 2131  
provided in sections 4121.44, 4121.441, and 4121.442 of the 2132  
Revised Code; 2133

(d) Rules the administrator submits to it pursuant to 2134  
Chapter 4167. of the Revised Code regarding the public 2135  
employment risk reduction program and the protection of public 2136  
health care workers from exposure incidents. 2137

As used in this division, "public health care worker" and 2138

"exposure incident" have the same meanings as in section 4167.25	2139
of the Revised Code.	2140
(14) Perform all duties required under this chapter and	2141
Chapters 4123., 4125., 4127., 4131., <u>4133.</u> , and 4167. of the	2142
Revised Code;	2143
(15) Meet with the governor on an annual basis to discuss	2144
the administrator's performance of the duties specified in this	2145
chapter and Chapters 4123., 4125., 4127., 4131., <u>4133.</u> , and	2146
4167. of the Revised Code;	2147
(16) Develop and participate in a bureau of workers'	2148
compensation board of directors education program that consists	2149
of all of the following:	2150
(a) An orientation component for newly appointed members;	2151
(b) A continuing education component for board members who	2152
have served for at least one year;	2153
(c) A curriculum that includes education about each of the	2154
following topics:	2155
(i) Board member duties and responsibilities;	2156
(ii) Compensation and benefits paid pursuant to this	2157
chapter and Chapters 4123., 4127., <del>and 4131.</del> <u>and 4133.</u> of the	2158
Revised Code;	2159
(iii) Ethics;	2160
(iv) Governance processes and procedures;	2161
(v) Actuarial soundness;	2162
(vi) Investments;	2163
(vii) Any other subject matter the board believes is	2164

reasonably related to the duties of a board member. 2165

(17) Hold all sessions, classes, and other events for the 2166  
program developed pursuant to division (F)(16) of this section 2167  
in this state. 2168

(G) The board may do both of the following: 2169

(1) Vote to close any investment class; 2170

(2) Create any committees in addition to the workers' 2171  
compensation audit committee, the workers' compensation 2172  
actuarial committee, and the workers' compensation investment 2173  
committee that the board determines are necessary to assist the 2174  
board in performing its duties. 2175

(H) The office of a member of the board who is convicted 2176  
of or pleads guilty to a felony, a theft offense as defined in 2177  
section 2913.01 of the Revised Code, or a violation of section 2178  
102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2179  
2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall 2180  
be deemed vacant. The vacancy shall be filled in the same manner 2181  
as the original appointment. A person who has pleaded guilty to 2182  
or been convicted of an offense of that nature is ineligible to 2183  
be a member of the board. A member who receives a bill of 2184  
indictment for any of the offenses specified in this section 2185  
shall be automatically suspended from the board pending 2186  
resolution of the criminal matter. 2187

(I) For the purposes of division (G)(1) of section 121.22 2188  
of the Revised Code, the meeting between the governor and the 2189  
board to review the administrator's performance as required 2190  
under division (F)(15) of this section shall be considered a 2191  
meeting regarding the employment of the administrator. 2192

**Sec. 4121.121.** (A) There is hereby created the bureau of 2193

workers' compensation, which shall be administered by the 2194  
administrator of workers' compensation. A person appointed to 2195  
the position of administrator shall possess significant 2196  
management experience in effectively managing an organization or 2197  
organizations of substantial size and complexity. A person 2198  
appointed to the position of administrator also shall possess a 2199  
minimum of five years of experience in the field of workers' 2200  
compensation insurance or in another insurance industry, except 2201  
as otherwise provided when the conditions specified in division 2202  
(C) of this section are satisfied. The governor shall appoint 2203  
the administrator as provided in section 121.03 of the Revised 2204  
Code, and the administrator shall serve at the pleasure of the 2205  
governor. The governor shall fix the administrator's salary on 2206  
the basis of the administrator's experience and the 2207  
administrator's responsibilities and duties under this chapter 2208  
and Chapters 4123., 4125., 4127., 4131., 4133., and 4167. of the 2209  
Revised Code. The governor shall not appoint to the position of 2210  
administrator any person who has, or whose spouse has, given a 2211  
contribution to the campaign committee of the governor in an 2212  
amount greater than one thousand dollars during the two-year 2213  
period immediately preceding the date of the appointment of the 2214  
administrator. 2215

The administrator shall hold no other public office and 2216  
shall devote full time to the duties of administrator. Before 2217  
entering upon the duties of the office, the administrator shall 2218  
take an oath of office as required by sections 3.22 and 3.23 of 2219  
the Revised Code, and shall file in the office of the secretary 2220  
of state, a bond signed by the administrator and by surety 2221  
approved by the governor, for the sum of fifty thousand dollars 2222  
payable to the state, conditioned upon the faithful performance 2223  
of the administrator's duties. 2224

(B) The administrator is responsible for the management of 2225  
the bureau and for the discharge of all administrative duties 2226  
imposed upon the administrator in this chapter and Chapters 2227  
4123., 4125., 4127., 4131., 4133., and 4167. of the Revised 2228  
Code, and in the discharge thereof shall do all of the 2229  
following: 2230

(1) Perform all acts and exercise all authorities and 2231  
powers, discretionary and otherwise that are required of or 2232  
vested in the bureau or any of its employees in this chapter and 2233  
Chapters 4123., 4125., 4127., 4131., 4133., and 4167. of the 2234  
Revised Code, except the acts and the exercise of authority and 2235  
power that is required of and vested in the bureau of workers' 2236  
compensation board of directors or the industrial commission 2237  
pursuant to those chapters. The treasurer of state shall honor 2238  
all warrants signed by the administrator, or by one or more of 2239  
the administrator's employees, authorized by the administrator 2240  
in writing, or bearing the facsimile signature of the 2241  
administrator or such employee under sections 4123.42 and 2242  
4123.44 of the Revised Code. 2243

(2) Employ, direct, and supervise all employees required 2244  
in connection with the performance of the duties assigned to the 2245  
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 2246  
4133., and 4167. of the Revised Code, including an actuary, and 2247  
may establish job classification plans and compensation for all 2248  
employees of the bureau provided that this grant of authority 2249  
shall not be construed as affecting any employee for whom the 2250  
state employment relations board has established an appropriate 2251  
bargaining unit under section 4117.06 of the Revised Code. All 2252  
positions of employment in the bureau are in the classified 2253  
civil service except those employees the administrator may 2254  
appoint to serve at the administrator's pleasure in the 2255

unclassified civil service pursuant to section 124.11 of the 2256  
Revised Code. The administrator shall fix the salaries of 2257  
employees the administrator appoints to serve at the 2258  
administrator's pleasure, including the chief operating officer, 2259  
staff physicians, and other senior management personnel of the 2260  
bureau ~~and~~. The administrator shall establish the compensation 2261  
of staff attorneys of the bureau's legal section and their 2262  
immediate supervisors, and take whatever steps are necessary to 2263  
provide adequate compensation for other staff attorneys. The 2264  
administrator shall establish the compensation of the members of 2265  
the occupational pneumoconiosis board created in section 4133.07 2266  
of the Revised Code. 2267

The administrator may appoint a person who holds a 2268  
certified position in the classified service within the bureau 2269  
to a position in the unclassified service within the bureau. A 2270  
person appointed pursuant to this division to a position in the 2271  
unclassified service shall retain the right to resume the 2272  
position and status held by the person in the classified service 2273  
immediately prior to the person's appointment in the 2274  
unclassified service, regardless of the number of positions the 2275  
person held in the unclassified service. An employee's right to 2276  
resume a position in the classified service may only be 2277  
exercised when the administrator demotes the employee to a pay 2278  
range lower than the employee's current pay range or revokes the 2279  
employee's appointment to the unclassified service. An employee 2280  
who holds a position in the classified service and who is 2281  
appointed to a position in the unclassified service on or after 2282  
January 1, 2016, shall have the right to resume a position in 2283  
the classified service under this division only within five 2284  
years after the effective date of the employee's appointment in 2285  
the unclassified service. An employee forfeits the right to 2286

resume a position in the classified service when the employee is 2287  
removed from the position in the unclassified service due to 2288  
incompetence, inefficiency, dishonesty, drunkenness, immoral 2289  
conduct, insubordination, discourteous treatment of the public, 2290  
neglect of duty, violation of this chapter or Chapter 124., 2291  
4123., 4125., 4127., 4131., 4133., or 4167. of the Revised Code, 2292  
violation of the rules of the director of administrative 2293  
services or the administrator, any other failure of good 2294  
behavior, any other acts of misfeasance, malfeasance, or 2295  
nonfeasance in office, or conviction of a felony while employed 2296  
in the civil service. An employee also forfeits the right to 2297  
resume a position in the classified service upon transfer to a 2298  
different agency. 2299

Reinstatement to a position in the classified service 2300  
shall be to a position substantially equal to that position in 2301  
the classified service held previously, as certified by the 2302  
department of administrative services. If the position the 2303  
person previously held in the classified service has been placed 2304  
in the unclassified service or is otherwise unavailable, the 2305  
person shall be appointed to a position in the classified 2306  
service within the bureau that the director of administrative 2307  
services certifies is comparable in compensation to the position 2308  
the person previously held in the classified service. Service in 2309  
the position in the unclassified service shall be counted as 2310  
service in the position in the classified service held by the 2311  
person immediately prior to the person's appointment in the 2312  
unclassified service. When a person is reinstated to a position 2313  
in the classified service as provided in this division, the 2314  
person is entitled to all rights, status, and benefits accruing 2315  
to the position during the person's time of service in the 2316  
position in the unclassified service. 2317

(3) Reorganize the work of the bureau, its sections, 2318  
departments, and offices to the extent necessary to achieve the 2319  
most efficient performance of its functions and to that end may 2320  
establish, change, or abolish positions and assign and reassign 2321  
duties and responsibilities of every employee of the bureau. All 2322  
persons employed by the commission in positions that, after 2323  
November 3, 1989, are supervised and directed by the 2324  
administrator under this section are transferred to the bureau 2325  
in their respective classifications but subject to reassignment 2326  
and reclassification of position and compensation as the 2327  
administrator determines to be in the interest of efficient 2328  
administration. The civil service status of any person employed 2329  
by the commission is not affected by this section. Personnel 2330  
employed by the bureau or the commission who are subject to 2331  
Chapter 4117. of the Revised Code shall retain all of their 2332  
rights and benefits conferred pursuant to that chapter as it 2333  
presently exists or is hereafter amended and nothing in this 2334  
chapter or Chapter 4123. of the Revised Code shall be construed 2335  
as eliminating or interfering with Chapter 4117. of the Revised 2336  
Code or the rights and benefits conferred under that chapter to 2337  
public employees or to any bargaining unit. 2338

(4) Provide offices, equipment, supplies, and other 2339  
facilities for the bureau. 2340

(5) Prepare and submit to the board information the 2341  
administrator considers pertinent or the board requires, 2342  
together with the administrator's recommendations, in the form 2343  
of administrative rules, for the advice and consent of the 2344  
board, for classifications of occupations or industries, for 2345  
premium rates and contributions, for the amount to be credited 2346  
to the surplus fund, for rules and systems of rating, rate 2347  
revisions, and merit rating. The administrator shall obtain, 2348

prepare, and submit any other information the board requires for 2349  
the prompt and efficient discharge of its duties. 2350

(6) Keep the accounts required by division (A) of section 2351  
4123.34 of the Revised Code and all other accounts and records 2352  
necessary to the collection, administration, and distribution of 2353  
the workers' compensation funds and shall obtain the statistical 2354  
and other information required by section 4123.19 of the Revised 2355  
Code. 2356

(7) Exercise the investment powers vested in the 2357  
administrator by section 4123.44 of the Revised Code in 2358  
accordance with the investment policy approved by the board 2359  
pursuant to section 4121.12 of the Revised Code and in 2360  
consultation with the chief investment officer of the bureau of 2361  
workers' compensation. The administrator shall not engage in any 2362  
prohibited investment activity specified by the board pursuant 2363  
to division (F) (9) of section 4121.12 of the Revised Code and 2364  
shall not invest in any type of investment specified in 2365  
divisions (B) (1) to (10) of section 4123.442 of the Revised 2366  
Code. All business shall be transacted, all funds invested, all 2367  
warrants for money drawn and payments made, and all cash and 2368  
securities and other property held, in the name of the bureau, 2369  
or in the name of its nominee, provided that nominees are 2370  
authorized by the administrator solely for the purpose of 2371  
facilitating the transfer of securities, and restricted to the 2372  
administrator and designated employees. 2373

(8) In accordance with Chapter 125. of the Revised Code, 2374  
purchase supplies, materials, equipment, and services. 2375

(9) Prepare and submit to the board an annual budget for 2376  
internal operating purposes for the board's approval. The 2377  
administrator also shall, separately from the budget the 2378

industrial commission submits, prepare and submit to the 2379  
director of budget and management a budget for each biennium. 2380  
The budgets submitted to the board and the director shall 2381  
include estimates of the costs and necessary expenditures of the 2382  
bureau in the discharge of any duty imposed by law. 2383

(10) As promptly as possible in the course of efficient 2384  
administration, decentralize and relocate such of the personnel 2385  
and activities of the bureau as is appropriate to the end that 2386  
the receipt, investigation, determination, and payment of claims 2387  
may be undertaken at or near the place of injury or the 2388  
residence of the claimant and for that purpose establish 2389  
regional offices, in such places as the administrator considers 2390  
proper, capable of discharging as many of the functions of the 2391  
bureau as is practicable so as to promote prompt and efficient 2392  
administration in the processing of claims. All active and 2393  
inactive lost-time claims files shall be held at the service 2394  
office responsible for the claim. A claimant, at the claimant's 2395  
request, shall be provided with information by telephone as to 2396  
the location of the file pertaining to the claimant's claim. The 2397  
administrator shall ensure that all service office employees 2398  
report directly to the director for their service office. 2399

(11) Provide a written binder on new coverage where the 2400  
administrator considers it to be in the best interest of the 2401  
risk. The administrator, or any other person authorized by the 2402  
administrator, shall grant the binder upon submission of a 2403  
request for coverage by the employer. A binder is effective for 2404  
a period of thirty days from date of issuance and is 2405  
nonrenewable. Payroll reports and premium charges shall coincide 2406  
with the effective date of the binder. 2407

(12) Set standards for the reasonable and maximum handling 2408

time of claims payment functions, ensure, by rules, the 2409  
impartial and prompt treatment of all claims and employer risk 2410  
accounts, and establish a secure, accurate method of time 2411  
stamping all incoming mail and documents hand delivered to 2412  
bureau employees. 2413

(13) Ensure that all employees of the bureau follow the 2414  
orders and rules of the commission as such orders and rules 2415  
relate to the commission's overall adjudicatory policy-making 2416  
and management duties under this chapter and Chapters 4123., 2417  
4127., ~~and 4131.~~, and 4133. of the Revised Code. 2418

(14) Manage and operate a data processing system with a 2419  
common data base for the use of both the bureau and the 2420  
commission and, in consultation with the commission, using 2421  
electronic data processing equipment, shall develop a claims 2422  
tracking system that is sufficient to monitor the status of a 2423  
claim at any time and that lists appeals that have been filed 2424  
and orders or determinations that have been issued pursuant to 2425  
section 4123.511 or 4123.512 of the Revised Code, including the 2426  
dates of such filings and issuances. 2427

(15) Establish and maintain a medical section within the 2428  
bureau. The medical section shall do all of the following: 2429

(a) Assist the administrator in establishing standard 2430  
medical fees, approving medical procedures, and determining 2431  
eligibility and reasonableness of the compensation payments for 2432  
medical, hospital, and nursing services, and in establishing 2433  
guidelines for payment policies which recognize usual, 2434  
customary, and reasonable methods of payment for covered 2435  
services; 2436

(b) Provide a resource to respond to questions from claims 2437

examiners for employees of the bureau;	2438
(c) Audit fee bill payments;	2439
(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;	2440 2441 2442 2443
(e) Perform other duties assigned to it by the administrator.	2444 2445
(16) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123., 4127., <del>or 4131.</del> <u>or 4133.</u> of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.	2446 2447 2448 2449 2450 2451 2452 2453 2454
(17) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., <del>and 4131.</del> <u>and 4133.</u> of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.	2455 2456 2457 2458 2459 2460
(18) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of	2461 2462 2463 2464 2465 2466

contracts and dollar amounts specified in the Revised Code for 2467  
competitive bidding and further provided that those contracts 2468  
are not otherwise specifically exempt from the competitive 2469  
bidding procedures contained in the Revised Code. 2470

(19) Adopt, with the advice and consent of the board, 2471  
rules for the operation of the bureau. 2472

(20) Prepare and submit to the board information the 2473  
administrator considers pertinent or the board requires, 2474  
together with the administrator's recommendations, in the form 2475  
of administrative rules, for the advice and consent of the 2476  
board, for the health partnership program and the qualified 2477  
health plan system, as provided in sections 4121.44, 4121.441, 2478  
and 4121.442 of the Revised Code. 2479

(C) The administrator, with the advice and consent of the 2480  
senate, shall appoint a chief operating officer who has a 2481  
minimum of five years of experience in the field of workers' 2482  
compensation insurance or in another similar insurance industry 2483  
if the administrator does not possess such experience. The chief 2484  
operating officer shall not commence the chief operating 2485  
officer's duties until after the senate consents to the chief 2486  
operating officer's appointment. The chief operating officer 2487  
shall serve in the unclassified civil service of the state. 2488

**Sec. 4121.125.** (A) The bureau of workers' compensation 2489  
board of directors, based upon recommendations of the workers' 2490  
compensation actuarial committee, may contract with one or more 2491  
outside actuarial firms and other professional persons, as the 2492  
board determines necessary, to assist the board in measuring the 2493  
performance of Ohio's workers' compensation system and in 2494  
comparing Ohio's workers' compensation system to other state and 2495  
private workers' compensation systems. The board, actuarial firm 2496

or firms, and professional persons shall make such measurements 2497  
and comparisons using accepted insurance industry standards, 2498  
including, but not limited to, standards promulgated by the 2499  
National Council on Compensation Insurance. 2500

(B) The board may contract with one or more outside firms 2501  
to conduct management and financial audits of the workers' 2502  
compensation system, including audits of the reserve fund 2503  
belonging to the state insurance fund, and to establish 2504  
objective quality management principles and methods by which to 2505  
review the performance of the workers' compensation system. 2506

(C) The board shall do all of the following: 2507

(1) Contract to have prepared annually by or under the 2508  
supervision of an actuary a report that meets the requirements 2509  
specified under division (E) of this section and that consists 2510  
of an actuarial valuation of the assets, liabilities, and 2511  
funding requirements of the state insurance fund and all other 2512  
funds specified in this chapter and Chapters 4123., 4127., and 2513  
4131., and 4133. of the Revised Code; 2514

(2) Require that the actuary or person supervised by an 2515  
actuary referred to in division (C) (1) of this section complete 2516  
the valuation in accordance with the actuarial standards of 2517  
practice promulgated by the actuarial standards board of the 2518  
American academy of actuaries; 2519

(3) Submit the report referred to in division (C) (1) of 2520  
this section to the standing committees of the house of 2521  
representatives and the senate with primary responsibility for 2522  
workers' compensation legislation on or before the first day of 2523  
November following the year for which the valuation was made; 2524

(4) Have an actuary or a person who provides actuarial 2525

services under the supervision of an actuary, at such time as 2526  
the board determines, and at least once during the five-year 2527  
period that commences on September 10, 2007, and once within 2528  
each five-year period thereafter, conduct an actuarial 2529  
investigation of the experience of employers, the mortality, 2530  
service, and injury rate of employees, and the payment of 2531  
temporary total disability, permanent partial disability, and 2532  
permanent total disability under sections 4123.56 ~~to~~, 4123.57, 2533  
4123.58, 4133.12, 4133.13, and 4133.14 of the Revised Code to 2534  
update the actuarial assumptions used in the report required by 2535  
division (C) (1) of this section; 2536

(5) Submit the report required under division (F) of this 2537  
section to the standing committees of the house of 2538  
representatives and the senate with primary responsibility for 2539  
workers' compensation legislation not later than the first day 2540  
of November following the fifth year of the period that the 2541  
report covers; 2542

(6) Have prepared by or under the supervision of an 2543  
actuary an actuarial analysis of any introduced legislation 2544  
expected to have a measurable financial impact on the workers' 2545  
compensation system; 2546

(7) Submit the report required under division (G) of this 2547  
section to the legislative service commission and the standing 2548  
committees of the house of representatives and the senate with 2549  
primary responsibility for workers' compensation legislation not 2550  
later than sixty days after the date of introduction of the 2551  
legislation. 2552

(D) The administrator of workers' compensation and the 2553  
industrial commission shall compile information and provide 2554  
access to records of the bureau and the industrial commission to 2555

the board to the extent necessary for fulfillment of both of the 2556  
following requirements: 2557

(1) Conduct of the measurements and comparisons described 2558  
in division (A) of this section; 2559

(2) Conduct of the management and financial audits and 2560  
establishment of the principles and methods described in 2561  
division (B) of this section. 2562

(E) The firm or person with whom the board contracts 2563  
pursuant to division (C) (1) of this section shall prepare a 2564  
report of the valuation and submit the report to the board. The 2565  
firm or person shall include all of the following information in 2566  
the report that is required under division (C) (1) of this 2567  
section: 2568

(1) A summary of the compensation and benefit provisions 2569  
evaluated; 2570

(2) A description of the actuarial assumptions and 2571  
actuarial cost method used in the valuation; 2572

(3) A schedule showing the effect of any changes in the 2573  
compensation and benefit provisions, actuarial assumptions, or 2574  
cost methods since the previous annual actuarial valuation 2575  
report was submitted to the board. 2576

(F) The actuary or person whom the board designates to 2577  
conduct an actuarial investigation under division (C) (4) of this 2578  
section shall prepare a report of the actuarial investigation 2579  
and shall submit the report to the board. The actuary or person 2580  
shall prepare the report and make any recommended changes in 2581  
actuarial assumptions in accordance with the actuarial standards 2582  
of practice promulgated by the actuarial standards board of the 2583  
American academy of actuaries. The actuary or person shall 2584

include all of the following information in the report:	2585
(1) A summary of relevant decrement and economic assumption experience;	2586 2587
(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (C) (1) of this section;	2588 2589 2590
(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.	2591 2592
(G) The actuary or person whom the board designates to conduct the actuarial analysis under division (C) (6) of this section shall prepare a report of the actuarial analysis and shall submit that report to the board. The actuary or person shall complete the analysis in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:	2593 2594 2595 2596 2597 2598 2599 2600 2601
(1) A summary of the statutory changes being evaluated;	2602
(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	2603 2604
(3) A description of the participant group or groups included in the report;	2605 2606
(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums, in actuarial accrued liabilities, and, if an increase in actuarial accrued liabilities is predicted, the per cent of premium increase that would be required to amortize the increase in those liabilities as a level per cent of employer	2607 2608 2609 2610 2611 2612

premiums over a period not to exceed thirty years. 2613

(5) A statement of whether the employer premiums paid to 2614  
the bureau of workers' compensation after the proposed change is 2615  
enacted are expected to be sufficient to satisfy the funding 2616  
objectives established by the board. 2617

(H) The board may, at any time, request an actuary to make 2618  
any studies or actuarial valuations to determine the adequacy of 2619  
the premium rates established by the administrator in accordance 2620  
with sections 4123.29 and 4123.34 of the Revised Code, and may 2621  
adjust those rates as recommended by the actuary. 2622

(I) The board shall have an independent auditor, at least 2623  
once every ten years, conduct a fiduciary performance audit of 2624  
the investment program of the bureau of workers' compensation. 2625  
That audit shall include an audit of the investment policies 2626  
approved by the board and investment procedures of the bureau. 2627  
The board shall submit a copy of that audit to the auditor of 2628  
state. 2629

(J) The administrator, with the advice and consent of the 2630  
board, shall employ an internal auditor who shall report 2631  
findings directly to the board, workers' compensation audit 2632  
committee, and administrator, except that the internal auditor 2633  
shall not report findings directly to the administrator when 2634  
those findings involve malfeasance, misfeasance, or nonfeasance 2635  
on the part of the administrator. The board and the workers' 2636  
compensation audit committee may request and review internal 2637  
audits conducted by the internal auditor. 2638

(K) The administrator shall pay the expenses incurred by 2639  
the board to effectively fulfill its duties and exercise its 2640  
powers under this section as the administrator pays other 2641

operating expenses of the bureau. 2642

**Sec. 4121.127.** (A) Except as provided in division (B) of 2643  
this section, a fiduciary shall not cause the bureau of workers' 2644  
compensation to engage in a transaction, if the fiduciary knows 2645  
or should know that such transaction constitutes any of the 2646  
following, whether directly or indirectly: 2647

(1) The sale, exchange, or leasing of any property between 2648  
the bureau and a party in interest; 2649

(2) Lending of money or other extension of credit between 2650  
the bureau and a party in interest; 2651

(3) Furnishing of goods, services, or facilities between 2652  
the bureau and a party in interest; 2653

(4) Transfer to, or use by or for the benefit of a party 2654  
in interest, of any assets of the bureau; 2655

(5) Acquisition, on behalf of the bureau, of any employer 2656  
security or employer real property. 2657

(B) Nothing in this section shall prohibit any transaction 2658  
between the bureau and any fiduciary or party in interest if 2659  
both of the following occur: 2660

(1) All the terms and conditions of the transaction are 2661  
comparable to the terms and conditions that might reasonably be 2662  
expected in a similar transaction between similar parties who 2663  
are not parties in interest. 2664

(2) The transaction is consistent with fiduciary duties 2665  
under this chapter and Chapters 4123., 4127., ~~and 4131.~~ and 2666  
4133. of the Revised Code. 2667

(C) A fiduciary shall not do any of the following: 2668

- (1) Deal with the assets of the bureau in the fiduciary's own interest or for the fiduciary's own account; 2669  
2670
- (2) In the fiduciary's individual capacity or in any other capacity, act in any transaction involving the bureau on behalf of a party, or represent a party, whose interests are adverse to the interests of the bureau or to the injured employees served by the bureau; 2671  
2672  
2673  
2674  
2675
- (3) Receive any consideration for the fiduciary's own personal account from any party dealing with the bureau in connection with a transaction involving the assets of the bureau. 2676  
2677  
2678  
2679
- (D) In addition to any liability that a fiduciary may have under any other provision, a fiduciary, with respect to the bureau, shall be liable for a breach of fiduciary responsibility in any of the following circumstances: 2680  
2681  
2682  
2683
- (1) If the fiduciary knowingly participates in or knowingly undertakes to conceal an act or omission of another fiduciary, knowing such act or omission is a breach; 2684  
2685  
2686
- (2) If, by the fiduciary's failure to comply with this chapter or Chapter 4123., 4127., ~~or~~ 4131., or 4133. of the Revised Code, the fiduciary has enabled another fiduciary to commit a breach; 2687  
2688  
2689  
2690
- (3) If the fiduciary has knowledge of a breach by another fiduciary of that fiduciary's duties under this chapter and Chapters 4123., 4127., ~~and~~ 4131., and 4133. of the Revised Code, unless the fiduciary makes reasonable efforts under the circumstances to remedy the breach. 2691  
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- (E) Every fiduciary of the bureau shall be bonded or insured for an amount of not less than one million dollars for 2696  
2697

loss by reason of acts of fraud or dishonesty. 2698

(F) As used in this section, "fiduciary" means a person 2699  
who does any of the following: 2700

(1) Exercises discretionary authority or control with 2701  
respect to the management of the bureau or with respect to the 2702  
management or disposition of its assets; 2703

(2) Renders investment advice for a fee, directly or 2704  
indirectly, with respect to money or property of the bureau; 2705

(3) Has discretionary authority or responsibility in the 2706  
administration of the bureau. 2707

**Sec. 4121.129.** (A) There is hereby created the workers' 2708  
compensation audit committee consisting of at least three 2709  
members. One member shall be the member of the bureau of 2710  
workers' compensation board of directors who is a certified 2711  
public accountant. The board, by majority vote, shall appoint 2712  
two additional members of the board to serve on the audit 2713  
committee and may appoint additional members who are not board 2714  
members, as the board determines necessary. Members of the audit 2715  
committee serve at the pleasure of the board, and the board, by 2716  
majority vote, may remove any member except the member of the 2717  
committee who is the certified public accountant member of the 2718  
board. The board, by majority vote, shall determine how often 2719  
the audit committee shall meet and report to the board. If the 2720  
audit committee meets on the same day as the board holds a 2721  
meeting, no member shall be compensated for more than one 2722  
meeting held on that day. The audit committee shall do all of 2723  
the following: 2724

(1) Recommend to the board an accounting firm to perform 2725  
the annual audits required under division (B) of section 4123.47 2726

of the Revised Code;	2727
(2) Recommend an auditing firm for the board to use when conducting audits under section 4121.125 of the Revised Code;	2728 2729
(3) Review the results of each annual audit and management review and, if any problems exist, assess the appropriate course of action to correct those problems and develop an action plan to correct those problems;	2730 2731 2732 2733
(4) Monitor the implementation of any action plans created pursuant to division (A) (3) of this section;	2734 2735
(5) Review all internal audit reports on a regular basis.	2736
(B) There is hereby created the workers' compensation actuarial committee consisting of at least three members. One member shall be the member of the board who is an actuary. The board, by majority vote, shall appoint two additional members of the board to serve on the actuarial committee and may appoint additional members who are not board members, as the board determines necessary. Members of the actuarial committee serve at the pleasure of the board and the board, by majority vote, may remove any member except the member of the committee who is the actuary member of the board. The board, by majority vote, shall determine how often the actuarial committee shall meet and report to the board. If the actuarial committee meets on the same day as the board holds a meeting, no member shall be compensated for more than one meeting held on that day. The actuarial committee shall do both of the following:	2737 2738 2739 2740 2741 2742 2743 2744 2745 2746 2747 2748 2749 2750 2751
(1) Recommend actuarial consultants for the board to use for the funds specified in this chapter and Chapters 4123., 4127., <del>and 4131.</del> , <u>and 4133.</u> of the Revised Code;	2752 2753 2754
(2) Review and approve the various rate schedules prepared	2755

and presented by the actuarial division of the bureau or by 2756  
actuarial consultants with whom the board enters into a 2757  
contract. 2758

(C) (1) There is hereby created the workers' compensation 2759  
investment committee consisting of at least four members. Two of 2760  
the members shall be the members of the board who serve as the 2761  
investment and securities experts on the board. The board, by 2762  
majority vote, shall appoint two additional members of the board 2763  
to serve on the investment committee and may appoint additional 2764  
members who are not board members. Each additional member the 2765  
board appoints shall have at least one of the following 2766  
qualifications: 2767

(a) Experience managing another state's pension funds or 2768  
workers' compensation funds; 2769

(b) Expertise that the board determines is needed to make 2770  
investment decisions. 2771

Members of the investment committee serve at the pleasure 2772  
of the board and the board, by majority vote, may remove any 2773  
member except the members of the committee who are the 2774  
investment and securities expert members of the board. The 2775  
board, by majority vote, shall determine how often the 2776  
investment committee shall meet and report to the board. If the 2777  
investment committee meets on the same day as the board holds a 2778  
meeting, no member shall be compensated for more than one 2779  
meeting held on that day. 2780

(2) The investment committee shall do all of the 2781  
following: 2782

(a) Develop the investment policy for the administration 2783  
of the investment program for the funds specified in this 2784

chapter and Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the 2785  
Revised Code in accordance with the requirements specified in 2786  
section 4123.442 of the Revised Code; 2787

(b) Submit the investment policy developed pursuant to 2788  
division (C) (2) (a) of this section to the board for approval; 2789

(c) Monitor implementation by the administrator of 2790  
workers' compensation and the bureau of workers' compensation 2791  
chief investment officer of the investment policy approved by 2792  
the board; 2793

(d) Recommend outside investment counsel with whom the 2794  
board may contract to assist the investment committee in 2795  
fulfilling its duties; 2796

(e) Review the performance of the bureau of workers' 2797  
compensation chief investment officer and any investment 2798  
consultants retained by the administrator to assure that the 2799  
investments of the assets of the funds specified in this chapter 2800  
and Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the Revised 2801  
Code are made in accordance with the investment policy approved 2802  
by the board and to assure compliance with the investment policy 2803  
and effective management of the funds. 2804

**Sec. 4121.30.** (A) All rules governing the operating 2805  
procedure of the bureau of workers' compensation and the 2806  
industrial commission shall be adopted in accordance with 2807  
Chapter 119. of the Revised Code, except that determinations of 2808  
the bureau, district hearing officers, staff hearing officers, 2809  
the occupational pneumoconiosis board, and the commission, with 2810  
respect to an individual employee's claim to participate in the 2811  
state insurance fund are governed only by ~~Chapter~~ Chapters 4123. 2812  
and 4133. of the Revised Code. 2813

The administrator of workers' compensation and commission 2814  
shall proceed jointly, in accordance with Chapter 119. of the 2815  
Revised Code, including a joint hearing, to adopt joint rules 2816  
governing the operating procedures of the bureau and commission. 2817

(B) Upon submission to the bureau or the commission of a 2818  
petition containing not less than fifteen hundred signatures of 2819  
adult residents of the state, any individual may propose a rule 2820  
for adoption, amendment, or rescission by the bureau or the 2821  
commission. If, upon investigation, the bureau or commission is 2822  
satisfied that the signatures upon the petition are valid, it 2823  
shall proceed, in accordance with Chapter 119. of the Revised 2824  
Code, to consider adoption, amendment, or rescission of the 2825  
rule. 2826

(C) The administrator shall make available electronically 2827  
all rules adopted by the bureau and the commission and shall 2828  
make available in a timely manner all rules adopted by the 2829  
bureau and the commission that are currently in force. 2830

(D) The rule-making authority granted to the administrator 2831  
under this section does not limit the commission's rule-making 2832  
authority relative to its overall adjudicatory policy-making and 2833  
management duties under this chapter and Chapters 4123., 4127., 2834  
~~and 4131.~~, and 4133. of the Revised Code. The administrator 2835  
shall not disregard any rule adopted by the commission, provided 2836  
that the rule is within the commission's rule-making authority. 2837

**Sec. 4121.31.** (A) The administrator of workers' 2838  
compensation and the industrial commission jointly shall adopt 2839  
rules covering the following general topics with respect to this 2840  
chapter and Chapter 4123. of the Revised Code: 2841

(1) Rules that set forth any general policy and the 2842

principal operating procedures of the bureau of workers'	2843
compensation or commission, including but not limited to:	2844
(a) Assignment to various operational units of any duties	2845
placed upon the administrator or the commission by statute;	2846
(b) Procedures for decision-making;	2847
(c) Procedures governing the appearances of a claimant,	2848
employer, or their representatives before the agency in a	2849
hearing;	2850
(d) Procedures that inform claimants, on request, of the	2851
status of a claim and any actions necessary to maintain the	2852
claim;	2853
(e) Time goals for activities of the bureau or commission;	2854
(f) Designation of the person or persons authorized to	2855
issue directives with directives numbered and distributed from a	2856
central distribution point to persons on a list maintained for	2857
that purpose.	2858
(2) A rule barring any employee of the bureau or	2859
commission from having a workers' compensation claims file in	2860
the employee's possession unless the file is necessary to the	2861
performance of the employee's duties.	2862
(3) All claims, whether of a state fund or self-insuring	2863
employer, be processed in an orderly, uniform, and timely	2864
fashion.	2865
(4) Rules governing the submission and sending of	2866
applications, notices, evidence, and other documents by	2867
electronic means. The rules shall provide that where this	2868
chapter or Chapter 4123., 4127., <del>or</del> 4131., or 4133. of the	2869
Revised Code requires that a document be in writing or requires	2870

a signature, the administrator and the commission, to the extent 2871  
of their respective jurisdictions, may approve of and provide 2872  
for the electronic submission and sending of those documents, 2873  
and the use of an electronic signature on those documents. 2874

(B) As used in this section: 2875

(1) "Electronic" includes electrical, digital, magnetic, 2876  
optical, electromagnetic, facsimile, or any other form of 2877  
technology that entails capabilities similar to these 2878  
technologies. 2879

(2) "Electronic record" means a record generated, 2880  
communicated, received, or stored by electronic means for use in 2881  
an information system or for transmission from one information 2882  
system to another. 2883

(3) "Electronic signature" means a signature in electronic 2884  
form attached to or logically associated with an electronic 2885  
record. 2886

**Sec. 4121.32.** (A) The rules covering operating procedure 2887  
and criteria for decision-making that the administrator of 2888  
workers' compensation and the industrial commission are required 2889  
to adopt pursuant to section 4121.31 of the Revised Code shall 2890  
be supplemented with operating manuals setting forth the 2891  
procedural steps in detail for performing each of the assigned 2892  
tasks of each section of the bureau of workers' compensation and 2893  
commission. The administrator and commission jointly shall adopt 2894  
such manuals. No employee may deviate from manual procedures 2895  
without authorization of the section chief. 2896

(B) Manuals shall set forth the procedure for the 2897  
assignment and transfer of claims within sections and be 2898  
designed to provide performance objectives and may require 2899

employees to record sufficient data to reasonably measure the 2900  
efficiency of functions in all sections. The bureau shall 2901  
perform periodic cost-effectiveness analyses that shall be made 2902  
available to the general assembly, the governor, and to the 2903  
public during normal working hours. 2904

(C) The bureau and commission jointly shall develop, 2905  
adopt, and use a policy manual setting forth the guidelines and 2906  
bases for decision-making for any decision which is the 2907  
responsibility of the bureau, district hearing officers, staff 2908  
hearing officers, or the commission. Guidelines shall be set 2909  
forth in the policy manual by the bureau and commission to the 2910  
extent of their respective jurisdictions for deciding at least 2911  
the following specific matters: 2912

(1) Reasonable ambulance services; 2913

(2) Relationship of drugs to injury; 2914

(3) Awarding lump-sum advances for creditors; 2915

(4) Awarding lump-sum advances for attorney's fees; 2916

(5) Placing a claimant into rehabilitation; 2917

(6) Transferring costs of a claim from employer costs to 2918  
the statutory surplus fund pursuant to section 4123.343 of the 2919  
Revised Code; 2920

(7) Utilization of physician specialist reports; 2921

(8) Determining the percentage of permanent partial 2922  
disability, temporary partial disability, temporary total 2923  
disability, violations of specific safety requirements, an award 2924  
under division (B) of section 4123.57 of the Revised Code, and 2925  
permanent total disability. 2926

(D) The bureau shall establish, adopt, and implement 2927  
policy guidelines and bases for decisions involving 2928  
reimbursement issues including, but not limited to, the 2929  
adjustment of invoices, the reduction of payments for future 2930  
services when an internal audit concludes that a health care 2931  
provider was overpaid or improperly paid for past services, 2932  
reimbursement fees, or other adjustments to payments. These 2933  
policy guidelines and bases for decisions, and any changes to 2934  
the guidelines and bases, shall be set forth in a reimbursement 2935  
manual and provider bulletins. 2936

Neither the policy guidelines nor the bases set forth in 2937  
the reimbursement manual or provider bulletins referred to in 2938  
this division is a rule as defined in section 119.01 of the 2939  
Revised Code. 2940

(E) With respect to any determination of disability under 2941  
Chapter 4123. or 4133. of the Revised Code, when the physician 2942  
makes a determination based upon statements or information 2943  
furnished by the claimant or upon subjective evidence, the 2944  
physician shall clearly indicate this fact in the physician's 2945  
report. 2946

(F) The administrator shall publish the manuals and make 2947  
copies of all manuals available to interested parties at cost. 2948

**Sec. 4121.34.** (A) District hearing officers shall hear the 2949  
matters listed in division (B) of this section. District hearing 2950  
officers are in the classified civil service of the state, are 2951  
full-time employees of the industrial commission, and shall be 2952  
persons admitted to the practice of law in this state. District 2953  
hearing officers shall not engage in any other activity that 2954  
interferes with their full-time employment by the commission 2955  
during normal working hours. 2956

(B) ~~District~~ (1) Except as provided in division (B) (2) of 2957  
this section, district hearing officers shall have original 2958  
jurisdiction on all of the following matters: 2959

~~(1)~~ (a) Determinations under section 4123.57 of the 2960  
Revised Code; 2961

~~(2)~~ (b) All appeals from a decision of the administrator 2962  
of workers' compensation under division (B) of section 4123.511 2963  
and section 4133.06 of the Revised Code; 2964

~~(3)~~ (c) All other contested claims matters under this 2965  
chapter and Chapters 4123., 4127., ~~and 4131., and 4133.~~ of the 2966  
Revised Code, except those matters over which staff hearing 2967  
officers have original jurisdiction. 2968

(2) Division (B) (1) of this section does not apply to a 2969  
claim that has been referred to the occupational pneumoconiosis 2970  
board under section 4133.08 of the Revised Code. 2971

(C) The administrator of workers' compensation shall make 2972  
available to each district hearing officer the facilities and 2973  
assistance of bureau employees and furnish all information 2974  
necessary to the performance of the district hearing officer's 2975  
duties. 2976

**Sec. 4121.36.** (A) The industrial commission shall adopt 2977  
rules as to the conduct of all hearings before the commission 2978  
and its staff and district hearing officers and the rendering of 2979  
a decision and shall focus such rules on managing, directing, 2980  
and otherwise ensuring a fair, equitable, and uniform hearing 2981  
process. These rules shall provide for at least the following 2982  
steps and procedures: 2983

(1) Adequate notice to all parties and their 2984  
representatives to ensure that no hearing is conducted unless 2985

all parties have the opportunity to be present and to present	2986
evidence and arguments in support of their positions or in	2987
rebuttal to the evidence or arguments of other parties;	2988
(2) A public hearing;	2989
(3) Written decisions;	2990
(4) Impartial assignment of staff and district hearing	2991
officers and assignment of appeals from a decision of the	2992
administrator of workers' compensation to a district hearing	2993
officer located at the commission service office that is the	2994
closest in geographic proximity to the claimant's residence;	2995
(5) Publication of a docket;	2996
(6) The securing of the attendance or testimony of	2997
witnesses;	2998
(7) Prehearing rules, including rules relative to	2999
discovery, the taking of depositions, and exchange of	3000
information relevant to a claim prior to the conduct of a	3001
hearing;	3002
(8) The issuance of orders by the district or staff	3003
hearing officer who renders the decision.	3004
(B) Every decision by a staff or district hearing officer	3005
or the commission shall be in writing and contain all of the	3006
following elements:	3007
(1) A concise statement of the order or award;	3008
(2) A notation as to notice provided and as to appearance	3009
of parties;	3010
(3) Signatures of each commissioner or appropriate hearing	3011
officer on the original copy of the decision only, verifying the	3012

commissioner's or hearing officer's vote; 3013

(4) Description of the part of the body and nature of the 3014  
disability recognized in the claim. 3015

(C) The commission shall adopt rules that require the 3016  
regular rotation of district hearing officers with respect to 3017  
the types of matters under consideration and that ensure that no 3018  
district or staff hearing officer or the commission hears a 3019  
claim unless all interested and affected parties have the 3020  
opportunity to be present and to present evidence and arguments 3021  
in support of their positions or in rebuttal to the evidence or 3022  
arguments of other parties. 3023

(D) All matters which, at the request of one of the 3024  
parties or on the initiative of the administrator and any 3025  
commissioner, are to be expedited, shall require at least forty- 3026  
eight hours' notice, a public hearing, and a statement in any 3027  
order of the circumstances that justified such expeditious 3028  
hearings. 3029

(E) All meetings of the commission and district and staff 3030  
hearing officers shall be public with adequate notice, including 3031  
if necessary, to the claimant, the employer, their 3032  
representatives, and the administrator. Confidentiality of 3033  
medical evidence presented at a hearing does not constitute a 3034  
sufficient ground to relieve the requirement of a public 3035  
hearing, but the presentation of privileged or confidential 3036  
evidence shall not create any greater right of public inspection 3037  
of evidence than presently exists. 3038

(F) The commission shall compile all of its original 3039  
memorandums, orders, and decisions in a journal and make the 3040  
journal available to the public with sufficient indexing to 3041

allow orderly review of documents. The journal shall indicate 3042  
the vote of each commissioner. 3043

(G) (1) All original orders, rules, and memoranda, and 3044  
decisions of the commission shall contain the signatures of two 3045  
of the three commissioners and state whether adopted at a 3046  
meeting of the commission or by circulation to individual 3047  
commissioners. Any facsimile or secretarial signature, initials 3048  
of commissioners, and delegated employees, and any printed 3049  
record of the "yes" and "no" vote of a commission member or of a 3050  
hearing officer on such original is invalid. 3051

(2) Written copies of final decisions of district or staff 3052  
hearing officers or the commission that are mailed to the 3053  
administrator, employee, employer, and their respective 3054  
representatives need not contain the signatures of the hearing 3055  
officer or commission members if the hearing officer or 3056  
commission members have complied with divisions (B) (3) and (G) 3057  
(1) of this section. 3058

(H) The commission shall do both of the following: 3059

(1) Appoint an individual as a hearing officer trainer who 3060  
is in the unclassified civil service of the state and who serves 3061  
at the pleasure of the commission. The trainer shall be an 3062  
attorney registered to practice law in this state and have 3063  
experience in training or education, and the ability to furnish 3064  
the necessary training for district and staff hearing officers. 3065

The hearing officer trainer shall develop and periodically 3066  
update a training manual and such other training materials and 3067  
courses as will adequately prepare district and staff hearing 3068  
officers for their duties under this chapter and Chapter 4123. 3069  
of the Revised Code. All district and staff hearing officers 3070

shall undergo the training courses developed by the hearing officer trainer, the cost of which the commission shall pay. The commission shall make the hearing officer manual and all revisions thereto available to the public at cost.

The commission shall have the final right of approval over all training manuals, courses, and other materials the hearing officer trainer develops and updates.

(2) Appoint a hearing administrator, who shall be in the classified civil service of the state, for each bureau service office, and sufficient support personnel for each hearing administrator, which support personnel shall be under the direct supervision of the hearing administrator. The hearing administrator shall do all of the following:

(a) Assist the commission in ensuring that district hearing officers comply with the time limitations for the holding of hearings and issuance of orders under section 4123.511 of the Revised Code. For that purpose, each hearing administrator shall prepare a monthly report identifying the status of all claims in its office and identifying specifically the claims which have not been decided within the time limits set forth in section 4123.511 of the Revised Code. The commission shall submit an annual report of all such reports to the standing committees of the house of representatives and of the state to which matters concerning workers' compensation are normally referred.

(b) Provide information to requesting parties or their representatives on the status of their claim;

(c) Issue compliance letters, upon a finding of good cause and without a formal hearing in all of the following areas:

(i) Divisions (B) and (C) of section 4123.651 of the Revised Code;	3100 3101
(ii) Requests for the taking of depositions of bureau and commission physicians;	3102 3103
(iii) The issuance of subpoenas;	3104
(iv) The granting or denying of requests for continuances;	3105
(v) Matters involving section 4123.522 of the Revised Code;	3106 3107
(vi) Requests for conducting telephone pre-hearing conferences;	3108 3109
(vii) Any other matter that will cause a free exchange of information prior to the formal hearing.	3110 3111
(d) Ensure that claim files are reviewed by the district hearing officer prior to the hearing to ensure that there is sufficient information to proceed to a hearing;	3112 3113 3114
(e) Ensure that for occupational disease claims under section 4123.68 of the Revised Code that require a medical examination the medical examination is conducted prior to the hearing;	3115 3116 3117 3118
(f) Take the necessary steps to prepare a claim to proceed to a hearing where the parties agree and advise the hearing administrator that the claim is not ready for a hearing.	3119 3120 3121
(I) The commission shall permit any person direct access to information contained in electronic data processing equipment regarding the status of a claim in the hearing process. The information shall indicate the number of days that the claim has been in process, the number of days the claim has been in its	3122 3123 3124 3125 3126

current location, and the number of days in the current point of 3127  
the process within that location. 3128

(J) (1) The industrial commission may establish an 3129  
alternative dispute resolution process for workers' compensation 3130  
claims that are within the commission's jurisdiction under 3131  
Chapters 4121., 4123., 4127., ~~and 4131.~~ and 4133. of the 3132  
Revised Code when the commission determines that such a process 3133  
is necessary. Notwithstanding sections 4121.34 and 4121.35 of 3134  
the Revised Code, the commission may enter into personal service 3135  
contracts with individuals who are qualified because of their 3136  
education and experience to act as facilitators in the 3137  
commission's alternative dispute resolution process. 3138

(2) The parties' use of the alternative dispute resolution 3139  
process is voluntary, and requires the agreement of all 3140  
necessary parties. The use of the alternative dispute resolution 3141  
process does not alter the rights or obligations of the parties, 3142  
nor does it delay the timelines set forth in section 4123.511 of 3143  
the Revised Code. 3144

(3) The commission shall prepare monthly reports and 3145  
submit those reports to the governor, the president of the 3146  
senate, and the speaker of the house of representatives 3147  
describing all of the following: 3148

(a) The names of each facilitator employed under a 3149  
personal service contract; 3150

(b) The hourly amount of money and the total amount of 3151  
money paid to each facilitator; 3152

(c) The number of disputed issues resolved during that 3153  
month by each facilitator; 3154

(d) The number of decisions of each facilitator that were 3155

appealed by a party;	3156
(e) A certification by the commission that the alternative	3157
dispute resolution process did not delay any hearing timelines	3158
as set forth in section 4123.511 of the Revised Code for any	3159
disputed issue.	3160
(4) The commission may adopt rules in accordance with	3161
Chapter 119. of the Revised Code for the administration of any	3162
alternative dispute resolution process that the commission	3163
establishes.	3164
<b>Sec. 4121.41.</b> (A) The administrator of workers'	3165
compensation shall operate a program designed to inform	3166
employees and employers of their rights and responsibilities	3167
under <del>Chapter</del> <u>Chapters 4123. and 4133.</u> of the Revised Code and	3168
as part of that program prepare and distribute pamphlets, which	3169
clearly and simply explain at least all of the following:	3170
(1) The rights and responsibilities of claimants and	3171
employers;	3172
(2) The procedures for processing claims;	3173
(3) The procedure for fulfilling employer responsibility;	3174
(4) All applicable statutes of limitation;	3175
(5) The availability of services and benefits;	3176
(6) The claimant's right to representation in the	3177
processing of a claim or to elect no representation.	3178
The administrator shall ensure that the provisions of this	3179
section are faithfully and speedily implemented.	3180
(B) The bureau of workers' compensation shall maintain an	3181
ongoing program to identify employers subject to Chapter 4123.	3182

of the Revised Code and to audit employers to ensure an optimum 3183  
level of premium payment. The bureau shall coordinate such 3184  
efforts with other governmental agencies which have information 3185  
as to employers who are subject to Chapter 4123. of the Revised 3186  
Code. 3187

(C) The administrator shall handle complaints through the 3188  
service offices, the claims section, and the ombudsperson 3189  
program. The administrator shall provide toll free telephone 3190  
lines for employers and claimants in order to expedite the 3191  
handling of complaints. The bureau shall monitor complaint 3192  
traffic to ensure an adequacy of telephone service to bureau 3193  
offices and shall compile statistics on complaint subjects. 3194  
Based upon those compilations, the bureau shall revise 3195  
procedures and rules to correct major problem areas and submit 3196  
data and recommendations annually to the appropriate committees 3197  
of the general assembly. 3198

**Sec. 4121.44.** (A) The administrator of workers' 3199  
compensation shall oversee the implementation of the Ohio 3200  
workers' compensation qualified health plan system as 3201  
established under section 4121.442 of the Revised Code. 3202

(B) The administrator shall direct the implementation of 3203  
the health partnership program administered by the bureau as set 3204  
forth in section 4121.441 of the Revised Code. To implement the 3205  
health partnership program and to ensure the efficiency and 3206  
effectiveness of the public services provided through the 3207  
program, the bureau: 3208

(1) Shall certify one or more external vendors, which 3209  
shall be known as "managed care organizations," to provide 3210  
medical management and cost containment services in the health 3211  
partnership program for a period of two years beginning on the 3212

date of certification, consistent with the standards established 3213  
under this section; 3214

(2) May recertify managed care organizations for 3215  
additional periods of two years; and 3216

(3) May integrate the certified managed care organizations 3217  
with bureau staff and existing bureau services for purposes of 3218  
operation and training to allow the bureau to assume operation 3219  
of the health partnership program at the conclusion of the 3220  
certification periods set forth in division (B) (1) or (2) of 3221  
this section; 3222

(4) May enter into a contract with any managed care 3223  
organization that is certified by the bureau, pursuant to 3224  
division (B) (1) or (2) of this section, to provide medical 3225  
management and cost containment services in the health 3226  
partnership program. 3227

(C) A contract entered into pursuant to division (B) (4) of 3228  
this section shall include both of the following: 3229

(1) Incentives that may be awarded by the administrator, 3230  
at the administrator's discretion, based on compliance and 3231  
performance of the managed care organization; 3232

(2) Penalties that may be imposed by the administrator, at 3233  
the administrator's discretion, based on the failure of the 3234  
managed care organization to reasonably comply with or perform 3235  
terms of the contract, which may include termination of the 3236  
contract. 3237

(D) Notwithstanding section 119.061 of the Revised Code, a 3238  
contract entered into pursuant to division (B) (4) of this 3239  
section may include provisions limiting, restricting, or 3240  
regulating any marketing or advertising by the managed care 3241

organization, or by any individual or entity that is affiliated 3242  
with or acting on behalf of the managed care organization, under 3243  
the health partnership program. 3244

(E) No managed care organization shall receive 3245  
compensation under the health partnership program unless the 3246  
managed care organization has entered into a contract with the 3247  
bureau pursuant to division (B)(4) of this section. 3248

(F) Any managed care organization selected shall 3249  
demonstrate all of the following: 3250

(1) Arrangements and reimbursement agreements with a 3251  
substantial number of the medical, professional and pharmacy 3252  
providers currently being utilized by claimants. 3253

(2) Ability to accept a common format of medical bill data 3254  
in an electronic fashion from any provider who wishes to submit 3255  
medical bill data in that form. 3256

(3) A computer system able to handle the volume of medical 3257  
bills and willingness to customize that system to the bureau's 3258  
needs and to be operated by the managed care organization's 3259  
staff, bureau staff, or some combination of both staffs. 3260

(4) A prescription drug system where pharmacies on a 3261  
statewide basis have access to the eligibility and pricing, at a 3262  
discounted rate, of all prescription drugs. 3263

(5) A tracking system to record all telephone calls from 3264  
claimants and providers regarding the status of submitted 3265  
medical bills so as to be able to track each inquiry. 3266

(6) Data processing capacity to absorb all of the bureau's 3267  
medical bill processing or at least that part of the processing 3268  
which the bureau arranges to delegate. 3269

(7) Capacity to store, retrieve, array, simulate, and model in a relational mode all of the detailed medical bill data so that analysis can be performed in a variety of ways and so that the bureau and its governing authority can make informed decisions.	3270 3271 3272 3273 3274
(8) Wide variety of software programs which translate medical terminology into standard codes, and which reveal if a provider is manipulating the procedures codes, commonly called "unbundling."	3275 3276 3277 3278
(9) Necessary professional staff to conduct, at a minimum, authorizations for treatment, medical necessity, utilization review, concurrent review, post-utilization review, and have the attendant computer system which supports such activity and measures the outcomes and the savings.	3279 3280 3281 3282 3283
(10) Management experience and flexibility to be able to react quickly to the needs of the bureau in the case of required change in federal or state requirements.	3284 3285 3286
(G) (1) The administrator may decertify a managed care organization if the managed care organization does any of the following:	3287 3288 3289
(a) Fails to maintain any of the requirements set forth in division (F) of this section;	3290 3291
(b) Fails to reasonably comply with or to perform in accordance with the terms of a contract entered into under division (B) (4) of this section;	3292 3293 3294
(c) Violates a rule adopted under section 4121.441 of the Revised Code.	3295 3296
(2) The administrator shall provide each managed care	3297

organization that is being decertified pursuant to division (G) 3298  
(1) of this section with written notice of the pending 3299  
decertification and an opportunity for a hearing pursuant to 3300  
rules adopted by the administrator. 3301

(H) (1) Information contained in a managed care 3302  
organization's application for certification in the health 3303  
partnership program, and other information furnished to the 3304  
bureau by a managed care organization for purposes of obtaining 3305  
certification or to comply with performance and financial 3306  
auditing requirements established by the administrator, is for 3307  
the exclusive use and information of the bureau in the discharge 3308  
of its official duties, and shall not be open to the public or 3309  
be used in any court in any proceeding pending therein, unless 3310  
the bureau is a party to the action or proceeding, but the 3311  
information may be tabulated and published by the bureau in 3312  
statistical form for the use and information of other state 3313  
departments and the public. No employee of the bureau, except as 3314  
otherwise authorized by the administrator, shall divulge any 3315  
information secured by the employee while in the employ of the 3316  
bureau in respect to a managed care organization's application 3317  
for certification or in respect to the business or other trade 3318  
processes of any managed care organization to any person other 3319  
than the administrator or to the employee's superior. 3320

(2) Notwithstanding the restrictions imposed by division 3321  
(H) (1) of this section, the governor, members of select or 3322  
standing committees of the senate or house of representatives, 3323  
the auditor of state, the attorney general, or their designees, 3324  
pursuant to the authority granted in this chapter and Chapter 3325  
4123. of the Revised Code, may examine any managed care 3326  
organization application or other information furnished to the 3327  
bureau by the managed care organization. None of those 3328

individuals shall divulge any information secured in the 3329  
exercise of that authority in respect to a managed care 3330  
organization's application for certification or in respect to 3331  
the business or other trade processes of any managed care 3332  
organization to any person. 3333

(I) On and after January 1, 2001, a managed care 3334  
organization shall not be an insurance company holding a 3335  
certificate of authority issued pursuant to Title XXXIX of the 3336  
Revised Code or a health insuring corporation holding a 3337  
certificate of authority under Chapter 1751. of the Revised 3338  
Code. 3339

(J) The administrator may limit freedom of choice of 3340  
health care provider or supplier by requiring, beginning with 3341  
the period set forth in division (B)(1) or (2) of this section, 3342  
that claimants shall pay an appropriate out-of-plan copayment 3343  
for selecting a medical provider not within the health 3344  
partnership program as provided for in this section. 3345

(K) The administrator, six months prior to the expiration 3346  
of the bureau's certification or recertification of the managed 3347  
care organizations as set forth in division (B)(1) or (2) of 3348  
this section, may certify and provide evidence to the governor, 3349  
the speaker of the house of representatives, and the president 3350  
of the senate that the existing bureau staff is able to match or 3351  
exceed the performance and outcomes of the managed care 3352  
organizations and that the bureau should be permitted to 3353  
internally administer the health partnership program upon the 3354  
expiration of the certification or recertification as set forth 3355  
in division (B)(1) or (2) of this section. 3356

(L) The administrator shall establish and operate a bureau 3357  
of workers' compensation health care data program. The 3358

administrator shall develop reporting requirements from all 3359  
employees, employers, medical providers, managed care 3360  
organizations, and plans that participate in the workers' 3361  
compensation system. The administrator shall do all of the 3362  
following: 3363

(1) Utilize the collected data to measure and perform 3364  
comparison analyses of costs, quality, appropriateness of 3365  
medical care, and effectiveness of medical care delivered by all 3366  
components of the workers' compensation system. 3367

(2) Compile data to support activities of the selected 3368  
managed care organizations and to measure the outcomes and 3369  
savings of the health partnership program. 3370

(3) Publish and report compiled data on the measures of 3371  
outcomes and savings of the health partnership program and 3372  
submit the report to the president of the senate, the speaker of 3373  
the house of representatives, and the governor with the annual 3374  
report prepared under division (F)(3) of section 4121.12 of the 3375  
Revised Code. The administrator shall protect the 3376  
confidentiality of all proprietary pricing data. 3377

(M) Any rehabilitation facility the bureau operates is 3378  
eligible for inclusion in the Ohio workers' compensation 3379  
qualified health plan system or the health partnership program 3380  
under the same terms as other providers within health care plans 3381  
or the program. 3382

(N) In areas outside the state or within the state where 3383  
no qualified health plan or an inadequate number of providers 3384  
within the health partnership program exist, the administrator 3385  
shall permit employees to use a nonplan or nonprogram health 3386  
care provider and shall pay the provider for the services or 3387

supplies provided to or on behalf of an employee for an injury 3388  
or occupational disease that is compensable under this chapter 3389  
or Chapter 4123., 4127., ~~or 4131.~~, or 4133. of the Revised Code 3390  
on a fee schedule the administrator adopts. 3391

(O) No health care provider, whether certified or not, 3392  
shall charge, assess, or otherwise attempt to collect from an 3393  
employee, employer, a managed care organization, or the bureau 3394  
any amount for covered services or supplies that is in excess of 3395  
the allowed amount paid by a managed care organization, the 3396  
bureau, or a qualified health plan. 3397

(P) The administrator shall permit any employer or group 3398  
of employers who agree to abide by the rules adopted under this 3399  
section and sections 4121.441 and 4121.442 of the Revised Code 3400  
to provide services or supplies to or on behalf of an employee 3401  
for an injury or occupational disease that is compensable under 3402  
this chapter or Chapter 4123., 4127., ~~or 4131.~~, or 4133. of the 3403  
Revised Code through qualified health plans of the Ohio workers' 3404  
compensation qualified health plan system pursuant to section 3405  
4121.442 of the Revised Code or through the health partnership 3406  
program pursuant to section 4121.441 of the Revised Code. No 3407  
amount paid under the qualified health plan system pursuant to 3408  
section 4121.442 of the Revised Code by an employer who is a 3409  
state fund employer shall be charged to the employer's 3410  
experience or otherwise be used in merit-rating or determining 3411  
the risk of that employer for the purpose of the payment of 3412  
premiums under this chapter, and if the employer is a self- 3413  
insuring employer, the employer shall not include that amount in 3414  
the paid compensation the employer reports under section 4123.35 3415  
of the Revised Code. 3416

**Sec. 4121.441.** (A) The administrator of workers' 3417

compensation, with the advice and consent of the bureau of 3418  
workers' compensation board of directors, shall adopt rules 3419  
under Chapter 119. of the Revised Code for the health care 3420  
partnership program administered by the bureau of workers' 3421  
compensation to provide medical, surgical, nursing, drug, 3422  
hospital, and rehabilitation services and supplies to an 3423  
employee for an injury or occupational disease that is 3424  
compensable under this chapter or Chapter 4123., 4127., ~~or~~ 3425  
4131., or 4133. of the Revised Code, and to regulate contracts 3426  
with managed care organizations pursuant to this chapter. 3427

(1) The rules shall include, but are not limited to, the 3428  
following: 3429

(a) Procedures for the resolution of medical disputes 3430  
between an employer and an employee, an employee and a provider, 3431  
or an employer and a provider, prior to an appeal under section 3432  
4123.511 of the Revised Code. Rules the administrator adopts 3433  
pursuant to division (A)(1)(a) of this section may specify that 3434  
the resolution procedures shall not be used to resolve disputes 3435  
concerning medical services rendered that have been approved 3436  
through standard treatment guidelines, pathways, or presumptive 3437  
authorization guidelines. 3438

(b) Prohibitions against discrimination against any 3439  
category of health care providers; 3440

(c) Procedures for reporting injuries to employers and the 3441  
bureau by providers; 3442

(d) Appropriate financial incentives to reduce service 3443  
cost and insure proper system utilization without sacrificing 3444  
the quality of service; 3445

(e) Adequate methods of peer review, utilization review, 3446

quality assurance, and dispute resolution to prevent, and 3447  
provide sanctions for, inappropriate, excessive or not medically 3448  
necessary treatment; 3449

(f) A timely and accurate method of collection of 3450  
necessary information regarding medical and health care service 3451  
and supply costs, quality, and utilization to enable the 3452  
administrator to determine the effectiveness of the program; 3453

(g) Provisions for necessary emergency medical treatment 3454  
for an injury or occupational disease provided by a health care 3455  
provider who is not part of the program; 3456

(h) Discounted pricing for all in-patient and out-patient 3457  
medical services, all professional services, and all 3458  
pharmaceutical services; 3459

(i) Provisions for provider referrals, pre-admission and 3460  
post-admission approvals, second surgical opinions, and other 3461  
cost management techniques; 3462

(j) Antifraud mechanisms; 3463

(k) Standards and criteria for the bureau to utilize in 3464  
certifying or recertifying a health care provider or a managed 3465  
care organization for participation in the health partnership 3466  
program; 3467

(l) Standards for the bureau to utilize in penalizing or 3468  
decertifying a health care provider from participation in the 3469  
health partnership program. 3470

(2) Notwithstanding section 119.061 of the Revised Code, 3471  
the rules may include provisions limiting, restricting, or 3472  
regulating any marketing or advertising by a managed care 3473  
organization, or by any individual or entity that is affiliated 3474

with or acting on behalf of the managed care organization, under 3475  
the health partnership program. 3476

(B) The administrator shall implement the health 3477  
partnership program according to the rules the administrator 3478  
adopts under this section for the provision and payment of 3479  
medical, surgical, nursing, drug, hospital, and rehabilitation 3480  
services and supplies to an employee for an injury or 3481  
occupational disease that is compensable under this chapter or 3482  
Chapter 4123., 4127., ~~or 4131.~~, or 4133. of the Revised Code.<sup>u</sup> 3483

**Sec. 4121.442.** (A) The administrator of workers' 3484  
compensation shall develop standards for qualification of health 3485  
care plans of the Ohio workers' compensation qualified health 3486  
plan system to provide medical, surgical, nursing, drug, 3487  
hospital, and rehabilitation services and supplies to an 3488  
employee for an injury or occupational disease that is 3489  
compensable under this chapter or Chapter 4123., 4127., ~~or~~ 3490  
4131., or 4133. of the Revised Code. In adopting the standards, 3491  
the administrator shall use nationally recognized accreditation 3492  
standards. The standards the administrator adopts must provide 3493  
that a qualified plan provides for all of the following: 3494

(1) Criteria for selective contracting of health care 3495  
providers; 3496

(2) Adequate plan structure and financial stability; 3497

(3) Procedures for the resolution of medical disputes 3498  
between an employee and an employer, an employee and a provider, 3499  
or an employer and a provider, prior to an appeal under section 3500  
4123.511 of the Revised Code; 3501

(4) Authorize employees who are dissatisfied with the 3502  
health care services of the employer's qualified plan and do not 3503

wish to obtain treatment under the provisions of this section, 3504  
to request the administrator for referral to a health care 3505  
provider in the bureau's health care partnership program. The 3506  
administrator must refer all requesting employees into the 3507  
health care partnership program. 3508

(5) Does not discriminate against any category of health 3509  
care provider; 3510

(6) Provide a procedure for reporting injuries to the 3511  
bureau of workers' compensation and to employers by providers 3512  
within the qualified plan; 3513

(7) Provide appropriate financial incentives to reduce 3514  
service costs and utilization without sacrificing the quality of 3515  
service; 3516

(8) Provide adequate methods of peer review, utilization 3517  
review, quality assurance, and dispute resolution to prevent and 3518  
provide sanctions for inappropriate, excessive, or not medically 3519  
necessary treatment; 3520

(9) Provide a timely and accurate method of reporting to 3521  
the administrator necessary information regarding medical and 3522  
health care service and supply costs, quality, and utilization 3523  
to enable the administrator to determine the effectiveness of 3524  
the plan; 3525

(10) Authorize necessary emergency medical treatment for 3526  
an injury or occupational disease provided by a health care 3527  
provider who is not a part of the qualified health care plan; 3528

(11) Provide an employee the right to change health care 3529  
providers within the qualified health care plan; 3530

(12) Provide for standardized data and reporting 3531

requirements; 3532

(13) Authorize necessary medical treatment for employees 3533  
who work in Ohio but reside in another state. 3534

(B) Health care plans that meet the approved qualified 3535  
health plan standards shall be considered qualified plans and 3536  
are eligible to become part of the Ohio workers' compensation 3537  
qualified health plan system. Any employer or group of employers 3538  
may provide medical, surgical, nursing, drug, hospital, and 3539  
rehabilitation services and supplies to an employee for an 3540  
injury or occupational disease that is compensable under this 3541  
chapter or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the 3542  
Revised Code through a qualified health plan. 3543

**Sec. 4121.444.** (A) No person, health care provider, 3544  
managed care organization, or owner of a health care provider or 3545  
managed care organization shall obtain or attempt to obtain 3546  
payments by deception under Chapter 4121., 4123., 4127., ~~or~~ 3547  
~~4131.~~ or 4133. of the Revised Code to which the person, health 3548  
care provider, managed care organization, or owner is not 3549  
entitled under rules of the bureau of workers' compensation 3550  
adopted pursuant to sections 4121.441 and 4121.442 of the 3551  
Revised Code. 3552

(B) Any person, health care provider, managed care 3553  
organization, or owner that violates division (A) of this 3554  
section is liable, in addition to any other penalties provided 3555  
by law, for all of the following penalties: 3556

(1) Payment of interest on the amount of the excess 3557  
payments at the maximum interest rate allowable for real estate 3558  
mortgages under section 1343.01 of the Revised Code. The 3559  
interest shall be calculated from the date the payment was made 3560

to the person, owner, health care provider, or managed care organization through the date upon which repayment is made to the bureau or the self-insuring employer. 3561  
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(2) Payment of an amount equal to three times the amount of any excess payments; 3564  
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(3) Payment of a sum of not less than five thousand dollars and not more than ten thousand dollars for each act of deception; 3566  
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(4) All reasonable and necessary expenses that the court determines have been incurred by the bureau or the self-insuring employer in the enforcement of this section. 3569  
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All moneys collected by the bureau pursuant to this section shall be deposited into the state insurance fund created in section 4123.30 of the Revised Code. All moneys collected by a self-insuring employer pursuant to this section shall be awarded to the self-insuring employer. 3572  
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(C) (1) In addition to the monetary penalties provided in division (B) of this section and except as provided in division (C) (3) of this section, the administrator may terminate any agreement between the bureau and a person or a health care provider or managed care organization or its owner and cease reimbursement to that person, provider, organization, or owner for services rendered if any of the following apply: 3577  
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(a) The person, health care provider, managed care organization, or its owner, or an officer, authorized agent, associate, manager, or employee of a person, provider, or organization is convicted of or pleads guilty to a violation of sections 2913.48 or 2923.31 to 2923.36 of the Revised Code or any other criminal offense related to the delivery of or billing 3584  
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for health care benefits. 3590

(b) There exists an entry of judgment against the person, 3591  
health care provider, managed care organization, or its owner, 3592  
or an officer, authorized agent, associate, manager, or employee 3593  
of a person, provider, or organization and proof of the specific 3594  
intent of the person, health care provider, managed care 3595  
organization, or owner to defraud, in a civil action brought 3596  
pursuant to this section. 3597

(c) There exists an entry of judgment against the person, 3598  
health care provider, managed care organization, or its owner, 3599  
or an officer, authorized agent, associate, manager, or employee 3600  
of a person, provider, or organization in a civil action brought 3601  
pursuant to sections 2923.31 to 2923.36 of the Revised Code. 3602

(2) No person, health care provider, or managed care 3603  
organization that has had its agreement with and reimbursement 3604  
from the bureau terminated by the administrator pursuant to 3605  
division (C)(1) of this section, or an owner, officer, 3606  
authorized agent, associate, manager, or employee of that 3607  
person, health care provider, or managed care organization shall 3608  
do either of the following: 3609

(a) Directly provide services to any other bureau provider 3610  
or have an ownership interest in a provider of services that 3611  
furnishes services to any other bureau provider; 3612

(b) Arrange for, render, or order services for claimants 3613  
during the period that the agreement of the person, health care 3614  
provider, managed care organization, or its owner is terminated 3615  
as described in division (C)(1) of this section; 3616

(3) The administrator shall not terminate the agreement or 3617  
reimbursement if the person, health care provider, managed care 3618

organization, or owner demonstrates that the person, provider, 3619  
organization, or owner did not directly or indirectly sanction 3620  
the action of the authorized agent, associate, manager, or 3621  
employee that resulted in the conviction, plea of guilty, or 3622  
entry of judgment as described in division (C)(1) of this 3623  
section. 3624

(4) Nothing in division (C) of this section prohibits an 3625  
owner, officer, authorized agent, associate, manager, or 3626  
employee of a person, health care provider, or managed care 3627  
organization from entering into an agreement with the bureau if 3628  
the provider, organization, owner, officer, authorized agent, 3629  
associate, manager, or employee demonstrates absence of 3630  
knowledge of the action of the person, health care provider, or 3631  
managed care organization with which that individual or 3632  
organization was formerly associated that resulted in a 3633  
conviction, plea of guilty, or entry of judgment as described in 3634  
division (C)(1) of this section. 3635

(D) The attorney general may bring an action on behalf of 3636  
the state and a self-insuring employer may bring an action on 3637  
its own behalf to enforce this section in any court of competent 3638  
jurisdiction. The attorney general may settle or compromise any 3639  
action brought under this section with the approval of the 3640  
administrator. 3641

Notwithstanding any other law providing a shorter period 3642  
of limitations, the attorney general or a self-insuring employer 3643  
may bring an action to enforce this section at any time within 3644  
six years after the conduct in violation of this section 3645  
terminates. 3646

(E) The availability of remedies under this section and 3647  
sections 2913.48 and 2923.31 to 2923.36 of the Revised Code for 3648

recovering benefits paid on behalf of claimants for medical 3649  
assistance does not limit the authority of the bureau or a self- 3650  
insuring employer to recover excess payments made to an owner, 3651  
health care provider, managed care organization, or person under 3652  
state and federal law. 3653

(F) As used in this section: 3654

(1) "Deception" means acting with actual knowledge in 3655  
order to deceive another or cause another to be deceived by 3656  
means of any of the following: 3657

(a) A false or misleading representation; 3658

(b) The withholding of information; 3659

(c) The preventing of another from acquiring information; 3660

(d) Any other conduct, act, or omission that creates, 3661  
confirms, or perpetuates a false impression as to a fact, the 3662  
law, the value of something, or a person's state of mind. 3663

(2) "Owner" means any person having at least a five per 3664  
cent ownership interest in a health care provider or managed 3665  
care organization. 3666

**Sec. 4121.45.** (A) There is hereby created a workers' 3667  
compensation ombudsperson system to assist claimants and 3668  
employers in matters dealing with the bureau of workers' 3669  
compensation and the industrial commission. The industrial 3670  
commission nominating council shall appoint a chief 3671  
ombudsperson. The chief ombudsperson, with the advice and 3672  
consent of the nominating council, may appoint such assistant 3673  
ombudspersons as the nominating council deems necessary. The 3674  
position of chief ombudsperson is for a term of six years. A 3675  
person appointed to the position of chief ombudsperson shall 3676

serve at the pleasure of the nominating council. The chief 3677  
ombudsperson may not be transferred, demoted, or suspended 3678  
during the person's tenure and may be removed by the nominating 3679  
council only upon a vote of not fewer than nine members of the 3680  
nominating council. The chief ombudsperson shall devote the 3681  
chief ombudsperson's full time and attention to the duties of 3682  
the ombudsperson's office. The administrator of workers' 3683  
compensation shall furnish the chief ombudsperson with the 3684  
office space, supplies, and clerical assistance that will enable 3685  
the chief ombudsperson and the ombudsperson system staff to 3686  
perform their duties effectively. The ombudsperson program shall 3687  
be funded out of the budget of the bureau and the chief 3688  
ombudsperson and the ombudsperson system staff shall be carried 3689  
on the bureau payroll. The chief ombudsperson and the 3690  
ombudsperson system shall be under the direction of the 3691  
nominating council. The administrator and all employees of the 3692  
bureau and the commission shall give the ~~the~~ ombudsperson system 3693  
staff full and prompt cooperation in all matters relating to the 3694  
duties of the chief ombudsperson. 3695

(B) The ombudsperson system staff shall: 3696

(1) Answer inquiries or investigate complaints made by 3697  
employers or claimants under this chapter and ~~Chapter~~ Chapters 3698  
4123. and 4133. of the Revised Code as they relate to the 3699  
processing of a claim for workers' compensation benefits; 3700

(2) Provide claimants and employers with information 3701  
regarding problems which arise out of the functions of the 3702  
bureau, commission hearing officers, and the commission and the 3703  
procedures employed in the processing of claims; 3704

(3) Answer inquiries or investigate complaints of an 3705  
employer as they relate to reserves established and premiums 3706

charged in connection with the employer's account; 3707

(4) Comply with Chapter 102. and sections 2921.42 and 3708  
2921.43 of the Revised Code and the nominating council's human 3709  
resource and ethics policies; 3710

(5) Not express any opinions as to the merit of a claim or 3711  
the correctness of a decision by the various officers or 3712  
agencies as the decision relates to a claim for benefits or 3713  
compensation. 3714

For the purpose of carrying out the chief ombudsperson's 3715  
duties, the chief ombudsperson or the ombudsperson system staff, 3716  
notwithstanding sections 4123.27 and 4123.88 of the Revised 3717  
Code, has the right at all reasonable times to examine the 3718  
contents of a claim file and discuss with parties in interest 3719  
the contents of the file as long as the ombudsperson does not 3720  
divulge information that would tend to prejudice the case of 3721  
either party to a claim or that would tend to compromise a 3722  
privileged attorney-client or doctor-patient relationship. 3723

(C) The chief ombudsperson shall: 3724

(1) Assist any service office in its duties whenever it 3725  
requires assistance or information that can best be obtained 3726  
from central office personnel or records; 3727

(2) Annually assemble reports from each assistant 3728  
ombudsperson as to their activities for the preceding year 3729  
together with their recommendations as to changes or 3730  
improvements in the operations of the workers' compensation 3731  
system. The chief ombudsperson shall prepare a written report 3732  
summarizing the activities of the ombudsperson system together 3733  
with a digest of recommendations. The chief ombudsperson shall 3734  
transmit the report to the nominating council. 3735

(3) Comply with Chapter 102. and sections 2921.42 and 3736  
2921.43 of the Revised Code and the nominating council's human 3737  
resource and ethics policies. 3738

(D) No ombudsperson or assistant ombudsperson shall: 3739

(1) Represent a claimant or employer in claims pending 3740  
before or to be filed with the administrator, a district or 3741  
staff hearing officer, the commission, or the courts of the 3742  
state, nor shall an ombudsperson or assistant ombudsperson 3743  
undertake any such representation for a period of one year after 3744  
the ombudsperson's or assistant ombudsperson's employment 3745  
terminates or be eligible for employment by the bureau or the 3746  
commission or as a district or staff hearing officer for one 3747  
year; 3748

(2) Express any opinions as to the merit of a claim or the 3749  
correctness of a decision by the various officers or agencies as 3750  
the decision relates to a claim for benefits or compensation. 3751

(E) The chief ombudsperson and assistant ombudspersons 3752  
shall receive compensation at a level established by the 3753  
nominating council commensurate with the individual's 3754  
background, education, and experience in workers' compensation 3755  
or related fields. The chief ombudsperson and assistant 3756  
ombudspersons are full-time permanent employees in the 3757  
unclassified service of the state and are entitled to all 3758  
benefits that accrue to such employees, including, without 3759  
limitation, sick, vacation, and personal leaves. Assistant 3760  
ombudspersons serve at the pleasure of the chief ombudsperson. 3761

(F) In the event of a vacancy in the position of chief 3762  
ombudsperson, the nominating council may appoint a person to 3763  
serve as acting chief ombudsperson until a chief ombudsperson is 3764

appointed. The acting chief ombudsperson shall be under the 3765  
direction and control of the nominating council and may be 3766  
removed by the nominating council with or without just cause. 3767

**Sec. 4121.50.** ~~Not later than July 1, 2012, the~~ The 3768  
administrator of workers' compensation shall adopt rules in 3769  
accordance with Chapter 119. of the Revised Code to implement a 3770  
coordinated services program for claimants under this chapter or 3771  
Chapter 4123., 4127., ~~or 4131.,~~ or 4133. of the Revised Code who 3772  
are found to have obtained prescription drugs that were 3773  
reimbursed pursuant to an order of the administrator or of the 3774  
industrial commission or by a self-insuring employer but were 3775  
obtained at a frequency or in an amount that is not medically 3776  
necessary. The program shall be implemented in a manner that is 3777  
substantially similar to the coordinated services programs 3778  
established for the medicaid program under sections 5164.758 and 3779  
5167.13 of the Revised Code. 3780

**Sec. 4121.61.** (A) As used in sections 4121.61 to 4121.70 3781  
of the Revised Code, "self-insuring employer" has the same 3782  
meaning as in section 4123.01 of the Revised Code. 3783

(B) The administrator of workers' compensation, with the 3784  
advice and consent of the bureau of workers' compensation board 3785  
of directors, shall adopt rules, take measures, and make 3786  
expenditures as it deems necessary to aid claimants who have 3787  
sustained compensable injuries or incurred compensable 3788  
occupational diseases pursuant to Chapter 4123., 4127., ~~or~~ 3789  
4131., or 4133. of the Revised Code to return to work or to 3790  
assist in lessening or removing any resulting handicap. 3791

**Sec. 4123.15.** (A) An employer who is a member of a 3792  
recognized religious sect or division of a recognized religious 3793  
sect and who is an adherent of established tenets or teachings 3794

of that sect or division by reason of which the employer is 3795  
conscientiously opposed to benefits to employers and employees 3796  
from any public or private insurance that makes payment in the 3797  
event of death, disability, impairment, old age, or retirement 3798  
or makes payments toward the cost of, or provides services in 3799  
connection with the payment for, medical services, including the 3800  
benefits from any insurance system established by the "Social 3801  
Security Act," 42 U.S.C.A. 301, et seq., may apply to the 3802  
administrator of workers' compensation to be excepted from 3803  
payment of premiums and other charges assessed under this 3804  
chapter and Chapter 4121. of the Revised Code with respect to, 3805  
or if the employer is a self-insuring employer, from payment of 3806  
direct compensation and benefits to and assessments required by 3807  
this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 3808  
Code on account of, an individual employee who meets the 3809  
requirements of this section. The employer shall make an 3810  
application on forms provided by the bureau of workers' 3811  
compensation which forms may be those used by or similar to 3812  
those used by the United States internal revenue service for the 3813  
purpose of granting an exemption from payment of social security 3814  
taxes under 26 U.S.C.A. 1402(g) of the Internal Revenue Code, 3815  
and shall include a written waiver signed by the individual 3816  
employee to be excepted from all the benefits and compensation 3817  
provided in this chapter and ~~Chapter~~ Chapters 4121. and 4133. of 3818  
the Revised Code. 3819

The application also shall include affidavits signed by 3820  
the employer and the individual employee that the employer and 3821  
the individual employee are members of a recognized religious 3822  
sect or division of a recognized religious sect and are 3823  
adherents of established tenets or teaching of that sect or 3824  
division by reason of which the employer and the individual 3825

employee are conscientiously opposed to benefits to employers 3826  
and employees received from any public or private insurance that 3827  
makes payments in the event of death, disability, impairment, 3828  
old age, or retirement or makes payments toward the cost of, or 3829  
provides services in connection with the payment for, medical 3830  
services, including the benefits from any insurance system 3831  
established by the "Social Security Act," 42 U.S.C.A. 301, et 3832  
seq. If the individual is a minor, the guardian of the minor 3833  
shall complete the waiver and affidavit required by this 3834  
division. 3835

(B) The administrator shall grant the waiver and exception 3836  
to the employer for a particular individual employee if the 3837  
administrator finds that the employer and the individual 3838  
employee are members of a sect or division having the 3839  
established tenets or teachings described in division (A) of 3840  
this section, that it is the practice, and has been for a 3841  
substantial number of years, for members of the sect or division 3842  
of the sect to make provision for their dependent members which, 3843  
in the administrator's judgment, is reasonable in view of their 3844  
general level of hiring, and that the sect or division of the 3845  
sect has been in existence at all times since December 31, 1950. 3846

(C) A waiver and exception under division (B) of this 3847  
section is effective on the date the administrator grants the 3848  
waiver and exception. An employer who complies with this chapter 3849  
and the employer's other employees, with respect to an 3850  
individual employee for whom the administrator grants the waiver 3851  
and exception, are entitled, as to that individual employee and 3852  
as to all injuries and occupational diseases of the individual 3853  
employee that occurred prior to the effective date of the waiver 3854  
and exception, to the protections of sections 4123.74 and 3855  
4123.741 of the Revised Code. On and after the effective date of 3856

the waiver and exception, the employer is not liable for the 3857  
payment of any premiums or other charges assessed under this 3858  
chapter or Chapter 4121. of the Revised Code, or if the 3859  
individual is a self-insuring employer, the employer is not 3860  
liable for the payment of any compensation or benefits directly 3861  
or other charges assessed under this chapter or Chapter 4121. or 3862  
4133. of the Revised Code in regard to that individual employee, 3863  
and is considered a complying employer under those chapters, and 3864  
the employer and the employer's other employees are entitled to 3865  
the protections of sections 4123.74 and 4123.741 of the Revised 3866  
Code, as to that individual employee, and as to injuries and 3867  
occupational diseases of that individual employee that occur on 3868  
and after the effective date of the waiver and exception. 3869

(D) A waiver and exception granted in regard to a specific 3870  
employer and individual employee are valid for all future years 3871  
unless the administrator determines that the employer, 3872  
individual employee, or sect or division ceases to meet the 3873  
requirements of this section. If the administrator makes this 3874  
determination, the employer is liable for the payment of 3875  
premiums and other charges assessed under this chapter and 3876  
Chapter 4121. of the Revised Code, or if the employer is a self- 3877  
insuring employer, the employer is liable for the payment of 3878  
compensation and benefits directly and other charges assessed 3879  
under those chapters and Chapter 4133. of the Revised Code, in 3880  
regard to the individual employee for all injuries and 3881  
occupational diseases of that individual that occur on and after 3882  
the date of the administrator's determination, and the 3883  
individual employee is entitled to all of the benefits and 3884  
compensation provided in those chapters for an injury or 3885  
occupational disease that occurs on or after the date of the 3886  
administrator's determination. 3887

**Sec. 4123.26.** (A) Every employer shall keep records of, 3888  
and furnish to the bureau of workers' compensation upon request, 3889  
all information required by the administrator of workers' 3890  
compensation to carry out this chapter. 3891

(B) Except as otherwise provided in division (C) of this 3892  
section, every private employer employing one or more employees 3893  
regularly in the same business, or in or about the same 3894  
establishment, shall submit a payroll report to the bureau. 3895  
Until the policy year commencing July 1, 2015, a private 3896  
employer shall submit the payroll report in January of each 3897  
year. For a policy year commencing on or after July 1, 2015, the 3898  
employer shall submit the payroll report on or before August 3899  
fifteenth of each year unless otherwise specified by the 3900  
administrator in rules the administrator adopts. The employer 3901  
shall include all of the following information in the payroll 3902  
report, as applicable: 3903

(1) For payroll reports submitted prior to July 1, 2015, 3904  
the number of employees employed during the preceding year from 3905  
the first day of January through the thirty-first day of 3906  
December who are localized in this state; 3907

(2) For payroll reports submitted on or after July 1, 3908  
2015, the number of employees localized in this state employed 3909  
during the preceding policy year from the first day of July 3910  
through the thirtieth day of June; 3911

(3) The number of such employees localized in this state 3912  
employed at each kind of employment and the aggregate amount of 3913  
wages paid to such employees; 3914

(4) ~~(a)~~ If an employer elects to secure other-states' 3915  
coverage or limited other-states' coverage pursuant to section 3916

4123.292 of the Revised Code through either the administrator, 3917  
if the administrator elects to offer such coverage, or an other- 3918  
states' insurer the information required under divisions (B) (1) 3919  
to (3) of this section and any additional information required 3920  
by the administrator in rules the administrator adopts, with the 3921  
advice and consent of the bureau of workers' compensation board 3922  
of directors, to allow the employer to secure other-states' 3923  
coverage or limited other-states' coverage. 3924

(5) (a) In accordance with the rules adopted by the 3925  
administrator pursuant to division (C) of section 4123.32 of the 3926  
Revised Code, if the employer employs employees who are covered 3927  
under the federal "Longshore and Harbor Workers' Compensation 3928  
Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and under this 3929  
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 3930  
Code, both of the following amounts: 3931

(i) The amount of wages the employer pays to those 3932  
employees when the employees perform labor and provide services 3933  
for which the employees are eligible to receive compensation and 3934  
benefits under the federal "Longshore and Harbor Workers' 3935  
Compensation Act"; 3936

(ii) The amount of wages the employer pays to those 3937  
employees when the employees perform labor and provide services 3938  
for which the employees are eligible to receive compensation and 3939  
benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4133. 3940  
of the Revised Code. 3941

(b) The allocation of wages identified by the employer 3942  
pursuant to divisions (B) (5) (a) (i) and (ii) of this section 3943  
shall not be presumed to be an indication of the law under which 3944  
an employee is eligible to receive compensation and benefits. 3945

(C) Beginning August 1, 2015, each employer that is 3946  
recognized by the administrator as a professional employer 3947  
organization shall submit a monthly payroll report containing 3948  
the number of employees employed during the preceding calendar 3949  
month, the number of those employees employed at each kind of 3950  
employment, and the aggregate amount of wages paid to those 3951  
employees. 3952

(D) An employer described in division (B) of this section 3953  
shall submit the payroll report required under this section to 3954  
the bureau on a form prescribed by the bureau. The bureau may 3955  
require that the information required to be furnished be 3956  
verified under oath. The bureau or any person employed by the 3957  
bureau for that purpose, may examine, under oath, any employer, 3958  
or the officer, agent, or employee thereof, for the purpose of 3959  
ascertaining any information which the employer is required to 3960  
furnish to the bureau. 3961

(E) No private employer shall fail to furnish to the 3962  
bureau the payroll report required by this section, nor shall 3963  
any employer fail to keep records of or furnish such other 3964  
information as may be required by the bureau under this section. 3965

(F) The administrator may adopt rules setting forth 3966  
penalties for failure to submit the payroll report required by 3967  
this section, including but not limited to exclusion from 3968  
alternative rating plans and discount programs. 3969

**Sec. 4123.291.** (A) An adjudicating committee appointed by 3970  
the administrator of workers' compensation to hear any matter 3971  
specified in divisions (B)(1) to (7) of this section shall hear 3972  
the matter within sixty days of the date on which an employer 3973  
files the request, protest, or petition. An employer desiring to 3974  
file a request, protest, or petition regarding any matter 3975

specified in divisions (B) (1) to (7) of this section shall file 3976  
the request, protest, or petition to the adjudicating committee 3977  
on or before twenty-four months after the administrator sends 3978  
notice of the determination about which the employer is filing 3979  
the request, protest, or petition. 3980

(B) An employer who is adversely affected by a decision of 3981  
an adjudicating committee appointed by the administrator may 3982  
appeal the decision of the committee to the administrator or the 3983  
administrator's designee. The employer shall file the appeal in 3984  
writing within thirty days after the employer receives the 3985  
decision of the adjudicating committee. Except as otherwise 3986  
provided in this division, the administrator or the designee 3987  
shall hold a hearing and consider and issue a decision on the 3988  
appeal if the decision of the adjudicating committee relates to 3989  
one of the following: 3990

(1) An employer request for a waiver of a default in the 3991  
payment of premiums pursuant to section 4123.37 of the Revised 3992  
Code; 3993

(2) An employer request for the settlement of liability as 3994  
a noncomplying employer under section 4123.75 of the Revised 3995  
Code; 3996

(3) An employer petition objecting to an assessment made 3997  
pursuant to section 4123.37 of the Revised Code and the rules 3998  
adopted pursuant to that section; 3999

(4) An employer request for the abatement of penalties 4000  
assessed pursuant to section 4123.32 of the Revised Code and the 4001  
rules adopted pursuant to that section; 4002

(5) An employer protest relating to an audit finding or a 4003  
determination of a manual classification, experience rating, or 4004

transfer or combination of risk experience; 4005

(6) Any decision relating to any other risk premium matter 4006  
under Chapters 4121., 4123., ~~and 4131.~~, and 4133. of the Revised 4007  
Code; 4008

(7) An employer petition objecting to the amount of 4009  
security required under division (D) of section 4125.05 of the 4010  
Revised Code and the rules adopted pursuant to that section. 4011

An employer may request, in writing, that the 4012  
administrator waive the hearing before the administrator or the 4013  
administrator's designee. The administrator shall decide whether 4014  
to grant or deny a request to waive a hearing. 4015

(C) The bureau of workers' compensation board of 4016  
directors, based upon recommendations of the workers' 4017  
compensation actuarial committee, shall establish the policy for 4018  
all adjudicating committee procedures, including, but not 4019  
limited to, specific criteria for manual premium rate 4020  
adjustment. 4021

**Sec. 4123.311.** (A) The administrator of workers' 4022  
compensation may do all of the following: 4023

(1) Utilize direct deposit of funds by electronic transfer 4024  
for all disbursements the administrator is authorized to pay 4025  
under this chapter and Chapters 4121., 4127., ~~and 4131.~~, and 4026  
4133. of the Revised Code; 4027

(2) Require any payee to provide a written authorization 4028  
designating a financial institution and an account number to 4029  
which a payment made according to division (A)(1) of this 4030  
section is to be credited, notwithstanding division (B) of 4031  
section 9.37 of the Revised Code; 4032

(3) Contract with an agent to do both of the following:	4033
(a) Supply debit cards for claimants to access payments made to them pursuant to this chapter and Chapters 4121., 4127., <del>and 4131.</del> , <u>and 4133.</u> of the Revised Code;	4034 4035 4036
(b) Credit the debit cards described in division (A) (3) (a) of this section with the amounts specified by the administrator pursuant to this chapter and Chapters 4121., 4127., <del>and 4131.</del> , <u>and 4133.</u> of the Revised Code by utilizing direct deposit of funds by electronic transfer.	4037 4038 4039 4040 4041
(4) Enter into agreements with financial institutions to credit the debit cards described in division (A) (3) (a) of this section with the amounts specified by the administrator pursuant to this chapter and Chapters 4121., 4127., <del>and 4131.</del> , <u>and 4133.</u> of the Revised Code by utilizing direct deposit of funds by electronic transfer.	4042 4043 4044 4045 4046 4047
(B) The administrator shall inform claimants about the administrator's utilization of direct deposit of funds by electronic transfer under this section and section 9.37 of the Revised Code, furnish debit cards to claimants as appropriate, and provide claimants with instructions regarding use of those debit cards.	4048 4049 4050 4051 4052 4053
(C) The administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules in accordance with Chapter 119. of the Revised Code regarding utilization of the direct deposit of funds by electronic transfer under this section and section 9.37 of the Revised Code.	4054 4055 4056 4057 4058 4059
<b>Sec. 4123.32.</b> The administrator of workers' compensation, with the advice and consent of the bureau of workers'	4060 4061

compensation board of directors, shall adopt rules with respect 4062  
to the collection, maintenance, and disbursements of the state 4063  
insurance fund including all of the following: 4064

(A) A rule providing for ascertaining the correctness of 4065  
any employer's report of estimated or actual expenditure of 4066  
wages and the determination and adjustment of proper premiums 4067  
and the payment of those premiums by the employer; 4068

(B) Such special rules as the administrator considers 4069  
necessary to safeguard the fund and that are just in the 4070  
circumstances, covering the rates to be applied where one 4071  
employer takes over the occupation or industry of another or 4072  
where an employer first makes application for state insurance, 4073  
and the administrator may require that if any employer transfers 4074  
a business in whole or in part or otherwise reorganizes the 4075  
business, the successor in interest shall assume, in proportion 4076  
to the extent of the transfer, as determined by the 4077  
administrator, the employer's account and shall continue the 4078  
payment of all contributions due under this chapter; 4079

(C) A rule providing that an employer who employs an 4080  
employee covered under the federal "Longshore and Harbor 4081  
Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 4082  
seq., and this chapter and ~~Chapter~~ Chapters 4121. and 4133. of 4083  
the Revised Code shall be assessed a premium in accordance with 4084  
the expenditure of wages, payroll, or both attributable to only 4085  
labor performed and services provided by such an employee when 4086  
the employee performs labor and provides services for which the 4087  
employee is not eligible to receive compensation and benefits 4088  
under that federal act. 4089

(D) A rule providing for all of the following: 4090

(1) If an employer fails to file a report of the 4091  
employer's actual payroll expenditures pursuant to section 4092  
4123.26 of the Revised Code for private employers or pursuant to 4093  
section 4123.41 of the Revised Code for public employers, the 4094  
premium and assessments due from the employer for the period 4095  
shall be calculated based on the estimated payroll of the 4096  
employer used in calculating the estimated premium due, 4097  
increased by ten per cent; 4098

(2) (a) If an employer fails to pay the premium or 4099  
assessments when due for a policy year commencing prior to July 4100  
1, 2015, the administrator may add a late fee penalty of not 4101  
more than thirty dollars to the premium plus an additional 4102  
penalty amount as follows: 4103

(i) For a premium from sixty-one to ninety days past due, 4104  
the prime interest rate, multiplied by the premium due; 4105

(ii) For a premium from ninety-one to one hundred twenty 4106  
days past due, the prime interest rate plus two per cent, 4107  
multiplied by the premium due; 4108

(iii) For a premium from one hundred twenty-one to one 4109  
hundred fifty days past due, the prime interest rate plus four 4110  
per cent, multiplied by the premium due; 4111

(iv) For a premium from one hundred fifty-one to one 4112  
hundred eighty days past due, the prime interest rate plus six 4113  
per cent, multiplied by the premium due; 4114

(v) For a premium from one hundred eighty-one to two 4115  
hundred ten days past due, the prime interest rate plus eight 4116  
per cent, multiplied by the premium due; 4117

(vi) For each additional thirty-day period or portion 4118  
thereof that a premium remains past due after it has remained 4119

past due for more than two hundred ten days, the prime interest 4120  
rate plus eight per cent, multiplied by the premium due. 4121

(b) For purposes of division (D) (2) (a) of this section, 4122  
"prime interest rate" means the average bank prime rate, and the 4123  
administrator shall determine the prime interest rate in the 4124  
same manner as a county auditor determines the average bank 4125  
prime rate under section 929.02 of the Revised Code. 4126

(c) If an employer fails to pay the premium or assessments 4127  
when due for a policy year commencing on or after July 1, 2015, 4128  
the administrator may assess a penalty at the interest rate 4129  
established by the state tax commissioner pursuant to section 4130  
5703.47 of the Revised Code. 4131

(3) Notwithstanding the interest rates specified in 4132  
division (D) (2) (a) or (c) of this section, at no time shall the 4133  
additional penalty amount assessed under division (D) (2) (a) or 4134  
(c) of this section exceed fifteen per cent of the premium due. 4135

(4) If an employer recognized by the administrator as a 4136  
professional employer organization fails to make a timely 4137  
payment of premiums or assessments as required by section 4138  
4123.35 of the Revised Code, the administrator shall revoke the 4139  
professional employer organization's registration pursuant to 4140  
section 4125.06 of the Revised Code. 4141

(5) An employer may appeal a late fee penalty or 4142  
additional penalty to an adjudicating committee pursuant to 4143  
section 4123.291 of the Revised Code. 4144

(6) If the employer files an appropriate payroll report 4145  
within the time provided by law, the employer shall not be in 4146  
default and division (D) (2) of this section shall not apply if 4147  
the employer pays the premiums within fifteen days after being 4148

first notified by the administrator of the amount due. 4149

(7) Any deficiencies in the amounts of the premium 4150  
security deposit paid by an employer prior to July 1, 2015, 4151  
shall be subject to an interest charge of six per cent per annum 4152  
from the date the premium obligation is incurred. In determining 4153  
the interest due on deficiencies in premium security deposit 4154  
payments, a charge in each case shall be made against the 4155  
employer in an amount equal to interest at the rate of six per 4156  
cent per annum on the premium security deposit due but remaining 4157  
unpaid sixty days after notice by the administrator. 4158

(8) Any interest charges or penalties provided for in 4159  
divisions (D) (2) and (7) of this section shall be credited to 4160  
the employer's account for rating purposes in the same manner as 4161  
premiums. 4162

(E) A rule providing that each employer, on the occasion 4163  
of instituting coverage under this chapter for an effective date 4164  
prior to July 1, 2015, shall submit a premium security deposit. 4165  
The deposit shall be calculated equivalent to thirty per cent of 4166  
the semiannual premium obligation of the employer based upon the 4167  
employer's estimated expenditure for wages for the ensuing six- 4168  
month period plus thirty per cent of an additional adjustment 4169  
period of two months but only up to a maximum of one thousand 4170  
dollars and not less than ten dollars. The administrator shall 4171  
review the security deposit of every employer who has submitted 4172  
a deposit which is less than the one-thousand-dollar maximum. 4173  
The administrator may require any such employer to submit 4174  
additional money up to the maximum of one thousand dollars that, 4175  
in the administrator's opinion, reflects the employer's current 4176  
payroll expenditure for an eight-month period. 4177

(F) A rule providing that each employer, on the occasion 4178

of instituting coverage under this chapter, shall submit an 4179  
application fee and an application for coverage that completely 4180  
provides all of the information required for the administrator 4181  
to establish coverage for that employer, and that the employer's 4182  
failure to pay the application fee or to provide all of the 4183  
information requested on the application may be grounds for the 4184  
administrator to deny coverage for that employer. 4185

(G) A rule providing that, in addition to any other 4186  
remedies permitted in this chapter, the administrator may 4187  
discontinue an employer's coverage if the employer fails to pay 4188  
the premium due on or before the premium's due date. 4189

(H) A rule providing that if after a final adjudication it 4190  
is determined that an employer has failed to pay an obligation, 4191  
billing, account, or assessment that is greater than one 4192  
thousand dollars on or before its due date, the administrator 4193  
may discontinue the employer's coverage in addition to any other 4194  
remedies permitted in this chapter, and that the administrator 4195  
shall not discontinue an employer's coverage pursuant to this 4196  
division prior to a final adjudication regarding the employer's 4197  
failure to pay such obligation, billing, account, or assessment 4198  
on or before its due date. 4199

(I) As used in divisions (G) and (H) of this section: 4200

(1) "Employer" has the same meaning as in section 4123.01 4201  
of the Revised Code except that "employer" does not include the 4202  
state, a state hospital, or a state university or college. 4203

(2) "State university or college" has the same meaning as 4204  
in section 3345.12 of the Revised Code and also includes the 4205  
Ohio agricultural research and development center and OSU 4206  
extension. 4207

(3) "State hospital" means the Ohio state university hospital and its ancillary facilities and the medical university of Ohio at Toledo hospital.

**Sec. 4123.324.** (A) The administrator of workers' compensation shall adopt rules, for the purpose of encouraging economic development, that establish conditions under which any negative experience to be transferred to the account of an employer who is successor in interest under division (B) of section 4123.32 of the Revised Code may be reduced or waived.

(B) The administrator, in adopting rules under division (A) of this section, may not permit a waiver or reduction in experience transfer if the succession transaction is entered into for the purpose of escaping obligations under this chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. of the Revised Code.

**Sec. 4123.34.** It shall be the duty of the bureau of workers' compensation board of directors and the administrator of workers' compensation to safeguard and maintain the solvency of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the Revised Code. The administrator, in the exercise of the powers and discretion conferred upon the administrator in section 4123.29 of the Revised Code, shall fix and maintain, with the advice and consent of the board, for each class of occupation or industry, the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund and the creation and maintenance of a reasonable surplus, after the payment of legitimate claims for injury, occupational disease, and death that the administrator authorizes to be paid from the state insurance fund for the benefit of injured, diseased, and the dependents of killed employees. In

establishing rates, the administrator shall take into account 4238  
the necessity of ensuring sufficient money is set aside in the 4239  
premium payment security fund to cover any defaults in premium 4240  
obligations. The administrator shall observe all of the 4241  
following requirements in fixing the rates of premium for the 4242  
risks of occupations or industries: 4243

(A) The administrator shall keep an accurate account of 4244  
the money paid in premiums by each of the several classes of 4245  
occupations or industries, and the losses on account of 4246  
injuries, occupational disease, and death of employees thereof, 4247  
and also keep an account of the money received from each 4248  
individual employer and the amount of losses incurred against 4249  
the state insurance fund on account of injuries, occupational 4250  
disease, and death of the employees of the employer. 4251

(B) A portion of the money paid into the state insurance 4252  
fund shall be set aside for the creation of a surplus fund 4253  
account within the state insurance fund. Any references in this 4254  
chapter or in Chapter 4121., 4125., 4127., ~~or 4131., or 4133.~~ of 4255  
the Revised Code to the surplus fund, the surplus created in 4256  
this division, the statutory surplus fund, or the statutory 4257  
surplus of the state insurance fund are hereby deemed to be 4258  
references to the surplus fund account. The administrator may 4259  
transfer the portion of the state insurance fund to the surplus 4260  
fund account as the administrator determines is necessary to 4261  
satisfy the needs of the surplus fund account and to guarantee 4262  
the solvency of the state insurance fund and the surplus fund 4263  
account. In addition to all statutory authority under this 4264  
chapter and Chapter 4121. of the Revised Code, the administrator 4265  
has discretionary and contingency authority to make charges to 4266  
the surplus fund account. The administrator shall account for 4267  
all charges, whether statutory, discretionary, or contingency, 4268

that the administrator may make to the surplus fund account. A 4269  
revision of basic rates shall be made annually on the first day 4270  
of July. 4271

For policy years commencing prior to July 1, 2016, 4272  
revisions of basic rates for private employers shall be in 4273  
accordance with the oldest four of the last five calendar years 4274  
of the combined accident and occupational disease experience of 4275  
the administrator in the administration of this chapter, as 4276  
shown by the accounts kept as provided in this section. For a 4277  
policy year commencing on or after July 1, 2016, revisions of 4278  
basic rates for private employers shall be in accordance with 4279  
the oldest four of the last five policy years combined accident 4280  
and occupational disease experience of the administrator in the 4281  
administration of this chapter, as shown by the accounts kept as 4282  
provided in this section. 4283

Revisions of basic rates for public employers shall be in 4284  
accordance with the oldest four of the last five policy years of 4285  
the combined accident and occupational disease experience of the 4286  
administrator in the administration of this chapter, as shown by 4287  
the accounts kept as provided in this section. 4288

In revising basic rates, the administrator shall exclude 4289  
the experience of employers that are no longer active if the 4290  
administrator determines that the inclusion of those employers 4291  
would have a significant negative impact on the remainder of the 4292  
employers in a particular manual classification. The 4293  
administrator shall adopt rules, with the advice and consent of 4294  
the board, governing rate revisions, the object of which shall 4295  
be to make an equitable distribution of losses among the several 4296  
classes of occupation or industry, which rules shall be general 4297  
in their application. 4298

(C) The administrator may apply that form of rating system 4299  
that the administrator finds is best calculated to merit rate or 4300  
individually rate the risk more equitably, predicated upon the 4301  
basis of its individual industrial accident and occupational 4302  
disease experience, and may encourage and stimulate accident 4303  
prevention. The administrator shall develop fixed and equitable 4304  
rules controlling the rating system, which rules shall conserve 4305  
to each risk the basic principles of workers' compensation 4306  
insurance. 4307

(D) The administrator, from the money paid into the state 4308  
insurance fund, shall set aside into an account of the state 4309  
insurance fund titled a premium payment security fund sufficient 4310  
money to pay for any premiums due from an employer and 4311  
uncollected. 4312

The use of the moneys held by the premium payment security 4313  
fund account is restricted to reimbursement to the state 4314  
insurance fund of premiums due and uncollected. 4315

(E) The administrator may grant discounts on premium rates 4316  
for employers who meet either of the following requirements: 4317

(1) Have not incurred a compensable injury for one year or 4318  
more and who maintain an employee safety committee or similar 4319  
organization or make periodic safety inspections of the 4320  
workplace. 4321

(2) Successfully complete a loss prevention program 4322  
prescribed by the superintendent of the division of safety and 4323  
hygiene and conducted by the division or by any other person 4324  
approved by the superintendent. 4325

(F) (1) In determining the premium rates for the 4326  
construction industry the administrator shall calculate the 4327

employers' premiums based upon the actual remuneration 4328  
construction industry employees receive from construction 4329  
industry employers, provided that the amount of remuneration the 4330  
administrator uses in calculating the premiums shall not exceed 4331  
an average weekly wage equal to one hundred fifty per cent of 4332  
the statewide average weekly wage as defined in division (C) of 4333  
section 4123.62 of the Revised Code. 4334

(2) Division (F)(1) of this section shall not be construed 4335  
as affecting the manner in which benefits to a claimant are 4336  
awarded under this chapter. 4337

(3) As used in division (F) of this section, "construction 4338  
industry" includes any activity performed in connection with the 4339  
erection, alteration, repair, replacement, renovation, 4340  
installation, or demolition of any building, structure, highway, 4341  
or bridge. 4342

(G) The administrator shall not place a limit on the 4343  
length of time that an employer may participate in the bureau of 4344  
workers' compensation drug free workplace and workplace safety 4345  
programs. 4346

**Sec. 4123.341.** The administrative costs of the industrial 4347  
commission, the bureau of workers' compensation board of 4348  
directors, and the bureau of workers' compensation shall be 4349  
those costs and expenses that are incident to the discharge of 4350  
the duties and performance of the activities of the industrial 4351  
commission, the board, and the bureau under this chapter and 4352  
Chapters 4121., 4125., 4127., 4131., 4133., and 4167. of the 4353  
Revised Code, and all such costs shall be borne by the state and 4354  
by other employers amenable to this chapter as follows: 4355

(A) In addition to the contribution required of the state 4356

under sections 4123.39 and 4123.40 of the Revised Code, the 4357  
state shall contribute the sum determined to be necessary under 4358  
section 4123.342 of the Revised Code. 4359

(B) The director of budget and management may allocate the 4360  
state's share of contributions in the manner the director finds 4361  
most equitably apportions the costs. 4362

(C) The counties and taxing districts therein shall 4363  
contribute such sum as may be required under section 4123.342 of 4364  
the Revised Code. 4365

(D) The private employers shall contribute the sum 4366  
required under section 4123.342 of the Revised Code. 4367

**Sec. 4123.343.** This section shall be construed liberally 4368  
to the end that employers shall be encouraged to employ and 4369  
retain in their employment handicapped employees as defined in 4370  
this section. 4371

(A) As used in this section, "handicapped employee" means 4372  
an employee who is afflicted with or subject to any physical or 4373  
mental impairment, or both, whether congenital or due to an 4374  
injury or disease of such character that the impairment 4375  
constitutes a handicap in obtaining employment or would 4376  
constitute a handicap in obtaining reemployment if the employee 4377  
should become unemployed and whose handicap is due to any of the 4378  
following diseases or conditions: 4379

(1) Epilepsy; 4380

(2) Diabetes; 4381

(3) Cardiac disease; 4382

(4) Arthritis; 4383

(5) Amputated foot, leg, arm, or hand;	4384
(6) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than seventy-five per cent bilaterally;	4385 4386 4387
(7) Residual disability from poliomyelitis;	4388
(8) Cerebral palsy;	4389
(9) Multiple sclerosis;	4390
(10) Parkinson's disease;	4391
(11) Cerebral vascular accident;	4392
(12) Tuberculosis;	4393
(13) Silicosis;	4394
(14) Psycho-neurotic disability following treatment in a recognized medical or mental institution;	4395 4396
(15) Hemophilia;	4397
(16) Chronic osteomyelitis;	4398
(17) Ankylosis of joints;	4399
(18) Hyper insulinism;	4400
(19) Muscular dystrophies;	4401
(20) Arterio-sclerosis;	4402
(21) Thrombo-phlebitis;	4403
(22) Varicose veins;	4404
(23) Cardiovascular, pulmonary, or respiratory diseases of a firefighter or police officer employed by a municipal corporation or township as a regular member of a lawfully	4405 4406 4407

constituted police department or fire department; 4408

(24) ~~Coal miners' Occupational pneumoconiosis, commonly~~ 4409  
~~referred to as "black lung disease"~~ as defined in section 4410  
4133.01 of the Revised Code; 4411

(25) Disability with respect to which an individual has 4412  
completed a rehabilitation program conducted pursuant to 4413  
sections 4121.61 to 4121.69 of the Revised Code. 4414

(B) Under the circumstances set forth in this section all 4415  
or such portion as the administrator determines of the 4416  
compensation and benefits paid in any claim arising hereafter 4417  
shall be charged to and paid from the statutory surplus fund 4418  
created under section 4123.34 of the Revised Code and only the 4419  
portion remaining shall be merit-rated or otherwise treated as 4420  
part of the accident or occupational disease experience of the 4421  
employer. The provisions of this section apply only in cases of 4422  
death, total disability, whether temporary or permanent, and all 4423  
disabilities compensated under division (B) of section 4123.57 4424  
of the Revised Code. The administrator shall adopt rules 4425  
specifying the grounds upon which charges to the statutory 4426  
surplus fund are to be made. The rules shall prohibit as a 4427  
grounds any agreement between employer and claimant as to the 4428  
merits of a claim and the amount of the charge. 4429

(C) Any employer who has in its employ a handicapped 4430  
employee is entitled, in the event the person is injured, to a 4431  
determination under this section. 4432

An employer shall file an application under this section 4433  
for a determination with the bureau or commission in the same 4434  
manner as other claims. An application only may be made in cases 4435  
where a handicapped employee or a handicapped employee's 4436

dependents claim or are receiving an award of compensation as a 4437  
result of an injury or occupational disease occurring or 4438  
contracted on or after the date on which division (A) of this 4439  
section first included the handicap of such employee. 4440

(D) The circumstances under and the manner in which an 4441  
apportionment under this section shall be made are: 4442

(1) Whenever a handicapped employee is injured or disabled 4443  
or dies as the result of an injury or occupational disease 4444  
sustained in the course of and arising out of a handicapped 4445  
employee's employment in this state and the administrator awards 4446  
compensation therefor and when it appears to the satisfaction of 4447  
the administrator that the injury or occupational disease or the 4448  
death resulting therefrom would not have occurred but for the 4449  
pre-existing physical or mental impairment of the handicapped 4450  
employee, all compensation and benefits payable on account of 4451  
the disability or death shall be paid from the surplus fund. 4452

(2) Whenever a handicapped employee is injured or disabled 4453  
or dies as a result of an injury or occupational disease and the 4454  
administrator finds that the injury or occupational disease 4455  
would have been sustained or suffered without regard to the 4456  
employee's pre-existing impairment but that the resulting 4457  
disability or death was caused at least in part through 4458  
aggravation of the employee's pre-existing disability, the 4459  
administrator shall determine in a manner that is equitable and 4460  
reasonable and based upon medical evidence the amount of 4461  
disability or proportion of the cost of the death award that is 4462  
attributable to the employee's pre-existing disability and the 4463  
amount found shall be charged to the statutory surplus fund. 4464

(E) The benefits and provisions of this section apply only 4465  
to employers who have complied with this chapter through 4466

insurance with the state fund. 4467

(F) No employer shall in any year receive credit under 4468  
this section in an amount greater than the premium the employer 4469  
paid. 4470

(G) An order issued by the administrator pursuant to this 4471  
section is appealable under section 4123.511 of the Revised Code 4472  
but is not appealable to court under section 4123.512 of the 4473  
Revised Code. 4474

**Sec. 4123.35.** (A) Except as provided in this section, and 4475  
until the policy year commencing July 1, 2015, every private 4476  
employer and every publicly owned utility shall pay semiannually 4477  
in the months of January and July into the state insurance fund 4478  
the amount of annual premium the administrator of workers' 4479  
compensation fixes for the employment or occupation of the 4480  
employer, the amount of which premium to be paid by each 4481  
employer to be determined by the classifications, rules, and 4482  
rates made and published by the administrator. The employer 4483  
shall pay semiannually a further sum of money into the state 4484  
insurance fund as may be ascertained to be due from the employer 4485  
by applying the rules of the administrator. 4486

Except as otherwise provided in this section, for a policy 4487  
year commencing on or after July 1, 2015, every private employer 4488  
and every publicly owned utility shall pay annually in the month 4489  
of June immediately preceding the policy year into the state 4490  
insurance fund the amount of estimated annual premium the 4491  
administrator fixes for the employment or occupation of the 4492  
employer, the amount of which estimated premium to be paid by 4493  
each employer to be determined by the classifications, rules, 4494  
and rates made and published by the administrator. The employer 4495  
shall pay a further sum of money into the state insurance fund 4496

as may be ascertained to be due from the employer by applying 4497  
the rules of the administrator. Upon receipt of the payroll 4498  
report required by division (B) of section 4123.26 of the 4499  
Revised Code, the administrator shall adjust the premium and 4500  
assessments charged to each employer for the difference between 4501  
estimated gross payrolls and actual gross payrolls, and any 4502  
balance due to the administrator shall be immediately paid by 4503  
the employer. Any balance due the employer shall be credited to 4504  
the employer's account. 4505

For a policy year commencing on or after July 1, 2015, 4506  
each employer that is recognized by the administrator as a 4507  
professional employer organization shall pay monthly into the 4508  
state insurance fund the amount of premium the administrator 4509  
fixes for the employer for the prior month based on the actual 4510  
payroll of the employer reported pursuant to division (C) of 4511  
section 4123.26 of the Revised Code. 4512

A receipt certifying that payment has been made shall be 4513  
issued to the employer by the bureau of workers' compensation. 4514  
The receipt is prima-facie evidence of the payment of the 4515  
premium. The administrator shall provide each employer written 4516  
proof of workers' compensation coverage as is required in 4517  
section 4123.83 of the Revised Code. Proper posting of the 4518  
notice constitutes the employer's compliance with the notice 4519  
requirement mandated in section 4123.83 of the Revised Code. 4520

The bureau shall verify with the secretary of state the 4521  
existence of all corporations and organizations making 4522  
application for workers' compensation coverage and shall require 4523  
every such application to include the employer's federal 4524  
identification number. 4525

A private employer who has contracted with a subcontractor 4526

is liable for the unpaid premium due from any subcontractor with 4527  
respect to that part of the payroll of the subcontractor that is 4528  
for work performed pursuant to the contract with the employer. 4529

Division (A) of this section providing for the payment of 4530  
premiums semiannually does not apply to any employer who was a 4531  
subscriber to the state insurance fund prior to January 1, 1914, 4532  
or, until July 1, 2015, who may first become a subscriber to the 4533  
fund in any month other than January or July. Instead, the 4534  
semiannual premiums shall be paid by those employers from time 4535  
to time upon the expiration of the respective periods for which 4536  
payments into the fund have been made by them. After July 1, 4537  
2015, an employer who first becomes a subscriber to the fund on 4538  
any day other than the first day of July shall pay premiums 4539  
according to rules adopted by the administrator, with the advice 4540  
and consent of the bureau of workers' compensation board of 4541  
directors, for the remainder of the policy year for which the 4542  
coverage is effective. 4543

The administrator, with the advice and consent of the 4544  
board, shall adopt rules to permit employers to make periodic 4545  
payments of the premium and assessment due under this division. 4546  
The rules shall include provisions for the assessment of 4547  
interest charges, where appropriate, and for the assessment of 4548  
penalties when an employer fails to make timely premium 4549  
payments. The administrator, in the rules the administrator 4550  
adopts, may set an administrative fee for these periodic 4551  
payments. An employer who timely pays the amounts due under this 4552  
division is entitled to all of the benefits and protections of 4553  
this chapter. Upon receipt of payment, the bureau shall issue a 4554  
receipt to the employer certifying that payment has been made, 4555  
which receipt is prima-facie evidence of payment. Workers' 4556  
compensation coverage under this chapter continues uninterrupted 4557

upon timely receipt of payment under this division. 4558

Every public employer, except public employers that are 4559  
self-insuring employers under this section, shall comply with 4560  
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 4561  
regard to the contribution of moneys to the public insurance 4562  
fund. 4563

(B) Employers who will abide by the rules of the 4564  
administrator and who may be of sufficient financial ability to 4565  
render certain the payment of compensation to injured employees 4566  
or the dependents of killed employees, and the furnishing of 4567  
medical, surgical, nursing, and hospital attention and services 4568  
and medicines, and funeral expenses, equal to or greater than is 4569  
provided for in sections 4123.52, 4123.55 to 4123.62, ~~and~~ 4570  
4123.64 to 4123.67, 4133.12, 4133.13, and 4133.14 of the Revised 4571  
Code, and who do not desire to insure the payment thereof or 4572  
indemnify themselves against loss sustained by the direct 4573  
payment thereof, upon a finding of such facts by the 4574  
administrator, may be granted the privilege to pay individually 4575  
compensation, and furnish medical, surgical, nursing, and 4576  
hospital services and attention and funeral expenses directly to 4577  
injured employees or the dependents of killed employees, thereby 4578  
being granted status as a self-insuring employer. The 4579  
administrator may charge employers who apply for the status as a 4580  
self-insuring employer a reasonable application fee to cover the 4581  
bureau's costs in connection with processing and making a 4582  
determination with respect to an application. 4583

All employers granted status as self-insuring employers 4584  
shall demonstrate sufficient financial and administrative 4585  
ability to assure that all obligations under this section are 4586  
promptly met. The administrator shall deny the privilege where 4587

the employer is unable to demonstrate the employer's ability to 4588  
promptly meet all the obligations imposed on the employer by 4589  
this section. 4590

(1) The administrator shall consider, but is not limited 4591  
to, the following factors, where applicable, in determining the 4592  
employer's ability to meet all of the obligations imposed on the 4593  
employer by this section: 4594

(a) The employer employs a minimum of five hundred 4595  
employees in this state; 4596

(b) The employer has operated in this state for a minimum 4597  
of two years, provided that an employer who has purchased, 4598  
acquired, or otherwise succeeded to the operation of a business, 4599  
or any part thereof, situated in this state that has operated 4600  
for at least two years in this state, also shall qualify; 4601

(c) Where the employer previously contributed to the state 4602  
insurance fund or is a successor employer as defined by bureau 4603  
rules, the amount of the buyout, as defined by bureau rules; 4604

(d) The sufficiency of the employer's assets located in 4605  
this state to insure the employer's solvency in paying 4606  
compensation directly; 4607

(e) The financial records, documents, and data, certified 4608  
by a certified public accountant, necessary to provide the 4609  
employer's full financial disclosure. The records, documents, 4610  
and data include, but are not limited to, balance sheets and 4611  
profit and loss history for the current year and previous four 4612  
years. 4613

(f) The employer's organizational plan for the 4614  
administration of the workers' compensation law; 4615

(g) The employer's proposed plan to inform employees of 4616  
the change from a state fund insurer to a self-insuring 4617  
employer, the procedures the employer will follow as a self- 4618  
insuring employer, and the employees' rights to compensation and 4619  
benefits; and 4620

(h) The employer has either an account in a financial 4621  
institution in this state, or if the employer maintains an 4622  
account with a financial institution outside this state, ensures 4623  
that workers' compensation checks are drawn from the same 4624  
account as payroll checks or the employer clearly indicates that 4625  
payment will be honored by a financial institution in this 4626  
state. 4627

The administrator may waive the requirements of divisions 4628  
(B) (1) (a) and (b) of this section and the requirement of 4629  
division (B) (1) (e) of this section that the financial records, 4630  
documents, and data be certified by a certified public 4631  
accountant. The administrator shall adopt rules establishing the 4632  
criteria that an employer shall meet in order for the 4633  
administrator to waive the requirements of divisions (B) (1) (a), 4634  
(b), and (e) of this section. Such rules may require additional 4635  
security of that employer pursuant to division (E) of section 4636  
4123.351 of the Revised Code. 4637

The administrator shall not grant the status of self- 4638  
insuring employer to the state, except that the administrator 4639  
may grant the status of self-insuring employer to a state 4640  
institution of higher education, including its hospitals, that 4641  
meets the requirements of division (B) (2) of this section. 4642

(2) When considering the application of a public employer, 4643  
except for a board of county commissioners described in division 4644  
(G) of section 4123.01 of the Revised Code, a board of a county 4645

hospital, or a publicly owned utility, the administrator shall 4646  
verify that the public employer satisfies all of the following 4647  
requirements as the requirements apply to that public employer: 4648

(a) For the two-year period preceding application under 4649  
this section, the public employer has maintained an unvoted debt 4650  
capacity equal to at least two times the amount of the current 4651  
annual premium established by the administrator under this 4652  
chapter for that public employer for the year immediately 4653  
preceding the year in which the public employer makes 4654  
application under this section. 4655

(b) For each of the two fiscal years preceding application 4656  
under this section, the unreserved and undesignated year-end 4657  
fund balance in the public employer's general fund is equal to 4658  
at least five per cent of the public employer's general fund 4659  
revenues for the fiscal year computed in accordance with 4660  
generally accepted accounting principles. 4661

(c) For the five-year period preceding application under 4662  
this section, the public employer, to the extent applicable, has 4663  
complied fully with the continuing disclosure requirements 4664  
established in rules adopted by the United States securities and 4665  
exchange commission under 17 C.F.R. 240.15c 2-12. 4666

(d) For the five-year period preceding application under 4667  
this section, the public employer has not had its local 4668  
government fund distribution withheld on account of the public 4669  
employer being indebted or otherwise obligated to the state. 4670

(e) For the five-year period preceding application under 4671  
this section, the public employer has not been under a fiscal 4672  
watch or fiscal emergency pursuant to section 118.023, 118.04, 4673  
or 3316.03 of the Revised Code. 4674

(f) For the public employer's fiscal year preceding 4675  
application under this section, the public employer has obtained 4676  
an annual financial audit as required under section 117.10 of 4677  
the Revised Code, which has been released by the auditor of 4678  
state within seven months after the end of the public employer's 4679  
fiscal year. 4680

(g) On the date of application, the public employer holds 4681  
a debt rating of Aa3 or higher according to Moody's investors 4682  
service, inc., or a comparable rating by an independent rating 4683  
agency similar to Moody's investors service, inc. 4684

(h) The public employer agrees to generate an annual 4685  
accumulating book reserve in its financial statements reflecting 4686  
an actuarially generated reserve adequate to pay projected 4687  
claims under this chapter for the applicable period of time, as 4688  
determined by the administrator. 4689

(i) For a public employer that is a hospital, the public 4690  
employer shall submit audited financial statements showing the 4691  
hospital's overall liquidity characteristics, and the 4692  
administrator shall determine, on an individual basis, whether 4693  
the public employer satisfies liquidity standards equivalent to 4694  
the liquidity standards of other public employers. 4695

(j) Any additional criteria that the administrator adopts 4696  
by rule pursuant to division (E) of this section. 4697

The administrator may adopt rules establishing the 4698  
criteria that a public employer shall satisfy in order for the 4699  
administrator to waive any of the requirements listed in 4700  
divisions (B) (2) (a) to (j) of this section. The rules may 4701  
require additional security from that employer pursuant to 4702  
division (E) of section 4123.351 of the Revised Code. The 4703

administrator shall not waive any of the requirements listed in 4704  
divisions (B) (2) (a) to (j) of this section for a public employer 4705  
who does not satisfy the criteria established in the rules the 4706  
administrator adopts. 4707

(C) A board of county commissioners described in division 4708  
(G) of section 4123.01 of the Revised Code, as an employer, that 4709  
will abide by the rules of the administrator and that may be of 4710  
sufficient financial ability to render certain the payment of 4711  
compensation to injured employees or the dependents of killed 4712  
employees, and the furnishing of medical, surgical, nursing, and 4713  
hospital attention and services and medicines, and funeral 4714  
expenses, equal to or greater than is provided for in sections 4715  
4123.52, 4123.55 to 4123.62, ~~and~~ 4123.64 to 4123.67, 4133.12, 4716  
4133.13, and 4133.14 of the Revised Code, and that does not 4717  
desire to insure the payment thereof or indemnify itself against 4718  
loss sustained by the direct payment thereof, upon a finding of 4719  
such facts by the administrator, may be granted the privilege to 4720  
pay individually compensation, and furnish medical, surgical, 4721  
nursing, and hospital services and attention and funeral 4722  
expenses directly to injured employees or the dependents of 4723  
killed employees, thereby being granted status as a self- 4724  
insuring employer. The administrator may charge a board of 4725  
county commissioners described in division (G) of section 4726  
4123.01 of the Revised Code that applies for the status as a 4727  
self-insuring employer a reasonable application fee to cover the 4728  
bureau's costs in connection with processing and making a 4729  
determination with respect to an application. All employers 4730  
granted such status shall demonstrate sufficient financial and 4731  
administrative ability to assure that all obligations under this 4732  
section are promptly met. The administrator shall deny the 4733  
privilege where the employer is unable to demonstrate the 4734

employer's ability to promptly meet all the obligations imposed 4735  
on the employer by this section. The administrator shall 4736  
consider, but is not limited to, the following factors, where 4737  
applicable, in determining the employer's ability to meet all of 4738  
the obligations imposed on the board as an employer by this 4739  
section: 4740

(1) The board as an employer employs a minimum of five 4741  
hundred employees in this state; 4742

(2) The board has operated in this state for a minimum of 4743  
two years; 4744

(3) Where the board previously contributed to the state 4745  
insurance fund or is a successor employer as defined by bureau 4746  
rules, the amount of the buyout, as defined by bureau rules; 4747

(4) The sufficiency of the board's assets located in this 4748  
state to insure the board's solvency in paying compensation 4749  
directly; 4750

(5) The financial records, documents, and data, certified 4751  
by a certified public accountant, necessary to provide the 4752  
board's full financial disclosure. The records, documents, and 4753  
data include, but are not limited to, balance sheets and profit 4754  
and loss history for the current year and previous four years. 4755

(6) The board's organizational plan for the administration 4756  
of the workers' compensation law; 4757

(7) The board's proposed plan to inform employees of the 4758  
proposed self-insurance, the procedures the board will follow as 4759  
a self-insuring employer, and the employees' rights to 4760  
compensation and benefits; 4761

(8) The board has either an account in a financial 4762

institution in this state, or if the board maintains an account 4763  
with a financial institution outside this state, ensures that 4764  
workers' compensation checks are drawn from the same account as 4765  
payroll checks or the board clearly indicates that payment will 4766  
be honored by a financial institution in this state; 4767

(9) The board shall provide the administrator a surety 4768  
bond in an amount equal to one hundred twenty-five per cent of 4769  
the projected losses as determined by the administrator. 4770

(D) The administrator shall require a surety bond from all 4771  
self-insuring employers, issued pursuant to section 4123.351 of 4772  
the Revised Code, that is sufficient to compel, or secure to 4773  
injured employees, or to the dependents of employees killed, the 4774  
payment of compensation and expenses, which shall in no event be 4775  
less than that paid or furnished out of the state insurance fund 4776  
in similar cases to injured employees or to dependents of killed 4777  
employees whose employers contribute to the fund, except when an 4778  
employee of the employer, who has suffered the loss of a hand, 4779  
arm, foot, leg, or eye prior to the injury for which 4780  
compensation is to be paid, and thereafter suffers the loss of 4781  
any other of the members as the result of any injury sustained 4782  
in the course of and arising out of the employee's employment, 4783  
the compensation to be paid by the self-insuring employer is 4784  
limited to the disability suffered in the subsequent injury, 4785  
additional compensation, if any, to be paid by the bureau out of 4786  
the surplus created by section 4123.34 of the Revised Code. 4787

(E) In addition to the requirements of this section, the 4788  
administrator shall make and publish rules governing the manner 4789  
of making application and the nature and extent of the proof 4790  
required to justify a finding of fact by the administrator as to 4791  
granting the status of a self-insuring employer, which rules 4792

shall be general in their application, one of which rules shall 4793  
provide that all self-insuring employers shall pay into the 4794  
state insurance fund such amounts as are required to be credited 4795  
to the surplus fund in division (B) of section 4123.34 of the 4796  
Revised Code. The administrator may adopt rules establishing 4797  
requirements in addition to the requirements described in 4798  
division (B)(2) of this section that a public employer shall 4799  
meet in order to qualify for self-insuring status. 4800

Employers shall secure directly from the bureau central 4801  
offices application forms upon which the bureau shall stamp a 4802  
designating number. Prior to submission of an application, an 4803  
employer shall make available to the bureau, and the bureau 4804  
shall review, the information described in division (B)(1) of 4805  
this section, and public employers shall make available, and the 4806  
bureau shall review, the information necessary to verify whether 4807  
the public employer meets the requirements listed in division 4808  
(B)(2) of this section. An employer shall file the completed 4809  
application forms with an application fee, which shall cover the 4810  
costs of processing the application, as established by the 4811  
administrator, by rule, with the bureau at least ninety days 4812  
prior to the effective date of the employer's new status as a 4813  
self-insuring employer. The application form is not deemed 4814  
complete until all the required information is attached thereto. 4815  
The bureau shall only accept applications that contain the 4816  
required information. 4817

(F) The bureau shall review completed applications within 4818  
a reasonable time. If the bureau determines to grant an employer 4819  
the status as a self-insuring employer, the bureau shall issue a 4820  
statement, containing its findings of fact, that is prepared by 4821  
the bureau and signed by the administrator. If the bureau 4822  
determines not to grant the status as a self-insuring employer, 4823

the bureau shall notify the employer of the determination and 4824  
require the employer to continue to pay its full premium into 4825  
the state insurance fund. The administrator also shall adopt 4826  
rules establishing a minimum level of performance as a criterion 4827  
for granting and maintaining the status as a self-insuring 4828  
employer and fixing time limits beyond which failure of the 4829  
self-insuring employer to provide for the necessary medical 4830  
examinations and evaluations may not delay a decision on a 4831  
claim. 4832

(G) The administrator shall adopt rules setting forth 4833  
procedures for auditing the program of self-insuring employers. 4834  
The bureau shall conduct the audit upon a random basis or 4835  
whenever the bureau has grounds for believing that a self- 4836  
insuring employer is not in full compliance with bureau rules or 4837  
this chapter. 4838

The administrator shall monitor the programs conducted by 4839  
self-insuring employers, to ensure compliance with bureau 4840  
requirements and for that purpose, shall develop and issue to 4841  
self-insuring employers standardized forms for use by the self- 4842  
insuring employer in all aspects of the self-insuring employers' 4843  
direct compensation program and for reporting of information to 4844  
the bureau. 4845

The bureau shall receive and transmit to the self-insuring 4846  
employer all complaints concerning any self-insuring employer. 4847  
In the case of a complaint against a self-insuring employer, the 4848  
administrator shall handle the complaint through the self- 4849  
insurance division of the bureau. The bureau shall maintain a 4850  
file by employer of all complaints received that relate to the 4851  
employer. The bureau shall evaluate each complaint and take 4852  
appropriate action. 4853

The administrator shall adopt as a rule a prohibition 4854  
against any self-insuring employer from harassing, dismissing, 4855  
or otherwise disciplining any employee making a complaint, which 4856  
rule shall provide for a financial penalty to be levied by the 4857  
administrator payable by the offending self-insuring employer. 4858

(H) For the purpose of making determinations as to whether 4859  
to grant status as a self-insuring employer, the administrator 4860  
may subscribe to and pay for a credit reporting service that 4861  
offers financial and other business information about individual 4862  
employers. The costs in connection with the bureau's 4863  
subscription or individual reports from the service about an 4864  
applicant may be included in the application fee charged 4865  
employers under this section. 4866

(I) The administrator, notwithstanding other provisions of 4867  
this chapter, may permit a self-insuring employer to resume 4868  
payment of premiums to the state insurance fund with appropriate 4869  
credit modifications to the employer's basic premium rate as 4870  
such rate is determined pursuant to section 4123.29 of the 4871  
Revised Code. 4872

(J) On the first day of July of each year, the 4873  
administrator shall calculate separately each self-insuring 4874  
employer's assessments for the safety and hygiene fund, 4875  
administrative costs pursuant to section 4123.342 of the Revised 4876  
Code, and for the surplus fund under division (B) of section 4877  
4123.34 of the Revised Code, on the basis of the paid 4878  
compensation attributable to the individual self-insuring 4879  
employer according to the following calculation: 4880

(1) The total assessment against all self-insuring 4881  
employers as a class for each fund and for the administrative 4882  
costs for the year that the assessment is being made, as 4883

determined by the administrator, divided by the total amount of 4884  
paid compensation for the previous calendar year attributable to 4885  
all amenable self-insuring employers; 4886

(2) Multiply the quotient in division (J)(1) of this 4887  
section by the total amount of paid compensation for the 4888  
previous calendar year that is attributable to the individual 4889  
self-insuring employer for whom the assessment is being 4890  
determined. Each self-insuring employer shall pay the assessment 4891  
that results from this calculation, unless the assessment 4892  
resulting from this calculation falls below a minimum 4893  
assessment, which minimum assessment the administrator shall 4894  
determine on the first day of July of each year with the advice 4895  
and consent of the bureau of workers' compensation board of 4896  
directors, in which event, the self-insuring employer shall pay 4897  
the minimum assessment. 4898

In determining the total amount due for the total 4899  
assessment against all self-insuring employers as a class for 4900  
each fund and the administrative assessment, the administrator 4901  
shall reduce proportionately the total for each fund and 4902  
assessment by the amount of money in the self-insurance 4903  
assessment fund as of the date of the computation of the 4904  
assessment. 4905

The administrator shall calculate the assessment for the 4906  
portion of the surplus fund under division (B) of section 4907  
4123.34 of the Revised Code that is used for reimbursement to a 4908  
self-insuring employer under division (H) of section 4123.512 of 4909  
the Revised Code in the same manner as set forth in divisions 4910  
(J)(1) and (2) of this section except that the administrator 4911  
shall calculate the total assessment for this portion of the 4912  
surplus fund only on the basis of those self-insuring employers 4913

that retain participation in reimbursement to the self-insuring 4914  
employer under division (H) of section 4123.512 of the Revised 4915  
Code and the individual self-insuring employer's proportion of 4916  
paid compensation shall be calculated only for those self- 4917  
insuring employers who retain participation in reimbursement to 4918  
the self-insuring employer under division (H) of section 4919  
4123.512 of the Revised Code. 4920

An employer who no longer is a self-insuring employer in 4921  
this state or who no longer is operating in this state, shall 4922  
continue to pay assessments for administrative costs and for the 4923  
surplus fund under division (B) of section 4123.34 of the 4924  
Revised Code based upon paid compensation attributable to claims 4925  
that occurred while the employer was a self-insuring employer 4926  
within this state. 4927

(K) There is hereby created in the state treasury the 4928  
self-insurance assessment fund. All investment earnings of the 4929  
fund shall be deposited in the fund. The administrator shall use 4930  
the money in the self-insurance assessment fund only for 4931  
administrative costs as specified in section 4123.341 of the 4932  
Revised Code. 4933

(L) Every self-insuring employer shall certify, in 4934  
affidavit form subject to the penalty for perjury, to the bureau 4935  
the amount of the self-insuring employer's paid compensation for 4936  
the previous calendar year. In reporting paid compensation paid 4937  
for the previous year, a self-insuring employer shall exclude 4938  
from the total amount of paid compensation any reimbursement the 4939  
self-insuring employer receives in the previous calendar year 4940  
from the surplus fund pursuant to section 4123.512 of the 4941  
Revised Code for any paid compensation. The self-insuring 4942  
employer also shall exclude from the paid compensation reported 4943

any amount recovered under section 4123.931 of the Revised Code 4944  
and any amount that is determined not to have been payable to or 4945  
on behalf of a claimant in any final administrative or judicial 4946  
proceeding. The self-insuring employer shall exclude such 4947  
amounts from the paid compensation reported in the reporting 4948  
period subsequent to the date the determination is made. The 4949  
administrator shall adopt rules, in accordance with Chapter 119. 4950  
of the Revised Code, that provide for all of the following: 4951

(1) Establishing the date by which self-insuring employers 4952  
must submit such information and the amount of the assessments 4953  
provided for in division (J) of this section for employers who 4954  
have been granted self-insuring status within the last calendar 4955  
year; 4956

(2) If an employer fails to pay the assessment when due, 4957  
the administrator may add a late fee penalty of not more than 4958  
five hundred dollars to the assessment plus an additional 4959  
penalty amount as follows: 4960

(a) For an assessment from sixty-one to ninety days past 4961  
due, the prime interest rate, multiplied by the assessment due; 4962

(b) For an assessment from ninety-one to one hundred 4963  
twenty days past due, the prime interest rate plus two per cent, 4964  
multiplied by the assessment due; 4965

(c) For an assessment from one hundred twenty-one to one 4966  
hundred fifty days past due, the prime interest rate plus four 4967  
per cent, multiplied by the assessment due; 4968

(d) For an assessment from one hundred fifty-one to one 4969  
hundred eighty days past due, the prime interest rate plus six 4970  
per cent, multiplied by the assessment due; 4971

(e) For an assessment from one hundred eighty-one to two 4972

hundred ten days past due, the prime interest rate plus eight 4973  
per cent, multiplied by the assessment due; 4974

(f) For each additional thirty-day period or portion 4975  
thereof that an assessment remains past due after it has 4976  
remained past due for more than two hundred ten days, the prime 4977  
interest rate plus eight per cent, multiplied by the assessment 4978  
due. 4979

(3) An employer may appeal a late fee penalty and penalty 4980  
assessment to the administrator. 4981

For purposes of division (L) (2) of this section, "prime 4982  
interest rate" means the average bank prime rate, and the 4983  
administrator shall determine the prime interest rate in the 4984  
same manner as a county auditor determines the average bank 4985  
prime rate under section 929.02 of the Revised Code. 4986

The administrator shall include any assessment and 4987  
penalties that remain unpaid for previous assessment periods in 4988  
the calculation and collection of any assessments due under this 4989  
division or division (J) of this section. 4990

(M) As used in this section, "paid compensation" means all 4991  
amounts paid by a self-insuring employer for living maintenance 4992  
benefits, all amounts for compensation paid pursuant to sections 4993  
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, 4994  
~~and 4123.64, 4133.12, 4133.13, and 4133.14~~ of the Revised Code, 4995  
all amounts paid as wages in lieu of such compensation, all 4996  
amounts paid in lieu of such compensation under a 4997  
nonoccupational accident and sickness program fully funded by 4998  
the self-insuring employer, and all amounts paid by a self- 4999  
insuring employer for a violation of a specific safety standard 5000  
pursuant to Section 35 of Article II, Ohio Constitution and 5001

section 4121.47 of the Revised Code. 5002

(N) Should any section of this chapter or Chapter 4121. of 5003  
the Revised Code providing for self-insuring employers' 5004  
assessments based upon compensation paid be declared 5005  
unconstitutional by a final decision of any court, then that 5006  
section of the Revised Code declared unconstitutional shall 5007  
revert back to the section in existence prior to November 3, 5008  
1989, providing for assessments based upon payroll. 5009

(O) The administrator may grant a self-insuring employer 5010  
the privilege to self-insure a construction project entered into 5011  
by the self-insuring employer that is scheduled for completion 5012  
within six years after the date the project begins, and the 5013  
total cost of which is estimated to exceed one hundred million 5014  
dollars or, for employers described in division (R) of this 5015  
section, if the construction project is estimated to exceed 5016  
twenty-five million dollars. The administrator may waive such 5017  
cost and time criteria and grant a self-insuring employer the 5018  
privilege to self-insure a construction project regardless of 5019  
the time needed to complete the construction project and 5020  
provided that the cost of the construction project is estimated 5021  
to exceed fifty million dollars. A self-insuring employer who 5022  
desires to self-insure a construction project shall submit to 5023  
the administrator an application listing the dates the 5024  
construction project is scheduled to begin and end, the 5025  
estimated cost of the construction project, the contractors and 5026  
subcontractors whose employees are to be self-insured by the 5027  
self-insuring employer, the provisions of a safety program that 5028  
is specifically designed for the construction project, and a 5029  
statement as to whether a collective bargaining agreement 5030  
governing the rights, duties, and obligations of each of the 5031  
parties to the agreement with respect to the construction 5032

project exists between the self-insuring employer and a labor organization. 5033  
5034

A self-insuring employer may apply to self-insure the employees of either of the following: 5035  
5036

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project; 5037  
5038

(2) All contractors and, at the administrator's discretion, a substantial number of all the subcontractors who perform labor or work or provide materials for the construction project. 5039  
5040  
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Upon approval of the application, the administrator shall mail a certificate granting the privilege to self-insure the construction project to the self-insuring employer. The certificate shall contain the name of the self-insuring employer and the name, address, and telephone number of the self-insuring employer's representatives who are responsible for administering workers' compensation claims for the construction project. The self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project. 5043  
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The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate. 5052  
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Upon approval of the application, the self-insuring employer is responsible for the administration and payment of all claims under this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised Code for the employees of the contractor 5058  
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5061

and subcontractors covered under the certificate who receive 5062  
injuries or are killed in the course of and arising out of 5063  
employment on the construction project, or who contract an 5064  
occupational disease in the course of employment on the 5065  
construction project. For purposes of this chapter and ~~Chapter~~ 5066  
Chapters 4121. and 4133. of the Revised Code, a claim that is 5067  
administered and paid in accordance with this division is 5068  
considered a claim against the self-insuring employer listed in 5069  
the certificate. A contractor or subcontractor included under 5070  
the certificate shall report to the self-insuring employer 5071  
listed in the certificate, all claims that arise under this 5072  
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised Code 5073  
in connection with the construction project for which the 5074  
certificate is issued. 5075

A self-insuring employer who complies with this division 5076  
is entitled to the protections provided under this chapter and 5077  
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code with 5078  
respect to the employees of the contractors and subcontractors 5079  
covered under a certificate issued under this division for death 5080  
or injuries that arise out of, or death, injuries, or 5081  
occupational diseases that arise in the course of, those 5082  
employees' employment on that construction project, as if the 5083  
employees were employees of the self-insuring employer, provided 5084  
that the self-insuring employer also complies with this section. 5085  
No employee of the contractors and subcontractors covered under 5086  
a certificate issued under this division shall be considered the 5087  
employee of the self-insuring employer listed in that 5088  
certificate for any purposes other than this chapter and ~~Chapter~~ 5089  
Chapters 4121. and 4133. of the Revised Code. Nothing in this 5090  
division gives a self-insuring employer authority to control the 5091  
means, manner, or method of employment of the employees of the 5092

contractors and subcontractors covered under a certificate 5093  
issued under this division. 5094

The contractors and subcontractors included under a 5095  
certificate issued under this division are entitled to the 5096  
protections provided under this chapter and ~~Chapter~~ Chapters 5097  
4121. and 4133. of the Revised Code with respect to the 5098  
contractor's or subcontractor's employees who are employed on 5099  
the construction project which is the subject of the 5100  
certificate, for death or injuries that arise out of, or death, 5101  
injuries, or occupational diseases that arise in the course of, 5102  
those employees' employment on that construction project. 5103

The contractors and subcontractors included under a 5104  
certificate issued under this division shall identify in their 5105  
payroll records the employees who are considered the employees 5106  
of the self-insuring employer listed in that certificate for 5107  
purposes of this chapter and Chapter 4121. and 4133. of the 5108  
Revised Code, and the amount that those employees earned for 5109  
employment on the construction project that is the subject of 5110  
that certificate. Notwithstanding any provision to the contrary 5111  
under this chapter and Chapter 4121. of the Revised Code, the 5112  
administrator shall exclude the payroll that is reported for 5113  
employees who are considered the employees of the self-insuring 5114  
employer listed in that certificate, and that the employees 5115  
earned for employment on the construction project that is the 5116  
subject of that certificate, when determining those contractors' 5117  
or subcontractors' premiums or assessments required under this 5118  
chapter and Chapter 4121. and 4133. of the Revised Code. A self- 5119  
insuring employer issued a certificate under this division shall 5120  
include in the amount of paid compensation it reports pursuant 5121  
to division (L) of this section, the amount of paid compensation 5122  
the self-insuring employer paid pursuant to this division for 5123

the previous calendar year. 5124

Nothing in this division shall be construed as altering 5125  
the rights of employees under this chapter and Chapter 4121. of 5126  
the Revised Code as those rights existed prior to September 17, 5127  
1996. Nothing in this division shall be construed as altering 5128  
the rights devolved under sections 2305.31 and 4123.82 of the 5129  
Revised Code as those rights existed prior to September 17, 5130  
1996. 5131

As used in this division, "privilege to self-insure a 5132  
construction project" means privilege to pay individually 5133  
compensation, and to furnish medical, surgical, nursing, and 5134  
hospital services and attention and funeral expenses directly to 5135  
injured employees or the dependents of killed employees. 5136

(P) A self-insuring employer whose application is granted 5137  
under division (O) of this section shall designate a safety 5138  
professional to be responsible for the administration and 5139  
enforcement of the safety program that is specifically designed 5140  
for the construction project that is the subject of the 5141  
application. 5142

A self-insuring employer whose application is granted 5143  
under division (O) of this section shall employ an ombudsperson 5144  
for the construction project that is the subject of the 5145  
application. The ombudsperson shall have experience in workers' 5146  
compensation or the construction industry, or both. The 5147  
ombudsperson shall perform all of the following duties: 5148

(1) Communicate with and provide information to employees 5149  
who are injured in the course of, or whose injury arises out of 5150  
employment on the construction project, or who contract an 5151  
occupational disease in the course of employment on the 5152

construction project;	5153
(2) Investigate the status of a claim upon the request of an employee to do so;	5154 5155
(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and <del>Chapter</del> <u>Chapters 4121. and 4133.</u> of the Revised Code.	5156 5157 5158 5159
A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.	5160 5161 5162 5163 5164
(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:	5165 5166 5167 5168
(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;	5169 5170 5171
(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;	5172 5173 5174 5175 5176 5177 5178 5179 5180
(3) Whether granting the privilege to self-insure the	5181

construction project will reduce the costs of the construction project;	5182 5183
(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;	5184 5185
(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.	5186 5187 5188 5189 5190
(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:	5191 5192 5193 5194
(1) A state institution of higher education;	5195
(2) A school district;	5196
(3) A county school financing district;	5197
(4) An educational service center;	5198
(5) A community school established under Chapter 3314. of the Revised Code;	5199 5200
(6) A municipal power agency as defined in section 3734.058 of the Revised Code.	5201 5202
(S) As used in this section:	5203
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	5204 5205 5206
(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised	5207 5208

Code, community colleges created pursuant to Chapter 3354. of 5209  
the Revised Code, university branches created pursuant to 5210  
Chapter 3355. of the Revised Code, technical colleges created 5211  
pursuant to Chapter 3357. of the Revised Code, and state 5212  
community colleges created pursuant to Chapter 3358. of the 5213  
Revised Code. 5214

**Sec. 4123.351.** (A) The administrator of workers' 5215  
compensation shall require every self-insuring employer, 5216  
including any self-insuring employer that is indemnified by a 5217  
captive insurance company granted a certificate of authority 5218  
under Chapter 3964. of the Revised Code, to pay a contribution, 5219  
calculated under this section, to the self-insuring employers' 5220  
guaranty fund established pursuant to this section. The fund 5221  
shall provide for payment of compensation and benefits to 5222  
employees of the self-insuring employer in order to cover any 5223  
default in payment by that employer. 5224

(B) The bureau of workers' compensation shall operate the 5225  
self-insuring employers' guaranty fund for self-insuring 5226  
employers. The administrator annually shall establish the 5227  
contributions due from self-insuring employers for the fund at 5228  
rates as low as possible but such as will assure sufficient 5229  
moneys to guarantee the payment of any claims against the fund. 5230  
The bureau's operation of the fund is not subject to sections 5231  
3929.10 to 3929.18 of the Revised Code or to regulation by the 5232  
superintendent of insurance. 5233

(C) If a self-insuring employer defaults, the bureau shall 5234  
recover the amounts paid as a result of the default from the 5235  
self-insuring employers' guaranty fund. If a self-insuring 5236  
employer defaults and is in compliance with this section for the 5237  
payment of contributions to the fund, such self-insuring 5238

employer is entitled to the immunity conferred by section 5239  
4123.74 of the Revised Code for any claim arising during any 5240  
period the employer is in compliance with this section. 5241

(D) (1) There is hereby established a self-insuring 5242  
employers' guaranty fund, which shall be in the custody of the 5243  
treasurer of state and which shall be separate from the other 5244  
funds established and administered pursuant to this chapter. The 5245  
fund shall consist of contributions and other payments made by 5246  
self-insuring employers under this section. All investment 5247  
earnings of the fund shall be credited to the fund. The bureau 5248  
shall make disbursements from the fund pursuant to this section. 5249

(2) The administrator has the same powers to invest any of 5250  
the surplus or reserve belonging to the fund as are delegated to 5251  
the administrator under section 4123.44 of the Revised Code with 5252  
respect to the state insurance fund. The administrator shall 5253  
apply interest earned solely to the reduction of assessments for 5254  
contributions from self-insuring employers and to the payments 5255  
required due to defaults. 5256

(3) If the bureau of workers' compensation board of 5257  
directors determines that reinsurance of the risks of the fund 5258  
is necessary to assure solvency of the fund, the board may: 5259

(a) Enter into contracts for the purchase of reinsurance 5260  
coverage of the risks of the fund with any company or agency 5261  
authorized by law to issue contracts of reinsurance; 5262

(b) Require the administrator to pay the cost of 5263  
reinsurance from the fund; 5264

(c) Include the costs of reinsurance as a liability and 5265  
estimated liability of the fund. 5266

(E) The administrator, with the advice and consent of the 5267

board, may adopt rules pursuant to Chapter 119. of the Revised 5268  
Code for the implementation of this section, including a rule, 5269  
notwithstanding division (C) of this section, requiring self- 5270  
insuring employers to provide security in addition to the 5271  
contribution to the self-insuring employers' guaranty fund 5272  
required by this section. The additional security required by 5273  
the rule, as the administrator determines appropriate, shall be 5274  
sufficient and adequate to provide for financial assurance to 5275  
meet the obligations of self-insuring employers under this 5276  
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 5277  
Code. 5278

(F) The purchase of coverage under this section by self- 5279  
insuring employers is valid notwithstanding the prohibitions 5280  
contained in division (A) of section 4123.82 of the Revised Code 5281  
and is in addition to the indemnity contracts that self-insuring 5282  
employers may purchase pursuant to division (B) of section 5283  
4123.82 of the Revised Code. 5284

(G) The administrator, on behalf of the self-insuring 5285  
employers' guaranty fund, has the rights of reimbursement and 5286  
subrogation and shall collect from a defaulting self-insuring 5287  
employer or other liable person all amounts the administrator 5288  
has paid or reasonably expects to pay from the fund on account 5289  
of the defaulting self-insuring employer. 5290

(H) The assessments for contributions, the administration 5291  
of the self-insuring employers' guaranty fund, the investment of 5292  
the money in the fund, and the payment of liabilities incurred 5293  
by the fund do not create any liability upon the state. 5294

Except for a gross abuse of discretion, neither the board, 5295  
nor the individual members thereof, nor the administrator shall 5296  
incur any obligation or liability respecting the assessments for 5297

contributions, the administration of the self-insuring 5298  
employers' guaranty fund, the investment of the fund, or the 5299  
payment of liabilities therefrom. 5300

**Sec. 4123.353.** (A) A public employer, except for a board 5301  
of county commissioners described in division (G) of section 5302  
4123.01 of the Revised Code, a board of a county hospital, or a 5303  
publicly owned utility, who is granted the status of self- 5304  
insuring employer pursuant to section 4123.35 of the Revised 5305  
Code shall do all of the following: 5306

(1) Reserve funds as necessary, in accordance with sound 5307  
and prudent actuarial judgment, to cover the costs the public 5308  
employer may potentially incur to remain in compliance with this 5309  
chapter and ~~Chapter~~Chapters 4121. and 4133. of the Revised 5310  
Code; 5311

(2) Include all activity under this chapter and ~~Chapter~~ 5312  
Chapters 4121. and 4133. of the Revised Code in a single fund on 5313  
the public employer's accounting records; 5314

(3) Within ninety days after the last day of each fiscal 5315  
year, prepare and maintain a report of the reserved funds 5316  
described in division (A) (1) of this section and disbursements 5317  
made from those reserved funds. 5318

(B) A public employer who is subject to division (A) of 5319  
this section shall make the reports required by that division 5320  
available for inspection by the administrator of workers' 5321  
compensation and any other person at all reasonable times during 5322  
regular business hours. 5323

**Sec. 4123.402.** The department of administrative services 5324  
shall act as employer for workers' compensation claims arising 5325  
under this chapter and Chapters 4121., 4127., ~~and 4131.~~ and 5326

4133. of the Revised Code for all state agencies, offices, 5327  
institutions, boards, or commissions except for public colleges 5328  
and universities. The department shall review, process, certify 5329  
or contest, and administer workers' compensation claims for each 5330  
state agency, office, institution, board, and commission, except 5331  
for a public college or university, unless otherwise agreed to 5332  
between the department and a state agency, office, institution, 5333  
board, or commission. 5334

The department may enter into a contract with one or more 5335  
third party administrators for claims management of a state 5336  
agency, office, institution, board, or commission, except for a 5337  
public college or university, for workers' compensation claims 5338  
and for claims covered by the occupational injury leave program 5339  
adopted pursuant to section 124.381 of the Revised Code. 5340

**Sec. 4123.441.** (A) The administrator of workers' 5341  
compensation, with the advice and consent of the bureau of 5342  
workers' compensation board of directors shall employ a person 5343  
or designate an employee of the bureau of workers' compensation 5344  
who is designated as a chartered financial analyst by the CFA 5345  
institute and who is licensed by the division of securities in 5346  
the department of commerce as a bureau of workers' compensation 5347  
chief investment officer to be the chief investment officer for 5348  
the bureau of workers' compensation. After ninety days after 5349  
September 29, 2005, the bureau of workers' compensation may not 5350  
employ a bureau of workers' compensation chief investment 5351  
officer, as defined in section 1707.01 of the Revised Code, who 5352  
does not hold a valid bureau of workers' compensation chief 5353  
investment officer license issued by the division of securities 5354  
in the department of commerce. The board shall notify the 5355  
division of securities of the department of commerce in writing 5356  
of its designation and of any change in its designation within 5357

ten calendar days after the designation or change. 5358

(B) The bureau of workers' compensation chief investment 5359  
officer shall reasonably supervise employees of the bureau who 5360  
handle investment of assets of funds specified in this chapter 5361  
and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the Revised 5362  
Code with a view toward preventing violations of Chapter 1707. 5363  
of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 5364  
7 U.S.C. 1, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 5365  
77a, the "Securities Exchange Act of 1934," 48 Stat. 881, 15 5366  
U.S.C. 78a, and the rules and regulations adopted under those 5367  
statutes. This duty of reasonable supervision shall include the 5368  
adoption, implementation, and enforcement of written policies 5369  
and procedures reasonably designed to prevent employees of the 5370  
bureau who handle investment of assets of the funds specified in 5371  
this chapter and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of 5372  
the Revised Code, from misusing material, nonpublic information 5373  
in violation of those laws, rules, and regulations. 5374

For purposes of this division, no bureau of workers' 5375  
compensation chief investment officer shall be considered to 5376  
have failed to satisfy the officer's duty of reasonable 5377  
supervision if the officer has done all of the following: 5378

(1) Adopted and implemented written procedures, and a 5379  
system for applying the procedures, that would reasonably be 5380  
expected to prevent and detect, insofar as practicable, any 5381  
violation by employees handling investments of assets of the 5382  
funds specified in this chapter and Chapters 4121., 4127., ~~and~~ 5383  
4131., and 4133. of the Revised Code; 5384

(2) Reasonably discharged the duties and obligations 5385  
incumbent on the bureau of workers' compensation chief 5386  
investment officer by reason of the established procedures and 5387

the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems;

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation.

(C) The bureau of workers' compensation chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the bureau.

**Sec. 4123.442.** When developing the investment policy for the investment of the assets of the funds specified in this chapter and Chapters 4121., 4127., ~~and 4131.~~ and 4133. of the Revised Code, the workers' compensation investment committee shall do all of the following:

(A) Specify the asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines;

(B) Prohibit investing the assets of those funds, directly or indirectly, in vehicles that target any of the following:

- (1) Coins;
- (2) Artwork;
- (3) Horses;
- (4) Jewelry or gems;
- (5) Stamps;
- (6) Antiques;
- (7) Artifacts;

(8) Collectibles;	5415
(9) Memorabilia;	5416
(10) Similar unregulated investments that are not commonly part of an institutional portfolio, that lack liquidity, and that lack readily determinable valuation.	5417 5418 5419
(C) Specify that the administrator of workers' compensation may invest in an investment class only if the bureau of workers' compensation board of directors, by a majority vote, opens that class;	5420 5421 5422 5423
(D) Prohibit investing the assets of those funds in any class of investments the board, by majority vote, closed, or any specific investment in which the board prohibits the administrator from investing;	5424 5425 5426 5427
(E) Not specify in the investment policy that the administrator or employees of the bureau of workers' compensation are prohibited from conducting business with an investment management firm, any investment management professional associated with that firm, any third party solicitor associated with that firm, or any political action committee controlled by that firm or controlled by an investment management professional of that firm based on criteria that are more restrictive than the restrictions described in divisions (Y) and (Z) of section 3517.13 of the Revised Code.	5428 5429 5430 5431 5432 5433 5434 5435 5436 5437
<b>Sec. 4123.444.</b> (A) As used in this section and section 4123.445 of the Revised Code:	5438 5439
(1) "Bureau of workers' compensation funds" means any fund specified in Chapter 4121., 4123., 4127., <del>or 4131.,</del> <u>or 4133.</u> of the Revised Code that the administrator of workers' compensation has the authority to invest, in accordance with the	5440 5441 5442 5443

administrator's investment authority under section 4123.44 of 5444  
the Revised Code. 5445

(2) "Investment manager" means any person with whom the 5446  
administrator of workers' compensation contracts pursuant to 5447  
section 4123.44 of the Revised Code to facilitate the investment 5448  
of assets of bureau of workers' compensation funds. 5449

(3) "Business entity" means any person with whom an 5450  
investment manager contracts for the investment of assets of 5451  
bureau of workers' compensation funds. 5452

(4) "Financial or investment crime" means any criminal 5453  
offense involving theft, receiving stolen property, 5454  
embezzlement, forgery, fraud, passing bad checks, money 5455  
laundering, drug trafficking, or any criminal offense involving 5456  
money or securities, as set forth in Chapters 2909., 2911., 5457  
2913., 2915., 2921., 2923., and 2925. of the Revised Code or 5458  
other law of this state, or the laws of any other state or the 5459  
United States that are substantially equivalent to those 5460  
offenses. 5461

(B)(1) Before entering into a contract with an investment 5462  
manager to invest bureau of workers' compensation funds, the 5463  
administrator shall do both of the following: 5464

(a) Request from any investment manager with whom the 5465  
administrator wishes to contract for those investments a list of 5466  
all employees who will be investing assets of bureau of workers' 5467  
compensation funds. The list shall specify each employee's state 5468  
of residence for the five years prior to the date of the 5469  
administrator's request. 5470

(b) Request that the superintendent of the bureau of 5471  
criminal investigation and identification conduct a criminal 5472

records check in accordance with this section and section 5473  
109.579 of the Revised Code with respect to every employee the 5474  
investment manager names in that list. 5475

(2) After an investment manager enters into a contract 5476  
with the administrator to invest bureau of workers' compensation 5477  
funds and before an investment manager enters into a contract 5478  
with a business entity to facilitate those investments, the 5479  
investment manager shall request from any business entity with 5480  
whom the investment manager wishes to contract to make those 5481  
investments a list of all employees who will be investing assets 5482  
of the bureau of workers' compensation funds. The list shall 5483  
specify each employee's state of residence for the five years 5484  
prior to the investment manager's request. The investment 5485  
manager shall forward to the administrator the list received 5486  
from the business entity. The administrator shall request the 5487  
superintendent to conduct a criminal records check in accordance 5488  
with this section and section 109.579 of the Revised Code with 5489  
respect to every employee the business entity names in that 5490  
list. Upon receipt of the results of the criminal records check, 5491  
the administrator shall advise the investment manager whether 5492  
the results were favorable or unfavorable. 5493

(3) If, after a contract has been entered into between the 5494  
administrator and an investment manager or between an investment 5495  
manager and a business entity for the investment of assets of 5496  
bureau of workers' compensation funds, the investment manager or 5497  
business entity wishes to have an employee who was not the 5498  
subject of a criminal records check under division (B) (1) or (B) 5499  
(2) of this section invest assets of the bureau of workers' 5500  
compensation funds, that employee shall be the subject of a 5501  
criminal records check pursuant to this section and section 5502  
109.579 of the Revised Code prior to handling the investment of 5503

assets of those funds. The investment manager shall submit to 5504  
the administrator the name of that employee along with the 5505  
employee's state of residence for the five years prior to the 5506  
date in which the administrator requests the criminal records 5507  
check. The administrator shall request that the superintendent 5508  
conduct a criminal records check on that employee pursuant to 5509  
this section and section 109.579 of the Revised Code. 5510

(C) (1) If an employee who is the subject of a criminal 5511  
records check pursuant to division (B) of this section has not 5512  
been a resident of this state for the five-year period 5513  
immediately prior to the time the criminal records check is 5514  
requested or does not provide evidence that within that five- 5515  
year period the superintendent has requested information about 5516  
the employee from the federal bureau of investigation in a 5517  
criminal records check, the administrator shall request that the 5518  
superintendent obtain information from the federal bureau of 5519  
investigation as a part of the criminal records check for the 5520  
employee. If the employee has been a resident of this state for 5521  
at least that five-year period, the administrator may, but is 5522  
not required to, request that the superintendent request and 5523  
include in the criminal records check information about that 5524  
employee from the federal bureau of investigation. 5525

(2) The administrator shall provide to an investment 5526  
manager a copy of the form prescribed pursuant to division (C) 5527  
(1) of section 109.579 of the Revised Code and a standard 5528  
impression sheet for each employee for whom a criminal records 5529  
check must be performed, to obtain fingerprint impressions as 5530  
prescribed pursuant to division (C) (2) of section 109.579 of the 5531  
Revised Code. The investment manager shall obtain the completed 5532  
form and impression sheet either directly from each employee or 5533  
from a business entity and shall forward the completed form and 5534

sheet to the administrator, who shall forward these forms and 5535  
sheets to the superintendent. 5536

(3) Any employee who receives a copy of the form and the 5537  
impression sheet pursuant to division (C)(2) of this section and 5538  
who is requested to complete the form and provide a set of 5539  
fingerprint impressions shall complete the form or provide all 5540  
the information necessary to complete the form and shall 5541  
complete the impression sheets in the manner prescribed in 5542  
division (C)(2) of section 109.579 of the Revised Code. 5543

(D) For each criminal records check the administrator 5544  
requests under this section, at the time the administrator makes 5545  
a request the administrator shall pay to the superintendent the 5546  
fee the superintendent prescribes pursuant to division (E) of 5547  
section 109.579 of the Revised Code. 5548

**Sec. 4123.47.** (A) The administrator of workers' 5549  
compensation shall have an actuarial analysis of the state 5550  
insurance fund and all other funds specified in this chapter and 5551  
Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the Revised Code 5552  
made at least once each year. The analysis shall be made and 5553  
certified by recognized, credentialed property or casualty 5554  
actuaries who shall be selected by the bureau of workers' 5555  
compensation board of directors. The expense of the analysis 5556  
shall be paid from the state insurance fund. The administrator 5557  
shall make copies of the analysis available to the workers' 5558  
compensation audit committee at no charge and to the public at 5559  
cost. 5560

(B) The auditor of state annually shall conduct an audit 5561  
of the administration of this chapter by the industrial 5562  
commission and the bureau of workers' compensation and the 5563  
safety and hygiene fund. The cost of the audit shall be charged 5564

to the administrative costs of the bureau as defined in section 5565  
4123.341 of the Revised Code. The audit shall include audits of 5566  
all fiscal activities, claims processing and handling, and 5567  
employer premium collections. The auditor shall prepare a report 5568  
of the audit together with recommendations and transmit copies 5569  
of the report to the industrial commission, the board, the 5570  
administrator, the governor, and to the general assembly. The 5571  
auditor shall make copies of the report available to the public 5572  
at cost. 5573

(C) The administrator may retain the services of a 5574  
recognized actuary on a consulting basis for the purpose of 5575  
evaluating the actuarial soundness of premium rates and 5576  
classifications and all other matters involving the 5577  
administration of the state insurance fund. The expense of 5578  
services provided by the actuary shall be paid from the state 5579  
insurance fund. 5580

**Sec. 4123.51.** The administrator of workers' compensation 5581  
shall by published notices and other appropriate means endeavor 5582  
to cause claims to be filed in the service office of the bureau 5583  
of workers' compensation from which the investigation and 5584  
determination of the claim may be made most expeditiously. A 5585  
claim or appeal under this chapter or Chapter 4121., 4127., ~~or~~ 5586  
4131., or 4133. of the Revised Code may be filed with any office 5587  
of the bureau of workers' compensation or the industrial 5588  
commission, within the required statutory period, and is 5589  
considered received for the purpose of processing the claims or 5590  
appeals. 5591

The administrator, on the form an employee or an 5592  
individual acting on behalf of the employee files with the 5593  
administrator or a self-insuring employer to initiate a claim 5594

under this chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. 5595  
of the Revised Code, shall include a statement that is 5596  
substantially similar to the following statement in bold font 5597  
and set apart from all other text in the form: 5598

"By signing this form, I elect to only receive 5599  
compensation, benefits, or both that are provided for in this 5600  
claim under Ohio's workers' compensation laws. I understand and 5601  
I hereby waive and release my right to receive compensation and 5602  
benefits under the workers' compensation laws of another state 5603  
for the injury or occupational disease, or the death resulting 5604  
from an injury or occupational disease, for which I am filing 5605  
this claim. I have not received compensation and benefits under 5606  
the workers' compensation laws of another state for this claim, 5607  
and I will not file and have not filed a claim in another state 5608  
for the injury or occupational disease or death resulting from 5609  
an injury or occupational disease for which I am filing this 5610  
claim." 5611

**Sec. 4123.511.** (A) Within seven days after receipt of any 5612  
claim under this chapter, the bureau of workers' compensation 5613  
shall notify the claimant and the employer of the claimant of 5614  
the receipt of the claim and of the facts alleged therein. If 5615  
the bureau receives from a person other than the claimant 5616  
written or facsimile information or information communicated 5617  
verbally over the telephone indicating that an injury or 5618  
occupational disease has occurred or been contracted which may 5619  
be compensable under this chapter, the bureau shall notify the 5620  
employee and the employer of the information. If the information 5621  
is provided verbally over the telephone, the person providing 5622  
the information shall provide written verification of the 5623  
information to the bureau according to division (E) of section 5624  
4123.84 of the Revised Code. The receipt of the information in 5625

writing or facsimile, or if initially by telephone, the 5626  
subsequent written verification, and the notice by the bureau 5627  
shall be considered an application for compensation under 5628  
section 4123.84 or 4123.85 of the Revised Code, provided that 5629  
the conditions of division (E) of section 4123.84 of the Revised 5630  
Code apply to information provided verbally over the telephone. 5631  
Upon receipt of a claim, the bureau shall advise the claimant of 5632  
the claim number assigned and the claimant's right to 5633  
representation in the processing of a claim or to elect no 5634  
representation. If the bureau determines that a claim is 5635  
determined to be a compensable lost-time claim, the bureau shall 5636  
notify the claimant and the employer of the availability of 5637  
rehabilitation services. No bureau or industrial commission 5638  
employee shall directly or indirectly convey any information in 5639  
derogation of this right. This section shall in no way abrogate 5640  
the bureau's responsibility to aid and assist a claimant in the 5641  
filing of a claim and to advise the claimant of the claimant's 5642  
rights under the law. 5643

The administrator of workers' compensation shall assign 5644  
all claims and investigations to the bureau service office from 5645  
which investigation and determination may be made most 5646  
expeditiously. 5647

The bureau shall investigate the facts concerning an 5648  
injury or occupational disease and ascertain such facts in 5649  
whatever manner is most appropriate and may obtain statements of 5650  
the employee, employer, attending physician, and witnesses in 5651  
whatever manner is most appropriate. 5652

The administrator, with the advice and consent of the 5653  
bureau of workers' compensation board of directors, may adopt 5654  
rules that identify specified medical conditions that have a 5655

historical record of being allowed whenever included in a claim. 5656  
The administrator may grant immediate allowance of any medical 5657  
condition identified in those rules upon the filing of a claim 5658  
involving that medical condition and may make immediate payment 5659  
of medical bills for any medical condition identified in those 5660  
rules that is included in a claim. If an employer contests the 5661  
allowance of a claim involving any medical condition identified 5662  
in those rules, and the claim is disallowed, payment for the 5663  
medical condition included in that claim shall be charged to and 5664  
paid from the surplus fund created under section 4123.34 of the 5665  
Revised Code. 5666

(B) (1) Except as provided in division (B) (2) of this 5667  
section, in claims other than those in which the employer is a 5668  
self-insuring employer, if the administrator determines under 5669  
division (A) of this section that a claimant is or is not 5670  
entitled to an award of compensation or benefits, the 5671  
administrator shall issue an order no later than twenty-eight 5672  
days after the sending of the notice under division (A) of this 5673  
section, granting or denying the payment of the compensation or 5674  
benefits, or both as is appropriate to the claimant. 5675  
Notwithstanding the time limitation specified in this division 5676  
for the issuance of an order, if a medical examination of the 5677  
claimant is required by statute, the administrator promptly 5678  
shall schedule the claimant for that examination and shall issue 5679  
an order no later than twenty-eight days after receipt of the 5680  
report of the examination. The administrator shall notify the 5681  
claimant and the employer of the claimant and their respective 5682  
representatives in writing of the nature of the order and the 5683  
amounts of compensation and benefit payments involved. The 5684  
employer or claimant may appeal the order pursuant to division 5685  
(C) of this section within fourteen days after the date of the 5686

receipt of the order. The employer and claimant may waive, in 5687  
writing, their rights to an appeal under this division. 5688

(2) Notwithstanding the time limitation specified in 5689  
division (B) (1) of this section for the issuance of an order, if 5690  
the employer certifies a claim for payment of compensation or 5691  
benefits, or both, to a claimant, and the administrator has 5692  
completed the investigation of the claim, the payment of 5693  
benefits or compensation, or both, as is appropriate, shall 5694  
commence upon the later of the date of the certification or 5695  
completion of the investigation and issuance of the order by the 5696  
administrator, provided that the administrator shall issue the 5697  
order no later than the time limitation specified in division 5698  
(B) (1) of this section. 5699

(3) If an appeal is made under division (B) (1) or (2) of 5700  
this section, the administrator shall forward the claim file to 5701  
the appropriate district hearing officer within seven days of 5702  
the appeal. In contested claims other than state fund claims, 5703  
the administrator shall forward the claim within seven days of 5704  
the administrator's receipt of the claim to the industrial 5705  
commission, which shall refer the claim to an appropriate 5706  
district hearing officer for a hearing in accordance with 5707  
division (C) of this section. 5708

~~(C) If an employer or claimant timely appeals the order of~~ 5709  
~~the administrator issued under division (B) of this section or~~ 5710  
~~in the case of other contested claims other than state fund~~ 5711  
~~claims, (1) Except as provided in division (C) (2) of this~~ 5712  
section, the commission shall refer the a claim to an 5713  
appropriate district hearing officer according to rules the 5714  
commission adopts under section 4121.36 of the Revised Code if 5715  
an employer or claimant timely appeals any of the following: 5716

(a) An order or determination of the administrator issued 5717  
under division (B) of this section or section 4133.06 of the 5718  
Revised Code; 5719

(b) A determination of the occupational pneumoconiosis 5720  
board issued under section 4133.09 of the Revised Code; 5721

(c) Other contested claims other than state fund claims. 5722

(2) Division (C)(1) of this section does not apply to a 5723  
claim that has been referred to the occupational pneumoconiosis 5724  
board under section 4133.08 of the Revised Code. 5725

The district hearing officer shall notify the parties and 5726  
their respective representatives of the time and place of the 5727  
hearing. 5728

The district hearing officer shall hold a hearing on a 5729  
disputed issue or claim within forty-five days after the filing 5730  
of the appeal under this division and issue a decision within 5731  
seven days after holding the hearing. The district hearing 5732  
officer shall notify the parties and their respective 5733  
representatives in writing of the order. Any party may appeal an 5734  
order issued under this division pursuant to division (D) of 5735  
this section within fourteen days after receipt of the order 5736  
under this division. 5737

(D) Upon the timely filing of an appeal of the order of 5738  
the district hearing officer issued under division (C) of this 5739  
section, the commission shall refer the claim file to an 5740  
appropriate staff hearing officer according to its rules adopted 5741  
under section 4121.36 of the Revised Code. The staff hearing 5742  
officer shall hold a hearing within forty-five days after the 5743  
filing of an appeal under this division and issue a decision 5744  
within seven days after holding the hearing under this division. 5745

The staff hearing officer shall notify the parties and their  
respective representatives in writing of the staff hearing  
officer's order. Any party may appeal an order issued under this  
division pursuant to division (E) of this section within  
fourteen days after receipt of the order under this division.

(E) Upon the filing of a timely appeal of the order of the  
staff hearing officer issued under division (D) of this section,  
the commission or a designated staff hearing officer, on behalf  
of the commission, shall determine whether the commission will  
hear the appeal. If the commission or the designated staff  
hearing officer decides to hear the appeal, the commission or  
the designated staff hearing officer shall notify the parties  
and their respective representatives in writing of the time and  
place of the hearing. The commission shall hold the hearing  
within forty-five days after the filing of the notice of appeal  
and, within seven days after the conclusion of the hearing, the  
commission shall issue its order affirming, modifying, or  
reversing the order issued under division (D) of this section.  
The commission shall notify the parties and their respective  
representatives in writing of the order. If the commission or  
the designated staff hearing officer determines not to hear the  
appeal, within fourteen days after the expiration of the period  
in which an appeal of the order of the staff hearing officer may  
be filed as provided in division (D) of this section, the  
commission or the designated staff hearing officer shall issue  
an order to that effect and notify the parties and their  
respective representatives in writing of that order.

Except as otherwise provided in this chapter and Chapters  
4121., 4127., ~~and 4131.~~ and 4133. of the Revised Code, any  
party may appeal an order issued under this division to the  
court pursuant to section 4123.512 of the Revised Code within

sixty days after receipt of the order, subject to the 5777  
limitations contained in that section. 5778

(F) Every notice of an appeal from an order issued under 5779  
divisions (B), (C), (D), and (E) of this section shall state the 5780  
names of the claimant and employer, the number of the claim, the 5781  
date of the decision appealed from, and the fact that the 5782  
appellant appeals therefrom. 5783

(G) All of the following apply to the proceedings under 5784  
divisions (C), (D), and (E) of this section: 5785

(1) The parties shall proceed promptly and without 5786  
continuances except for good cause; 5787

(2) The parties, in good faith, shall engage in the free 5788  
exchange of information relevant to the claim prior to the 5789  
conduct of a hearing according to the rules the commission 5790  
adopts under section 4121.36 of the Revised Code; 5791

(3) The administrator is a party and may appear and 5792  
participate at all administrative proceedings on behalf of the 5793  
state insurance fund. However, in cases in which the employer is 5794  
represented, the administrator shall neither present arguments 5795  
nor introduce testimony that is cumulative to that presented or 5796  
introduced by the employer or the employer's representative. The 5797  
administrator may file an appeal under this section on behalf of 5798  
the state insurance fund; however, except in cases arising under 5799  
section 4123.343 of the Revised Code, the administrator only may 5800  
appeal questions of law or issues of fraud when the employer 5801  
appears in person or by representative. 5802

(H) Except as provided in section 4121.63 of the Revised 5803  
Code and division (K) of this section, payments of compensation 5804  
to a claimant or on behalf of a claimant as a result of any 5805

order issued under this chapter or Chapter 4133. of the Revised Code shall commence upon the earlier of the following: 5806  
5807

(1) Fourteen days after the date the administrator issues 5808  
an order under division (B) of this section or section 4133.06 5809  
of the Revised Code, unless that order is appealed or the claim 5810  
has been referred to the occupational pneumoconiosis board, as 5811  
applicable; 5812

(2) Fourteen days after the date the occupational 5813  
pneumoconiosis board makes a determination under section 4133.09 5814  
of the Revised Code; 5815

(3) The date when the employer has waived the right to 5816  
appeal a decision issued under division (B) of this section or 5817  
Chapter 4133. of the Revised Code; 5818

~~(3)~~ (4) If no appeal of an order has been filed under this 5819  
section or to a court under section 4123.512 of the Revised 5820  
Code, the expiration of the time limitations for the filing of 5821  
an appeal of an order; 5822

~~(4)~~ (5) The date of receipt by the employer of an order of 5823  
a district hearing officer, a staff hearing officer, or the 5824  
industrial commission issued under division (C), (D), or (E) of 5825  
this section. 5826

(I) Except as otherwise provided in division (B) of 5827  
section 4123.66 of the Revised Code, payments of medical 5828  
benefits payable under this chapter or Chapter 4121., 4127., ~~or~~ 5829  
4131., or 4133. of the Revised Code shall commence upon the 5830  
earlier of the following: 5831

(1) The date of the issuance of the staff hearing 5832  
officer's order under division (D) of this section; 5833

(2) The date of the final administrative or judicial determination. 5834  
5835

(J) The administrator shall charge the compensation 5836  
payments made in accordance with division (H) of this section or 5837  
medical benefits payments made in accordance with division (I) 5838  
of this section to an employer's experience immediately after 5839  
the employer has exhausted the employer's administrative appeals 5840  
as provided in this section or section 4133.06 of the Revised 5841  
Code or has waived the employer's right to an administrative 5842  
appeal under division (B) of this section or Chapter 4133. of 5843  
the Revised Code, subject to the adjustment specified in 5844  
division (H) of section 4123.512 of the Revised Code. 5845

(K) Upon the final administrative or judicial 5846  
determination under this section or section 4123.512 of the 5847  
Revised Code of an appeal of an order to pay compensation, if a 5848  
claimant is found to have received compensation pursuant to a 5849  
prior order which is reversed upon subsequent appeal, the 5850  
claimant's employer, if a self-insuring employer, or the bureau, 5851  
shall withhold from any amount to which the claimant becomes 5852  
entitled pursuant to any claim, past, present, or future, under 5853  
Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised 5854  
Code, the amount of previously paid compensation to the claimant 5855  
which, due to reversal upon appeal, the claimant is not 5856  
entitled, pursuant to the following criteria: 5857

(1) No withholding for the first twelve weeks of temporary 5858  
total disability compensation pursuant to ~~section~~ sections 5859  
4123.56 and 4133.12 of the Revised Code shall be made; 5860

(2) Forty per cent of all awards of compensation paid 5861  
pursuant to sections 4123.56 ~~and~~ , 4123.57, 4133.12, and 4133.13 5862  
of the Revised Code, until the amount overpaid is refunded; 5863

(3) Twenty-five per cent of any compensation paid pursuant 5864  
to ~~section~~ sections 4123.58 and 4133.14 of the Revised Code 5865  
until the amount overpaid is refunded; 5866

(4) If, pursuant to an appeal under section 4123.512 of 5867  
the Revised Code, the court of appeals or the supreme court 5868  
reverses the allowance of the claim, then no amount of any 5869  
compensation will be withheld. 5870

The administrator and self-insuring employers, as 5871  
appropriate, are subject to the repayment schedule of this 5872  
division only with respect to an order to pay compensation that 5873  
was properly paid under a previous order, but which is 5874  
subsequently reversed upon an administrative or judicial appeal. 5875  
The administrator and self-insuring employers are not subject 5876  
to, but may utilize, the repayment schedule of this division, or 5877  
any other lawful means, to collect payment of compensation made 5878  
to a person who was not entitled to the compensation due to 5879  
fraud as determined by the administrator or the industrial 5880  
commission. 5881

(L) If a staff hearing officer or the commission fails to 5882  
issue a decision or the commission fails to refuse to hear an 5883  
appeal within the time periods required by this section, 5884  
payments to a claimant shall cease until the staff hearing 5885  
officer or commission issues a decision or hears the appeal, 5886  
unless the failure was due to the fault or neglect of the 5887  
employer or the employer agrees that the payments should 5888  
continue for a longer period of time. 5889

(M) Except as otherwise provided in this section or 5890  
section 4123.522 of the Revised Code, no appeal is timely filed 5891  
under this section unless the appeal is filed with the time 5892  
limits set forth in this section. 5893

(N) No person who is not an employee of the bureau or 5894  
commission or who is not by law given access to the contents of 5895  
a claims file shall have a file in the person's possession. 5896

(O) Upon application of a party who resides in an area in 5897  
which an emergency or disaster is declared, the industrial 5898  
commission and hearing officers of the commission may waive the 5899  
time frame within which claims and appeals of claims set forth 5900  
in this section must be filed upon a finding that the applicant 5901  
was unable to comply with a filing deadline due to an emergency 5902  
or a disaster. 5903

As used in this division: 5904

(1) "Emergency" means any occasion or instance for which 5905  
the governor of Ohio or the president of the United States 5906  
publicly declares an emergency and orders state or federal 5907  
assistance to save lives and protect property, the public health 5908  
and safety, or to lessen or avert the threat of a catastrophe. 5909

(2) "Disaster" means any natural catastrophe or fire, 5910  
flood, or explosion, regardless of the cause, that causes damage 5911  
of sufficient magnitude that the governor of Ohio or the 5912  
president of the United States, through a public declaration, 5913  
orders state or federal assistance to alleviate damage, loss, 5914  
hardship, or suffering that results from the occurrence. 5915

**Sec. 4123.512.** (A) The claimant or the employer may appeal 5916  
an order of the industrial commission made under division (E) of 5917  
section 4123.511 of the Revised Code in any injury or 5918  
occupational disease case, other than a decision as to the 5919  
extent of disability to the court of common pleas of the county 5920  
in which the injury was inflicted or in which the contract of 5921  
employment was made if the injury occurred outside the state, or 5922

in which the contract of employment was made if the exposure 5923  
occurred outside the state. If no common pleas court has 5924  
jurisdiction for the purposes of an appeal by the use of the 5925  
jurisdictional requirements described in this division, the 5926  
appellant may use the venue provisions in the Rules of Civil 5927  
Procedure to vest jurisdiction in a court. If the claim is for 5928  
an occupational disease, the appeal shall be to the court of 5929  
common pleas of the county in which the exposure which caused 5930  
the disease occurred. Like appeal may be taken from an order of 5931  
a staff hearing officer made under division (D) of section 5932  
4123.511 of the Revised Code from which the commission has 5933  
refused to hear an appeal. The appellant shall file the notice 5934  
of appeal with a court of common pleas within sixty days after 5935  
the date of the receipt of the order appealed from or the date 5936  
of receipt of the order of the commission refusing to hear an 5937  
appeal of a staff hearing officer's decision under division (D) 5938  
of section 4123.511 of the Revised Code. The filing of the 5939  
notice of the appeal with the court is the only act required to 5940  
perfect the appeal. 5941

If an action has been commenced in a court of a county 5942  
other than a court of a county having jurisdiction over the 5943  
action, the court, upon notice by any party or upon its own 5944  
motion, shall transfer the action to a court of a county having 5945  
jurisdiction. 5946

Notwithstanding anything to the contrary in this section, 5947  
if the commission determines under section 4123.522 of the 5948  
Revised Code that an employee, employer, or their respective 5949  
representatives have not received written notice of an order or 5950  
decision which is appealable to a court under this section and 5951  
which grants relief pursuant to section 4123.522 of the Revised 5952  
Code, the party granted the relief has sixty days from receipt 5953

of the order under section 4123.522 of the Revised Code to file 5954  
a notice of appeal under this section. 5955

(B) The notice of appeal shall state the names of the 5956  
administrator of workers' compensation, the claimant, and the 5957  
employer; the number of the claim; the date of the order 5958  
appealed from; and the fact that the appellant appeals 5959  
therefrom. 5960

The administrator, the claimant, and the employer shall be 5961  
parties to the appeal and the court, upon the application of the 5962  
commission, shall make the commission a party. The party filing 5963  
the appeal shall serve a copy of the notice of appeal on the 5964  
administrator at the central office of the bureau of workers' 5965  
compensation in Columbus. The administrator shall notify the 5966  
employer that if the employer fails to become an active party to 5967  
the appeal, then the administrator may act on behalf of the 5968  
employer and the results of the appeal could have an adverse 5969  
effect upon the employer's premium rates or may result in a 5970  
recovery from the employer if the employer is determined to be a 5971  
noncomplying employer under section 4123.75 of the Revised Code. 5972

(C) The attorney general or one or more of the attorney 5973  
general's assistants or special counsel designated by the 5974  
attorney general shall represent the administrator and the 5975  
commission. In the event the attorney general or the attorney 5976  
general's designated assistants or special counsel are absent, 5977  
the administrator or the commission shall select one or more of 5978  
the attorneys in the employ of the administrator or the 5979  
commission as the administrator's attorney or the commission's 5980  
attorney in the appeal. Any attorney so employed shall continue 5981  
the representation during the entire period of the appeal and in 5982  
all hearings thereof except where the continued representation 5983

becomes impractical. 5984

(D) Upon receipt of notice of appeal, the clerk of courts 5985  
shall provide notice to all parties who are appellees and to the 5986  
commission. 5987

The claimant shall, within thirty days after the filing of 5988  
the notice of appeal, file a petition containing a statement of 5989  
facts in ordinary and concise language showing a cause of action 5990  
to participate or to continue to participate in the fund and 5991  
setting forth the basis for the jurisdiction of the court over 5992  
the action. Further pleadings shall be had in accordance with 5993  
the Rules of Civil Procedure, provided that service of summons 5994  
on such petition shall not be required and provided that the 5995  
claimant may not dismiss the complaint without the employer's 5996  
consent if the employer is the party that filed the notice of 5997  
appeal to court pursuant to this section. The clerk of the court 5998  
shall, upon receipt thereof, transmit by certified mail a copy 5999  
thereof to each party named in the notice of appeal other than 6000  
the claimant. Any party may file with the clerk prior to the 6001  
trial of the action a deposition of any physician taken in 6002  
accordance with the provisions of the Revised Code, which 6003  
deposition may be read in the trial of the action even though 6004  
the physician is a resident of or subject to service in the 6005  
county in which the trial is had. The bureau of workers' 6006  
compensation shall pay the cost of the stenographic deposition 6007  
filed in court and of copies of the stenographic deposition for 6008  
each party from the surplus fund and charge the costs thereof 6009  
against the unsuccessful party if the claimant's right to 6010  
participate or continue to participate is finally sustained or 6011  
established in the appeal. In the event the deposition is taken 6012  
and filed, the physician whose deposition is taken is not 6013  
required to respond to any subpoena issued in the trial of the 6014

action. The court, or the jury under the instructions of the 6015  
court, if a jury is demanded, shall determine the right of the 6016  
claimant to participate or to continue to participate in the 6017  
fund upon the evidence adduced at the hearing of the action. 6018

(E) The court shall certify its decision to the commission 6019  
and the certificate shall be entered in the records of the 6020  
court. Appeals from the judgment are governed by the law 6021  
applicable to the appeal of civil actions. 6022

(F) The cost of any legal proceedings authorized by this 6023  
section, including an attorney's fee to the claimant's attorney 6024  
to be fixed by the trial judge, based upon the effort expended, 6025  
in the event the claimant's right to participate or to continue 6026  
to participate in the fund is established upon the final 6027  
determination of an appeal, shall be taxed against the employer 6028  
or the commission if the commission or the administrator rather 6029  
than the employer contested the right of the claimant to 6030  
participate in the fund. The attorney's fee shall not exceed 6031  
forty-two hundred dollars. 6032

(G) If the finding of the court or the verdict of the jury 6033  
is in favor of the claimant's right to participate in the fund, 6034  
the commission and the administrator shall thereafter proceed in 6035  
the matter of the claim as if the judgment were the decision of 6036  
the commission, subject to the power of modification provided by 6037  
section 4123.52 of the Revised Code. 6038

(H) (1) An appeal from an order issued under division (E) 6039  
of section 4123.511 of the Revised Code or any action filed in 6040  
court in a case in which an award of compensation or medical 6041  
benefits has been made shall not stay the payment of 6042  
compensation or medical benefits under the award, or payment for 6043  
subsequent periods of total disability or medical benefits 6044

during the pendency of the appeal. If, in a final administrative 6045  
or judicial action, it is determined that payments of 6046  
compensation or benefits, or both, made to or on behalf of a 6047  
claimant should not have been made, the amount thereof shall be 6048  
charged to the surplus fund account under division (B) of 6049  
section 4123.34 of the Revised Code. In the event the employer 6050  
is a state risk, the amount shall not be charged to the 6051  
employer's experience, and the administrator shall adjust the 6052  
employer's account accordingly. In the event the employer is a 6053  
self-insuring employer, the self-insuring employer shall deduct 6054  
the amount from the paid compensation the self-insuring employer 6055  
reports to the administrator under division (L) of section 6056  
4123.35 of the Revised Code. If an employer is a state risk and 6057  
has paid an assessment for a violation of a specific safety 6058  
requirement, and, in a final administrative or judicial action, 6059  
it is determined that the employer did not violate the specific 6060  
safety requirement, the administrator shall reimburse the 6061  
employer from the surplus fund account under division (B) of 6062  
section 4123.34 of the Revised Code for the amount of the 6063  
assessment the employer paid for the violation. 6064

(2) (a) Notwithstanding a final determination that payments 6065  
of benefits made to or on behalf of a claimant should not have 6066  
been made, the administrator or self-insuring employer shall 6067  
award payment of medical or vocational rehabilitation services 6068  
submitted for payment after the date of the final determination 6069  
if all of the following apply: 6070

(i) The services were approved and were rendered by the 6071  
provider in good faith prior to the date of the final 6072  
determination. 6073

(ii) The services were payable under division (I) of 6074

section 4123.511 of the Revised Code prior to the date of the 6075  
final determination. 6076

(iii) The request for payment is submitted within the time 6077  
limit set forth in section 4123.52 of the Revised Code. 6078

(b) Payments made under division (H) (1) of this section 6079  
shall be charged to the surplus fund account under division (B) 6080  
of section 4123.34 of the Revised Code. If the employer of the 6081  
employee who is the subject of a claim described in division (H) 6082  
(2) (a) of this section is a state fund employer, the payments 6083  
made under that division shall not be charged to the employer's 6084  
experience. If that employer is a self-insuring employer, the 6085  
self-insuring employer shall deduct the amount from the paid 6086  
compensation the self-insuring employer reports to the 6087  
administrator under division (L) of section 4123.35 of the 6088  
Revised Code. 6089

(c) Division (H) (2) of this section shall apply only to a 6090  
claim under this chapter or Chapter 4121., 4127., or 4131. of 6091  
the Revised Code arising on or after July 29, 2011, and in the 6092  
case of Chapter 4133. of the Revised Code, a claim arising on or 6093  
after the effective date of this amendment. 6094

(3) A self-insuring employer may elect to pay compensation 6095  
and benefits under this section directly to an employee or an 6096  
employee's dependents by filing an application with the bureau 6097  
of workers' compensation not more than one hundred eighty days 6098  
and not less than ninety days before the first day of the 6099  
employer's next six-month coverage period. If the self-insuring 6100  
employer timely files the application, the application is 6101  
effective on the first day of the employer's next six-month 6102  
coverage period, provided that the administrator shall compute 6103  
the employer's assessment for the surplus fund account due with 6104

respect to the period during which that application was filed 6105  
without regard to the filing of the application. On and after 6106  
the effective date of the employer's election, the self-insuring 6107  
employer shall pay directly to an employee or to an employee's 6108  
dependents compensation and benefits under this section 6109  
regardless of the date of the injury or occupational disease, 6110  
and the employer shall receive no money or credits from the 6111  
surplus fund account on account of those payments and shall not 6112  
be required to pay any amounts into the surplus fund account on 6113  
account of this section. The election made under this division 6114  
is irrevocable. 6115

(I) All actions and proceedings under this section which 6116  
are the subject of an appeal to the court of common pleas or the 6117  
court of appeals shall be preferred over all other civil actions 6118  
except election causes, irrespective of position on the 6119  
calendar. 6120

This section applies to all decisions of the commission or 6121  
the administrator on November 2, 1959, and all claims filed 6122  
thereafter are governed by sections 4123.511 and 4123.512 of the 6123  
Revised Code. 6124

Any action pending in common pleas court or any other 6125  
court on January 1, 1986, under this section is governed by 6126  
former sections 4123.514, 4123.515, 4123.516, and 4123.519 and 6127  
section 4123.522 of the Revised Code. 6128

**Sec. 4123.53.** (A) The administrator of workers' 6129  
compensation or the industrial commission may require any 6130  
employee claiming the right to receive compensation to submit to 6131  
a medical examination, vocational evaluation, or vocational 6132  
questionnaire at any time, and from time to time, at a place 6133  
reasonably convenient for the employee, and as provided by the 6134

rules of the commission or the administrator of workers' 6135  
compensation. A claimant required by the commission or 6136  
administrator to submit to a medical examination or vocational 6137  
evaluation, at a point outside of the place of permanent or 6138  
temporary residence of the claimant, as provided in this 6139  
section, is entitled to have paid to the claimant by the bureau 6140  
of workers' compensation the necessary and actual expenses on 6141  
account of the attendance for the medical examination or 6142  
vocational evaluation after approval of the expense statement by 6143  
the bureau. Under extraordinary circumstances and with the 6144  
unanimous approval of the commission, if the commission requires 6145  
the medical examination or vocational evaluation, or with the 6146  
approval of the administrator, if the administrator requires the 6147  
medical examination or vocational evaluation, the bureau shall 6148  
pay an injured or diseased employee the necessary, actual, and 6149  
authorized expenses of treatment at a point outside the place of 6150  
permanent or temporary residence of the claimant. 6151

(B) When an employee initially receives temporary total 6152  
disability compensation pursuant to section 4123.56 of the 6153  
Revised Code for a consecutive ninety-day period, the 6154  
administrator shall refer the employee to the bureau medical 6155  
section for a medical examination to determine the employee's 6156  
continued entitlement to such compensation, the employee's 6157  
rehabilitation potential, and the appropriateness of the medical 6158  
treatment the employee is receiving. The bureau medical section 6159  
shall conduct the examination not later than thirty days 6160  
following the end of the initial ninety-day period. If the 6161  
medical examiner, upon an initial or any subsequent examination 6162  
recommended by the medical examiner under this division, 6163  
determines that the employee is temporarily and totally 6164  
impaired, the medical examiner shall recommend a date when the 6165

employee should be reexamined. Upon the issuance of the medical 6166  
examination report containing a recommendation for 6167  
reexamination, the administrator shall schedule an examination 6168  
and, if at the date of reexamination the employee is receiving 6169  
temporary total disability compensation, the employee shall be 6170  
examined. The administrator shall adopt a rule, pursuant to 6171  
Chapter 119. of the Revised Code, permitting employers to waive 6172  
the administrator's scheduling of any such examinations. 6173

(C) If an employee refuses to submit to any medical 6174  
examination or vocational evaluation scheduled pursuant to this 6175  
section or obstructs the same, or refuses to complete and submit 6176  
to the bureau or commission a vocational questionnaire within 6177  
thirty days after the bureau or commission mails the request to 6178  
complete and submit the questionnaire the employee's right to 6179  
have ~~his or her~~ the employee's claim for compensation 6180  
considered, if the claim is pending before the bureau or 6181  
commission, or to receive any payment for compensation 6182  
theretofore granted, is suspended during the period of the 6183  
refusal or obstruction. Notwithstanding this section, an 6184  
employee's failure to submit to a medical examination or 6185  
vocational evaluation, or to complete and submit a vocational 6186  
questionnaire, shall not result in the dismissal of the 6187  
employee's claim. 6188

(D) Medical examinations scheduled under this section do 6189  
not limit medical examinations provided for in other provisions 6190  
of this chapter or Chapter 4121. or 4133. of the Revised Code. 6191

**Sec. 4123.54.** (A) Except as otherwise provided in 6192  
divisions (I) and (K) of this section, every employee, who is 6193  
injured or who contracts an occupational disease, and the 6194  
dependents of each employee who is killed, or dies as the result 6195

of an occupational disease contracted in the course of 6196  
employment, wherever such injury has occurred or occupational 6197  
disease has been contracted, provided the same were not: 6198

(1) Purposely self-inflicted; or 6199

(2) Caused by the employee being intoxicated or under the 6200  
influence of a controlled substance not prescribed by a 6201  
physician where the intoxication or being under the influence of 6202  
the controlled substance not prescribed by a physician was the 6203  
proximate cause of the injury, is entitled to receive, either 6204  
directly from the employee's self-insuring employer as provided 6205  
in section 4123.35 of the Revised Code, or from the state 6206  
insurance fund, the compensation for loss sustained on account 6207  
of the injury, occupational disease, or death, and the medical, 6208  
nurse, and hospital services and medicines, and the amount of 6209  
funeral expenses in case of death, as are provided by this 6210  
chapter and Chapter 4133. of the Revised Code. 6211

(B) For the purpose of this section, provided that an 6212  
employer has posted written notice to employees that the results 6213  
of, or the employee's refusal to submit to, any chemical test 6214  
described under this division may affect the employee's 6215  
eligibility for compensation and benefits pursuant to this 6216  
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 6217  
Code, there is a rebuttable presumption that an employee is 6218  
intoxicated or under the influence of a controlled substance not 6219  
prescribed by the employee's physician and that being 6220  
intoxicated or under the influence of a controlled substance not 6221  
prescribed by the employee's physician is the proximate cause of 6222  
an injury under either of the following conditions: 6223

(1) When any one or more of the following is true: 6224

(a) The employee, through a qualifying chemical test 6225  
administered within eight hours of an injury, is determined to 6226  
have an alcohol concentration level equal to or in excess of the 6227  
levels established in divisions (A) (1) (b) to (i) of section 6228  
4511.19 of the Revised Code; 6229

(b) The employee, through a qualifying chemical test 6230  
administered within thirty-two hours of an injury, is determined 6231  
to have one of the following controlled substances not 6232  
prescribed by the employee's physician in the employee's system 6233  
that tests above the following levels in an enzyme multiplied 6234  
immunoassay technique screening test and above the levels 6235  
established in division (B) (1) (c) of this section in a gas 6236  
chromatography mass spectrometry test: 6237

(i) For amphetamines, one thousand nanograms per 6238  
milliliter of urine; 6239

(ii) For cannabinoids, fifty nanograms per milliliter of 6240  
urine; 6241

(iii) For cocaine, including crack cocaine, three hundred 6242  
nanograms per milliliter of urine; 6243

(iv) For opiates, two thousand nanograms per milliliter of 6244  
urine; 6245

(v) For phencyclidine, twenty-five nanograms per 6246  
milliliter of urine. 6247

(c) The employee, through a qualifying chemical test 6248  
administered within thirty-two hours of an injury, is determined 6249  
to have one of the following controlled substances not 6250  
prescribed by the employee's physician in the employee's system 6251  
that tests above the following levels by a gas chromatography 6252  
mass spectrometry test: 6253

(i) For amphetamines, five hundred nanograms per milliliter of urine;	6254 6255
(ii) For cannabinoids, fifteen nanograms per milliliter of urine;	6256 6257
(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;	6258 6259
(iv) For opiates, two thousand nanograms per milliliter of urine;	6260 6261
(v) For phencyclidine, twenty-five nanograms per milliliter of urine.	6262 6263
(d) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, methadone, or propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services.	6264 6265 6266 6267 6268 6269
(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B) (1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and <del>Chapter</del> <u>Chapters 4121. and 4133.</u> of the Revised Code.	6270 6271 6272 6273 6274 6275 6276
(C) (1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions:	6277 6278 6279 6280
(a) When the employee's employer had reasonable cause to	6281

suspect that the employee may be intoxicated or under the 6282  
influence of a controlled substance not prescribed by the 6283  
employee's physician; 6284

(b) At the request of a police officer pursuant to section 6285  
4511.191 of the Revised Code, and not at the request of the 6286  
employee's employer; 6287

(c) At the request of a licensed physician who is not 6288  
employed by the employee's employer, and not at the request of 6289  
the employee's employer. 6290

(2) As used in division (C) (1) (a) of this section, 6291  
"reasonable cause" means, but is not limited to, evidence that 6292  
an employee is or was using alcohol or a controlled substance 6293  
drawn from specific, objective facts and reasonable inferences 6294  
drawn from these facts in light of experience and training. 6295  
These facts and inferences may be based on, but are not limited 6296  
to, any of the following: 6297

(a) Observable phenomena, such as direct observation of 6298  
use, possession, or distribution of alcohol or a controlled 6299  
substance, or of the physical symptoms of being under the 6300  
influence of alcohol or a controlled substance, such as but not 6301  
limited to slurred speech, dilated pupils, odor of alcohol or a 6302  
controlled substance, changes in affect, or dynamic mood swings; 6303

(b) A pattern of abnormal conduct, erratic or aberrant 6304  
behavior, or deteriorating work performance such as frequent 6305  
absenteeism, excessive tardiness, or recurrent accidents, that 6306  
appears to be related to the use of alcohol or a controlled 6307  
substance, and does not appear to be attributable to other 6308  
factors; 6309

(c) The identification of an employee as the focus of a 6310

criminal investigation into unauthorized possession, use, or 6311  
trafficking of a controlled substance; 6312

(d) A report of use of alcohol or a controlled substance 6313  
provided by a reliable and credible source; 6314

(e) Repeated or flagrant violations of the safety or work 6315  
rules of the employee's employer, that are determined by the 6316  
employee's supervisor to pose a substantial risk of physical 6317  
injury or property damage and that appear to be related to the 6318  
use of alcohol or a controlled substance and that do not appear 6319  
attributable to other factors. 6320

(D) Nothing in this section shall be construed to affect 6321  
the rights of an employer to test employees for alcohol or 6322  
controlled substance abuse. 6323

(E) For the purpose of this section, laboratories 6324  
certified by the United States department of health and human 6325  
services or laboratories that meet or exceed the standards of 6326  
that department for laboratory certification shall be used for 6327  
processing the test results of a qualifying chemical test. 6328

(F) The written notice required by division (B) of this 6329  
section shall be the same size or larger than the proof of 6330  
workers' compensation coverage furnished by the bureau of 6331  
workers' compensation and shall be posted by the employer in the 6332  
same location as the proof of workers' compensation coverage or 6333  
the certificate of self-insurance. 6334

(G) If a condition that pre-existed an injury is 6335  
substantially aggravated by the injury, and that substantial 6336  
aggravation is documented by objective diagnostic findings, 6337  
objective clinical findings, or objective test results, no 6338  
compensation or benefits are payable because of the pre-existing 6339

condition once that condition has returned to a level that would 6340  
have existed without the injury. 6341

(H) (1) Whenever, with respect to an employee of an 6342  
employer who is subject to and has complied with this chapter 6343  
and Chapter 4133. of the Revised Code, there is possibility of 6344  
conflict with respect to the application of workers' 6345  
compensation laws because the contract of employment is entered 6346  
into and all or some portion of the work is or is to be 6347  
performed in a state or states other than Ohio, the employer and 6348  
the employee may agree to be bound by the laws of this state or 6349  
by the laws of some other state in which all or some portion of 6350  
the work of the employee is to be performed. The agreement shall 6351  
be in writing and shall be filed with the bureau of workers' 6352  
compensation within ten days after it is executed and shall 6353  
remain in force until terminated or modified by agreement of the 6354  
parties similarly filed. If the agreement is to be bound by the 6355  
laws of this state and the employer has complied with this 6356  
chapter and Chapter 4133. of the Revised Code, then the employee 6357  
is entitled to compensation and benefits regardless of where the 6358  
injury occurs or the disease is contracted and the rights of the 6359  
employee and the employee's dependents under the laws of this 6360  
state are the exclusive remedy against the employer on account 6361  
of injury, disease, or death in the course of and arising out of 6362  
the employee's employment. If the agreement is to be bound by 6363  
the laws of another state and the employer has complied with the 6364  
laws of that state, the rights of the employee and the 6365  
employee's dependents under the laws of that state are the 6366  
exclusive remedy against the employer on account of injury, 6367  
disease, or death in the course of and arising out of the 6368  
employee's employment without regard to the place where the 6369  
injury was sustained or the disease contracted. If an employer 6370

and an employee enter into an agreement under this division, the 6371  
fact that the employer and the employee entered into that 6372  
agreement shall not be construed to change the status of an 6373  
employee whose continued employment is subject to the will of 6374  
the employer or the employee, unless the agreement contains a 6375  
provision that expressly changes that status. 6376

(2) If an employee or the employee's dependents receive an 6377  
award of compensation or benefits under this chapter or Chapter 6378  
4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code for the 6379  
same injury, occupational disease, or death for which the 6380  
employee or the employee's dependents previously pursued or 6381  
otherwise elected to accept workers' compensation benefits and 6382  
received a decision on the merits as defined in section 4123.542 6383  
of the Revised Code under the laws of another state or recovered 6384  
damages under the laws of another state, the claim shall be 6385  
disallowed and the administrator or any self-insuring employer, 6386  
by any lawful means, may collect from the employee or the 6387  
employee's dependents any of the following: 6388

~~(i)~~(a) The amount of compensation or benefits paid to or 6389  
on behalf of the employee or the employee's dependents by the 6390  
administrator or a self-insuring employer pursuant to this 6391  
chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the 6392  
Revised Code for that award; 6393

~~(ii)~~(b) Any interest, attorney's fees, and costs the 6394  
administrator or the self-insuring employer incurs in collecting 6395  
that payment. 6396

(3) If an employee or the employee's dependents receive an 6397  
award of compensation or benefits under this chapter or Chapter 6398  
4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code and 6399  
subsequently pursue or otherwise elect to accept workers' 6400

compensation benefits or damages under the laws of another state 6401  
for the same injury, occupational disease, or death the claim 6402  
under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. 6403  
of the Revised Code shall be disallowed. The administrator or a 6404  
self-insuring employer, by any lawful means, may collect from 6405  
the employee or the employee's dependents or other-states' 6406  
insurer any of the following: 6407

~~(i)~~ (a) The amount of compensation or benefits paid to or 6408  
on behalf of the employee or the employee's dependents by the 6409  
administrator or the self-insuring employer pursuant to this 6410  
chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the 6411  
Revised Code for that award; 6412

~~(ii)~~ (b) Any interest, costs, and attorney's fees the 6413  
administrator or the self-insuring employer incurs in collecting 6414  
that payment; 6415

~~(iii)~~ (c) Any costs incurred by an employer in contesting 6416  
or responding to any claim filed by the employee or the 6417  
employee's dependents for the same injury, occupational disease, 6418  
or death that was filed after the original claim for which the 6419  
employee or the employee's dependents received a decision on the 6420  
merits as described in section 4123.542 of the Revised Code. 6421

(4) If the employee's employer pays premiums into the 6422  
state insurance fund, the administrator shall not charge the 6423  
amount of compensation or benefits the administrator collects 6424  
pursuant to division (H) (2) or (3) of this section to the 6425  
employer's experience. If the administrator collects any costs 6426  
incurred by an employer in contesting or responding to any claim 6427  
pursuant to division (H) (2) or (3) of this section, the 6428  
administrator shall forward the amount collected to that 6429  
employer. If the employee's employer is a self-insuring 6430

employer, the self-insuring employer shall deduct the amount of 6431  
compensation or benefits the self-insuring employer collects 6432  
pursuant to this division from the paid compensation the self- 6433  
insuring employer reports to the administrator under division 6434  
(L) of section 4123.35 of the Revised Code. 6435

(5) If an employee is a resident of a state other than 6436  
this state and is insured under the workers' compensation law or 6437  
similar laws of a state other than this state, the employee and 6438  
the employee's dependents are not entitled to receive 6439  
compensation or benefits under this chapter or Chapter 4133. of 6440  
the Revised Code, on account of injury, disease, or death 6441  
arising out of or in the course of employment while temporarily 6442  
within this state, and the rights of the employee and the 6443  
employee's dependents under the laws of the other state are the 6444  
exclusive remedy against the employer on account of the injury, 6445  
disease, or death. 6446

(6) An employee, or the dependent of an employee, who 6447  
elects to receive compensation and benefits under this chapter 6448  
or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code 6449  
for a claim may not receive compensation and benefits under the 6450  
workers' compensation laws of any state other than this state 6451  
for that same claim. For each claim submitted by or on behalf of 6452  
an employee, the administrator or, if the employee is employed 6453  
by a self-insuring employer, the self-insuring employer, shall 6454  
request the employee or the employee's dependent to sign an 6455  
election that affirms the employee's or employee's dependent's 6456  
acceptance of electing to receive compensation and benefits 6457  
under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. 6458  
of the Revised Code for that claim that also affirmatively 6459  
waives and releases the employee's or the employee's dependent's 6460  
right to file for and receive compensation and benefits under 6461

the laws of any state other than this state for that claim. The 6462  
employee or employee's dependent shall sign the election form 6463  
within twenty-eight days after the administrator or self- 6464  
insuring employer submits the request or the administrator or 6465  
self-insuring employer shall dismiss that claim. 6466

In the event a workers' compensation claim has been filed 6467  
in another jurisdiction on behalf of an employee or the 6468  
dependents of an employee, and the employee or dependents 6469  
subsequently elect to receive compensation, benefits, or both 6470  
under this chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. 6471  
of the Revised Code, the employee or dependent shall withdraw or 6472  
refuse acceptance of the workers' compensation claim filed in 6473  
the other jurisdiction in order to pursue compensation or 6474  
benefits under the laws of this state. If the employee or 6475  
dependents were awarded workers' compensation benefits or had 6476  
recovered damages under the laws of the other state, any 6477  
compensation and benefits awarded under this chapter or ~~Chapters~~ 6478  
Chapter 4121., 4127., ~~or 4131.~~, or 4133. of the Revised Code 6479  
shall be paid only to the extent to which those payments exceed 6480  
the amounts paid under the laws of the other state. If the 6481  
employee or dependent fails to withdraw or to refuse acceptance 6482  
of the workers' compensation claim in the other jurisdiction 6483  
within twenty-eight days after a request made by the 6484  
administrator or a self-insuring employer, the administrator or 6485  
self-insuring employer shall dismiss the employee's or 6486  
employee's dependents' claim made in this state. 6487

(I) If an employee who is covered under the federal 6488  
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 6489  
33 U.S.C. 901 et seq., is injured or contracts an occupational 6490  
disease or dies as a result of an injury or occupational 6491  
disease, and if that employee's or that employee's dependents' 6492

claim for compensation or benefits for that injury, occupational 6493  
disease, or death is subject to the jurisdiction of that act, 6494  
the employee or the employee's dependents are not entitled to 6495  
apply for and shall not receive compensation or benefits under 6496  
this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 6497  
Code. The rights of such an employee and the employee's 6498  
dependents under the federal "Longshore and Harbor Workers' 6499  
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the 6500  
exclusive remedy against the employer for that injury, 6501  
occupational disease, or death. 6502

(J) Compensation or benefits are not payable to a claimant 6503  
during the period of confinement of the claimant in any state or 6504  
federal correctional institution, or in any county jail in lieu 6505  
of incarceration in a state or federal correctional institution, 6506  
whether in this or any other state for conviction of violation 6507  
of any state or federal criminal law. 6508

(K) An employer, upon the approval of the administrator, 6509  
may provide for workers' compensation coverage for the 6510  
employer's employees who are professional athletes and coaches 6511  
by submitting to the administrator proof of coverage under a 6512  
league policy issued under the laws of another state under 6513  
either of the following circumstances: 6514

(1) The employer administers the payroll and workers' 6515  
compensation insurance for a professional sports team subject to 6516  
a collective bargaining agreement, and the collective bargaining 6517  
agreement provides for the uniform administration of workers' 6518  
compensation benefits and compensation for professional 6519  
athletes. 6520

(2) The employer is a professional sports league, or is a 6521  
member team of a professional sports league, and all of the 6522

following apply: 6523

(a) The professional sports league operates as a single 6524  
entity, whereby all of the players and coaches of the sports 6525  
league are employees of the sports league and not of the 6526  
individual member teams. 6527

(b) The professional sports league at all times maintains 6528  
workers' compensation insurance that provides coverage for the 6529  
players and coaches of the sports league. 6530

(c) Each individual member team of the professional sports 6531  
league, pursuant to the organizational or operating documents of 6532  
the sports league, is obligated to the sports league to pay to 6533  
the sports league any workers' compensation claims that are not 6534  
covered by the workers' compensation insurance maintained by the 6535  
sports league. 6536

If the administrator approves the employer's proof of 6537  
coverage submitted under division (K) of this section, a 6538  
professional athlete or coach who is an employee of the employer 6539  
and the dependents of the professional athlete or coach are not 6540  
entitled to apply for and shall not receive compensation or 6541  
benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4133. 6542  
of the Revised Code. The rights of such an athlete or coach and 6543  
the dependents of such an athlete or coach under the laws of the 6544  
state where the policy was issued are the exclusive remedy 6545  
against the employer for the athlete or coach if the athlete or 6546  
coach suffers an injury or contracts an occupational disease in 6547  
the course of employment, or for the dependents of the athlete 6548  
or the coach if the athlete or coach is killed as a result of an 6549  
injury or dies as a result of an occupational disease, 6550  
regardless of the location where the injury was suffered or the 6551  
occupational disease was contracted. 6552

**Sec. 4123.542.** An employee or the dependents of an 6553  
employee who receive a decision on the merits of a claim for 6554  
compensation or benefits under this chapter or Chapter 4121., 6555  
4127., ~~or 4131.~~ or 4133. of the Revised Code shall not file a 6556  
claim for the same injury, occupational disease, or death in 6557  
another state under the workers' compensation laws of that 6558  
state. Except as otherwise provided in division (H) of section 6559  
4123.54 of the Revised Code, an employee or the employee's 6560  
dependents who receive a decision on the merits of a claim for 6561  
compensation or benefits under the workers' compensation laws of 6562  
another state shall not file a claim for compensation and 6563  
benefits under this chapter or Chapter 4121., 4127., ~~or 4131.~~ 6564  
or 4133. of the Revised Code for the same injury, occupational 6565  
disease, or death. 6566

As used in this section, "a decision on the merits" means 6567  
a decision determined or adjudicated for compensability of a 6568  
claim and not on jurisdictional grounds. 6569

**Sec. 4123.57.** Partial disability compensation shall be 6570  
paid as follows. 6571

Except as provided in this section, not earlier than 6572  
twenty-six weeks after the date of termination of the latest 6573  
period of payments under section 4123.56 of the Revised Code, or 6574  
not earlier than twenty-six weeks after the date of the injury 6575  
or contraction of an occupational disease in the absence of 6576  
payments under section 4123.56 of the Revised Code, the employee 6577  
may file an application with the bureau of workers' compensation 6578  
for the determination of the percentage of the employee's 6579  
permanent partial disability resulting from an injury or 6580  
occupational disease. 6581

Whenever the application is filed, the bureau shall send a 6582

copy of the application to the employee's employer or the 6583  
employer's representative and shall schedule the employee for a 6584  
medical examination by the bureau medical section. The bureau 6585  
shall send a copy of the report of the medical examination to 6586  
the employee, the employer, and their representatives. 6587  
Thereafter, the administrator of workers' compensation shall 6588  
review the employee's claim file and make a tentative order as 6589  
the evidence before the administrator at the time of the making 6590  
of the order warrants. If the administrator determines that 6591  
there is a conflict of evidence, the administrator shall send 6592  
the application, along with the claimant's file, to the district 6593  
hearing officer who shall set the application for a hearing. 6594

The administrator shall notify the employee, the employer, 6595  
and their representatives, in writing, of the tentative order 6596  
and of the parties' right to request a hearing. Unless the 6597  
employee, the employer, or their representative notifies the 6598  
administrator, in writing, of an objection to the tentative 6599  
order within twenty days after receipt of the notice thereof, 6600  
the tentative order shall go into effect and the employee shall 6601  
receive the compensation provided in the order. In no event 6602  
shall there be a reconsideration of a tentative order issued 6603  
under this division. 6604

If the employee, the employer, or their representatives 6605  
timely notify the administrator of an objection to the tentative 6606  
order, the matter shall be referred to a district hearing 6607  
officer who shall set the application for hearing with written 6608  
notices to all interested persons. Upon referral to a district 6609  
hearing officer, the employer may obtain a medical examination 6610  
of the employee, pursuant to rules of the industrial commission. 6611

(A) The district hearing officer, upon the application, 6612

shall determine the percentage of the employee's permanent 6613  
disability, except as is subject to division (B) of this 6614  
section, based upon that condition of the employee resulting 6615  
from the injury or occupational disease and causing permanent 6616  
impairment evidenced by medical or clinical findings reasonably 6617  
demonstrable. The employee shall receive sixty-six and two- 6618  
thirds per cent of the employee's average weekly wage, but not 6619  
more than a maximum of thirty-three and one-third per cent of 6620  
the statewide average weekly wage as defined in division (C) of 6621  
section 4123.62 of the Revised Code, per week regardless of the 6622  
average weekly wage, for the number of weeks which equals the 6623  
percentage of two hundred weeks. Except on application for 6624  
reconsideration, review, or modification, which is filed within 6625  
ten days after the date of receipt of the decision of the 6626  
district hearing officer, in no instance shall the former award 6627  
be modified unless it is found from medical or clinical findings 6628  
that the condition of the claimant resulting from the injury has 6629  
so progressed as to have increased the percentage of permanent 6630  
partial disability. A staff hearing officer shall hear an 6631  
application for reconsideration filed and the staff hearing 6632  
officer's decision is final. An employee may file an application 6633  
for a subsequent determination of the percentage of the 6634  
employee's permanent disability. If such an application is 6635  
filed, the bureau shall send a copy of the application to the 6636  
employer or the employer's representative. No sooner than sixty 6637  
days from the date of the mailing of the application to the 6638  
employer or the employer's representative, the administrator 6639  
shall review the application. The administrator may require a 6640  
medical examination or medical review of the employee. The 6641  
administrator shall issue a tentative order based upon the 6642  
evidence before the administrator, provided that if the 6643  
administrator requires a medical examination or medical review, 6644

the administrator shall not issue the tentative order until the 6645  
completion of the examination or review. 6646

The employer may obtain a medical examination of the 6647  
employee and may submit medical evidence at any stage of the 6648  
process up to a hearing before the district hearing officer, 6649  
pursuant to rules of the commission. The administrator shall 6650  
notify the employee, the employer, and their representatives, in 6651  
writing, of the nature and amount of any tentative order issued 6652  
on an application requesting a subsequent determination of the 6653  
percentage of an employee's permanent disability. An employee, 6654  
employer, or their representatives may object to the tentative 6655  
order within twenty days after the receipt of the notice 6656  
thereof. If no timely objection is made, the tentative order 6657  
shall go into effect. In no event shall there be a 6658  
reconsideration of a tentative order issued under this division. 6659  
If an objection is timely made, the application for a subsequent 6660  
determination shall be referred to a district hearing officer 6661  
who shall set the application for a hearing with written notice 6662  
to all interested persons. No application for subsequent 6663  
percentage determinations on the same claim for injury or 6664  
occupational disease shall be accepted for review by the 6665  
district hearing officer unless supported by substantial 6666  
evidence of new and changed circumstances developing since the 6667  
time of the hearing on the original or last determination. 6668

No award shall be made under this division based upon a 6669  
percentage of disability which, when taken with all other 6670  
percentages of permanent disability, exceeds one hundred per 6671  
cent. If the percentage of the permanent disability of the 6672  
employee equals or exceeds ninety per cent, compensation for 6673  
permanent partial disability shall be paid for two hundred 6674  
weeks. 6675

Compensation payable under this division accrues and is 6676  
payable to the employee from the date of last payment of 6677  
compensation, or, in cases where no previous compensation has 6678  
been paid, from the date of the injury or the date of the 6679  
diagnosis of the occupational disease. 6680

When an award under this division has been made prior to 6681  
the death of an employee, all unpaid installments accrued or to 6682  
accrue under the provisions of the award are payable to the 6683  
surviving spouse, or if there is no surviving spouse, to the 6684  
dependent children of the employee, and if there are no children 6685  
surviving, then to other dependents as the administrator 6686  
determines. 6687

(B) For purposes of this division, "payable per week" 6688  
means the seven-consecutive-day period in which compensation is 6689  
paid in installments according to the schedule associated with 6690  
the applicable injury as set forth in this division. 6691

Compensation paid in weekly installments according to the 6692  
schedule described in this division may only be commuted to one 6693  
or more lump sum payments pursuant to the procedure set forth in 6694  
section 4123.64 of the Revised Code. 6695

In cases included in the following schedule the 6696  
compensation payable per week to the employee is the statewide 6697  
average weekly wage as defined in division (C) of section 6698  
4123.62 of the Revised Code per week and shall be paid in 6699  
installments according to the following schedule: 6700

For the loss of a first finger, commonly known as a thumb, 6701  
sixty weeks. 6702

For the loss of a second finger, commonly called index 6703  
finger, thirty-five weeks. 6704

For the loss of a third finger, thirty weeks.	6705
For the loss of a fourth finger, twenty weeks.	6706
For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.	6707 6708
The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.	6709 6710 6711 6712
The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	6713 6714
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	6715 6716
The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.	6717 6718 6719 6720 6721
For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.	6722 6723 6724
For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.	6725 6726 6727 6728
If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is	6729 6730 6731 6732

such that the handicap or disability resulting from the loss of 6733  
fingers, or loss of use of fingers, exceeds the normal handicap 6734  
or disability resulting from the loss of fingers, or loss of use 6735  
of fingers, the administrator may take that fact into 6736  
consideration and increase the award of compensation 6737  
accordingly, but the award made shall not exceed the amount of 6738  
compensation for loss of a hand. 6739

For the loss of a hand, one hundred seventy-five weeks. 6740

For the loss of an arm, two hundred twenty-five weeks. 6741

For the loss of a great toe, thirty weeks. 6742

For the loss of one of the toes other than the great toe, 6743  
ten weeks. 6744

The loss of more than two-thirds of any toe is considered 6745  
equal to the loss of the whole toe. 6746

The loss of less than two-thirds of any toe is considered 6747  
no loss, except as to the great toe; the loss of the great toe 6748  
up to the interphalangeal joint is co-equal to the loss of one- 6749  
half of the great toe; the loss of the great toe beyond the 6750  
interphalangeal joint is considered equal to the loss of the 6751  
whole great toe. 6752

For the loss of a foot, one hundred fifty weeks. 6753

For the loss of a leg, two hundred weeks. 6754

For the loss of the sight of an eye, one hundred twenty- 6755  
five weeks. 6756

For the permanent partial loss of sight of an eye, the 6757  
portion of one hundred twenty-five weeks as the administrator in 6758  
each case determines, based upon the percentage of vision 6759

actually lost as a result of the injury or occupational disease, 6760  
but, in no case shall an award of compensation be made for less 6761  
than twenty-five per cent loss of uncorrected vision. "Loss of 6762  
uncorrected vision" means the percentage of vision actually lost 6763  
as the result of the injury or occupational disease. 6764

For the permanent and total loss of hearing of one ear, 6765  
twenty-five weeks; but in no case shall an award of compensation 6766  
be made for less than permanent and total loss of hearing of one 6767  
ear. 6768

For the permanent and total loss of hearing, one hundred 6769  
twenty-five weeks; but, except pursuant to the next preceding 6770  
paragraph, in no case shall an award of compensation be made for 6771  
less than permanent and total loss of hearing. 6772

In case an injury or occupational disease results in 6773  
serious facial or head disfigurement which either impairs or may 6774  
in the future impair the opportunities to secure or retain 6775  
employment, the administrator shall make an award of 6776  
compensation as it deems proper and equitable, in view of the 6777  
nature of the disfigurement, and not to exceed the sum of ten 6778  
thousand dollars. For the purpose of making the award, it is not 6779  
material whether the employee is gainfully employed in any 6780  
occupation or trade at the time of the administrator's 6781  
determination. 6782

When an award under this division has been made prior to 6783  
the death of an employee all unpaid installments accrued or to 6784  
accrue under the provisions of the award shall be payable to the 6785  
surviving spouse, or if there is no surviving spouse, to the 6786  
dependent children of the employee and if there are no such 6787  
children, then to such dependents as the administrator 6788  
determines. 6789

When an employee has sustained the loss of a member by 6790  
severance, but no award has been made on account thereof prior 6791  
to the employee's death, the administrator shall make an award 6792  
in accordance with this division for the loss which shall be 6793  
payable to the surviving spouse, or if there is no surviving 6794  
spouse, to the dependent children of the employee and if there 6795  
are no such children, then to such dependents as the 6796  
administrator determines. 6797

(C) Compensation for partial impairment under divisions 6798  
(A) and (B) of this section is in addition to the compensation 6799  
paid the employee pursuant to section 4123.56 of the Revised 6800  
Code. A claimant may receive compensation under divisions (A) 6801  
and (B) of this section. 6802

In all cases arising under division (B) of this section, 6803  
if it is determined by any one of the following: (1) the amputee 6804  
clinic at University hospital, Ohio state university; (2) the 6805  
opportunities for Ohioans with disabilities agency; (3) an 6806  
amputee clinic or prescribing physician approved by the 6807  
administrator or the administrator's designee, that an injured 6808  
or disabled employee is in need of an artificial appliance, or 6809  
in need of a repair thereof, regardless of whether the appliance 6810  
or its repair will be serviceable in the vocational 6811  
rehabilitation of the injured employee, and regardless of 6812  
whether the employee has returned to or can ever again return to 6813  
any gainful employment, the bureau shall pay the cost of the 6814  
artificial appliance or its repair out of the surplus created by 6815  
division (B) of section 4123.34 of the Revised Code. 6816

In those cases where an opportunities for Ohioans with 6817  
disabilities—~~agency~~ agency's recommendation that an injured or 6818  
disabled employee is in need of an artificial appliance would 6819

conflict with their state plan, adopted pursuant to the 6820  
"Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the 6821  
administrator or the administrator's designee or the bureau may 6822  
obtain a recommendation from an amputee clinic or prescribing 6823  
physician that they determine appropriate. 6824

~~(D) If an employee of a state fund employer makes 6825  
application for a finding and the administrator finds that the 6826  
employee has contracted silicosis as defined in division (X), or 6827  
coal miners' pneumoconiosis as defined in division (Y), or 6828  
asbestosis as defined in division (AA) of section 4123.68 of the 6829  
Revised Code, and that a change of such employee's occupation is 6830  
medically advisable in order to decrease substantially further 6831  
exposure to silica dust, asbestos, or coal dust and if the 6832  
employee, after the finding, has changed or shall change the 6833  
employee's occupation to an occupation in which the exposure to 6834  
silica dust, asbestos, or coal dust is substantially decreased, 6835  
the administrator shall allow to the employee an amount equal to 6836  
fifty per cent of the statewide average weekly wage per week for 6837  
a period of thirty weeks, commencing as of the date of the 6838  
discontinuance or change, and for a period of one hundred weeks 6839  
immediately following the expiration of the period of thirty 6840  
weeks, the employee shall receive sixty six and two thirds per 6841  
cent of the loss of wages resulting directly and solely from the 6842  
change of occupation but not to exceed a maximum of an amount 6843  
equal to fifty per cent of the statewide average weekly wage per 6844  
week. No such employee is entitled to receive more than one 6845  
allowance on account of discontinuance of employment or change 6846  
of occupation and benefits shall cease for any period during 6847  
which the employee is employed in an occupation in which the 6848  
exposure to silica dust, asbestos, or coal dust is not 6849  
substantially less than the exposure in the occupation in which 6850~~

~~the employee was formerly employed or for any period during~~ 6851  
~~which the employee may be entitled to receive compensation or~~ 6852  
~~benefits under section 4123.68 of the Revised Code on account of~~ 6853  
~~disability from silicosis, asbestosis, or coal miners'~~ 6854  
~~pneumoconiosis. An award for change of occupation for a coal~~ 6855  
~~miner who has contracted coal miners' pneumoconiosis may be~~ 6856  
~~granted under this division even though the coal miner continues~~ 6857  
~~employment with the same employer, so long as the coal miner's~~ 6858  
~~employment subsequent to the change is such that the coal~~ 6859  
~~miner's exposure to coal dust is substantially decreased and a~~ 6860  
~~change of occupation is certified by the claimant as permanent.~~ 6861  
~~The administrator may accord to the employee medical and other~~ 6862  
~~benefits in accordance with section 4123.66 of the Revised Code.~~ 6863

~~(E)~~ If a firefighter or police officer makes application 6864  
for a finding and the administrator finds that the firefighter 6865  
or police officer has contracted a cardiovascular and pulmonary 6866  
disease as defined in division (W) of section 4123.68 of the 6867  
Revised Code, and that a change of the firefighter's or police 6868  
officer's occupation is medically advisable in order to decrease 6869  
substantially further exposure to smoke, toxic gases, chemical 6870  
fumes, and other toxic vapors, and if the firefighter, or police 6871  
officer, after the finding, has changed or changes occupation to 6872  
an occupation in which the exposure to smoke, toxic gases, 6873  
chemical fumes, and other toxic vapors is substantially 6874  
decreased, the administrator shall allow to the firefighter or 6875  
police officer an amount equal to fifty per cent of the 6876  
statewide average weekly wage per week for a period of thirty 6877  
weeks, commencing as of the date of the discontinuance or 6878  
change, and for a period of seventy-five weeks immediately 6879  
following the expiration of the period of thirty weeks the 6880  
administrator shall allow the firefighter or police officer 6881

sixty-six and two-thirds per cent of the loss of wages resulting 6882  
directly and solely from the change of occupation but not to 6883  
exceed a maximum of an amount equal to fifty per cent of the 6884  
statewide average weekly wage per week. No such firefighter or 6885  
police officer is entitled to receive more than one allowance on 6886  
account of discontinuance of employment or change of occupation 6887  
and benefits shall cease for any period during which the 6888  
firefighter or police officer is employed in an occupation in 6889  
which the exposure to smoke, toxic gases, chemical fumes, and 6890  
other toxic vapors is not substantially less than the exposure 6891  
in the occupation in which the firefighter or police officer was 6892  
formerly employed or for any period during which the firefighter 6893  
or police officer may be entitled to receive compensation or 6894  
benefits under section 4123.68 of the Revised Code on account of 6895  
disability from a cardiovascular and pulmonary disease. The 6896  
administrator may accord to the firefighter or police officer 6897  
medical and other benefits in accordance with section 4123.66 of 6898  
the Revised Code. 6899

~~(F)~~ (E) An order issued under this section is appealable 6900  
pursuant to section 4123.511 of the Revised Code but is not 6901  
appealable to court under section 4123.512 of the Revised Code. 6902

**Sec. 4123.571.** In connection with the procedural and 6903  
remedial rights of employees, all claims which have accrued 6904  
prior to ~~the effective date of this act~~ November 2, 1959, 6905  
whether or not an application for claim has been filed, or 6906  
whether or not jurisdiction has been established or whether or 6907  
not an application for an award under divisions (A), (B), or 6908  
(C), ~~or (D)~~ of section 4123.57 of the Revised Code has been 6909  
filed shall be governed by the provisions of section 4123.57 of 6910  
the Revised Code, as amended by this act. 6911

**Sec. 4123.65.** (A) A state fund employer or the employee of 6912  
such an employer may file an application with the administrator 6913  
of workers' compensation for approval of a final settlement of a 6914  
claim under this chapter or Chapter 4133. of the Revised Code. 6915  
The application shall include the settlement agreement, and 6916  
except as otherwise specified in this division, be signed by the 6917  
claimant and employer, and clearly set forth the circumstances 6918  
by reason of which the proposed settlement is deemed desirable 6919  
and that the parties agree to the terms of the settlement 6920  
agreement. A claimant may file an application without an 6921  
employer's signature in the following situations: 6922

(1) The employer is no longer doing business in Ohio; 6923

(2) The claim no longer is in the employer's industrial 6924  
accident or occupational disease experience as provided in 6925  
division (B) of section 4123.34 of the Revised Code and the 6926  
claimant no longer is employed with that employer; 6927

(3) The employer has failed to comply with section 4123.35 6928  
of the Revised Code. 6929

If a claimant files an application without an employer's 6930  
signature, and the employer still is doing business in this 6931  
state, the administrator shall send written notice of the 6932  
application to the employer immediately upon receipt of the 6933  
application. If the employer fails to respond to the notice 6934  
within thirty days after the notice is sent, the application 6935  
need not contain the employer's signature. 6936

If a state fund employer or an employee of such an 6937  
employer has not filed an application for a final settlement 6938  
under this division, the administrator may file an application 6939  
on behalf of the employer or the employee, provided that the 6940

administrator gives notice of the filing to the employer and the 6941  
employee and to the representative of record of the employer and 6942  
of the employee immediately upon the filing. An application 6943  
filed by the administrator shall contain all of the information 6944  
and signatures required of an employer or an employee who files 6945  
an application under this division. Every self-insuring employer 6946  
that enters into a final settlement agreement with an employee 6947  
shall mail, within seven days of executing the agreement, a copy 6948  
of the agreement to the administrator and the employee's 6949  
representative. The administrator shall place the agreement into 6950  
the claimant's file. 6951

(B) Except as provided in divisions (C) and (D) of this 6952  
section, a settlement agreed to under this section is binding 6953  
upon all parties thereto and as to items, injuries, and 6954  
occupational diseases to which the settlement applies. 6955

(C) No settlement agreed to under division (A) of this 6956  
section or agreed to by a self-insuring employer and the self- 6957  
insuring employer's employee shall take effect until thirty days 6958  
after the administrator approves the settlement for state fund 6959  
employees and employers, or after the self-insuring employer and 6960  
employee sign the final settlement agreement. During the thirty- 6961  
day period, the employer, employee, or administrator, for state 6962  
fund settlements, and the employer or employee, for self- 6963  
insuring settlements, may withdraw consent to the settlement by 6964  
an employer providing written notice to the employer's employee 6965  
and the administrator or by an employee providing written notice 6966  
to the employee's employer and the administrator, or by the 6967  
administrator providing written notice to the state fund 6968  
employer and employee. If an employee dies during the thirty-day 6969  
waiting period following the approval of a settlement, the 6970  
settlement can be voided by any party for good cause shown. 6971

(D) At the time of agreement to any final settlement 6972  
agreement under division (A) of this section or agreement 6973  
between a self-insuring employer and the self-insuring 6974  
employer's employee, the administrator, for state fund 6975  
settlements, and the self-insuring employer, for self-insuring 6976  
settlements, immediately shall send a copy of the agreement to 6977  
the industrial commission who shall assign the matter to a staff 6978  
hearing officer. The staff hearing officer shall determine, 6979  
within the time limitations specified in division (C) of this 6980  
section, whether the settlement agreement is or is not a gross 6981  
miscarriage of justice. If the staff hearing officer determines 6982  
within that time period that the settlement agreement is clearly 6983  
unfair, the staff hearing officer shall issue an order 6984  
disapproving the settlement agreement. If the staff hearing 6985  
officer determines that the settlement agreement is not clearly 6986  
unfair or fails to act within those time limits, the settlement 6987  
agreement is approved. 6988

(E) A settlement entered into under this section may 6989  
pertain to one or more claims of a claimant, or one or more 6990  
parts of a claim, or the compensation or benefits pertaining to 6991  
either, or any combination thereof, provided that nothing in 6992  
this section shall be interpreted to require a claimant to enter 6993  
into a settlement agreement for every claim that has been filed 6994  
with the bureau of workers' compensation by that claimant under 6995  
Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. of the Revised 6996  
Code. 6997

(F) A settlement entered into under this section is not 6998  
appealable under section 4123.511 or 4123.512 of the Revised 6999  
Code. 7000

**Sec. 4123.68.** Every employee who is disabled because of 7001

the contraction of an occupational disease or the dependent of 7002  
an employee whose death is caused by an occupational disease, is 7003  
entitled to the compensation provided by sections 4123.55 to 7004  
4123.59 and 4123.66 of the Revised Code subject to the 7005  
modifications relating to occupational diseases contained in 7006  
this chapter. An order of the administrator issued under this 7007  
section is appealable pursuant to sections 4123.511 and 4123.512 7008  
of the Revised Code. 7009

The following diseases are occupational diseases and 7010  
compensable as such when contracted by an employee in the course 7011  
of the employment in which such employee was engaged and due to 7012  
the nature of any process described in this section. A disease 7013  
which meets the definition of an occupational disease is 7014  
compensable pursuant to this chapter though it is not 7015  
specifically listed in this section. 7016

A disease that is occupational pneumoconiosis as defined 7017  
in section 4133.01 of the Revised Code is subject to the 7018  
requirements and procedures specified in Chapter 4133. of the 7019  
Revised Code. 7020

SCHEDULE 7021

Description of disease or injury and description of 7022  
process: 7023

(A) Anthrax: Handling of wool, hair, bristles, hides, and 7024  
skins. 7025

(B) Glanders: Care of any equine animal suffering from 7026  
glanders; handling carcass of such animal. 7027

(C) Lead poisoning: Any industrial process involving the 7028  
use of lead or its preparations or compounds. 7029

(D) Mercury poisoning: Any industrial process involving the use of mercury or its preparations or compounds.	7030 7031
(E) Phosphorous poisoning: Any industrial process involving the use of phosphorous or its preparations or compounds.	7032 7033 7034
(F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds.	7035 7036
(G) Poisoning by benzol or by nitro-derivatives and amido-derivatives of benzol (dinitro-benzol, anilin, and others): Any industrial process involving the use of benzol or nitro-derivatives or amido-derivatives of benzol or its preparations or compounds.	7037 7038 7039 7040 7041
(H) Poisoning by gasoline, benzine, naphtha, or other volatile petroleum products: Any industrial process involving the use of gasoline, benzine, naphtha, or other volatile petroleum products.	7042 7043 7044 7045
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	7046 7047 7048
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	7049 7050
(K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.	7051 7052 7053 7054 7055 7056
(L) Epithelion cancer or ulceration of the skin or of the	7057

corneal surface of the eye due to carbon, pitch, tar, or tarry compounds:	7058
Handling or industrial use of carbon, pitch, or tarry compounds.	7059
	7060
(M) Compressed air illness: Any industrial process carried on in compressed air.	7061
	7062
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	7063
	7064
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	7065
	7066
	7067
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	7068
	7069
	7070
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	7071
	7072
	7073
(R) Tenosynovitis and prepatellar bursitis: Primary tenosynovitis characterized by a passive effusion or crepitus into the tendon sheath of the flexor or extensor muscles of the hand, due to frequently repetitive motions or vibrations, or prepatellar bursitis due to continued pressure.	7074
	7075
	7076
	7077
	7078
(S) Chrome ulceration of the skin or nasal passages: Any industrial process involving the use of or direct contact with chromic acid or bichromates of ammonium, potassium, or sodium or their preparations.	7079
	7080
	7081
	7082
(T) Potassium cyanide poisoning: Any industrial process involving the use of or direct contact with potassium cyanide.	7083
	7084
(U) Sulphur dioxide poisoning: Any industrial process in	7085

which sulphur dioxide gas is evolved by the expansion of liquid sulphur dioxide. 7086  
7087

(V) Berylliosis: Berylliosis means a disease of the lungs 7088  
caused by breathing beryllium in the form of dust or fumes, 7089  
producing characteristic changes in the lungs and, if caused by 7090  
breathing beryllium in the form of fumes, demonstrated by x-ray 7091  
examination, by biopsy or by autopsy. 7092

This chapter does not entitle an employee or ~~his~~ the 7093  
employee's dependents to compensation, medical treatment, or 7094  
payment of funeral expenses for disability or death from 7095  
berylliosis unless the employee has been subjected to injurious 7096  
exposure to beryllium dust or fumes in ~~his~~ the employee's 7097  
employment in this state preceding ~~his~~ the employee's 7098  
disablement and only in the event of such disability or death 7099  
resulting within eight years after the last injurious exposure; 7100  
provided that such eight-year limitation does not apply to 7101  
disability or death from exposure occurring after January 1, 7102  
1976. In the event of death following continuous total 7103  
disability commencing within eight years after the last 7104  
injurious exposure, the requirement of death within eight years 7105  
after the last injurious exposure does not apply. 7106

Before awarding compensation for partial or total 7107  
disability or death due to berylliosis, the administrator of 7108  
workers' compensation shall refer the claim to a qualified 7109  
medical specialist for examination and recommendation with 7110  
regard to the diagnosis, the extent of the disability, the 7111  
nature of the disability, whether permanent or temporary, the 7112  
cause of death, and other medical questions connected with the 7113  
claim. An employee shall submit to such examinations, including 7114  
clinical and x-ray examinations, as the administrator requires. 7115

In the event that an employee refuses to submit to examinations, 7116  
including clinical and x-ray examinations, after notice from the 7117  
administrator, or in the event that a claimant for compensation 7118  
for death due to berylliosis fails to produce necessary consents 7119  
and permits, after notice from the administrator, so that such 7120  
autopsy examination and tests may be performed, then all rights 7121  
for compensation are forfeited. The reasonable compensation of 7122  
such specialist and the expenses of examinations and tests shall 7123  
be paid, if the claim is allowed, as part of the expenses of the 7124  
claim, otherwise they shall be paid from the surplus fund. 7125

(W) Cardiovascular, pulmonary, or respiratory diseases 7126  
incurred by ~~fire fighters~~ firefighters or police officers 7127  
following exposure to heat, smoke, toxic gases, chemical fumes 7128  
and other toxic substances: Any cardiovascular, pulmonary, or 7129  
respiratory disease of a ~~fire fighter~~ firefighter or police 7130  
officer caused or induced by the cumulative effect of exposure 7131  
to heat, the inhalation of smoke, toxic gases, chemical fumes 7132  
and other toxic substances in the performance of ~~his~~ the 7133  
firefighter's or police officer's duty constitutes a 7134  
presumption, which may be refuted by affirmative evidence, that 7135  
such occurred in the course of and arising out of ~~his~~ the 7136  
firefighter's or police officer's employment. For the purpose of 7137  
this section, "~~fire fighter~~firefighter" means any regular member 7138  
of a lawfully constituted fire department of a municipal 7139  
corporation or township, whether paid or volunteer, and "police 7140  
officer" means any regular member of a lawfully constituted 7141  
police department of a municipal corporation, township or 7142  
county, whether paid or volunteer. 7143

This chapter does not entitle a ~~fire fighter~~ firefighter, 7144  
or police officer, or ~~his~~ the firefighter's or police officer's 7145  
dependents to compensation, medical treatment, or payment of 7146

funeral expenses for disability or death from a cardiovascular, 7147  
pulmonary, or respiratory disease, unless the ~~fire fighter~~ 7148  
firefighter or police officer has been subject to injurious 7149  
exposure to heat, smoke, toxic gases, chemical fumes, and other 7150  
toxic substances in ~~his~~ the firefighter's or police officer's 7151  
employment in this state preceding ~~his~~ the firefighter's or 7152  
police officer's disablement, some portion of which has been 7153  
after January 1, 1967, except as provided in division ~~(E)~~ (D) of 7154  
section 4123.57 of the Revised Code. 7155

Compensation on account of cardiovascular, pulmonary, or 7156  
respiratory diseases of ~~fire fighters~~ firefighters and police 7157  
officers is payable only in the event of temporary total 7158  
disability, permanent total disability, or death, in accordance 7159  
with section 4123.56, 4123.58, or 4123.59 of the Revised Code. 7160  
Medical, hospital, and nursing expenses are payable in 7161  
accordance with this chapter. Compensation, medical, hospital, 7162  
and nursing expenses are payable only in the event of such 7163  
disability or death resulting within eight years after the last 7164  
injurious exposure; provided that such eight-year limitation 7165  
does not apply to disability or death from exposure occurring 7166  
after January 1, 1976. In the event of death following 7167  
continuous total disability commencing within eight years after 7168  
the last injurious exposure, the requirement of death within 7169  
eight years after the last injurious exposure does not apply. 7170

This chapter does not entitle a ~~fire fighter~~ firefighter 7171  
or police officer, or ~~his~~ the firefighter's or police officer's 7172  
dependents, to compensation, medical, hospital, and nursing 7173  
expenses, or payment of funeral expenses for disability or death 7174  
due to a cardiovascular, pulmonary, or respiratory disease in 7175  
the event of failure or omission on the part of the ~~fire fighter~~ 7176  
firefighter or police officer truthfully to state, when seeking 7177

employment, the place, duration, and nature of previous 7178  
employment in answer to an inquiry made by the employer. 7179

Before awarding compensation for disability or death under 7180  
this division, the administrator shall refer the claim to a 7181  
qualified medical specialist for examination and recommendation 7182  
with regard to the diagnosis, the extent of disability, the 7183  
cause of death, and other medical questions connected with the 7184  
claim. A ~~fire fighter~~ firefighter or police officer shall submit 7185  
to such examinations, including clinical and x-ray examinations, 7186  
as the administrator requires. In the event that a ~~fire fighter~~ 7187  
firefighter or police officer refuses to submit to examinations, 7188  
including clinical and x-ray examinations, after notice from the 7189  
administrator, or in the event that a claimant for compensation 7190  
for death under this division fails to produce necessary 7191  
consents and permits, after notice from the administrator, so 7192  
that such autopsy examination and tests may be performed, then 7193  
all rights for compensation are forfeited. The reasonable 7194  
compensation of such specialists and the expenses of examination 7195  
and tests shall be paid, if the claim is allowed, as part of the 7196  
expenses of the claim, otherwise they shall be paid from the 7197  
surplus fund. 7198

(X) Silicosis: Silicosis means a disease of the lungs 7199  
caused by breathing silica dust (silicon dioxide) producing 7200  
fibrous nodules distributed through the lungs ~~and demonstrated~~ 7201  
~~by x-ray examination, by biopsy or by autopsy.~~ 7202

(Y) Coal miners' pneumoconiosis: Coal miners' 7203  
pneumoconiosis, commonly referred to as "black lung disease," 7204  
resulting from working in the coal mine industry and due to 7205  
exposure to the breathing of coal dust, ~~and demonstrated by x-~~ 7206  
~~ray examination, biopsy, autopsy or other medical or clinical~~ 7207

tests. 7208

This chapter does not entitle an employee or ~~his~~ the 7209  
employee's dependents to compensation, medical treatment, or 7210  
payment of funeral expenses for disability or death from 7211  
silicosis, asbestosis, or coal miners' pneumoconiosis unless the 7212  
employee has been subject to injurious exposure to silica dust 7213  
(silicon dioxide), asbestos, or coal dust in ~~his~~ the employee's 7214  
employment in this state preceding ~~his~~ the employee's 7215  
disablement, some portion of which has been after October 12, 7216  
1945, except as provided in division ~~(E)~~ (D) of section 4123.57 7217  
of the Revised Code. 7218

Compensation on account of silicosis, asbestosis, or coal 7219  
miners' pneumoconiosis are payable only in the event of 7220  
temporary total disability, permanent partial disability, 7221  
permanent total disability, or death, in accordance with 7222  
~~sections 4123.56, 4123.58, and section 4123.59 and Chapter 4133.~~ 7223  
of the Revised Code. Medical, hospital, and nursing expenses are 7224  
payable in accordance with this chapter. ~~Compensation,~~ 7225  
~~medical,~~ Medical, hospital, and nursing expenses are payable only 7226  
in the event of such disability or death resulting within eight 7227  
years after the last injurious exposure; provided that such 7228  
eight-year limitation does not apply to ~~disability or death~~ 7229  
occurring after January 1, 1976, and further provided that such 7230  
eight-year limitation does not apply to any asbestosis cases. In 7231  
the event of death following continuous total disability 7232  
commencing within eight years after the last injurious exposure, 7233  
the requirement of death within eight years after the last 7234  
injurious exposure does not apply. 7235

~~This chapter does not entitle an employee or his~~ 7236  
~~dependents to compensation, medical, hospital and nursing~~ 7237

~~expenses, or payment of funeral expenses for disability or death due to silicosis, asbestosis, or coal miners' pneumoconiosis in the event of the failure or omission on the part of the employee truthfully to state, when seeking employment, the place, duration, and nature of previous employment in answer to an inquiry made by the employer.~~ 7238  
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~~Before awarding compensation for disability or death due to silicosis, asbestosis, or coal miners' pneumoconiosis, the administrator shall refer the claim to a qualified medical specialist for examination and recommendation with regard to the diagnosis, the extent of disability, the cause of death, and other medical questions connected with the claim. An employee shall submit to such examinations, including clinical and x ray examinations, as the administrator requires. In the event that an employee refuses to submit to examinations, including clinical and x ray examinations, after notice from the administrator, or in the event that a claimant for compensation for death due to silicosis, asbestosis, or coal miners' pneumoconiosis fails to produce necessary consents and permits, after notice from the commission, so that such autopsy examination and tests may be performed, then all rights for compensation are forfeited. The reasonable compensation of such specialist and the expenses of examinations and tests shall be paid, if the claim is allowed, as a part of the expenses of the claim, otherwise they shall be paid from the surplus fund.~~ 7244  
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(Z) Radiation illness: Any industrial process involving the use of radioactive materials. 7263  
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Claims for compensation and benefits due to radiation illness are payable only in the event death or disability occurred within eight years after the last injurious exposure 7265  
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provided that such eight-year limitation does not apply to 7268  
disability or death from exposure occurring after January 1, 7269  
1976. In the event of death following continuous disability 7270  
which commenced within eight years of the last injurious 7271  
exposure the requirement of death within eight years after the 7272  
last injurious exposure does not apply. 7273

(AA) Asbestosis: Asbestosis means a disease caused by 7274  
inhalation or ingestion of asbestos, ~~demonstrated by x-ray~~ 7275  
~~examination, biopsy, autopsy, or other objective medical or~~ 7276  
~~clinical tests.~~ 7277

All conditions, restrictions, limitations, and other 7278  
provisions of this section, with reference to the payment of 7279  
compensation or benefits on account of silicosis or coal miners' 7280  
pneumoconiosis apply to the payment of compensation or benefits 7281  
on account of any other occupational disease of the respiratory 7282  
tract resulting from injurious exposures to dust. 7283

The refusal to produce the necessary consents and permits 7284  
for autopsy examination and testing shall not result in 7285  
forfeiture of compensation provided the administrator finds that 7286  
such refusal was the result of bona fide religious convictions 7287  
or teachings to which the claimant for compensation adhered 7288  
prior to the death of the decedent. 7289

**Sec. 4123.93.** As used in sections 4123.93 and 4123.931 of 7290  
the Revised Code: 7291

(A) "Claimant" means a person who is eligible to receive 7292  
compensation, medical benefits, or death benefits under this 7293  
chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the 7294  
Revised Code. 7295

(B) "Statutory subrogee" means the administrator of 7296

workers' compensation, a self-insuring employer, or an employer 7297  
that contracts for the direct payment of medical services 7298  
pursuant to division (P) of section 4121.44 of the Revised Code. 7299

(C) "Third party" means an individual, private insurer, 7300  
public or private entity, or public or private program that is 7301  
or may be liable to make payments to a person without regard to 7302  
any statutory duty contained in this chapter or Chapter 4121., 7303  
4127., ~~or~~ 4131., or 4133. of the Revised Code. 7304

(D) "Subrogation interest" includes past, present, and 7305  
estimated future payments of compensation, medical benefits, 7306  
rehabilitation costs, or death benefits, and any other costs or 7307  
expenses paid to or on behalf of the claimant by the statutory 7308  
subrogee pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 7309  
4131., or 4133. of the Revised Code. 7310

(E) "Net amount recovered" means the amount of any award, 7311  
settlement, compromise, or recovery by a claimant against a 7312  
third party, minus the attorney's fees, costs, or other expenses 7313  
incurred by the claimant in securing the award, settlement, 7314  
compromise, or recovery. "Net amount recovered" does not include 7315  
any punitive damages that may be awarded by a judge or jury. 7316

(F) "Uncompensated damages" means the claimant's 7317  
demonstrated or proven damages minus the statutory subrogee's 7318  
subrogation interest. 7319

**Sec. 4123.931.** (A) The payment of compensation or benefits 7320  
pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 7321  
4133. of the Revised Code creates a right of recovery in favor 7322  
of a statutory subrogee against a third party, and the statutory 7323  
subrogee is subrogated to the rights of a claimant against that 7324  
third party. The net amount recovered is subject to a statutory 7325

subrogee's right of recovery. 7326

(B) If a claimant, statutory subrogee, and third party 7327  
settle or attempt to settle a claimant's claim against a third 7328  
party, the claimant shall receive an amount equal to the 7329  
uncompensated damages divided by the sum of the subrogation 7330  
interest plus the uncompensated damages, multiplied by the net 7331  
amount recovered, and the statutory subrogee shall receive an 7332  
amount equal to the subrogation interest divided by the sum of 7333  
the subrogation interest plus the uncompensated damages, 7334  
multiplied by the net amount recovered, except that the net 7335  
amount recovered may instead be divided and paid on a more fair 7336  
and reasonable basis that is agreed to by the claimant and 7337  
statutory subrogee. If while attempting to settle, the claimant 7338  
and statutory subrogee cannot agree to the allocation of the net 7339  
amount recovered, the claimant and statutory subrogee may file a 7340  
request with the administrator of workers' compensation for a 7341  
conference to be conducted by a designee appointed by the 7342  
administrator, or the claimant and statutory subrogee may agree 7343  
to utilize any other binding or non-binding alternative dispute 7344  
resolution process. 7345

The claimant and statutory subrogee shall pay equal shares 7346  
of the fees and expenses of utilizing an alternative dispute 7347  
resolution process, unless they agree to pay those fees and 7348  
expenses in another manner. The administrator shall not assess 7349  
any fees to a claimant or statutory subrogee for a conference 7350  
conducted by the administrator's designee. 7351

(C) If a claimant and statutory subrogee request that a 7352  
conference be conducted by the administrator's designee pursuant 7353  
to division (B) of this section, both of the following apply: 7354

(1) The administrator's designee shall schedule a 7355

conference on or before sixty days after the date that the 7356  
claimant and statutory subrogee filed a request for the 7357  
conference. 7358

(2) The determination made by the administrator's designee 7359  
is not subject to Chapter 119. of the Revised Code. 7360

(D) When a claimant's action against a third party 7361  
proceeds to trial and damages are awarded, both of the following 7362  
apply: 7363

(1) The claimant shall receive an amount equal to the 7364  
uncompensated damages divided by the sum of the subrogation 7365  
interest plus the uncompensated damages, multiplied by the net 7366  
amount recovered, and the statutory subrogee shall receive an 7367  
amount equal to the subrogation interest divided by the sum of 7368  
the subrogation interest plus the uncompensated damages, 7369  
multiplied by the net amount recovered. 7370

(2) The court in a nonjury action shall make findings of 7371  
fact, and the jury in a jury action shall return a general 7372  
verdict accompanied by answers to interrogatories that specify 7373  
the following: 7374

(a) The total amount of the compensatory damages; 7375

(b) The portion of the compensatory damages specified 7376  
pursuant to division (D) (2) (a) of this section that represents 7377  
economic loss; 7378

(c) The portion of the compensatory damages specified 7379  
pursuant to division (D) (2) (a) of this section that represents 7380  
noneconomic loss. 7381

(E) (1) After a claimant and statutory subrogee know the 7382  
net amount recovered, and after the means for dividing it has 7383

been determined under division (B) or (D) of this section, a 7384  
claimant may establish an interest-bearing trust account for the 7385  
full amount of the subrogation interest that represents 7386  
estimated future payments of compensation, medical benefits, 7387  
rehabilitation costs, or death benefits, reduced to present 7388  
value, from which the claimant shall make reimbursement payments 7389  
to the statutory subrogee for the future payments of 7390  
compensation, medical benefits, rehabilitation costs, or death 7391  
benefits. If the workers' compensation claim associated with the 7392  
subrogation interest is settled, or if the claimant dies, or if 7393  
any other circumstance occurs that would preclude any future 7394  
payments of compensation, medical benefits, rehabilitation 7395  
costs, and death benefits by the statutory subrogee, any amount 7396  
remaining in the trust account after final reimbursement is paid 7397  
to the statutory subrogee for all payments made by the statutory 7398  
subrogee before the ending of future payments shall be paid to 7399  
the claimant or the claimant's estate. 7400

(2) A claimant may use interest that accrues on the trust 7401  
account to pay the expenses of establishing and maintaining the 7402  
trust account, and all remaining interest shall be credited to 7403  
the trust account. 7404

(3) If a claimant establishes a trust account, the 7405  
statutory subrogee shall provide payment notices to the claimant 7406  
on or before the thirtieth day of June and the thirty-first day 7407  
of December every year listing the total amount that the 7408  
statutory subrogee has paid for compensation, medical benefits, 7409  
rehabilitation costs, or death benefits during the half of the 7410  
year preceding the notice. The claimant shall make reimbursement 7411  
payments to the statutory subrogee from the trust account on or 7412  
before the thirty-first day of July every year for a notice 7413  
provided by the thirtieth day of June, and on or before the 7414

thirty-first day of January every year for a notice provided by 7415  
the thirty-first day of December. The claimant's reimbursement 7416  
payment shall be in an amount that equals the total amount 7417  
listed on the notice the claimant receives from the statutory 7418  
subrogee. 7419

(F) If a claimant does not establish a trust account as 7420  
described in division (E)(1) of this section, the claimant shall 7421  
pay to the statutory subrogee, on or before thirty days after 7422  
receipt of funds from the third party, the full amount of the 7423  
subrogation interest that represents estimated future payments 7424  
of compensation, medical benefits, rehabilitation costs, or 7425  
death benefits. 7426

(G) A claimant shall notify a statutory subrogee and the 7427  
attorney general of the identity of all third parties against 7428  
whom the claimant has or may have a right of recovery, except 7429  
that when the statutory subrogee is a self-insuring employer, 7430  
the claimant need not notify the attorney general. No 7431  
settlement, compromise, judgment, award, or other recovery in 7432  
any action or claim by a claimant shall be final unless the 7433  
claimant provides the statutory subrogee and, when required, the 7434  
attorney general, with prior notice and a reasonable opportunity 7435  
to assert its subrogation rights. If a statutory subrogee and, 7436  
when required, the attorney general are not given that notice, 7437  
or if a settlement or compromise excludes any amount paid by the 7438  
statutory subrogee, the third party and the claimant shall be 7439  
jointly and severally liable to pay the statutory subrogee the 7440  
full amount of the subrogation interest. 7441

(H) The right of subrogation under this chapter is 7442  
automatic, regardless of whether a statutory subrogee is joined 7443  
as a party in an action by a claimant against a third party. A 7444

statutory subrogee may assert its subrogation rights through 7445  
correspondence with the claimant and the third party or their 7446  
legal representatives. A statutory subrogee may institute and 7447  
pursue legal proceedings against a third party either by itself 7448  
or in conjunction with a claimant. If a statutory subrogee 7449  
institutes legal proceedings against a third party, the 7450  
statutory subrogee shall provide notice of that fact to the 7451  
claimant. If the statutory subrogee joins the claimant as a 7452  
necessary party, or if the claimant elects to participate in the 7453  
proceedings as a party, the claimant may present the claimant's 7454  
case first if the matter proceeds to trial. If a claimant 7455  
disputes the validity or amount of an asserted subrogation 7456  
interest, the claimant shall join the statutory subrogee as a 7457  
necessary party to the action against the third party. 7458

(I) The statutory subrogation right of recovery applies 7459  
to, but is not limited to, all of the following: 7460

(1) Amounts recoverable from a claimant's insurer in 7461  
connection with underinsured or uninsured motorist coverage, 7462  
notwithstanding any limitation contained in Chapter 3937. of the 7463  
Revised Code; 7464

(2) Amounts that a claimant would be entitled to recover 7465  
from a political subdivision, notwithstanding any limitations 7466  
contained in Chapter 2744. of the Revised Code; 7467

(3) Amounts recoverable from an intentional tort action. 7468

(J) If a claimant's claim against a third party is for 7469  
wrongful death or the claim involves any minor beneficiaries, 7470  
amounts allocated under this section are subject to the approval 7471  
of probate court. 7472

(K) The administrator shall deposit any money collected 7473

under this section into the public fund or the private fund of 7474  
the state insurance fund, as appropriate. If a self-insuring 7475  
employer collects money under this section of the Revised Code, 7476  
the self-insuring employer shall deduct the amount collected, in 7477  
the year collected, from the amount of paid compensation the 7478  
self-insured employer is required to report under section 7479  
4123.35 of the Revised Code. 7480

**Sec. 4125.03.** (A) The professional employer organization 7481  
with whom a shared employee is coemployed shall do all of the 7482  
following: 7483

(1) Pay wages associated with a shared employee pursuant 7484  
to the terms and conditions of compensation in the professional 7485  
employer organization agreement between the professional 7486  
employer organization and the client employer; 7487

(2) Pay all related payroll taxes associated with a shared 7488  
employee independent of the terms and conditions contained in 7489  
the professional employer organization agreement between the 7490  
professional employer organization and the client employer; 7491

(3) Maintain workers' compensation coverage, pay all 7492  
workers' compensation premiums and manage all workers' 7493  
compensation claims, filings, and related procedures associated 7494  
with a shared employee in compliance with Chapters 4121. ~~and~~, 7495  
4123., and 4133. of the Revised Code, except that when shared 7496  
employees include family farm officers, ordained ministers, or 7497  
corporate officers of the client employer, payroll reports shall 7498  
include the entire amount of payroll associated with those 7499  
persons; 7500

(4) Provide written notice to each shared employee it 7501  
assigns to perform services to a client employer of the 7502

relationship between and the responsibilities of the 7503  
professional employer organization and the client employer; 7504

(5) Maintain complete records separately listing the 7505  
manual classifications of each client employer and the payroll 7506  
reported to each manual classification for each client employer 7507  
for each payroll reporting period during the time period covered 7508  
in the professional employer organization agreement; 7509

(6) Maintain a record of workers' compensation claims for 7510  
each client employer; 7511

(7) Make periodic reports, as determined by the 7512  
administrator of workers' compensation, of client employers and 7513  
total workforce to the administrator; 7514

(8) Report individual client employer payroll, claims, and 7515  
classification data under a separate and unique subaccount to 7516  
the administrator; 7517

(9) Within fourteen days after receiving notice from the 7518  
bureau of workers' compensation that a refund or rebate will be 7519  
applied to workers' compensation premiums, provide a copy of 7520  
that notice to any client employer to whom that notice is 7521  
relevant. 7522

(B) The professional employer organization with whom a 7523  
shared employee is coemployed shall provide a list of all of the 7524  
following information to the client employer upon the written 7525  
request of the client employer: 7526

(1) All workers' compensation claims, premiums, and 7527  
payroll associated with that client employer; 7528

(2) Compensation and benefits paid and reserves 7529  
established for each claim listed under division (B)(1) of this 7530

section; 7531

(3) Any other information available to the professional 7532  
employer organization from the bureau of workers' compensation 7533  
regarding that client employer. 7534

(C) (1) A professional employer organization shall provide 7535  
the information required under division (B) of this section in 7536  
writing to the requesting client employer within forty-five days 7537  
after receiving a written request from the client employer. 7538

(2) For purposes of division (C) of this section, a 7539  
professional employer organization has provided the required 7540  
information to the client employer when the information is 7541  
received by the United States postal service or when the 7542  
information is personally delivered, in writing, directly to the 7543  
client employer. 7544

(D) Except as provided in section 4125.08 of the Revised 7545  
Code and unless otherwise agreed to in the professional employer 7546  
organization agreement, the professional employer organization 7547  
with whom a shared employee is coemployed has a right of 7548  
direction and control over each shared employee assigned to a 7549  
client employer's location. However, a client employer shall 7550  
retain sufficient direction and control over a shared employee 7551  
as is necessary to do any of the following: 7552

(1) Conduct the client employer's business, including 7553  
training and supervising shared employees; 7554

(2) Ensure the quality, adequacy, and safety of the goods 7555  
or services produced or sold in the client employer's business; 7556

(3) Discharge any fiduciary responsibility that the client 7557  
employer may have; 7558

(4) Comply with any applicable licensure, regulatory, or 7559  
statutory requirement of the client employer. 7560

(E) Unless otherwise agreed to in the professional 7561  
employer organization agreement, liability for acts, errors, and 7562  
omissions shall be determined as follows: 7563

(1) A professional employer organization shall not be 7564  
liable for the acts, errors, and omissions of a client employer 7565  
or a shared employee when those acts, errors, and omissions 7566  
occur under the direction and control of the client employer. 7567

(2) A client employer shall not be liable for the acts, 7568  
errors, and omissions of a professional employer organization or 7569  
a shared employee when those acts, errors, and omissions occur 7570  
under the direction and control of the professional employer 7571  
organization. 7572

(F) Nothing in divisions (D) and (E) of this section shall 7573  
be construed to limit any liability or obligation specifically 7574  
agreed to in the professional employer organization agreement. 7575

**Sec. 4125.04.** (A) When a client employer enters into a 7576  
professional employer organization agreement with a professional 7577  
employer organization, the professional employer organization is 7578  
the employer of record and the succeeding employer for the 7579  
purposes of determining a workers' compensation experience 7580  
rating pursuant to Chapter 4123. of the Revised Code. 7581

(B) Pursuant to Section 35 of Article II, Ohio 7582  
Constitution, and section 4123.74 of the Revised Code, the 7583  
exclusive remedy for a shared employee to recover for injuries, 7584  
diseases, or death incurred in the course of and arising out of 7585  
the employment relationship against either the professional 7586  
employer organization or the client employer are those benefits 7587

provided under Chapters 4121. ~~and~~, 4123., and 4133. of the 7588  
Revised Code. 7589

**Sec. 4131.01.** As used in sections 4131.01 to 4131.06 of 7590  
the Revised Code: 7591

(A) "Federal act" means Title IV of the "Federal Coal Mine 7592  
Health and Safety Act of 1969," 83 Stat. 742, 30 U.S.C.A. 801, 7593  
as now or hereafter amended. 7594

(B) "Coal-workers pneumoconiosis fund" means the fund 7595  
created and administered pursuant to sections 4131.01 to 4131.06 7596  
of the Revised Code and does not refer, directly or indirectly, 7597  
to any fund created and administered pursuant to Chapter 4123. 7598  
or 4133. of the Revised Code. 7599

(C) "Premium" means payment by or on behalf of an operator 7600  
of a coal mine in Ohio who is required by the federal act to 7601  
secure the payment of benefits for which ~~he~~ the operator is 7602  
liable under that act, which payments are to be credited to the 7603  
coal-workers pneumoconiosis fund and does not refer, directly or 7604  
indirectly, to premiums or contributions paid or required to be 7605  
paid pursuant to Chapter 4123. of the Revised Code. 7606

(D) "Subscriber" means an operator who has elected to 7607  
subscribe to the coal-workers pneumoconiosis fund and whose 7608  
election has been approved by the bureau of workers' 7609  
compensation. 7610

**Sec. 4133.01.** As used in this chapter: 7611

(A) "Board-certified internist," "board-certified 7612  
pathologist," and "board-certified pulmonary specialist" have 7613  
the same meanings as in section 2307.84 of the Revised Code. 7614

(B) "Occupational pneumoconiosis" means a disease of the 7615

lungs caused by the inhalation of minute particles of dust over 7616  
a period of time due to causes and conditions arising out of and 7617  
in the course of employment. "Occupational pneumoconiosis" 7618  
includes all of the following diseases: 7619

(1) Silicosis; 7620

(2) Anthracosilicosis; 7621

(3) Coal worker's pneumoconiosis, commonly known as black 7622  
lung or miner's asthma; 7623

(4) Silico-tuberculosis (silicosis accompanied by active 7624  
tuberculosis of the lungs); 7625

(5) Coal worker's pneumoconiosis accompanied by active 7626  
tuberculosis of the lungs; 7627

(6) Asbestosis; 7628

(7) Siderosis; 7629

(8) Anthrax; 7630

(9) Any other dust diseases of the lungs and conditions 7631  
and diseases caused by occupational pneumoconiosis not 7632  
specifically designated in division (B) of this section. 7633

(C) "Statewide average weekly wage" has the same meaning 7634  
as in section 4123.62 of the Revised Code. 7635

**Sec. 4133.02.** Except as otherwise provided in this 7636  
chapter, Chapters 4121. and 4123. of the Revised Code apply to 7637  
all claims arising under this chapter. 7638

**Sec. 4133.03.** Except as provided in section 4133.05 of the 7639  
Revised Code, all claims for compensation and benefits for 7640  
disability or death due to occupational pneumoconiosis are 7641  
forever barred unless an employee or an individual on behalf of 7642

an employee applies to the industrial commission or the bureau 7643  
of workers' compensation or to the employer if the employer is a 7644  
self-insuring employer not later than the following dates, as 7645  
applicable: 7646

(A) In the case of disability, not later than three years 7647  
after the occurrence of either of the following, whichever is 7648  
later: 7649

(1) The last day of the last continuous period of sixty 7650  
days or more during which the employee was exposed to the 7651  
hazards of occupational pneumoconiosis; 7652

(2) A diagnosed impairment due to occupational 7653  
pneumoconiosis was made known to the employee by a physician. 7654

(B) In the case of death, not later than two years after 7655  
the date of the employee's death. 7656

**Sec. 4133.04.** (A) When filing a claim for compensation and 7657  
benefits for occupational pneumoconiosis, an employee or, if the 7658  
employee is deceased, a dependent of the employee, shall submit 7659  
to the administrator of workers' compensation or a self-insuring 7660  
employer a written certification by a board-certified pulmonary 7661  
specialist stating both of the following: 7662

(1) That the employee is or was suffering from complicated 7663  
pneumoconiosis or pulmonary massive fibrosis; 7664

(2) That the occupational pneumoconiosis has or had 7665  
resulted in pulmonary impairment as measured by the standards or 7666  
methods used by the occupational pneumoconiosis board of at 7667  
least fifteen per cent, as confirmed by valid and reproducible 7668  
ventilatory testing. 7669

(B) The pulmonary specialist shall disclose all evidence 7670

upon which the written certification is based, including all 7671  
radiographic, pathologic, or other diagnostic test results the 7672  
pulmonary specialist reviewed. 7673

**Sec. 4133.05.** (A) (1) For a claim filed not later than 7674  
three years after the last date of exposure to the hazards of 7675  
occupational pneumoconiosis, the administrator of workers' 7676  
compensation or a self-insuring employer shall determine all of 7677  
the following: 7678

(a) Whether the employee who is the subject of the claim 7679  
was exposed to the hazards of occupational pneumoconiosis for a 7680  
continuous period of not less than sixty days in the course of 7681  
the employee's employment not later than three years before 7682  
filing the claim; 7683

(b) Whether the employee was exposed to the hazard in this 7684  
state over a continuous period of not less than two years during 7685  
the ten years immediately preceding the date of last exposure to 7686  
the hazard; 7687

(c) Whether the employee was exposed to the hazard over a 7688  
period of not less than ten years during the fifteen years 7689  
immediately preceding the date of last exposure to the hazard. 7690

(2) For a claim filed not later than three years after the 7691  
date of diagnosis of occupational pneumoconiosis, the 7692  
administrator or self-insuring employer shall determine whether 7693  
the employee satisfies the requirements of divisions (A) (1) (b) 7694  
and (c) of this section. 7695

(B) For a claim filed by a dependent of an employee whose 7696  
death is caused by occupational pneumoconiosis, the 7697  
administrator or self-insuring employer shall determine all of 7698  
the following: 7699

(1) Whether the deceased employee was exposed to the hazards of occupational pneumoconiosis for a continuous period of not less than sixty days in the course of the employee's employment within ten years before filing the claim; 7700  
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(2) Whether the deceased employee was exposed to the hazard in this state over a continuous period of not less than two years during the ten years immediately preceding the date of last exposure to the hazard; 7704  
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(3) Whether the deceased employee was exposed to the hazard over a period of not less than ten years during the fifteen years immediately preceding the date of last exposure to the hazard. 7708  
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(C) The administrator or self-insuring employer shall determine other nonmedical facts that, in the opinion of the administrator or self-insuring employer, are pertinent to a decision on the validity of a claim. 7712  
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(D) The administrator may allocate to and divide any charges resulting from an occupational pneumoconiosis claim among the employers for whom the employee who is the subject of the claim was employed up to sixty days during the period of three years immediately preceding the date of last exposure to the hazards of occupational pneumoconiosis. The administrator shall base the allocation on the time and degree of exposure the employee had with each employer. 7716  
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Sec. 4133.06. (A) The administrator of workers' compensation or a self-insuring employer shall determine the nonmedical findings for an occupational pneumoconiosis claim filed under section 4133.05 of the Revised Code not later than ninety days after the administrator or self-insuring employer 7724  
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receives the claimant's application and the pulmonary 7729  
specialist's written certification specified in section 4133.04 7730  
of the Revised Code. The administrator or self-insuring employer 7731  
shall provide each interested party written notice of the 7732  
determination. 7733

(B) The administrator's or self-insuring employer's 7734  
determination under this chapter is final unless the employer or 7735  
claimant objects to the determination not later than sixty days 7736  
after receipt of the notice described in division (A) of this 7737  
section. 7738

(C) If a claimant objects to the administrator's 7739  
determination regarding the occupational pneumoconiosis claim 7740  
for compensation and benefits, the claimant may appeal the claim 7741  
in accordance with section 4123.511 or 4123.512 of the Revised 7742  
Code. If an employer objects to the determination under this 7743  
section, the administrator shall refer the claim to the 7744  
occupational pneumoconiosis board as if the objection had not 7745  
been filed. 7746

**Sec. 4133.07.** There is hereby created the occupational 7747  
pneumoconiosis board within the bureau of workers' compensation 7748  
to determine, under the direction and supervision of the 7749  
administrator of workers' compensation, all medical questions 7750  
relating to claims for compensation and benefits for 7751  
occupational pneumoconiosis. 7752

The board consists of five physicians in good professional 7753  
standing holding a certificate issued under Chapter 4731. of the 7754  
Revised Code to practice medicine and surgery or osteopathic 7755  
medicine and surgery. Members shall be board-certified 7756  
internists or board-certified pulmonary specialists. The 7757  
administrator shall appoint the members to the board. 7758

Not later than ninety days after the effective date of 7759  
this section, the administrator shall appoint the initial 7760  
members to the board. The administrator shall appoint three 7761  
members to terms ending one year after the effective date of 7762  
this section, two members to terms ending two years after that 7763  
date, and one member to a term ending three years after that 7764  
date. Thereafter, terms of office for all members are six years, 7765  
with each term ending on the same day of the same month as did 7766  
the term that it succeeds. Each member shall hold office from 7767  
the date of appointment until the end of the term for which the 7768  
member was appointed. Members may be reappointed. 7769

Vacancies shall be filled in the same manner as original 7770  
appointments. Any member appointed to fill a vacancy occurring 7771  
before the expiration of the term for which the member's 7772  
predecessor was appointed shall hold office for the remainder of 7773  
the term. Any member shall continue in office subsequent to the 7774  
expiration date of the member's term until a successor takes 7775  
office, or until a period of sixty days has elapsed, whichever 7776  
occurs first. 7777

The administrator annually shall select from among the 7778  
board members a chairperson. A majority of board members 7779  
constitutes a quorum. 7780

Members of the occupational pneumoconiosis board shall 7781  
receive compensation for their service on the board and be 7782  
reimbursed for travel and actual and necessary expenses incurred 7783  
in the conduct of their official duties. The administrator shall 7784  
establish the compensation of members in accordance with section 7785  
4121.121 of the Revised Code. 7786

Sections 101.82 to 101.87 of the Revised Code do not apply 7787  
to the occupational pneumoconiosis board. 7788

Sec. 4133.08. (A) On referral to the occupational 7789  
pneumoconiosis board, the board shall notify the claimant and 7790  
administrator or self-insuring employer, as applicable, to 7791  
appear before the board at a time and place stated in the 7792  
notice. If the claimant is living, the claimant shall appear 7793  
before the board at the specified time and place and submit to 7794  
any examination, including clinical and x-ray examinations, 7795  
required by the board. 7796

If a licensed physician files an affidavit with the board 7797  
that the claimant is physically unable to appear at the 7798  
specified time and place, the board shall, on notice to the 7799  
proper parties, change the time and place as may reasonably 7800  
facilitate the hearing or examination of the claimant or may 7801  
appoint a qualified specialist in the field of respiratory 7802  
disease to examine the claimant on the board's behalf. 7803

(B) The claimant and employer shall produce as evidence to 7804  
the board all medical reports and x-ray examinations that are in 7805  
the claimant's or employer's possession or control and that show 7806  
the employee's past or present condition. 7807

If the employee who is the subject of the claim is 7808  
deceased, the notice specified in division (A) of this section 7809  
may require the claimant to produce any consents and permits 7810  
necessary so that an autopsy may be performed. If the board 7811  
determines an autopsy is necessary to accurately and 7812  
scientifically determine the cause of death, the board shall 7813  
order the autopsy. The board shall designate a physician holding 7814  
a certificate issued under Chapter 4731. of the Revised Code, 7815  
board-certified pathologist, or any other specialist the board 7816  
determines necessary to conduct the examination and tests to 7817  
determine the cause of death and certify the findings in writing 7818

to the board. Notwithstanding section 4123.88 of the Revised 7819  
Code, the findings are public records under section 149.43 of 7820  
the Revised Code. 7821

(C) In determining the presence of occupational 7822  
pneumoconiosis, the board may consider x-ray evidence, but the 7823  
board shall not give that evidence greater weight than any other 7824  
type of evidence demonstrating occupational pneumoconiosis. 7825

(D) If an employee refuses to submit to an examination, 7826  
the employee's claim shall be suspended during the period of the 7827  
refusal in accordance with section 4123.53 of the Revised Code. 7828  
If a claimant fails to produce necessary consents and permits so 7829  
that an autopsy may be performed, the claimant forfeits all 7830  
rights for compensation and benefits under this chapter. 7831

(E) The claimant and employer are entitled to be present 7832  
at all examinations conducted by the board and to be represented 7833  
by attorneys and physicians. 7834

**Sec. 4133.09.** (A) The occupational pneumoconiosis board, 7835  
as soon as practicable after completing its investigation under 7836  
section 4133.08 of the Revised Code, shall issue a written 7837  
report on its determination of every medical question in 7838  
controversy to the administrator of workers' compensation or 7839  
self-insuring employer. The board shall send one copy of the 7840  
report to the claimant and one copy to the claimant's employer 7841  
if the employer is not a self-insuring employer. 7842

(B) The board shall return to and file with the 7843  
administrator or self-insuring employer all evidence and medical 7844  
reports and x-ray examinations produced by or on behalf of the 7845  
claimant or employer. 7846

(C) The board shall include all of the following in its 7847

determination: 7848

(1) Whether the employee contracted occupational 7849  
pneumoconiosis and, if so, the percentage of permanent 7850  
disability resulting from the occupational pneumoconiosis; 7851

(2) Whether the exposure in the employment was sufficient 7852  
to have caused the employee's occupational pneumoconiosis or to 7853  
have perceptibly aggravated an existing occupational 7854  
pneumoconiosis or other occupational disease; 7855

(3) What, if any, physician appeared before the board on 7856  
the claimant's or employer's behalf and what, if any, medical 7857  
evidence was produced by or on the claimant's or employer's 7858  
behalf. 7859

(D)(1) It shall be presumed that the employee is suffering 7860  
or if the employee is deceased, the deceased employee was 7861  
suffering at the time of the employee's death, from occupational 7862  
pneumoconiosis that arose out of and in the course of employment 7863  
if both of the following are shown: 7864

(a) The employee has or had been exposed to the hazard of 7865  
inhaling minute particles of dust in the course of and arising 7866  
from the employee's employment for a period of ten years during 7867  
the fifteen years immediately preceding the date of the 7868  
employee's last exposure to the hazard; 7869

(b) The employee has or had sustained a chronic 7870  
respiratory disability. 7871

(2) The presumption described in division (D)(1) of this 7872  
section is not conclusive. 7873

(E) If either party contests the board's determination in 7874  
division (C) of this section, the party shall file an appeal 7875

with the industrial commission in accordance with section 7876  
4123.511 of the Revised Code. 7877

(F)(1) Except as provided in division (F)(2) of this 7878  
section, a claimant who receives a final determination from the 7879  
board that the employee who is the subject of the claim has or 7880  
had no evidence of occupational pneumoconiosis is barred for a 7881  
period of three years from filing a new claim or pursuing a 7882  
previously filed, but unruled upon, claim for occupational 7883  
pneumoconiosis or requesting a modification of any prior ruling 7884  
finding the employee not to be suffering from occupational 7885  
pneumoconiosis. 7886

The three-year period described in this division begins on 7887  
the date of the board's decision or the date on which the 7888  
employee's employment with the employer who employed the 7889  
employee at the time designated as the employee's last date of 7890  
exposure in the denied claim terminates, whichever is sooner. 7891  
For purposes of this division, an employee's employment is 7892  
considered terminated if the employee has not worked for that 7893  
employer for a period of more than ninety days. 7894

The administrator or a self-insuring employer shall 7895  
consolidate any previously filed but unruled upon claim with the 7896  
claim in which the board's decision is made and must be denied 7897  
together with the decided claim. The administrator or self- 7898  
insuring employer shall not apply these limitations to a claim 7899  
if doing so would later cause a claimant's claim to be forever 7900  
barred for failing to file within the applicable time 7901  
limitation. 7902

(2) This division does not apply if the claimant 7903  
demonstrates that the occupational pneumoconiosis has 7904  
deteriorated. 7905

Sec. 4133.10. The administrator of workers' compensation 7906  
or a self-insuring employer may require a claimant to appear for 7907  
examination before the occupational pneumoconiosis board. If the 7908  
claimant is required to appear for a board examination, the 7909  
party that referred the claimant to the board shall reimburse 7910  
the claimant for loss of wages and reasonable traveling expenses 7911  
and other expenses in connection with the examination. 7912

Sec. 4133.11. An employee filing a claim for compensation 7913  
and benefits for occupational pneumoconiosis shall receive 7914  
medical, nurse, and hospital services in accordance with section 7915  
4123.66 of the Revised Code. 7916

Sec. 4133.12. An employee who is awarded compensation for 7917  
temporary total disability for occupational pneumoconiosis shall 7918  
receive sixty-six and two-thirds per cent of the employee's 7919  
average weekly wage so long as such disability is total. The 7920  
employee shall not receive an amount of weekly compensation that 7921  
exceeds an amount that is equal to the statewide average weekly 7922  
wage or that is less than an amount that is equal to thirty- 7923  
three and one-third per cent of the statewide average weekly 7924  
wage. In no event, however, shall the minimum weekly 7925  
compensation exceed the level of compensation determined by 7926  
using the federal minimum hourly wage. 7927

The number of weeks of temporary total disability 7928  
compensation an employee may receive for a single occupational 7929  
pneumoconiosis claim shall not exceed one hundred four weeks. 7930

Sec. 4133.13. (A) An employee who is awarded compensation 7931  
for permanent partial disability for occupational pneumoconiosis 7932  
shall receive sixty-six and two-thirds per cent of the 7933  
employee's average weekly wage. The employee shall not receive 7934  
an amount of weekly compensation that exceeds an amount that is 7935

equal to seventy per cent of the statewide average weekly wage 7936  
or that is less than an amount equal to thirty-three and one- 7937  
third per cent of the statewide average weekly wage. In no 7938  
event, however, shall the minimum weekly compensation exceed the 7939  
level of compensation determined by using the federal minimum 7940  
hourly wage. 7941

(B) (1) Except as provided in division (B) (2) of this 7942  
section, an employee shall receive four weeks of compensation 7943  
for each percentage of disability that the administrator of 7944  
workers' compensation determines to be permanent. 7945

(2) If an employee is released by the employee's treating 7946  
physician to return to work at the position the employee held 7947  
before the occupational pneumoconiosis occurred and the 7948  
employee's preinjury employer does not offer the preinjury 7949  
position or a comparable position to the employee when a 7950  
position is available, the award for the percentage of partial 7951  
disability shall be computed on the basis of six weeks of 7952  
compensation for each percentage of disability. 7953

(C) The degree of permanent partial disability shall be 7954  
determined by the degree of whole body medical impairment that 7955  
an employee has suffered. Once the degree of an employee's 7956  
medical impairment has been determined, that degree of 7957  
impairment is the percentage of permanent partial disability 7958  
that shall be awarded to the employee. The occupational 7959  
pneumoconiosis board shall premise its decision on the degree of 7960  
pulmonary function impairment that an employee suffers solely 7961  
upon whole body medical impairment. 7962

(D) The administrator shall adopt standards for 7963  
determining an employee's degree of whole body medical 7964  
impairment. 7965

Sec. 4133.14. An employee who is awarded compensation for permanent total disability for occupational pneumoconiosis shall receive sixty-six and two-thirds per cent of the employee's average weekly wage. The employee shall not receive an amount of weekly compensation that exceeds an amount that is equal to one hundred per cent of the statewide average weekly wage or that is less than an amount that is equal to thirty-three and one-third per cent of the statewide average weekly wage. In no event, however, shall the minimum weekly compensation exceed the level of compensation determined by using the federal minimum hourly wage. 7966  
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Permanent total disability compensation for occupational pneumoconiosis shall cease upon the employee reaching seventy years of age. 7977  
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If an employee is determined to be permanently disabled due to occupational pneumoconiosis, the percentage of permanent disability shall be determined by the degree of medical impairment found by the occupational pneumoconiosis board. 7980  
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In cases of permanent disability or death due to occupational pneumoconiosis accompanied by active tuberculosis of the lungs, compensation is payable for disability or death due to occupational pneumoconiosis alone. 7984  
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Sec. 4133.15. Benefits in case of death due to occupational pneumoconiosis shall be paid in accordance with section 4123.60 of the Revised Code. 7988  
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Sec. 4133.16. In computing compensation for occupational pneumoconiosis claims, the administrator of workers' compensation or a self-insuring employer shall deduct the amount of all prior compensation or benefits paid to the same claimant 7991  
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due to silicosis under this chapter or Chapter 4123. of the 7995  
Revised Code, but a prior silicosis award shall not, in any 7996  
event, preclude an award for occupational pneumoconiosis 7997  
otherwise payable under this chapter. 7998

**Sec. 4729.80.** (A) If the state board of pharmacy 7999  
establishes and maintains a drug database pursuant to section 8000  
4729.75 of the Revised Code, the board is authorized or required 8001  
to provide information from the database in accordance with the 8002  
following: 8003

(1) On receipt of a request from a designated 8004  
representative of a government entity responsible for the 8005  
licensure, regulation, or discipline of health care 8006  
professionals with authority to prescribe, administer, or 8007  
dispense drugs, the board may provide to the representative 8008  
information from the database relating to the professional who 8009  
is the subject of an active investigation being conducted by the 8010  
government entity. 8011

(2) On receipt of a request from a federal officer, or a 8012  
state or local officer of this or any other state, whose duties 8013  
include enforcing laws relating to drugs, the board shall 8014  
provide to the officer information from the database relating to 8015  
the person who is the subject of an active investigation of a 8016  
drug abuse offense, as defined in section 2925.01 of the Revised 8017  
Code, being conducted by the officer's employing government 8018  
entity. 8019

(3) Pursuant to a subpoena issued by a grand jury, the 8020  
board shall provide to the grand jury information from the 8021  
database relating to the person who is the subject of an 8022  
investigation being conducted by the grand jury. 8023

(4) Pursuant to a subpoena, search warrant, or court order 8024  
in connection with the investigation or prosecution of a 8025  
possible or alleged criminal offense, the board shall provide 8026  
information from the database as necessary to comply with the 8027  
subpoena, search warrant, or court order. 8028

(5) On receipt of a request from a prescriber or the 8029  
prescriber's delegate approved by the board, the board shall 8030  
provide to the prescriber a report of information from the 8031  
database relating to a patient who is either a current patient 8032  
of the prescriber or a potential patient of the prescriber based 8033  
on a referral of the patient to the prescriber, if all of the 8034  
following conditions are met: 8035

(a) The prescriber certifies in a form specified by the 8036  
board that it is for the purpose of providing medical treatment 8037  
to the patient who is the subject of the request; 8038

(b) The prescriber has not been denied access to the 8039  
database by the board. 8040

(6) On receipt of a request from a pharmacist or the 8041  
pharmacist's delegate approved by the board, the board shall 8042  
provide to the pharmacist information from the database relating 8043  
to a current patient of the pharmacist, if the pharmacist 8044  
certifies in a form specified by the board that it is for the 8045  
purpose of the pharmacist's practice of pharmacy involving the 8046  
patient who is the subject of the request and the pharmacist has 8047  
not been denied access to the database by the board. 8048

(7) On receipt of a request from an individual seeking the 8049  
individual's own database information in accordance with the 8050  
procedure established in rules adopted under section 4729.84 of 8051  
the Revised Code, the board may provide to the individual the 8052

individual's own database information. 8053

(8) On receipt of a request from a medical director or a 8054  
pharmacy director of a managed care organization that has 8055  
entered into a contract with the department of medicaid under 8056  
section 5167.10 of the Revised Code and a data security 8057  
agreement with the board required by section 5167.14 of the 8058  
Revised Code, the board shall provide to the medical director or 8059  
the pharmacy director information from the database relating to 8060  
a medicaid recipient enrolled in the managed care organization, 8061  
including information in the database related to prescriptions 8062  
for the recipient that were not covered or reimbursed under a 8063  
program administered by the department of medicaid. 8064

(9) On receipt of a request from the medicaid director, 8065  
the board shall provide to the director information from the 8066  
database relating to a recipient of a program administered by 8067  
the department of medicaid, including information in the 8068  
database related to prescriptions for the recipient that were 8069  
not covered or paid by a program administered by the department. 8070

(10) On receipt of a request from a medical director of a 8071  
managed care organization that has entered into a contract with 8072  
the administrator of workers' compensation under division (B) (4) 8073  
of section 4121.44 of the Revised Code and a data security 8074  
agreement with the board required by section 4121.447 of the 8075  
Revised Code, the board shall provide to the medical director 8076  
information from the database relating to a claimant under 8077  
Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised 8078  
Code assigned to the managed care organization, including 8079  
information in the database related to prescriptions for the 8080  
claimant that were not covered or reimbursed under Chapter 8081  
4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code, if 8082

the administrator of workers' compensation confirms, upon 8083  
request from the board, that the claimant is assigned to the 8084  
managed care organization. 8085

(11) On receipt of a request from the administrator of 8086  
workers' compensation, the board shall provide to the 8087  
administrator information from the database relating to a 8088  
claimant under Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. 8089  
of the Revised Code, including information in the database 8090  
related to prescriptions for the claimant that were not covered 8091  
or reimbursed under Chapter 4121., 4123., 4127., ~~or 4131.~~, or 8092  
4133. of the Revised Code. 8093

(12) On receipt of a request from a prescriber or the 8094  
prescriber's delegate approved by the board, the board shall 8095  
provide to the prescriber information from the database relating 8096  
to a patient's mother, if the prescriber certifies in a form 8097  
specified by the board that it is for the purpose of providing 8098  
medical treatment to a newborn or infant patient diagnosed as 8099  
opioid dependent and the prescriber has not been denied access 8100  
to the database by the board. 8101

(13) On receipt of a request from the director of health, 8102  
the board shall provide to the director information from the 8103  
database relating to the duties of the director or the 8104  
department of health in implementing the Ohio violent death 8105  
reporting system established under section 3701.93 of the 8106  
Revised Code. 8107

(14) On receipt of a request from a requestor described in 8108  
division (A)(1), (2), (5), or (6) of this section who is from or 8109  
participating with another state's prescription monitoring 8110  
program, the board may provide to the requestor information from 8111  
the database, but only if there is a written agreement under 8112

which the information is to be used and disseminated according 8113  
to the laws of this state. 8114

(B) The state board of pharmacy shall maintain a record of 8115  
each individual or entity that requests information from the 8116  
database pursuant to this section. In accordance with rules 8117  
adopted under section 4729.84 of the Revised Code, the board may 8118  
use the records to document and report statistics and law 8119  
enforcement outcomes. 8120

The board may provide records of an individual's requests 8121  
for database information to the following: 8122

(1) A designated representative of a government entity 8123  
that is responsible for the licensure, regulation, or discipline 8124  
of health care professionals with authority to prescribe, 8125  
administer, or dispense drugs who is involved in an active 8126  
investigation being conducted by the government entity of the 8127  
individual who submitted the requests for database information; 8128

(2) A federal officer, or a state or local officer of this 8129  
or any other state, whose duties include enforcing laws relating 8130  
to drugs and who is involved in an active investigation being 8131  
conducted by the officer's employing government entity of the 8132  
individual who submitted the requests for database information. 8133

(C) Information contained in the database and any 8134  
information obtained from it is not a public record. Information 8135  
contained in the records of requests for information from the 8136  
database is not a public record. Information that does not 8137  
identify a person may be released in summary, statistical, or 8138  
aggregate form. 8139

(D) A pharmacist or prescriber shall not be held liable in 8140  
damages to any person in any civil action for injury, death, or 8141

loss to person or property on the basis that the pharmacist or 8142  
prescriber did or did not seek or obtain information from the 8143  
database. 8144

**Sec. 5145.163.** (A) As used in this section: 8145

(1) "Customer model enterprise" means an enterprise 8146  
conducted under a federal prison industries enhancement 8147  
certification program in which a private party participates in 8148  
the enterprise only as a purchaser of goods and services. 8149

(2) "Employer model enterprise" means an enterprise 8150  
conducted under a federal prison industries enhancement 8151  
certification program in which a private party participates in 8152  
the enterprise as an operator of the enterprise. 8153

(3) "Injury" means a diagnosable injury to an inmate 8154  
supported by medical findings that it was sustained in the 8155  
course of and arose out of authorized work activity that was an 8156  
integral part of the inmate's participation in the Ohio penal 8157  
industries program. 8158

(4) "Inmate" means any person who is committed to the 8159  
custody of the department of rehabilitation and correction and 8160  
who is participating in an Ohio penal industries program that is 8161  
under the federal prison industries enhancement certification 8162  
program. 8163

(5) "Federal prison industries enhancement certification 8164  
program" means the program authorized pursuant to 18 U.S.C. 8165  
1761. 8166

(6) "Loss of earning capacity" means an impairment of the 8167  
body of an inmate to a degree that makes the inmate unable to 8168  
return to work activity under the Ohio penal industries program 8169  
and results in a reduction of compensation earned by the inmate 8170

at the time the injury occurred. 8171

(B) Every inmate shall be covered by a policy of 8172  
disability insurance to provide benefits for loss of earning 8173  
capacity due to an injury and for medical treatment of the 8174  
injury following the inmate's release from prison. If the 8175  
enterprise for which the inmate works is a customer model 8176  
enterprise, Ohio penal industries shall purchase the policy. If 8177  
the enterprise for which the inmate works is an employer model 8178  
enterprise, the private participant shall purchase the policy. 8179  
The person required to purchase the policy shall submit proof of 8180  
coverage to the prison labor advisory board before the 8181  
enterprise begins operation. 8182

(C) Within ninety days after an inmate sustains an injury, 8183  
the inmate may file a disability claim with the person required 8184  
to purchase the policy of disability insurance. Upon the request 8185  
of the insurer, the inmate shall be medically examined, and the 8186  
insurer shall determine the inmate's entitlement to disability 8187  
benefits based on the medical examination. The inmate shall 8188  
accept or reject an award within thirty days after a 8189  
determination of the inmate's entitlement to the award. If the 8190  
inmate accepts the award, the benefits shall be paid upon the 8191  
inmate's release from prison. The amount of disability benefits 8192  
payable to the inmate shall be reduced by sick leave benefits or 8193  
other compensation for lost pay made by Ohio penal industries to 8194  
the inmate due to an injury that rendered the inmate unable to 8195  
work. An inmate shall not receive disability benefits for 8196  
injuries occurring as the result of a fight, assault, horseplay, 8197  
purposely self-inflicted injury, use of alcohol or controlled 8198  
substances, misuse of prescription drugs, or other activity that 8199  
is prohibited by the department's or institution's inmate 8200  
conduct rules or the work rules of the private participant in 8201

the enterprise. 8202

(D) Inmates are not employees of the department of 8203  
rehabilitation and correction or the private participant in an 8204  
enterprise. 8205

(E) An inmate is ineligible to receive compensation or 8206  
benefits under Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. 8207  
of the Revised Code for any injury, death, or occupational 8208  
disease received in the course of, and arising out of, 8209  
participation in the Ohio penal industries program. Any claim 8210  
for an injury arising from an inmate's participation in the 8211  
program is specifically excluded from the jurisdiction of the 8212  
Ohio bureau of workers' compensation and the industrial 8213  
commission of Ohio. 8214

(F) Any disability benefit award accepted by an inmate 8215  
under this section shall be the inmate's exclusive remedy 8216  
against the insurer, the private participant in an enterprise, 8217  
and the state. If an inmate rejects an award or a disability 8218  
claim is denied, the inmate may bring an action in the court of 8219  
claims within the appropriate period of limitations. 8220

(G) If any inmate who is paid disability benefits under 8221  
this section is reincarcerated, the benefits shall immediately 8222  
cease but shall resume upon the inmate's subsequent release from 8223  
incarceration. 8224

**Sec. 5503.08.** Each state highway patrol officer shall, in 8225  
addition to the sick leave benefits provided in section 124.38 8226  
of the Revised Code, be entitled to occupational injury leave. 8227  
Occupational injury leave of one thousand five hundred hours 8228  
with pay may, with the approval of the superintendent of the 8229  
state highway patrol, be used for absence resulting from each 8230

independent injury incurred in the line of duty, except that 8231  
occupational injury leave is not available for injuries incurred 8232  
during those times when the patrol officer is actually engaged 8233  
in administrative or clerical duties at a patrol facility, when 8234  
a patrol officer is on a meal or rest period, or when the patrol 8235  
officer is engaged in any personal business. The superintendent 8236  
of the state highway patrol shall, by rule, define those 8237  
administrative and clerical duties and those situations where 8238  
the occurrence of an injury does not entitle the patrol officer 8239  
to occupational injury leave. Each injury incurred in the line 8240  
of duty which aggravates a previously existing injury, whether 8241  
the previously existing injury was so incurred or not, shall be 8242  
considered an independent injury. When its use is authorized 8243  
under this section, all occupational injury leave shall be 8244  
exhausted before any credit is deducted from unused sick leave 8245  
accumulated under section 124.38 of the Revised Code, except 8246  
that, unless otherwise provided by the superintendent of the 8247  
state highway patrol, occupational injury leave shall not be 8248  
used for absence occurring within seven calendar days of the 8249  
injury. During that seven calendar day period, unused sick leave 8250  
may be used for such an absence. 8251

When occupational injury leave is used, it shall be 8252  
deducted from the unused balance of the patrol officer's 8253  
occupational injury leave for that injury on the basis of one 8254  
hour for every one hour of absence from previously scheduled 8255  
work. 8256

Before a patrol officer may use occupational injury leave, 8257  
the patrol officer shall: 8258

(A) Apply to the superintendent for permission to use 8259  
occupational injury leave on a form that requires the patrol 8260

officer to explain the nature of the patrol officer's 8261  
independent injury and the circumstances under which it 8262  
occurred; and 8263

(B) Submit to a medical examination. The individual who 8264  
conducts the examination shall report to the superintendent the 8265  
results of the examination and whether or not the independent 8266  
injury prevents the patrol officer from attending work. 8267

The superintendent shall, by rule, provide for periodic 8268  
medical examinations of patrol officers who are using 8269  
occupational injury leave. The individual selected to conduct 8270  
the medical examinations shall report to the superintendent the 8271  
results of each such examination, including a description of the 8272  
progress made by the patrol officer in recovering from the 8273  
independent injury, and whether or not the independent injury 8274  
continues to prevent the patrol officer from attending work. 8275

The superintendent shall appoint to conduct medical 8276  
examinations under this division individuals authorized by the 8277  
Revised Code to do so, including any physician assistant, 8278  
clinical nurse specialist, certified nurse practitioner, or 8279  
certified nurse-midwife. 8280

A patrol officer is not entitled to use or continue to use 8281  
occupational injury leave after refusing to submit to a medical 8282  
examination or if the individual examining the patrol officer 8283  
reports that the independent injury does not prevent the patrol 8284  
officer from attending work. 8285

A patrol officer who falsifies an application for 8286  
permission to use occupational injury leave or a medical 8287  
examination report is subject to disciplinary action, including 8288  
dismissal. 8289

The superintendent shall, by rule, prescribe forms for the application and medical examination report.

Occupational injury leave pay made according to this section is in lieu of such workers' compensation benefits as would have been payable directly to a patrol officer pursuant to sections ~~4123.56 and~~, 4123.58, 4133.12, and 4133.14 of the Revised Code, but all other compensation and benefits pursuant to ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code are payable as in any other case. If at the close of the period, the patrol officer remains disabled, the patrol officer is entitled to all compensation and benefits, without a waiting period pursuant to section 4123.55 of the Revised Code based upon the injury received, for which the patrol officer qualifies pursuant to ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code. Compensation shall be paid from the date that the patrol officer ceases to receive the patrol officer's regular rate of pay pursuant to this section.

Occupational injury leave shall not be credited to or, upon use, deducted from, a patrol officer's sick leave.

**Section 2.** That existing sections 109.84, 126.30, 145.2915, 2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 3701.741, 3963.10, 4115.03, 4121.03, 4121.12, 4121.121, 4121.125, 4121.127, 4121.129, 4121.30, 4121.31, 4121.32, 4121.34, 4121.36, 4121.41, 4121.44, 4121.441, 4121.442, 4121.444, 4121.45, 4121.50, 4121.61, 4123.15, 4123.26, 4123.291, 4123.311, 4123.32, 4123.324, 4123.34, 4123.341, 4123.343, 4123.35, 4123.351, 4123.353, 4123.402, 4123.441, 4123.442, 4123.444, 4123.47, 4123.51, 4123.511, 4123.512, 4123.53, 4123.54, 4123.542, 4123.57, 4123.571, 4123.65, 4123.68, 4123.93, 4123.931, 4125.03, 4125.04, 4131.01, 4729.80, 5145.163, and

5503.08 of the Revised Code are hereby repealed. 8320

**Section 3.** Sections 1 and 2 of this act apply to claims 8321  
for compensation and benefits for disability or death due to 8322  
occupational pneumoconiosis arising on or after the effective 8323  
date of this act. 8324

**Section 4.** The General Assembly, applying the principle 8325  
stated in division (B) of section 1.52 of the Revised Code that 8326  
amendments are to be harmonized if reasonably capable of 8327  
simultaneous operation, finds that the following sections, 8328  
presented in this act as composites of the sections as amended 8329  
by the acts indicated, are the resulting version of the sections 8330  
in effect prior to the effective date of the section as 8331  
presented in this act: 8332

Section 4121.12 of the Revised Code, as amended by Sub. 8333  
H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 8334  
General Assembly. 8335

Section 4121.125 of the Revised Code, as amended by Sub. 8336  
H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 8337  
General Assembly. 8338