

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 99**

**Representative Cera**

**Cosponsors: Representatives Rogers, O'Brien, Leland, Antonio, Ashford, Ramos,  
Miller, Bocchieri, Smith, K., Leopre-Hagan**

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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  
4121.13, 4121.30, 4121.31, 4121.32, 4121.34, 5  
4121.36, 4121.41, 4121.44, 4121.441, 4121.442, 6  
4121.444, 4121.45, 4121.50, 4121.61, 4123.025, 7  
4123.05, 4123.15, 4123.26, 4123.27, 4123.291, 8  
4123.30, 4123.311, 4123.32, 4123.324, 4123.34, 9  
4123.341, 4123.342, 4123.343, 4123.35, 4123.351, 10  
4123.353, 4123.402, 4123.441, 4123.442, 11  
4123.444, 4123.46, 4123.47, 4123.51, 4123.511, 12  
4123.512, 4123.522, 4123.53, 4123.54, 4123.542, 13  
4123.57, 4123.571, 4123.65, 4123.651, 4123.66, 14  
4123.67, 4123.68, 4123.69, 4123.74, 4123.741, 15  
4123.85, 4123.89, 4123.93, 4123.931, 4125.03, 16  
4125.04, 4131.01, 4729.80, 5145.163, and 5503.08 17  
and to enact sections 4133.01 to 4133.16 of the 18  
Revised Code to modify workers' compensation 19  
benefit amounts for occupational pneumoconiosis 20  
claims and to create the Occupational 21

Pneumoconiosis Board to determine medical 22  
findings for such claims. 23

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

**Section 1.** That sections 109.84, 126.30, 145.2915, 24  
2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 3701.741, 25  
3963.10, 4115.03, 4121.03, 4121.12, 4121.121, 4121.125, 26  
4121.127, 4121.129, 4121.13, 4121.30, 4121.31, 4121.32, 4121.34, 27  
4121.36, 4121.41, 4121.44, 4121.441, 4121.442, 4121.444, 28  
4121.45, 4121.50, 4121.61, 4123.025, 4123.05, 4123.15, 4123.26, 29  
4123.27, 4123.291, 4123.30, 4123.311, 4123.32, 4123.324, 30  
4123.34, 4123.341, 4123.342, 4123.343, 4123.35, 4123.351, 31  
4123.353, 4123.402, 4123.441, 4123.442, 4123.444, 4123.46, 32  
4123.47, 4123.51, 4123.511, 4123.512, 4123.522, 4123.53, 33  
4123.54, 4123.542, 4123.57, 4123.571, 4123.65, 4123.651, 34  
4123.66, 4123.67, 4123.68, 4123.69, 4123.74, 4123.741, 4123.85, 35  
4123.89, 4123.93, 4123.931, 4125.03, 4125.04, 4131.01, 4729.80, 36  
5145.163, and 5503.08 be amended and sections 4133.01, 4133.02, 37  
4133.03, 4133.04, 4133.05, 4133.06, 4133.07, 4133.08, 4133.09, 38  
4133.10, 4133.11, 4133.12, 4133.13, 4133.14, 4133.15, and 39  
4133.16 of the Revised Code be enacted to read as follows: 40

**Sec. 109.84.** (A) Upon the written request of the governor, 41  
the industrial commission, the administrator of workers' 42  
compensation, or upon the attorney general's becoming aware of 43  
criminal or improper activity related to Chapter 4121.~~or, 44~~  
4123., or 4133. of the Revised Code, the attorney general shall 45  
investigate any criminal or civil violation of law related to 46  
Chapter 4121.~~or, 4123., or 4133.~~ of the Revised Code. 47

(B) When it appears to the attorney general, as a result 48  
of an investigation under division (A) of this section, that 49  
there is cause to prosecute for the commission of a crime or to 50  
pursue a civil remedy, ~~he~~ the attorney general may refer the 51  
evidence to the prosecuting attorney having jurisdiction of the 52  
matter, or to a regular grand jury drawn and impaneled pursuant 53  
to sections 2939.01 to 2939.24 of the Revised Code, or to a 54  
special grand jury drawn and impaneled pursuant to section 55  
2939.17 of the Revised Code, or ~~he~~ the attorney general may 56  
initiate and prosecute any necessary criminal or civil actions 57  
in any court or tribunal of competent jurisdiction in this 58  
state. When proceeding under this section, the attorney general 59  
has all rights, privileges, and powers of prosecuting attorneys, 60  
and any assistant or special counsel designated by ~~him~~ the 61  
attorney general for that purpose has the same authority. 62

(C) The attorney general shall be reimbursed by the bureau 63  
of workers' compensation for all actual and necessary costs 64  
incurred in conducting investigations requested by the governor, 65  
the commission, or the administrator and all actual and 66  
necessary costs in conducting the prosecution arising out of 67  
such investigation. 68

**Sec. 126.30.** (A) Any state agency that purchases, leases, 69  
or otherwise acquires any equipment, materials, goods, supplies, 70  
or services from any person and fails to make payment for the 71  
equipment, materials, goods, supplies, or services by the 72  
required payment date shall pay an interest charge to the person 73  
in accordance with division (E) of this section, unless the 74  
amount of the interest charge is less than ten dollars. Except 75  
as otherwise provided in division (B), (C), or (D) of this 76  
section, the required payment date shall be the date on which 77  
payment is due under the terms of a written agreement between 78

the state agency and the person or, if a specific payment date 79  
is not established by such a written agreement, the required 80  
payment date shall be thirty days after the state agency 81  
receives a proper invoice for the amount of the payment due. 82

(B) If the invoice submitted to the state agency contains 83  
a defect or impropriety, the agency shall send written 84  
notification to the person within fifteen days after receipt of 85  
the invoice. The notice shall contain a description of the 86  
defect or impropriety and any additional information necessary 87  
to correct the defect or impropriety. If the agency sends such 88  
written notification to the person, the required payment date 89  
shall be thirty days after the state agency receives a proper 90  
invoice. 91

(C) In applying this section to claims submitted to the 92  
department of job and family services by providers of equipment, 93  
materials, goods, supplies, or services, the required payment 94  
date shall be the date on which payment is due under the terms 95  
of a written agreement between the department and the provider. 96  
If a specific payment date is not established by a written 97  
agreement, the required payment date shall be thirty days after 98  
the department receives a proper claim. If the department 99  
determines that the claim is improperly executed or that 100  
additional evidence of the validity of the claim is required, 101  
the department shall notify the claimant in writing or by 102  
telephone within fifteen days after receipt of the claim. The 103  
notice shall state that the claim is improperly executed and 104  
needs correction or that additional information is necessary to 105  
establish the validity of the claim. If the department makes 106  
such notification to the provider, the required payment date 107  
shall be thirty days after the department receives the corrected 108  
claim or such additional information as may be necessary to 109

establish the validity of the claim. 110

(D) In applying this section to invoices submitted to the 111  
bureau of workers' compensation for equipment, materials, goods, 112  
supplies, or services provided to employees in connection with 113  
an employee's claim against the state insurance fund, the public 114  
work-relief employees' compensation fund, the coal-workers 115  
pneumoconiosis fund, or the marine industry fund as compensation 116  
for injuries or occupational disease pursuant to Chapter 4123., 117  
4127., ~~or 4131.~~, or 4133. of the Revised Code, the required 118  
payment date shall be the date on which payment is due under the 119  
terms of a written agreement between the bureau and the 120  
provider. If a specific payment date is not established by a 121  
written agreement, the required payment date shall be thirty 122  
days after the bureau receives a proper invoice for the amount 123  
of the payment due or thirty days after the final adjudication 124  
allowing payment of an award to the employee, whichever is 125  
later. Nothing in this section shall supersede any faster 126  
timetable for payments to health care providers contained in 127  
sections 4121.44 and 4123.512 of the Revised Code. 128

For purposes of this division, a "proper invoice" includes 129  
the claimant's name, claim number and date of injury, employer's 130  
name, the provider's name and address, the provider's assigned 131  
payee number, a description of the equipment, materials, goods, 132  
supplies, or services provided by the provider to the claimant, 133  
the date provided, and the amount of the charge. If more than 134  
one item of equipment, materials, goods, supplies, or services 135  
is listed by a provider on a single application for payment, 136  
each item shall be considered separately in determining if it is 137  
a proper invoice. 138

If prior to a final adjudication the bureau determines 139

that the invoice contains a defect, the bureau shall notify the 140  
provider in writing at least fifteen days prior to what would be 141  
the required payment date if the invoice did not contain a 142  
defect. The notice shall contain a description of the defect and 143  
any additional information necessary to correct the defect. If 144  
the bureau sends a notification to the provider, the required 145  
payment date shall be redetermined in accordance with this 146  
division after the bureau receives a proper invoice. 147

For purposes of this division, "final adjudication" means 148  
the later of the date of the decision or other action by the 149  
bureau, the industrial commission, or a court allowing payment 150  
of the award to the employee from which there is no further 151  
right to reconsideration or appeal that would require the bureau 152  
to withhold compensation and benefits, or the date on which the 153  
rights to reconsideration or appeal have expired without an 154  
application therefor having been filed or, if later, the date on 155  
which an application for reconsideration or appeal is withdrawn. 156  
If after final adjudication, the administrator of the bureau of 157  
workers' compensation or the industrial commission makes a 158  
modification with respect to former findings or orders, pursuant 159  
to Chapter 4123., 4127., ~~or 4131.~~, or 4133. of the Revised Code 160  
or pursuant to court order, the adjudication process shall no 161  
longer be considered final for purposes of determining the 162  
required payment date for invoices for equipment, materials, 163  
goods, supplies, or services provided after the date of the 164  
modification when the propriety of the invoices is affected by 165  
the modification. 166

(E) The interest charge on amounts due shall be paid to 167  
the person for the period beginning on the day after the 168  
required payment date and ending on the day that payment of the 169  
amount due is made. The amount of the interest charge that 170

remains unpaid at the end of any thirty-day period after the 171  
required payment date, including amounts under ten dollars, 172  
shall be added to the principal amount of the debt and 173  
thereafter the interest charge shall accrue on the principal 174  
amount of the debt plus the added interest charge. The interest 175  
charge shall be at the rate per calendar month that equals one- 176  
twelfth of the rate per annum prescribed by section 5703.47 of 177  
the Revised Code for the calendar year that includes the month 178  
for which the interest charge accrues. 179

(F) No appropriations shall be made for the payment of any 180  
interest charges required by this section. Any state agency 181  
required to pay interest charges under this section shall make 182  
the payments from moneys available for the administration of 183  
agency programs. 184

If a state agency pays interest charges under this 185  
section, but determines that all or part of the interest charges 186  
should have been paid by another state agency, the state agency 187  
that paid the interest charges may request the attorney general 188  
to determine the amount of the interest charges that each state 189  
agency should have paid under this section. If the attorney 190  
general determines that the state agency that paid the interest 191  
charges should have paid none or only a part of the interest 192  
charges, the attorney general shall notify the state agency that 193  
paid the interest charges, any other state agency that should 194  
have paid all or part of the interest charges, and the director 195  
of budget and management of the attorney general's decision, 196  
stating the amount of interest charges that each state agency 197  
should have paid. The director shall transfer from the 198  
appropriate funds of any other state agency that should have 199  
paid all or part of the interest charges to the appropriate 200  
funds of the state agency that paid the interest charges an 201

amount necessary to implement the attorney general's decision. 202

(G) Not later than forty-five days after the end of each 203  
fiscal year, each state agency shall file with the director of 204  
budget and management a detailed report concerning the interest 205  
charges the agency paid under this section during the previous 206  
fiscal year. The report shall include the number, amounts, and 207  
frequency of interest charges the agency incurred during the 208  
previous fiscal year and the reasons why the interest charges 209  
were not avoided by payment prior to the required payment date. 210  
The director shall compile a summary of all the reports 211  
submitted under this division and shall submit a copy of the 212  
summary to the president and minority leader of the senate and 213  
to the speaker and minority leader of the house of 214  
representatives no later than the thirtieth day of September of 215  
each year. 216

**Sec. 145.2915.** (A) As used in this section, "workers' 217  
compensation" means benefits paid under Chapter 4121. ~~or, ,~~ 218  
4123., or 4133. of the Revised Code. 219

(B) A member of the public employees retirement system may 220  
purchase service credit under this section for any period during 221  
which the member was out of service with a public employer and 222  
receiving workers' compensation if the member returns to 223  
employment covered by this chapter. 224

(C) For credit purchased under this section: 225

(1) If the member is employed by one public employer, for 226  
each year of credit, the member shall pay to the system for 227  
credit to the employees' savings fund an amount equal to the 228  
employee contribution required under section 145.47 of the 229  
Revised Code that would have been paid had the member not been 230

out of service based on the salary of the member before the 231  
member was out of service. To this amount shall be added an 232  
amount equal to compound interest at a rate established by the 233  
public employees retirement board from the first date the member 234  
was out of service to the final date of payment. 235

(2) If the member is employed by more than one public 236  
employer, the member is eligible to purchase credit under this 237  
section and make payments under division (C)(1) of this section 238  
only for the position for which the member received workers' 239  
compensation. For each year of credit, the member shall pay to 240  
the system for credit to the employees' savings fund an amount 241  
equal to the employee contribution required under section 145.47 242  
of the Revised Code that would have been paid had the member not 243  
been out of service based on the salary of the member earned for 244  
the position for which the member received workers' compensation 245  
before the member was out of service. To this amount shall be 246  
added an amount equal to compound interest at a rate established 247  
by the public employees retirement board from the first date the 248  
member was out of service to the final date of payment. 249

(D) The member may choose to purchase only part of such 250  
credit in any one payment, subject to board rules. 251

(E) If a member makes a payment under division (C) of this 252  
section, the employer to which workers' compensation benefits 253  
are attributed shall pay to the system for credit to the 254  
employers' accumulation fund an amount equal to the employer 255  
contribution required under section 145.48 or 145.49 of the 256  
Revised Code corresponding to that payment that would have been 257  
paid had the member not been out of service based on the salary 258  
of the member before the member was out of service. 259

Compound interest at a rate established by the board from 260

the later of the member's date of re-employment or January 7, 261  
2013, to the date of payment shall be added to this amount if 262  
the employer pays all or any portion of the amount after the end 263  
of the earlier of the following: 264

(1) A period of five years; 265

(2) A period that is three times the period during which 266  
the member was out of service and receiving workers' 267  
compensation. 268

The period described in division (E) (1) or (2) of this 269  
section begins with the later of the member's date of re- 270  
employment or January 7, 2013. 271

(F) The number of years purchased under this section shall 272  
not exceed three. Credit purchased under this section may be 273  
combined pursuant to section 145.37 of the Revised Code with 274  
credit purchased or obtained under Chapter 3307. or 3309. of the 275  
Revised Code for periods the member was out of service and 276  
receiving workers' compensation, but not more than a total of 277  
three years of credit may be used in determining retirement 278  
eligibility or calculating benefits under section 145.37 of the 279  
Revised Code. 280

**Sec. 2307.84.** As used in sections 2307.84 to 2307.90 and 281  
2307.901 of the Revised Code: 282

(A) "AMA guides to the evaluation of permanent impairment" 283  
means the American medical association's guides to the 284  
evaluation of permanent impairment (fifth edition 2000) as may 285  
be modified by the American medical association. 286

(B) "Board-certified internist" means a medical doctor who 287  
is currently certified by the American board of internal 288  
medicine. 289

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

(I) "Competent medical authority" means a medical doctor 318  
who is providing a diagnosis for purposes of constituting prima- 319  
facie evidence of an exposed person's physical impairment that 320  
meets the requirements specified in section 2307.85 or 2307.86 321  
of the Revised Code, whichever is applicable, and who meets the 322  
following requirements: 323

(1) The medical doctor is a board-certified internist, 324  
pulmonary specialist, oncologist, pathologist, or occupational 325  
medicine specialist. 326

(2) The medical doctor is actually treating or has treated 327  
the exposed person and has or had a doctor-patient relationship 328  
with the person. 329

(3) As the basis for the diagnosis, the medical doctor has 330  
not relied, in whole or in part, on any of the following: 331

(a) 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 in 334  
violation of any law, regulation, licensing requirement, or 335  
medical code of practice of the state in which that examination, 336  
test, or screening was conducted; 337

(b) 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 was 340  
conducted without clearly establishing a doctor-patient 341  
relationship with the claimant or medical personnel involved in 342  
the examination, test, or screening process; 343

(c) The reports or opinions of any doctor, clinic, 344  
laboratory, or testing company that performed an examination, 345  
test, or screening of the claimant's medical condition that 346

required the claimant to agree to retain the legal services of 347  
the law firm sponsoring the examination, test, or screening. 348

(4) The medical doctor spends not more than twenty-five 349  
per cent of the medical doctor's professional practice time in 350  
providing consulting or expert services in connection with 351  
actual or potential tort actions, and the medical doctor's 352  
medical group, professional corporation, clinic, or other 353  
affiliated group earns not more than twenty per cent of its 354  
revenues from providing those services. 355

(J) "Exposed person" means either of the following, 356  
whichever is applicable: 357

(1) A person whose exposure to silica is the basis for a 358  
silicosis claim under section 2307.85 of the Revised Code; 359

(2) A person whose exposure to mixed dust is the basis for 360  
a mixed dust disease claim under section 2307.86 of the Revised 361  
Code. 362

(K) "ILO scale" means the system for the classification of 363  
chest x-rays set forth in the international labour office's 364  
guidelines for the use of ILO international classification of 365  
radiographs of pneumoconioses (2000), as amended. 366

(L) "Lung cancer" means a malignant tumor in which the 367  
primary site of origin of the cancer is inside the lungs. 368

(M) "Mixed dust" means a mixture of dusts composed of 369  
silica and one or more other fibrogenic dusts capable of 370  
inducing pulmonary fibrosis if inhaled in sufficient quantity. 371

(N) "Mixed dust disease claim" means any claim for 372  
damages, losses, indemnification, contribution, or other relief 373  
arising out of, based on, or in any way related to inhalation 374

of, exposure to, or contact with mixed dust. "Mixed dust disease claim" includes a claim made by or on behalf of any person who has been exposed to mixed dust, or any representative, spouse, parent, child, or other relative of that person, for injury, including mental or emotional injury, death, or loss to person, risk of disease or other injury, costs of medical monitoring or surveillance, or any other effects on the person's health that are caused by the person's exposure to mixed dust.

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

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

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

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

(Q) "Pathological evidence of mixed dust pneumoconiosis" 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 and parenchymal stellate (star-shaped) nodular scarring and that there is no other more likely explanation for the presence of the fibrosis.

(R) "Pathological evidence of silicosis" 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 round silica nodules

and birefringent crystals or other demonstration of crystal 404  
structures consistent with silica (well-organized concentric 405  
whorls of collagen surrounded by inflammatory cells) in the lung 406  
parenchyma and that there is no other more likely explanation 407  
for the presence of the fibrosis. 408

(S) "Physical impairment" means any of the following, 409  
whichever is applicable: 410

(1) A nonmalignant condition that meets the minimum 411  
requirements of division (B) of section 2307.85 of the Revised 412  
Code or lung cancer of an exposed person who is a smoker that 413  
meets the minimum requirements of division (C) of section 414  
2307.85 of the Revised Code; 415

(2) A nonmalignant condition that meets the minimum 416  
requirements of division (B) of section 2307.86 of the Revised 417  
Code or lung cancer of an exposed person who is a smoker that 418  
meets the minimum requirements of division (C) of section 419  
2307.86 of the Revised Code. 420

(T) "Premises owner" means a person who owns, in whole or 421  
in part, leases, rents, maintains, or controls privately owned 422  
lands, ways, or waters, or any buildings and structures on those 423  
lands, ways, or waters, and all privately owned and state-owned 424  
lands, ways, or waters leased to a private person, firm, or 425  
organization, including any buildings and structures on those 426  
lands, ways, or waters. 427

(U) "Radiological evidence of mixed dust pneumoconiosis" 428  
means a chest x-ray showing bilateral rounded or irregular 429  
opacities in the upper lung fields graded by a certified B- 430  
reader as at least 1/1 on the ILO scale. 431

(V) "Radiological evidence of silicosis" means a chest x- 432

ray showing bilateral small rounded opacities (p, q, or r) in 433  
the upper lung fields graded by a certified B-reader as at least 434  
1/1 on the ILO scale. 435

(W) "Regular basis" means on a frequent or recurring 436  
basis. 437

(X) "Silica" means a respirable crystalline form of 438  
silicon dioxide, including, but not limited to, alpha quartz, 439  
cristobalite, and trydmite. 440

(Y) "Silicosis claim" means any claim for damages, losses, 441  
indemnification, contribution, or other relief arising out of, 442  
based on, or in any way related to inhalation of, exposure to, 443  
or contact with silica. "Silicosis claim" includes a claim made 444  
by or on behalf of any person who has been exposed to silica, or 445  
any representative, spouse, parent, child, or other relative of 446  
that person, for injury, including mental or emotional injury, 447  
death, or loss to person, risk of disease or other injury, costs 448  
of medical monitoring or surveillance, or any other effects on 449  
the person's health that are caused by the person's exposure to 450  
silica. 451

(Z) "Silicosis" means an interstitial lung disease caused 452  
by the pulmonary response to inhaled silica. 453

(AA) "Smoker" means a person who has smoked the equivalent 454  
of one-pack year, as specified in the written report of a 455  
competent medical authority pursuant to section 2307.85 or 456  
2307.86 and section 2307.87 of the Revised Code, during the last 457  
fifteen years. 458

(BB) "Substantial contributing factor" means both of the 459  
following: 460

(1) Exposure to silica or mixed dust is the predominate 461

cause of the physical impairment alleged in the silicosis claim 462  
or mixed dust disease claim, whichever is applicable. 463

(2) A competent medical authority has determined with a 464  
reasonable degree of medical certainty that without the silica 465  
or mixed dust exposures the physical impairment of the exposed 466  
person would not have occurred. 467

(CC) "Substantial occupational exposure to silica" means 468  
employment for a cumulative period of at least five years in an 469  
industry and an occupation in which, for a substantial portion 470  
of a normal work year for that occupation, the exposed person 471  
did any of the following: 472

(1) Handled silica; 473

(2) Fabricated silica-containing products so that the 474  
person was exposed to silica in the fabrication process; 475

(3) Altered, repaired, or otherwise worked with a silica- 476  
containing product in a manner that exposed the person on a 477  
regular basis to silica; 478

(4) Worked in close proximity to other workers engaged in 479  
any of the activities described in division (CC) (1), (2), or (3) 480  
of this section in a manner that exposed the person on a regular 481  
basis to silica. 482

(DD) "Substantial occupational exposure to mixed dust" 483  
means employment for a cumulative period of at least five years 484  
in an industry and an occupation in which, for a substantial 485  
portion of a normal work year for that occupation, the exposed 486  
person did any of the following: 487

(1) Handled mixed dust; 488

(2) Fabricated mixed dust-containing products so that the 489

person was exposed to mixed dust in the fabrication process;	490
(3) Altered, repaired, or otherwise worked with a mixed	491
dust-containing product in a manner that exposed the person on a	492
regular basis to mixed dust;	493
(4) Worked in close proximity to other workers engaged in	494
any of the activities described in division (DD) (1), (2), or (3)	495
of this section in a manner that exposed the person on a regular	496
basis to mixed dust.	497
(EE) "Tort action" means a civil action for damages for	498
injury, death, or loss to person. "Tort action" includes a	499
product liability claim that is subject to sections 2307.71 to	500
2307.80 of the Revised Code. "Tort action" does not include a	501
civil action for damages for a breach of contract or another	502
agreement between persons.	503
(FE) "Veterans' benefit program" means any program for	504
benefits in connection with military service administered by the	505
veterans' administration under <del>title</del> <u>Title</u> 38 of the United	506
States Code.	507
(GG) "Workers' compensation law" means Chapters 4121.,	508
4123., 4127., <del>and</del> <u>4131., and 4133.</u> of the Revised Code.	509
<b>Sec. 2307.91.</b> As used in sections 2307.91 to 2307.96 of	510
the Revised Code:	511
(A) "AMA guides to the evaluation of permanent impairment"	512
means the American medical association's guides to the	513
evaluation of permanent impairment (fifth edition 2000) as may	514
be modified by the American medical association.	515
(B) "Asbestos" means chrysotile, amosite, crocidolite,	516
tremolite asbestos, anthophyllite asbestos, actinolite asbestos,	517

and any of these minerals that have been chemically treated or 518  
altered. 519

(C) "Asbestos claim" means any claim for damages, losses, 520  
indemnification, contribution, or other relief arising out of, 521  
based on, or in any way related to asbestos. "Asbestos claim" 522  
includes a claim made by or on behalf of any person who has been 523  
exposed to asbestos, or any representative, spouse, parent, 524  
child, or other relative of that person, for injury, including 525  
mental or emotional injury, death, or loss to person, risk of 526  
disease or other injury, costs of medical monitoring or 527  
surveillance, or any other effects on the person's health that 528  
are caused by the person's exposure to asbestos. 529

(D) "Asbestosis" means bilateral diffuse interstitial 530  
fibrosis of the lungs caused by inhalation of asbestos fibers. 531

(E) "Board-certified internist" means a medical doctor who 532  
is currently certified by the American board of internal 533  
medicine. 534

(F) "Board-certified occupational medicine specialist" 535  
means a medical doctor who is currently certified by the 536  
American board of preventive medicine in the specialty of 537  
occupational medicine. 538

(G) "Board-certified oncologist" means a medical doctor 539  
who is currently certified by the American board of internal 540  
medicine in the subspecialty of medical oncology. 541

(H) "Board-certified pathologist" means a medical doctor 542  
who is currently certified by the American board of pathology. 543

(I) "Board-certified pulmonary specialist" means a medical 544  
doctor who is currently certified by the American board of 545  
internal medicine in the subspecialty of pulmonary medicine. 546

(J) "Certified B-reader" means an individual qualified as 547  
a "final" or "B-reader" as defined in 42 C.F.R. section 548  
37.51(b), as amended. 549

(K) "Certified industrial hygienist" means an industrial 550  
hygienist who has attained the status of diplomate of the 551  
American academy of industrial hygiene subject to compliance 552  
with requirements established by the American board of 553  
industrial hygiene. 554

(L) "Certified safety professional" means a safety 555  
professional who has met and continues to meet all requirements 556  
established by the board of certified safety professionals and 557  
is authorized by that board to use the certified safety 558  
professional title or the CSP designation. 559

(M) "Civil action" means all suits or claims of a civil 560  
nature in a state or federal court, whether cognizable as cases 561  
at law or in equity or admiralty. "Civil action" does not 562  
include any of the following: 563

(1) A civil action relating to any workers' compensation 564  
law; 565

(2) A civil action alleging any claim or demand made 566  
against a trust established pursuant to 11 U.S.C. section 567  
524(g); 568

(3) A civil action alleging any claim or demand made 569  
against a trust established pursuant to a plan of reorganization 570  
confirmed under Chapter 11 of the United States Bankruptcy Code, 571  
11 U.S.C. Chapter 11. 572

(N) "Exposed person" means any person whose exposure to 573  
asbestos or to asbestos-containing products is the basis for an 574  
asbestos claim under section 2307.92 of the Revised Code. 575

(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.	576 577 578
(P) "FVC" means forced vital capacity that is maximal volume of air expired with maximum effort from a position of full inspiration.	579 580 581
(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.	582 583 584 585
(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.	586 587 588
(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.	589 590 591 592 593
(T) "Nonmalignant condition" means a condition that is caused or may be caused by asbestos other than a diagnosed cancer.	594 595 596
(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.	597 598 599 600 601 602 603
(V) "Physical impairment" means a nonmalignant condition	604

that meets the minimum requirements specified in division (B) of 605  
section 2307.92 of the Revised Code, lung cancer of an exposed 606  
person who is a smoker that meets the minimum requirements 607  
specified in division (C) of section 2307.92 of the Revised 608  
Code, or a condition of a deceased exposed person that meets the 609  
minimum requirements specified in division (D) of section 610  
2307.92 of the Revised Code. 611

(W) "Plethysmography" means a test for determining lung 612  
volume, also known as "body plethysmography," in which the 613  
subject of the test is enclosed in a chamber that is equipped to 614  
measure pressure, flow, or volume changes. 615

(X) "Predicted lower limit of normal" means the fifth 616  
percentile of healthy populations based on age, height, and 617  
gender, as referenced in the AMA guides to the evaluation of 618  
permanent impairment. 619

(Y) "Premises owner" means a person who owns, in whole or 620  
in part, leases, rents, maintains, or controls privately owned 621  
lands, ways, or waters, or any buildings and structures on those 622  
lands, ways, or waters, and all privately owned and state-owned 623  
lands, ways, or waters leased to a private person, firm, or 624  
organization, including any buildings and structures on those 625  
lands, ways, or waters. 626

(Z) "Competent medical authority" means a medical doctor 627  
who is providing a diagnosis for purposes of constituting prima- 628  
facie evidence of an exposed person's physical impairment that 629  
meets the requirements specified in section 2307.92 of the 630  
Revised Code and who meets the following requirements: 631

(1) The medical doctor is a board-certified internist, 632  
pulmonary specialist, oncologist, pathologist, or occupational 633

medicine specialist. 634

(2) The medical doctor is actually treating or has treated 635  
the exposed person and has or had a doctor-patient relationship 636  
with the person. 637

(3) As the basis for the diagnosis, the medical doctor has 638  
not relied, in whole or in part, on any of the following: 639

(a) The reports or opinions of any doctor, clinic, 640  
laboratory, or testing company that performed an examination, 641  
test, or screening of the claimant's medical condition in 642  
violation of any law, regulation, licensing requirement, or 643  
medical code of practice of the state in which that examination, 644  
test, or screening was conducted; 645

(b) The reports or opinions of any doctor, clinic, 646  
laboratory, or testing company that performed an examination, 647  
test, or screening of the claimant's medical condition that was 648  
conducted without clearly establishing a doctor-patient 649  
relationship with the claimant or medical personnel involved in 650  
the examination, test, or screening process; 651

(c) The reports or opinions of any doctor, clinic, 652  
laboratory, or testing company that performed an examination, 653  
test, or screening of the claimant's medical condition that 654  
required the claimant to agree to retain the legal services of 655  
the law firm sponsoring the examination, test, or screening. 656

(4) The medical doctor spends not more than twenty-five 657  
per cent of the medical doctor's professional practice time in 658  
providing consulting or expert services in connection with 659  
actual or potential tort actions, and the medical doctor's 660  
medical group, professional corporation, clinic, or other 661  
affiliated group earns not more than twenty per cent of its 662

revenues from providing those services. 663

(AA) "Radiological evidence of asbestosis" means a chest 664  
x-ray showing small, irregular opacities (s, t) graded by a 665  
certified B-reader as at least 1/1 on the ILO scale. 666

(BB) "Radiological evidence of diffuse pleural thickening" 667  
means a chest x-ray showing bilateral pleural thickening graded 668  
by a certified B-reader as at least B2 on the ILO scale and 669  
blunting of at least one costophrenic angle. 670

(CC) "Regular basis" means on a frequent or recurring 671  
basis. 672

(DD) "Smoker" means a person who has smoked the equivalent 673  
of one-pack year, as specified in the written report of a 674  
competent medical authority pursuant to sections 2307.92 and 675  
2307.93 of the Revised Code, during the last fifteen years. 676

(EE) "Spirometry" means the measurement of volume of air 677  
inhaled or exhaled by the lung. 678

(FF) "Substantial contributing factor" means both of the 679  
following: 680

(1) Exposure to asbestos is the predominate cause of the 681  
physical impairment alleged in the asbestos claim. 682

(2) A competent medical authority has determined with a 683  
reasonable degree of medical certainty that without the asbestos 684  
exposures the physical impairment of the exposed person would 685  
not have occurred. 686

(GG) "Substantial occupational exposure to asbestos" means 687  
employment for a cumulative period of at least five years in an 688  
industry and an occupation in which, for a substantial portion 689  
of a normal work year for that occupation, the exposed person 690

did any of the following: 691

(1) Handled raw asbestos fibers; 692

(2) Fabricated asbestos-containing products so that the 693  
person was exposed to raw asbestos fibers in the fabrication 694  
process; 695

(3) Altered, repaired, or otherwise worked with an 696  
asbestos-containing product in a manner that exposed the person 697  
on a regular basis to asbestos fibers; 698

(4) Worked in close proximity to other workers engaged in 699  
any of the activities described in division (GG) (1), (2), or (3) 700  
of this section in a manner that exposed the person on a regular 701  
basis to asbestos fibers. 702

(HH) "Timed gas dilution" means a method for measuring 703  
total lung capacity in which the subject breathes into a 704  
spirometer containing a known concentration of an inert and 705  
insoluble gas for a specific time, and the concentration of the 706  
inert and insoluble gas in the lung is then compared to the 707  
concentration of that type of gas in the spirometer. 708

(II) "Tort action" means a civil action for damages for 709  
injury, death, or loss to person. "Tort action" includes a 710  
product liability claim that is subject to sections 2307.71 to 711  
2307.80 of the Revised Code. "Tort action" does not include a 712  
civil action for damages for a breach of contract or another 713  
agreement between persons. 714

(JJ) "Total lung capacity" means the volume of air 715  
contained in the lungs at the end of a maximal inspiration. 716

(KK) "Veterans' benefit program" means any program for 717  
benefits in connection with military service administered by the 718

veterans' administration under ~~title~~ Title 38 of the United States Code. 719  
720

(LL) "Workers' compensation law" means Chapters 4121., 4123., 4127., ~~and~~ 4131., and 4133. of the Revised Code. 721  
722

**Sec. 2307.97.** (A) As used in this section: 723

(1) "Asbestos" means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated or altered. 724  
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726  
727

(2) "Asbestos claim" means any claim, wherever or whenever made, for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos. "Asbestos claim" includes any of the following: 728  
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731

(a) 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 mental or emotional injury, death, or loss to person, risk of disease or other injury, costs of medical monitoring or surveillance, or any other effects on the person's health that are caused by the person's exposure to asbestos; 732  
733  
734  
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(b) A claim for damage or loss to property that is caused by the installation, presence, or removal of asbestos. 739  
740

(3) "Corporation" means a corporation for profit, including the following: 741  
742

(a) A domestic corporation that is organized under the laws of this state; 743  
744

(b) A foreign corporation that is organized under laws other than the laws of this state and that has had a certificate 745  
746

of authority to transact business in this state or has done 747  
business in this state. 748

(4) "Successor" means a corporation or a subsidiary of a 749  
corporation that assumes or incurs, or had assumed or incurred, 750  
successor asbestos-related liabilities or had successor 751  
asbestos-related liabilities imposed on it by court order. 752

(5) (a) "Successor asbestos-related liabilities" means any 753  
liabilities, whether known or unknown, asserted or unasserted, 754  
absolute or contingent, accrued or unaccrued, liquidated or 755  
unliquidated, or due or to become due, if the liabilities are 756  
related in any way to asbestos claims and either of the 757  
following applies: 758

(i) The liabilities are assumed or incurred by a successor 759  
as a result of or in connection with an asset purchase, stock 760  
purchase, merger, consolidation, or agreement providing for an 761  
asset purchase, stock purchase, merger, or consolidation, 762  
including a plan of merger. 763

(ii) The liabilities were imposed by court order on a 764  
successor. 765

(b) "Successor asbestos-related liabilities" includes any 766  
liabilities described in division (A) (5) (a) (i) of this section 767  
that, after the effective date of the asset purchase, stock 768  
purchase, merger, or consolidation, are paid, otherwise 769  
discharged, committed to be paid, or committed to be otherwise 770  
discharged by or on behalf of the successor, or by or on behalf 771  
of a transferor, in connection with any judgment, settlement, or 772  
other discharge of those liabilities in this state or another 773  
jurisdiction. 774

(6) "Transferor" means a corporation or its shareholders 775

from which successor asbestos-related liabilities are or were 776  
assumed or incurred by a successor or were imposed by court 777  
order on a successor. 778

(B) The limitations set forth in division (C) of this 779  
section apply to a corporation that is either of the following: 780

(1) A successor that became a successor prior to January 781  
1, 1972, if either of the following applies: 782

(a) In the case of a successor in a stock purchase or an 783  
asset purchase, the successor paid less than fifteen million 784  
dollars for the stock or assets of the transferor. 785

(b) In the case of a successor in a merger or 786  
consolidation, the fair market value of the total gross assets 787  
of the transferor, at the time of the merger or consolidation, 788  
excluding any insurance of the transferor, was less than fifty 789  
million dollars. 790

(2) Any successor to a prior successor if the prior 791  
successor met the requirements of division (B)(1)(a) or (b) of 792  
this section, whichever is applicable. 793

(C)(1) Except as otherwise provided in division (C)(2) of 794  
this section, the cumulative successor asbestos-related 795  
liabilities of a corporation shall be limited to either of the 796  
following: 797

(a) In the case of a corporation that is a successor in a 798  
stock purchase or an asset purchase, the fair market value of 799  
the acquired stock or assets of the transferor, as determined on 800  
the effective date of the stock or asset purchase; 801

(b) In the case of a corporation that is a successor in a 802  
merger or consolidation, the fair market value of the total 803

gross assets of the transferor, as determined on the effective 804  
date of the merger or consolidation. 805

(2) (a) If a transferor had assumed or incurred successor 806  
asbestos-related liabilities in connection with a prior purchase 807  
of assets or stock involving a prior transferor, the fair market 808  
value of the assets or stock purchased from the prior 809  
transferor, determined as of the effective date of the prior 810  
purchase of the assets or stock, shall be substituted for the 811  
limitation set forth in division (C) (1) (a) of this section for 812  
the purpose of determining the limitation of the liability of a 813  
corporation. 814

(b) If a transferor had assumed or incurred successor 815  
asbestos-related liabilities in connection with a merger or 816  
consolidation involving a prior transferor, the fair market 817  
value of the total gross assets of the prior transferor, 818  
determined as of the effective date of the prior merger or 819  
consolidation, shall be substituted for the limitation set forth 820  
in division (C) (1) (b) of this section for the purpose of 821  
determining the limitation of the liability of a corporation. 822

(3) A corporation described in division (C) (1) or (2) of 823  
this section shall have no responsibility for any successor 824  
asbestos-related liabilities in excess of the limitation of 825  
those liabilities as described in the applicable division. 826

(D) (1) A corporation may establish the fair market value 827  
of assets, stock, or total gross assets under division (C) of 828  
this section by means of any method that is reasonable under the 829  
circumstances, including by reference to their going-concern 830  
value, to the purchase price attributable to or paid for them in 831  
an arm's length transaction, or, in the absence of other readily 832  
available information from which fair market value can be 833

determined, to their value recorded on a balance sheet. Assets 834  
and total gross assets shall include intangible assets. A 835  
showing by the successor of a reasonable determination of the 836  
fair market value of assets, stock, or total gross assets is 837  
prima-facie evidence of their fair market value. 838

(2) For purposes of establishing the fair market value of 839  
total gross assets under division (D)(1) of this section, the 840  
total gross assets include the aggregate coverage under any 841  
applicable liability insurance that was issued to the transferor 842  
the assets of which are being valued for purposes of the 843  
limitations set forth in division (C) of this section, if the 844  
insurance has been collected or is collectable to cover the 845  
successor asbestos-related liabilities involved. Those successor 846  
asbestos-related liabilities do not include any compensation for 847  
any liabilities arising from the exposure of workers to asbestos 848  
solely during the course of their employment by the transferor. 849  
Any settlement of a dispute concerning the insurance coverage 850  
described in this division that is entered into by a transferor 851  
or successor with the insurer of the transferor before ~~the~~ 852  
~~effective date of this section~~ April 7, 2005, is determinative 853  
of the aggregate coverage of the liability insurance that is 854  
included in the determination of the transferor's total gross 855  
assets. 856

(3) After a successor has established a reasonable 857  
determination of the fair market value of assets, stock, or 858  
total gross assets under divisions (D)(1) and (2) of this 859  
section, a claimant that disputes that determination of the fair 860  
market value has the burden of establishing a different fair 861  
market value. 862

(4) (a) Subject to divisions (D)(4)(b), (c), and (d) of 863

this section, the fair market value of assets, stock, or total 864  
gross assets at the time of the asset purchase, stock purchase, 865  
merger, or consolidation increases annually, at a rate equal to 866  
the sum of the following: 867

(i) The prime rate as listed in the first edition of the 868  
wall street journal published for each calendar year since the 869  
effective date of the asset purchase, stock purchase, merger, or 870  
consolidation, or, if the prime rate is not published in that 871  
edition of the wall street journal, the prime rate as reasonably 872  
determined on the first business day of the year; 873

(ii) One per cent. 874

(b) The rate that is determined pursuant to division (D) 875  
(4) (a) of this section shall not be compounded. 876

(c) The adjustment of the fair market value of assets, 877  
stock, or total gross assets shall continue in the manner 878  
described in division (D) (4) (a) of this section until the 879  
adjusted fair market value is first exceeded by the cumulative 880  
amounts of successor asbestos-related liabilities that are paid 881  
or committed to be paid by or on behalf of a successor or prior 882  
transferor, or by or on behalf of a transferor, after the time 883  
of the asset purchase, stock purchase, merger, or consolidation 884  
for which the fair market value of assets, stock, or total gross 885  
assets is determined. 886

(d) No adjustment of the fair market value of total gross 887  
assets as provided in division (D) (4) (a) of this section shall 888  
be applied to any liability insurance that is otherwise included 889  
in total gross assets as provided in division (D) (2) of this 890  
section. 891

(E) (1) The limitations set forth in division (C) of this 892

section shall apply to the following: 893

(a) All asbestos claims, including asbestos claims that 894  
are pending on ~~the effective date of this section~~ April 7, 2005, 895  
and all litigation involving asbestos claims, including 896  
litigation that is pending on ~~the effective date of this section~~ 897  
April 7, 2005; 898

(b) Successors of a corporation to which this section 899  
applies. 900

(2) The limitations set forth in division (C) of this 901  
section do not apply to any of the following: 902

(a) Workers' compensation benefits that are paid by or on 903  
behalf of an employer to an employee pursuant to any provision 904  
of Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the 905  
Revised Code or comparable workers' compensation law of another 906  
jurisdiction; 907

(b) Any claim against a successor that does not constitute 908  
a claim for a successor asbestos-related liability; 909

(c) Any obligations arising under the "National Labor 910  
Relations Act," 49 Stat. 449, 29 U.S.C. 151 et seq., as amended, 911  
or under any collective bargaining agreement; 912

(d) Any contractual rights to indemnification. 913

(F) The courts in this state shall apply, to the fullest 914  
extent permissible under the Constitution of the United States, 915  
this state's substantive law, including the provisions of this 916  
section, to the issue of successor asbestos-related liabilities. 917

**Sec. 2317.02.** The following persons shall not testify in 918  
certain respects: 919

(A) (1) An attorney, concerning a communication made to the attorney by a client in that relation or concerning the attorney's advice to a client, except that the attorney may testify by express consent of the client or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client. However, if the client voluntarily reveals the substance of attorney-client communications in a nonprivileged context or is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the attorney may be compelled to testify on the same subject.

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

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

(b) A communication between a client who has since died and the deceased client's attorney if the communication is relevant to a dispute between parties who claim through that deceased client, 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 client when the deceased client executed a document that is the basis of the dispute or whether the deceased client was a victim of fraud, undue influence, or duress when the deceased client executed a document that is the basis of the dispute.

(2) An attorney, concerning a communication made to the

attorney by a client in that relationship or the attorney's 950  
advice to a client, except that if the client is an insurance 951  
company, the attorney may be compelled to testify, subject to an 952  
in camera inspection by a court, about communications made by 953  
the client to the attorney or by the attorney to the client that 954  
are related to the attorney's aiding or furthering an ongoing or 955  
future commission of bad faith by the client, if the party 956  
seeking disclosure of the communications has made a prima-facie 957  
showing of bad faith, fraud, or criminal misconduct by the 958  
client. 959

(B) (1) A physician, advanced practice registered nurse, or 960  
dentist concerning a communication made to the physician, 961  
advanced practice registered nurse, or dentist by a patient in 962  
that relation or the advice of a physician, advanced practice 963  
registered nurse, or dentist given to a patient, except as 964  
otherwise provided in this division, division (B) (2), and 965  
division (B) (3) of this section, and except that, if the patient 966  
is deemed by section 2151.421 of the Revised Code to have waived 967  
any testimonial privilege under this division, the physician or 968  
advanced practice registered nurse may be compelled to testify 969  
on the same subject. 970

The testimonial privilege established under this division 971  
does not apply, and a physician, advanced practice registered 972  
nurse, or dentist may testify or may be compelled to testify, in 973  
any of the following circumstances: 974

(a) In any civil action, in accordance with the discovery 975  
provisions of the Rules of Civil Procedure in connection with a 976  
civil action, or in connection with a claim under Chapter 4123.  
or 4133. of the Revised Code, under any of the following 977  
circumstances: 978  
979

(i) If the patient or the guardian or other legal representative of the patient gives express consent;	980 981
(ii) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent;	982 983 984
(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. <u>or 4133.</u> of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.	985 986 987 988 989 990 991
(b) In any civil action concerning court-ordered treatment or services received by a patient, if the court-ordered treatment or services were ordered 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.	992 993 994 995 996 997 998
(c) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.	999 1000 1001 1002 1003 1004 1005
(d) In any criminal action against a physician, advanced practice registered nurse, or dentist. In such an action, the testimonial privilege established under this division does not	1006 1007 1008

prohibit the admission into evidence, in accordance with the 1009  
Rules of Evidence, of a patient's medical or dental records or 1010  
other communications between a patient and the physician, 1011  
advanced practice registered nurse, or dentist that are related 1012  
to the action and obtained by subpoena, search warrant, or other 1013  
lawful means. A court that permits or compels a physician, 1014  
advanced practice registered nurse, or dentist to testify in 1015  
such an action or permits the introduction into evidence of 1016  
patient records or other communications in such an action shall 1017  
require that appropriate measures be taken to ensure that the 1018  
confidentiality of any patient named or otherwise identified in 1019  
the records is maintained. Measures to ensure confidentiality 1020  
that may be taken by the court include sealing its records or 1021  
deleting specific information from its records. 1022

(e) (i) If the communication was between a patient who has 1023  
since died and the deceased patient's physician, advanced 1024  
practice registered nurse, or dentist, the communication is 1025  
relevant to a dispute between parties who claim through that 1026  
deceased patient, regardless of whether the claims are by 1027  
testate or intestate succession or by inter vivos transaction, 1028  
and the dispute addresses the competency of the deceased patient 1029  
when the deceased patient executed a document that is the basis 1030  
of the dispute or whether the deceased patient was a victim of 1031  
fraud, undue influence, or duress when the deceased patient 1032  
executed a document that is the basis of the dispute. 1033

(ii) If neither the spouse of a patient nor the executor 1034  
or administrator of that patient's estate gives consent under 1035  
division (B) (1) (a) (ii) of this section, testimony or the 1036  
disclosure of the patient's medical records by a physician, 1037  
advanced practice registered nurse, dentist, or other health 1038  
care provider under division (B) (1) (e) (i) of this section is a 1039

permitted use or disclosure of protected health information, as 1040  
defined in 45 C.F.R. 160.103, and an authorization or 1041  
opportunity to be heard shall not be required. 1042

(iii) Division (B) (1) (e) (i) of this section does not 1043  
require a mental health professional to disclose psychotherapy 1044  
notes, as defined in 45 C.F.R. 164.501. 1045

(iv) An interested person who objects to testimony or 1046  
disclosure under division (B) (1) (e) (i) of this section may seek 1047  
a protective order pursuant to Civil Rule 26. 1048

(v) A person to whom protected health information is 1049  
disclosed under division (B) (1) (e) (i) of this section shall not 1050  
use or disclose the protected health information for any purpose 1051  
other than the litigation or proceeding for which the 1052  
information was requested and shall return the protected health 1053  
information to the covered entity or destroy the protected 1054  
health information, including all copies made, at the conclusion 1055  
of the litigation or proceeding. 1056

(2) (a) If any law enforcement officer submits a written 1057  
statement to a health care provider that states that an official 1058  
criminal investigation has begun regarding a specified person or 1059  
that a criminal action or proceeding has been commenced against 1060  
a specified person, that requests the provider to supply to the 1061  
officer copies of any records the provider possesses that 1062  
pertain to any test or the results of any test administered to 1063  
the specified person to determine the presence or concentration 1064  
of alcohol, a drug of abuse, a combination of them, a controlled 1065  
substance, or a metabolite of a controlled substance in the 1066  
person's whole blood, blood serum or plasma, breath, or urine at 1067  
any time relevant to the criminal offense in question, and that 1068  
conforms to section 2317.022 of the Revised Code, the provider, 1069

except to the extent specifically prohibited by any law of this 1070  
state or of the United States, shall supply to the officer a 1071  
copy of any of the requested records the provider possesses. If 1072  
the health care provider does not possess any of the requested 1073  
records, the provider shall give the officer a written statement 1074  
that indicates that the provider does not possess any of the 1075  
requested records. 1076

(b) If a health care provider possesses any records of the 1077  
type described in division (B) (2) (a) of this section regarding 1078  
the person in question at any time relevant to the criminal 1079  
offense in question, in lieu of personally testifying as to the 1080  
results of the test in question, the custodian of the records 1081  
may submit a certified copy of the records, and, upon its 1082  
submission, the certified copy is qualified as authentic 1083  
evidence and may be admitted as evidence in accordance with the 1084  
Rules of Evidence. Division (A) of section 2317.422 of the 1085  
Revised Code does not apply to any certified copy of records 1086  
submitted in accordance with this division. Nothing in this 1087  
division shall be construed to limit the right of any party to 1088  
call as a witness the person who administered the test to which 1089  
the records pertain, the person under whose supervision the test 1090  
was administered, the custodian of the records, the person who 1091  
made the records, or the person under whose supervision the 1092  
records were made. 1093

(3) (a) If the testimonial privilege described in division 1094  
(B) (1) of this section does not apply as provided in division 1095  
(B) (1) (a) (iii) of this section, a physician, advanced practice 1096  
registered nurse, or dentist may be compelled to testify or to 1097  
submit to discovery under the Rules of Civil Procedure only as 1098  
to a communication made to the physician, advanced practice 1099  
registered nurse, or dentist by the patient in question in that 1100

relation, or the advice of the physician, advanced practice 1101  
registered nurse, or dentist given to the patient in question, 1102  
that related causally or historically to physical or mental 1103  
injuries that are relevant to issues in the medical claim, 1104  
dental claim, chiropractic claim, or optometric claim, action 1105  
for wrongful death, other civil action, or claim under Chapter 1106  
4123. or 4133. of the Revised Code. 1107

(b) If the testimonial privilege described in division (B) 1108  
(1) of this section does not apply to a physician, advanced 1109  
practice registered nurse, or dentist as provided in division 1110  
(B)(1)(c) of this section, the physician, advanced practice 1111  
registered nurse, or dentist, in lieu of personally testifying 1112  
as to the results of the test in question, may submit a 1113  
certified copy of those results, and, upon its submission, the 1114  
certified copy is qualified as authentic evidence and may be 1115  
admitted as evidence in accordance with the Rules of Evidence. 1116  
Division (A) of section 2317.422 of the Revised Code does not 1117  
apply to any certified copy of results submitted in accordance 1118  
with this division. Nothing in this division shall be construed 1119  
to limit the right of any party to call as a witness the person 1120  
who administered the test in question, the person under whose 1121  
supervision the test was administered, the custodian of the 1122  
results of the test, the person who compiled the results, or the 1123  
person under whose supervision the results were compiled. 1124

(4) The testimonial privilege described in division (B)(1) 1125  
of this section is not waived when a communication is made by a 1126  
physician or advanced practice registered nurse to a pharmacist 1127  
or when there is communication between a patient and a 1128  
pharmacist in furtherance of the physician-patient or advanced 1129  
practice registered nurse-patient relation. 1130

(5) (a) As used in divisions (B) (1) to (4) of this section, 1131  
"communication" means acquiring, recording, or transmitting any 1132  
information, in any manner, concerning any facts, opinions, or 1133  
statements necessary to enable a physician, advanced practice 1134  
registered nurse, or dentist to diagnose, treat, prescribe, or 1135  
act for a patient. A "communication" may include, but is not 1136  
limited to, any medical or dental, office, or hospital 1137  
communication such as a record, chart, letter, memorandum, 1138  
laboratory test and results, x-ray, photograph, financial 1139  
statement, diagnosis, or prognosis. 1140

(b) As used in division (B) (2) of this section, "health 1141  
care provider" means a hospital, ambulatory care facility, long- 1142  
term care facility, pharmacy, emergency facility, or health care 1143  
practitioner. 1144

(c) As used in division (B) (5) (b) of this section: 1145

(i) "Ambulatory care facility" means a facility that 1146  
provides medical, diagnostic, or surgical treatment to patients 1147  
who do not require hospitalization, including a dialysis center, 1148  
ambulatory surgical facility, cardiac catheterization facility, 1149  
diagnostic imaging center, extracorporeal shock wave lithotripsy 1150  
center, home health agency, inpatient hospice, birthing center, 1151  
radiation therapy center, emergency facility, and an urgent care 1152  
center. "Ambulatory health care facility" does not include the 1153  
private office of a physician, advanced practice registered 1154  
nurse, or dentist, whether the office is for an individual or 1155  
group practice. 1156

(ii) "Emergency facility" means a hospital emergency 1157  
department or any other facility that provides emergency medical 1158  
services. 1159

(iii) "Health care practitioner" has the same meaning as 1160  
in section 4769.01 of the Revised Code. 1161

(iv) "Hospital" has the same meaning as in section 3727.01 1162  
of the Revised Code. 1163

(v) "Long-term care facility" means a nursing home, 1164  
residential care facility, or home for the aging, as those terms 1165  
are defined in section 3721.01 of the Revised Code; a 1166  
residential facility licensed under section 5119.34 of the 1167  
Revised Code that provides accommodations, supervision, and 1168  
personal care services for three to sixteen unrelated adults; a 1169  
nursing facility, as defined in section 5165.01 of the Revised 1170  
Code; a skilled nursing facility, as defined in section 5165.01 1171  
of the Revised Code; and an intermediate care facility for 1172  
individuals with intellectual disabilities, as defined in 1173  
section 5124.01 of the Revised Code. 1174

(vi) "Pharmacy" has the same meaning as in section 4729.01 1175  
of the Revised Code. 1176

(d) As used in divisions (B) (1) and (2) of this section, 1177  
"drug of abuse" has the same meaning as in section 4506.01 of 1178  
the Revised Code. 1179

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 1180  
section apply to doctors of medicine, doctors of osteopathic 1181  
medicine, doctors of podiatry, advanced practice registered 1182  
nurses, and dentists. 1183

(7) Nothing in divisions (B) (1) to (6) of this section 1184  
affects, or shall be construed as affecting, the immunity from 1185  
civil liability conferred by section 307.628 of the Revised Code 1186  
or the immunity from civil liability conferred by section 1187  
2305.33 of the Revised Code upon physicians or advanced practice 1188

registered nurses who report an employee's use of a drug of 1189  
abuse, or a condition of an employee other than one involving 1190  
the use of a drug of abuse, to the employer of the employee in 1191  
accordance with division (B) of that section. As used in 1192  
division (B)(7) of this section, "employee," "employer," and 1193  
"physician" have the same meanings as in section 2305.33 of the 1194  
Revised Code and "advanced practice registered nurse" has the 1195  
same meaning as in section 4723.01 of the Revised Code. 1196

(C)(1) A cleric, when the cleric remains accountable to 1197  
the authority of that cleric's church, denomination, or sect, 1198  
concerning a confession made, or any information confidentially 1199  
communicated, to the cleric for a religious counseling purpose 1200  
in the cleric's professional character. The cleric may testify 1201  
by express consent of the person making the communication, 1202  
except when the disclosure of the information is in violation of 1203  
a sacred trust and except that, if the person voluntarily 1204  
testifies or is deemed by division (A)(4)(c) of section 2151.421 1205  
of the Revised Code to have waived any testimonial privilege 1206  
under this division, the cleric may be compelled to testify on 1207  
the same subject except when disclosure of the information is in 1208  
violation of a sacred trust. 1209

(2) As used in division (C) of this section: 1210

(a) "Cleric" means a member of the clergy, rabbi, priest, 1211  
Christian Science practitioner, or regularly ordained, 1212  
accredited, or licensed minister of an established and legally 1213  
cognizable church, denomination, or sect. 1214

(b) "Sacred trust" means a confession or confidential 1215  
communication made to a cleric in the cleric's ecclesiastical 1216  
capacity in the course of discipline enjoined by the church to 1217  
which the cleric belongs, including, but not limited to, the 1218

Catholic Church, if both of the following apply:	1219
(i) The confession or confidential communication was made directly to the cleric.	1220 1221
(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.	1222 1223 1224 1225
(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;	1226 1227 1228 1229 1230 1231
(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;	1232 1233 1234
(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.	1235 1236 1237 1238 1239 1240
(G) (1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, marriage and family therapist or independent marriage and family	1241 1242 1243 1244 1245 1246 1247

therapist, or registered under Chapter 4757. of the Revised Code 1248  
as a social work assistant concerning a confidential 1249  
communication received from a client in that relation or the 1250  
person's advice to a client unless any of the following applies: 1251

(a) The communication or advice indicates clear and 1252  
present danger to the client or other persons. For the purposes 1253  
of this division, cases in which there are indications of 1254  
present or past child abuse or neglect of the client constitute 1255  
a clear and present danger. 1256

(b) The client gives express consent to the testimony. 1257

(c) If the client is deceased, the surviving spouse or the 1258  
executor or administrator of the estate of the deceased client 1259  
gives express consent. 1260

(d) The client voluntarily testifies, in which case the 1261  
school guidance counselor or person licensed or registered under 1262  
Chapter 4757. of the Revised Code may be compelled to testify on 1263  
the same subject. 1264

(e) The court in camera determines that the information 1265  
communicated by the client is not germane to the counselor- 1266  
client, marriage and family therapist-client, or social worker- 1267  
client relationship. 1268

(f) A court, in an action brought against a school, its 1269  
administration, or any of its personnel by the client, rules 1270  
after an in-camera inspection that the testimony of the school 1271  
guidance counselor is relevant to that action. 1272

(g) The testimony is sought in a civil action and concerns 1273  
court-ordered treatment or services received by a patient as 1274  
part of a case plan journalized under section 2151.412 of the 1275  
Revised Code or the court-ordered treatment or services are 1276

necessary or relevant to dependency, neglect, or abuse or 1277  
temporary or permanent custody proceedings under Chapter 2151. 1278  
of the Revised Code. 1279

(2) Nothing in division (G) (1) of this section shall 1280  
relieve a school guidance counselor or a person licensed or 1281  
registered under Chapter 4757. of the Revised Code from the 1282  
requirement to report information concerning child abuse or 1283  
neglect under section 2151.421 of the Revised Code. 1284

(H) A mediator acting under a mediation order issued under 1285  
division (A) of section 3109.052 of the Revised Code or 1286  
otherwise issued in any proceeding for divorce, dissolution, 1287  
legal separation, annulment, or the allocation of parental 1288  
rights and responsibilities for the care of children, in any 1289  
action or proceeding, other than a criminal, delinquency, child 1290  
abuse, child neglect, or dependent child action or proceeding, 1291  
that is brought by or against either parent who takes part in 1292  
mediation in accordance with the order and that pertains to the 1293  
mediation process, to any information discussed or presented in 1294  
the mediation process, to the allocation of parental rights and 1295  
responsibilities for the care of the parents' children, or to 1296  
the awarding of parenting time rights in relation to their 1297  
children; 1298

(I) A communications assistant, acting within the scope of 1299  
the communication assistant's authority, when providing 1300  
telecommunications relay service pursuant to section 4931.06 of 1301  
the Revised Code or Title II of the "Communications Act of 1302  
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 1303  
communication made through a telecommunications relay service. 1304  
Nothing in this section shall limit the obligation of a 1305  
communications assistant to divulge information or testify when 1306

mandated by federal law or regulation or pursuant to subpoena in 1307  
a criminal proceeding. 1308

Nothing in this section shall limit any immunity or 1309  
privilege granted under federal law or regulation. 1310

(J) (1) A chiropractor in a civil proceeding concerning a 1311  
communication made to the chiropractor by a patient in that 1312  
relation or the chiropractor's advice to a patient, except as 1313  
otherwise provided in this division. The testimonial privilege 1314  
established under this division does not apply, and a 1315  
chiropractor may testify or may be compelled to testify, in any 1316  
civil action, in accordance with the discovery provisions of the 1317  
Rules of Civil Procedure in connection with a civil action, or 1318  
in connection with a claim under Chapter 4123. or 4133. of the 1319  
Revised Code, under any of the following circumstances: 1320

(a) If the patient or the guardian or other legal 1321  
representative of the patient gives express consent. 1322

(b) If the patient is deceased, the spouse of the patient 1323  
or the executor or administrator of the patient's estate gives 1324  
express consent. 1325

(c) If a medical claim, dental claim, chiropractic claim, 1326  
or optometric claim, as defined in section 2305.113 of the 1327  
Revised Code, an action for wrongful death, any other type of 1328  
civil action, or a claim under Chapter 4123. or 4133. of the 1329  
Revised Code is filed by the patient, the personal 1330  
representative of the estate of the patient if deceased, or the 1331  
patient's guardian or other legal representative. 1332

(2) If the testimonial privilege described in division (J) 1333  
(1) of this section does not apply as provided in division (J) 1334  
(1)(c) of this section, a chiropractor may be compelled to 1335

testify or to submit to discovery under the Rules of Civil 1336  
Procedure only as to a communication made to the chiropractor by 1337  
the patient in question in that relation, or the chiropractor's 1338  
advice to the patient in question, that related causally or 1339  
historically to physical or mental injuries that are relevant to 1340  
issues in the medical claim, dental claim, chiropractic claim, 1341  
or optometric claim, action for wrongful death, other civil 1342  
action, or claim under Chapter 4123. or 4133. of the Revised 1343  
Code. 1344

(3) The testimonial privilege established under this 1345  
division does not apply, and a chiropractor may testify or be 1346  
compelled to testify, in any criminal action or administrative 1347  
proceeding. 1348

(4) As used in this division, "communication" means 1349  
acquiring, recording, or transmitting any information, in any 1350  
manner, concerning any facts, opinions, or statements necessary 1351  
to enable a chiropractor to diagnose, treat, or act for a 1352  
patient. A communication may include, but is not limited to, any 1353  
chiropractic, office, or hospital communication such as a 1354  
record, chart, letter, memorandum, laboratory test and results, 1355  
x-ray, photograph, financial statement, diagnosis, or prognosis. 1356

(K) (1) Except as provided under division (K) (2) of this 1357  
section, a critical incident stress management team member 1358  
concerning a communication received from an individual who 1359  
receives crisis response services from the team member, or the 1360  
team member's advice to the individual, during a debriefing 1361  
session. 1362

(2) The testimonial privilege established under division 1363  
(K) (1) of this section does not apply if any of the following 1364  
are true: 1365

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

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

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

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

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

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

(3) As used in division (K) of this section:

(a) "Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster.

(b) "Critical incident stress management team member" or "team member" means an individual specially trained to provide

crisis response services as a member of an organized community 1394  
or local crisis response team that holds membership in the Ohio 1395  
critical incident stress management network. 1396

(c) "Debriefing session" means a session at which crisis 1397  
response services are rendered by a critical incident stress 1398  
management team member during or after a crisis or disaster. 1399

(L) (1) Subject to division (L) (2) of this section and 1400  
except as provided in division (L) (3) of this section, an 1401  
employee assistance professional, concerning a communication 1402  
made to the employee assistance professional by a client in the 1403  
employee assistance professional's official capacity as an 1404  
employee assistance professional. 1405

(2) Division (L) (1) of this section applies to an employee 1406  
assistance professional who meets either or both of the 1407  
following requirements: 1408

(a) Is certified by the employee assistance certification 1409  
commission to engage in the employee assistance profession; 1410

(b) Has education, training, and experience in all of the 1411  
following: 1412

(i) Providing workplace-based services designed to address 1413  
employer and employee productivity issues; 1414

(ii) Providing assistance to employees and employees' 1415  
dependents in identifying and finding the means to resolve 1416  
personal problems that affect the employees or the employees' 1417  
performance; 1418

(iii) Identifying and resolving productivity problems 1419  
associated with an employee's concerns about any of the 1420  
following matters: health, marriage, family, finances, substance 1421

abuse or other addiction, workplace, law, and emotional issues;	1422
(iv) Selecting and evaluating available community	1423
resources;	1424
(v) Making appropriate referrals;	1425
(vi) Local and national employee assistance agreements;	1426
(vii) Client confidentiality.	1427
(3) Division (L) (1) of this section does not apply to any	1428
of the following:	1429
(a) A criminal action or proceeding involving an offense	1430
under sections 2903.01 to 2903.06 of the Revised Code if the	1431
employee assistance professional's disclosure or testimony	1432
relates directly to the facts or immediate circumstances of the	1433
offense;	1434
(b) A communication made by a client to an employee	1435
assistance professional that reveals the contemplation or	1436
commission of a crime or serious, harmful act;	1437
(c) A communication that is made by a client who is an	1438
unemancipated minor or an adult adjudicated to be incompetent	1439
and indicates that the client was the victim of a crime or	1440
abuse;	1441
(d) A civil proceeding to determine an individual's mental	1442
competency or a criminal action in which a plea of not guilty by	1443
reason of insanity is entered;	1444
(e) A civil or criminal malpractice action brought against	1445
the employee assistance professional;	1446
(f) When the employee assistance professional has the	1447
express consent of the client or, if the client is deceased or	1448

disabled, the client's legal representative; 1449

(g) When the testimonial privilege otherwise provided by 1450  
division (L)(1) of this section is abrogated under law. 1451

**Sec. 2913.48.** (A) No person, with purpose to defraud or 1452  
knowing that the person is facilitating a fraud, shall do any of 1453  
the following: 1454

(1) Receive workers' compensation benefits to which the 1455  
person is not entitled; 1456

(2) Make or present or cause to be made or presented a 1457  
false or misleading statement with the purpose to secure payment 1458  
for goods or services rendered under Chapter 4121., 4123., 1459  
4127., ~~or 4131.~~, or 4133. of the Revised Code or to secure 1460  
workers' compensation benefits; 1461

(3) Alter, falsify, destroy, conceal, or remove any record 1462  
or document that is necessary to fully establish the validity of 1463  
any claim filed with, or necessary to establish the nature and 1464  
validity of all goods and services for which reimbursement or 1465  
payment was received or is requested from, the bureau of 1466  
workers' compensation, or a self-insuring employer under Chapter 1467  
4121., 4123., 4127., ~~or 4131.~~, or 4133. of the Revised Code; 1468

(4) Enter into an agreement or conspiracy to defraud the 1469  
bureau or a self-insuring employer by making or presenting or 1470  
causing to be made or presented a false claim for workers' 1471  
compensation benefits; 1472

(5) Make or present or cause to be made or presented a 1473  
false statement concerning manual codes, classification of 1474  
employees, payroll, paid compensation, or number of personnel, 1475  
when information of that nature is necessary to determine the 1476  
actual workers' compensation premium or assessment owed to the 1477

bureau by an employer; 1478

(6) Alter, forge, or create a workers' compensation 1479  
certificate to falsely show current or correct workers' 1480  
compensation coverage; 1481

(7) Fail to secure or maintain workers' compensation 1482  
coverage as required by Chapter 4123. of the Revised Code with 1483  
the intent to defraud the bureau of workers' compensation. 1484

(B) Whoever violates this section is guilty of workers' 1485  
compensation fraud. Except as otherwise provided in this 1486  
division, a violation of this section is a misdemeanor of the 1487  
first degree. If the value of premiums and assessments unpaid 1488  
pursuant to actions described in division (A) (5), (6), or (7) of 1489  
this section, or of goods, services, property, or money stolen 1490  
is one thousand dollars or more and is less than seven thousand 1491  
five hundred dollars, a violation of this section is a felony of 1492  
the fifth degree. If the value of premiums and assessments 1493  
unpaid pursuant to actions described in division (A) (5), (6), or 1494  
(7) of this section, or of goods, services, property, or money 1495  
stolen is seven thousand five hundred dollars or more and is 1496  
less than one hundred fifty thousand dollars, a violation of 1497  
this section is a felony of the fourth degree. If the value of 1498  
premiums and assessments unpaid pursuant to actions described in 1499  
division (A) (5), (6), or (7) of this section, or of goods, 1500  
services, property, or money stolen is one hundred fifty 1501  
thousand dollars or more, a violation of this section is a 1502  
felony of the third degree. 1503

(C) Upon application of the governmental body that 1504  
conducted the investigation and prosecution of a violation of 1505  
this section, the court shall order the person who is convicted 1506  
of the violation to pay the governmental body its costs of 1507

investigating and prosecuting the case. These costs are in 1508  
addition to any other costs or penalty provided in the Revised 1509  
Code or any other section of law. 1510

(D) The remedies and penalties provided in this section 1511  
are not exclusive remedies and penalties and do not preclude the 1512  
use of any other criminal or civil remedy or penalty for any act 1513  
that is in violation of this section. 1514

(E) As used in this section: 1515

(1) "False" means wholly or partially untrue or deceptive. 1516

(2) "Goods" includes, but is not limited to, medical 1517  
supplies, appliances, rehabilitative equipment, and any other 1518  
apparatus or furnishing provided or used in the care, treatment, 1519  
or rehabilitation of a claimant for workers' compensation 1520  
benefits. 1521

(3) "Services" includes, but is not limited to, any 1522  
service provided by any health care provider to a claimant for 1523  
workers' compensation benefits and any and all services provided 1524  
by the bureau as part of workers' compensation insurance 1525  
coverage. 1526

(4) "Claim" means any attempt to cause the bureau, an 1527  
independent third party with whom the administrator or an 1528  
employer contracts under section 4121.44 of the Revised Code, or 1529  
a self-insuring employer to make payment or reimbursement for 1530  
workers' compensation benefits. 1531

(5) "Employment" means participating in any trade, 1532  
occupation, business, service, or profession for substantial 1533  
gainful remuneration. 1534

(6) "Employer," "employee," and "self-insuring employer" 1535

have the same meanings as in section 4123.01 of the Revised Code. 1536  
1537

(7) "Remuneration" includes, but is not limited to, wages, 1538  
commissions, rebates, and any other reward or consideration. 1539

(8) "Statement" includes, but is not limited to, any oral, 1540  
written, electronic, electronic impulse, or magnetic 1541  
communication notice, letter, memorandum, receipt for payment, 1542  
invoice, account, financial statement, or bill for services; a 1543  
diagnosis, prognosis, prescription, hospital, medical, or dental 1544  
chart or other record; and a computer generated document. 1545

(9) "Records" means any medical, professional, financial, 1546  
or business record relating to the treatment or care of any 1547  
person, to goods or services provided to any person, or to rates 1548  
paid for goods or services provided to any person, or any record 1549  
that the administrator of workers' compensation requires 1550  
pursuant to rule. 1551

(10) "Workers' compensation benefits" means any 1552  
compensation or benefits payable under Chapter 4121., 4123., 1553  
4127., ~~or 4131.~~ or 4133. of the Revised Code. 1554

**Sec. 3121.899.** (A) The new hire reports filed with the 1555  
department of job and family services pursuant to section 1556  
3121.891 of the Revised Code shall not be considered public 1557  
records for purposes of section 149.43 of the Revised Code. The 1558  
director of job and family services may adopt rules under 1559  
section 3125.51 of the Revised Code governing access to, and use 1560  
and disclosure of, information contained in the new hire 1561  
reports. 1562

(B) The department of job and family services may disclose 1563  
information in the new hire reports to all of the following: 1564

(1) Any child support enforcement agency and any agent 1565  
under contract with a child support enforcement agency for the 1566  
purposes listed in division (A) of section 3121.898 of the 1567  
Revised Code; 1568

(2) Any county department of job and family services and 1569  
any agent under contract with a county department of job and 1570  
family services for the purposes listed in division (B) of 1571  
section 3121.898 of the Revised Code; 1572

(3) Employees of the department of job and family services 1573  
and any agent under contract with the department of job and 1574  
family services for the purposes listed in divisions (B) and (C) 1575  
of section 3121.898 of the Revised Code; 1576

(4) The administrator of workers' compensation for the 1577  
purpose of administering the workers' compensation system 1578  
pursuant to Chapters 4121., 4123., 4127., ~~and 4131.~~, and 4133. 1579  
of the Revised Code; 1580

(5) To state agencies operating employment security and 1581  
workers compensation programs for the purpose of administering 1582  
those programs, pursuant to division (D) of section 3121.898 of 1583  
the Revised Code. 1584

**Sec. 3701.741.** (A) Each health care provider and medical 1585  
records company shall provide copies of medical records in 1586  
accordance with this section. 1587

(B) Except as provided in divisions (C) and (E) of this 1588  
section, a health care provider or medical records company that 1589  
receives a request for a copy of a patient's medical record 1590  
shall charge not more than the amounts set forth in this 1591  
section. 1592

(1) If the request is made by the patient or the patient's 1593

personal representative, total costs for copies and all services 1594  
related to those copies shall not exceed the sum of the 1595  
following: 1596

(a) Except as provided in division (B)(1)(b) of this 1597  
section, with respect to data recorded on paper or 1598  
electronically, the following amounts adjusted in accordance 1599  
with section 3701.742 of the Revised Code: 1600

(i) Two dollars and seventy-four cents per page for the 1601  
first ten pages; 1602

(ii) Fifty-seven cents per page for pages eleven through 1603  
fifty; 1604

(iii) Twenty-three cents per page for pages fifty-one and 1605  
higher; 1606

(b) With respect to data resulting from an x-ray, magnetic 1607  
resonance imaging (MRI), or computed axial tomography (CAT) scan 1608  
and recorded on paper or film, one dollar and eighty-seven cents 1609  
per page; 1610

(c) The actual cost of any related postage incurred by the 1611  
health care provider or medical records company. 1612

(2) If the request is made other than by the patient or 1613  
the patient's personal representative, total costs for copies 1614  
and all services related to those copies shall not exceed the 1615  
sum of the following: 1616

(a) An initial fee of sixteen dollars and eighty-four 1617  
cents adjusted in accordance with section 3701.742 of the 1618  
Revised Code, which shall compensate for the records search; 1619

(b) Except as provided in division (B)(2)(c) of this 1620  
section, with respect to data recorded on paper or 1621

electronically, the following amounts adjusted in accordance 1622  
with section 3701.742 of the Revised Code: 1623

(i) One dollar and eleven cents per page for the first ten 1624  
pages; 1625

(ii) Fifty-seven cents per page for pages eleven through 1626  
fifty; 1627

(iii) Twenty-three cents per page for pages fifty-one and 1628  
higher. 1629

(c) With respect to data resulting from an x-ray, magnetic 1630  
resonance imaging (MRI), or computed axial tomography (CAT) scan 1631  
and recorded on paper or film, one dollar and eighty-seven cents 1632  
per page; 1633

(d) The actual cost of any related postage incurred by the 1634  
health care provider or medical records company. 1635

(C) (1) On request, a health care provider or medical 1636  
records company shall provide one copy of the patient's medical 1637  
record and one copy of any records regarding treatment performed 1638  
subsequent to the original request, not including copies of 1639  
records already provided, without charge to the following: 1640

(a) The bureau of workers' compensation, in accordance 1641  
with Chapters 4121.~~and~~, 4123., and 4133. of the Revised Code 1642  
and the rules adopted under those chapters; 1643

(b) The industrial commission, in accordance with Chapters 1644  
4121.~~and~~, 4123., and 4133. of the Revised Code and the rules 1645  
adopted under those chapters; 1646

(c) The occupational pneumoconiosis board, in accordance 1647  
with Chapter 4133. of the Revised Code; 1648

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

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

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

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

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

(E) A health care provider or medical records company may enter into a contract with either of the following for the copying of medical records at a fee other than as provided in division (B) of this section:

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

(2) An insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or health insuring corporations holding a certificate

of authority under Chapter 1751. of the Revised Code. 1678

(F) This section does not apply to medical records the 1679  
copying of which is covered by section 173.20 of the Revised 1680  
Code or by 42 C.F.R. 483.10. 1681

**Sec. 3963.10.** This chapter does not apply with respect to 1682  
any of the following: 1683

(A) A contract or provider agreement between a provider 1684  
and the state or federal government, a state agency, or federal 1685  
agency for health care services provided through a program for 1686  
medicaid or medicare; 1687

(B) A contract for payments made to providers for 1688  
rendering health care services to claimants pursuant to claims 1689  
made under Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of 1690  
the Revised Code; 1691

(C) An exclusive contract between a health insuring 1692  
corporation and a single group of providers in a specific 1693  
geographic area to provide or arrange for the provision of 1694  
health care services. 1695

**Sec. 4115.03.** As used in sections 4115.03 to 4115.16 of 1696  
the Revised Code: 1697

(A) "Public authority" means any officer, board, or 1698  
commission of the state, or any political subdivision of the 1699  
state, authorized to enter into a contract for the construction 1700  
of a public improvement or to construct the same by the direct 1701  
employment of labor, or any institution supported in whole or in 1702  
part by public funds and said sections apply to expenditures of 1703  
such institutions made in whole or in part from public funds. 1704

(B) "Construction" means any of the following: 1705

(1) Except as provided in division (B) (3) of this section, 1706  
any new construction of a public improvement, the total overall 1707  
project cost of which is fairly estimated to be more than the 1708  
following amounts and performed by other than full-time 1709  
employees who have completed their probationary periods in the 1710  
classified service of a public authority: 1711

(a) One hundred twenty-five thousand dollars, beginning on 1712  
September 29, 2011, and continuing for one year thereafter; 1713

(b) Two hundred thousand dollars, beginning when the time 1714  
period described in division (B) (1) (a) of this section expires 1715  
and continuing for one year thereafter; 1716

(c) Two hundred fifty thousand dollars, beginning when the 1717  
time period described in division (B) (1) (b) of this section 1718  
expires. 1719

(2) Except as provided in division (B) (4) of this section, 1720  
any reconstruction, enlargement, alteration, repair, remodeling, 1721  
renovation, or painting of a public improvement, the total 1722  
overall project cost of which is fairly estimated to be more 1723  
than the following amounts and performed by other than full-time 1724  
employees who have completed their probationary period in the 1725  
classified civil service of a public authority: 1726

(a) Thirty-eight thousand dollars, beginning on September 1727  
29, 2011, and continuing for one year thereafter; 1728

(b) Sixty thousand dollars, beginning when the time period 1729  
described in division (B) (2) (a) of this section expires and 1730  
continuing for one year thereafter; 1731

(c) Seventy-five thousand dollars, beginning when the time 1732  
period described in division (B) (2) (b) of this section expires. 1733

(3) Any new construction of a public improvement that 1734  
involves roads, streets, alleys, sewers, ditches, and other 1735  
works connected to road or bridge construction, the total 1736  
overall project cost of which is fairly estimated to be more 1737  
than seventy-eight thousand two hundred fifty-eight dollars 1738  
adjusted biennially by the director of commerce pursuant to 1739  
section 4115.034 of the Revised Code and performed by other than 1740  
full-time employees who have completed their probationary 1741  
periods in the classified service of a public authority; 1742

(4) Any reconstruction, enlargement, alteration, repair, 1743  
remodeling, renovation, or painting of a public improvement that 1744  
involves roads, streets, alleys, sewers, ditches, and other 1745  
works connected to road or bridge construction, the total 1746  
overall project cost of which is fairly estimated to be more 1747  
than twenty-three thousand four hundred forty-seven dollars 1748  
adjusted biennially by the director of commerce pursuant to 1749  
section 4115.034 of the Revised Code and performed by other than 1750  
full-time employees who have completed their probationary 1751  
periods in the classified service of a public authority. 1752

(C) "Public improvement" includes all buildings, roads, 1753  
streets, alleys, sewers, ditches, sewage disposal plants, water 1754  
works, and all other structures or works constructed by a public 1755  
authority of the state or any political subdivision thereof or 1756  
by any person who, pursuant to a contract with a public 1757  
authority, constructs any structure for a public authority of 1758  
the state or a political subdivision thereof. When a public 1759  
authority rents or leases a newly constructed structure within 1760  
six months after completion of such construction, all work 1761  
performed on such structure to suit it for occupancy by a public 1762  
authority is a "public improvement." "Public improvement" does 1763  
not include an improvement authorized by section 940.06 of the 1764

Revised Code that is constructed pursuant to a contract with a 1765  
soil and water conservation district, as defined in section 1766  
940.01 of the Revised Code, or performed as a result of a 1767  
petition filed pursuant to Chapter 6131., 6133., or 6135. of the 1768  
Revised Code, wherein no less than seventy-five per cent of the 1769  
project is located on private land and no less than seventy-five 1770  
per cent of the cost of the improvement is paid for by private 1771  
property owners pursuant to Chapter 940., 6131., 6133., or 6135. 1772  
of the Revised Code. 1773

(D) "Locality" means the county wherein the physical work 1774  
upon any public improvement is being performed. 1775

(E) "Prevailing wages" means the sum of the following: 1776

(1) The basic hourly rate of pay; 1777

(2) The rate of contribution irrevocably made by a 1778  
contractor or subcontractor to a trustee or to a third person 1779  
pursuant to a fund, plan, or program; 1780

(3) The rate of costs to the contractor or subcontractor 1781  
which may be reasonably anticipated in providing the following 1782  
fringe benefits to laborers and mechanics pursuant to an 1783  
enforceable commitment to carry out a financially responsible 1784  
plan or program which was communicated in writing to the 1785  
laborers and mechanics affected: 1786

(a) Medical or hospital care or insurance to provide such; 1787

(b) Pensions on retirement or death or insurance to 1788  
provide such; 1789

(c) Compensation for injuries or illnesses resulting from 1790  
occupational activities if it is in addition to that coverage 1791  
required by Chapters 4121.~~and~~, 4123., and 4133. of the Revised 1792

Code;	1793
(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;	1794 1795
(e) Life insurance;	1796
(f) Disability and sickness insurance;	1797
(g) Accident insurance;	1798
(h) Vacation and holiday pay;	1799
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;	1800 1801 1802
(j) Other bona fide fringe benefits.	1803
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.	1804 1805 1806 1807
(F) "Interested party," with respect to a particular contract for construction of a public improvement, means:	1808 1809
(1) Any person who submits a bid for the purpose of securing the award of the contract;	1810 1811
(2) Any person acting as a subcontractor of a person described in division (F) (1) of this section;	1812 1813
(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person described in division (F) (1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;	1814 1815 1816 1817 1818 1819

(4) Any association having as members any of the persons 1820  
described in division (F) (1) or (2) of this section. 1821

(G) Except as used in division (A) of this section, 1822  
"officer" means an individual who has an ownership interest or 1823  
holds an office of trust, command, or authority in a 1824  
corporation, business trust, partnership, or association. 1825

**Sec. 4121.03.** (A) The governor shall appoint from among 1826  
the members of the industrial commission the chairperson of the 1827  
industrial commission. The chairperson shall serve as 1828  
chairperson at the pleasure of the governor. The chairperson is 1829  
the head of the commission and its chief executive officer. 1830

(B) The chairperson shall appoint, after consultation with 1831  
other commission members and obtaining the approval of at least 1832  
one other commission member, an executive director of the 1833  
commission. The executive director shall serve at the pleasure 1834  
of the chairperson. The executive director, under the direction 1835  
of the chairperson, shall perform all of the following duties: 1836

(1) Act as chief administrative officer for the 1837  
commission; 1838

(2) Ensure that all commission personnel follow the rules 1839  
of the commission; 1840

(3) Ensure that all orders, awards, and determinations are 1841  
properly heard and signed, prior to attesting to the documents; 1842

(4) Coordinate, to the fullest extent possible, commission 1843  
activities with the bureau of workers' compensation activities; 1844

(5) Do all things necessary for the efficient and 1845  
effective implementation of the duties of the commission. 1846

The responsibilities assigned to the executive director of 1847

the commission do not relieve the chairperson from final 1848  
responsibility for the proper performance of the acts specified 1849  
in this division. 1850

(C) The chairperson shall do all of the following: 1851

(1) Except as otherwise provided in this division, employ, 1852  
promote, supervise, remove, and establish the compensation of 1853  
all employees as needed in connection with the performance of 1854  
the commission's duties under this chapter and Chapters 4123., 1855  
4127., ~~and 4131.~~, and 4133. of the Revised Code and may assign 1856  
to them their duties to the extent necessary to achieve the most 1857  
efficient performance of its functions, and to that end may 1858  
establish, change, or abolish positions, and assign and reassign 1859  
duties and responsibilities of every employee of the commission. 1860  
The civil service status of any person employed by the 1861  
commission prior to November 3, 1989, is not affected by this 1862  
section. Personnel employed by the bureau or the commission who 1863  
are subject to Chapter 4117. of the Revised Code shall retain 1864  
all of their rights and benefits conferred pursuant to that 1865  
chapter as it presently exists or is hereafter amended and 1866  
nothing in this chapter or Chapter 4123. of the Revised Code 1867  
shall be construed as eliminating or interfering with Chapter 1868  
4117. of the Revised Code or the rights and benefits conferred 1869  
under that chapter to public employees or to any bargaining 1870  
unit. 1871

(2) Hire district and staff hearing officers after 1872  
consultation with other commission members and obtaining the 1873  
approval of at least one other commission member; 1874

(3) Fire staff and district hearing officers when the 1875  
chairperson finds appropriate after obtaining the approval of at 1876  
least one other commission member; 1877

(4) Maintain the office for the commission in Columbus; 1878

(5) To the maximum extent possible, use electronic data 1879  
processing equipment for the issuance of orders immediately 1880  
following a hearing, scheduling of hearings and medical 1881  
examinations, tracking of claims, retrieval of information, and 1882  
any other matter within the commission's jurisdiction, and shall 1883  
provide and input information into the electronic data 1884  
processing equipment as necessary to effect the success of the 1885  
claims tracking system established pursuant to division (B) (14) 1886  
of section 4121.121 of the Revised Code; 1887

(6) Exercise all administrative and nonadjudicatory powers 1888  
and duties conferred upon the commission by Chapters 4121., 1889  
4123., 4127., ~~and 4131.~~, and 4133. of the Revised Code; 1890

(7) Approve all contracts for special services. 1891

(D) The chairperson is responsible for all administrative 1892  
matters and may secure for the commission facilities, equipment, 1893  
and supplies necessary to house the commission, any employees, 1894  
and files and records under the commission's control and to 1895  
discharge any duty imposed upon the commission by law, the 1896  
expense thereof to be audited and paid in the same manner as 1897  
other state expenses. For that purpose, the chairperson, 1898  
separately from the budget prepared by the administrator of 1899  
workers' compensation, shall prepare and submit to the office of 1900  
budget and management a budget for each biennium according to 1901  
sections 101.532 and 107.03 of the Revised Code. The budget 1902  
submitted shall cover the costs of the commission and staff and 1903  
district hearing officers in the discharge of any duty imposed 1904  
upon the chairperson, the commission, and hearing officers by 1905  
law. 1906

(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;

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

**Sec. 4121.12.** (A) There is hereby created the bureau of workers' compensation board of directors consisting of eleven members to be appointed by the governor with the advice and consent of the senate. One member shall be an individual who, on account of the individual's previous vocation, employment, or

affiliations, can be classed as a representative of employees; 1937  
two members shall be individuals who, on account of their 1938  
previous vocation, employment, or affiliations, can be classed 1939  
as representatives of employee organizations and at least one of 1940  
these two individuals shall be a member of the executive 1941  
committee of the largest statewide labor federation; three 1942  
members shall be individuals who, on account of their previous 1943  
vocation, employment, or affiliations, can be classed as 1944  
representatives of employers, one of whom represents self- 1945  
insuring employers, one of whom is a state fund employer who 1946  
employs one hundred or more employees, and one of whom is a 1947  
state fund employer who employs less than one hundred employees; 1948  
two members shall be individuals who, on account of their 1949  
vocation, employment, or affiliations, can be classed as 1950  
investment and securities experts who have direct experience in 1951  
the management, analysis, supervision, or investment of assets 1952  
and are residents of this state; one member who shall be a 1953  
certified public accountant; one member who shall be an actuary 1954  
who is a member in good standing with the American academy of 1955  
actuaries or who is an associate or fellow with the casualty 1956  
actuarial society; and one member shall represent the public and 1957  
also be an individual who, on account of the individual's 1958  
previous vocation, employment, or affiliations, cannot be 1959  
classed as either predominantly representative of employees or 1960  
of employers. The governor shall select the chairperson of the 1961  
board who shall serve as chairperson at the pleasure of the 1962  
governor. 1963

None of the members of the board, within one year 1964  
immediately preceding the member's appointment, shall have been 1965  
employed by the bureau of workers' compensation or by any 1966  
person, partnership, or corporation that has provided to the 1967

bureau services of a financial or investment nature, including 1968  
the management, analysis, supervision, or investment of assets. 1969

(B) Of the initial appointments made to the board, the 1970  
governor shall appoint the member who represents employees, one 1971  
member who represents employers, and the member who represents 1972  
the public to a term ending one year after June 11, 2007; one 1973  
member who represents employers, one member who represents 1974  
employee organizations, one member who is an investment and 1975  
securities expert, and the member who is a certified public 1976  
accountant to a term ending two years after June 11, 2007; and 1977  
one member who represents employers, one member who represents 1978  
employee organizations, one member who is an investment and 1979  
securities expert, and the member who is an actuary to a term 1980  
ending three years after June 11, 2007. Thereafter, terms of 1981  
office shall be for three years, with each term ending on the 1982  
same day of the same month as did the term that it succeeds. 1983  
Each member shall hold office from the date of the member's 1984  
appointment until the end of the term for which the member was 1985  
appointed. 1986

Members may be reappointed. Any member appointed to fill a 1987  
vacancy occurring prior to the expiration date of the term for 1988  
which the member's predecessor was appointed shall hold office 1989  
as a member for the remainder of that term. A member shall 1990  
continue in office subsequent to the expiration date of the 1991  
member's term until a successor takes office or until a period 1992  
of sixty days has elapsed, whichever occurs first. 1993

(C) In making appointments to the board, the governor 1994  
shall select the members from the list of names submitted by the 1995  
workers' compensation board of directors nominating committee 1996  
pursuant to this division. The nominating committee shall submit 1997

to the governor a list containing four separate names for each 1998  
of the members on the board. Within fourteen days after the 1999  
submission of the list, the governor shall appoint individuals 2000  
from the list. 2001

At least thirty days prior to a vacancy occurring as a 2002  
result of the expiration of a term and within thirty days after 2003  
other vacancies occurring on the board, the nominating committee 2004  
shall submit an initial list containing four names for each 2005  
vacancy. Within fourteen days after the submission of the 2006  
initial list, the governor either shall appoint individuals from 2007  
that list or request the nominating committee to submit another 2008  
list of four names for each member the governor has not 2009  
appointed from the initial list, which list the nominating 2010  
committee shall submit to the governor within fourteen days 2011  
after the governor's request. The governor then shall appoint, 2012  
within seven days after the submission of the second list, one 2013  
of the individuals from either list to fill the vacancy for 2014  
which the governor has not made an appointment from the initial 2015  
list. If the governor appoints an individual to fill a vacancy 2016  
occurring as a result of the expiration of a term, the 2017  
individual appointed shall begin serving as a member of the 2018  
board when the term for which the individual's predecessor was 2019  
appointed expires or immediately upon appointment by the 2020  
governor, whichever occurs later. With respect to the filling of 2021  
vacancies, the nominating committee shall provide the governor 2022  
with a list of four individuals who are, in the judgment of the 2023  
nominating committee, the most fully qualified to accede to 2024  
membership on the board. 2025

In order for the name of an individual to be submitted to 2026  
the governor under this division, the nominating committee shall 2027  
approve the individual by an affirmative vote of a majority of 2028

its members. 2029

(D) All members of the board shall receive their 2030  
reasonable and necessary expenses pursuant to section 126.31 of 2031  
the Revised Code while engaged in the performance of their 2032  
duties as members and also shall receive an annual salary not to 2033  
exceed sixty thousand dollars in total, payable on the following 2034  
basis: 2035

(1) Except as provided in division (D)(2) of this section, 2036  
a member shall receive two thousand five hundred dollars during 2037  
a month in which the member attends one or more meetings of the 2038  
board and shall receive no payment during a month in which the 2039  
member attends no meeting of the board. 2040

(2) A member may receive no more than thirty thousand 2041  
dollars per year to compensate the member for attending meetings 2042  
of the board, regardless of the number of meetings held by the 2043  
board during a year or the number of meetings in excess of 2044  
twelve within a year that the member attends. 2045

(3) Except as provided in division (D)(4) of this section, 2046  
if a member serves on the workers' compensation audit committee, 2047  
workers' compensation actuarial committee, or the workers' 2048  
compensation investment committee, the member shall receive two 2049  
thousand five hundred dollars during a month in which the member 2050  
attends one or more meetings of the committee on which the 2051  
member serves and shall receive no payment during any month in 2052  
which the member attends no meeting of that committee. 2053

(4) A member may receive no more than thirty thousand 2054  
dollars per year to compensate the member for attending meetings 2055  
of any of the committees specified in division (D)(3) of this 2056  
section, regardless of the number of meetings held by a 2057

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;

(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:

(a) An evaluation of the cost and quality objectives of the bureau;

(b) A statement of the net assets available for the

provision of compensation and benefits under this chapter and 2086  
Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the Revised Code 2087  
as of the last day of the fiscal year; 2088

(c) A statement of any changes that occurred in the net 2089  
assets available, including employer premiums and net investment 2090  
income, for the provision of compensation and benefits and 2091  
payment of administrative expenses, between the first and last 2092  
day of the fiscal year immediately preceding the date of the 2093  
report; 2094

(d) The following information for each of the six 2095  
consecutive fiscal years occurring previous to the report: 2096

(i) A schedule of the net assets available for 2097  
compensation and benefits; 2098

(ii) The annual cost of the payment of compensation and 2099  
benefits; 2100

(iii) Annual administrative expenses incurred; 2101

(iv) Annual employer premiums allocated for the provision 2102  
of compensation and benefits. 2103

(e) A description of any significant changes that occurred 2104  
during the six years for which the board provided the 2105  
information required under division (F) (3) (d) of this section 2106  
that affect the ability of the board to compare that information 2107  
from year to year. 2108

(4) Review all independent financial audits of the bureau. 2109  
The administrator shall provide access to records of the bureau 2110  
to facilitate the review required under this division. 2111

(5) Study issues as requested by the administrator or the 2112  
governor; 2113

(6) Contract with all of the following:	2114
(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;	2115 2116 2117
(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;	2118 2119
(c) An independent fiduciary counsel to assist the board in the performance of its duties.	2120 2121
(7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code;	2122 2123 2124 2125
(8) Review and publish the investment policy no less than annually and make copies available to interested parties;	2126 2127
(9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board;	2128 2129 2130
(10) Vote to open each investment class and allow the administrator to invest in an investment class only if the board, by a majority vote, opens that class;	2131 2132 2133
(11) After opening a class but prior to the administrator investing in that class, adopt rules establishing due diligence standards for employees of the bureau to follow when investing in that class and establish policies and procedures to review and monitor the performance and value of each investment class;	2134 2135 2136 2137 2138
(12) Submit a report annually on the performance and value of each investment class to the governor, the president and minority leader of the senate, and the speaker and minority	2139 2140 2141

leader of the house of representatives-;	2142
(13) Advise and consent on all of the following:	2143
(a) Administrative rules the administrator submits to it	2144
pursuant to division (B) (5) of section 4121.121 of the Revised	2145
Code for the classification of occupations or industries, for	2146
premium rates and contributions, for the amount to be credited	2147
to the surplus fund, for rules and systems of rating, rate	2148
revisions, and merit rating;	2149
(b) The duties and authority conferred upon the	2150
administrator pursuant to section 4121.37 of the Revised Code;	2151
(c) Rules the administrator adopts for the health	2152
partnership program and the qualified health plan system, as	2153
provided in sections 4121.44, 4121.441, and 4121.442 of the	2154
Revised Code;	2155
(d) Rules the administrator submits to it pursuant to	2156
Chapter 4167. of the Revised Code regarding the public	2157
employment risk reduction program and the protection of public	2158
health care workers from exposure incidents.	2159
As used in this division, "public health care worker" and	2160
"exposure incident" have the same meanings as in section 4167.25	2161
of the Revised Code.	2162
(14) Perform all duties required under this chapter and	2163
Chapters 4123., 4125., 4127., 4131., <u>4133.</u> , and 4167. of the	2164
Revised Code;	2165
(15) Meet with the governor on an annual basis to discuss	2166
the administrator's performance of the duties specified in this	2167
chapter and Chapters 4123., 4125., 4127., 4131., <u>4133.</u> , and	2168
4167. of the Revised Code;	2169

(16) Develop and participate in a bureau of workers'	2170
compensation board of directors education program that consists	2171
of all of the following:	2172
(a) An orientation component for newly appointed members;	2173
(b) A continuing education component for board members who	2174
have served for at least one year;	2175
(c) A curriculum that includes education about each of the	2176
following topics:	2177
(i) Board member duties and responsibilities;	2178
(ii) Compensation and benefits paid pursuant to this	2179
chapter and Chapters 4123., 4127., <del>and 4131.</del> , and 4133. of the	2180
Revised Code;	2181
(iii) Ethics;	2182
(iv) Governance processes and procedures;	2183
(v) Actuarial soundness;	2184
(vi) Investments;	2185
(vii) Any other subject matter the board believes is	2186
reasonably related to the duties of a board member.	2187
(17) Hold all sessions, classes, and other events for the	2188
program developed pursuant to division (F)(16) of this section	2189
in this state.	2190
(G) The board may do both of the following:	2191
(1) Vote to close any investment class;	2192
(2) Create any committees in addition to the workers'	2193
compensation audit committee, the workers' compensation	2194
actuarial committee, and the workers' compensation investment	2195

committee that the board determines are necessary to assist the 2196  
board in performing its duties. 2197

(H) The office of a member of the board who is convicted 2198  
of or pleads guilty to a felony, a theft offense as defined in 2199  
section 2913.01 of the Revised Code, or a violation of section 2200  
102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2201  
2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall 2202  
be deemed vacant. The vacancy shall be filled in the same manner 2203  
as the original appointment. A person who has pleaded guilty to 2204  
or been convicted of an offense of that nature is ineligible to 2205  
be a member of the board. A member who receives a bill of 2206  
indictment for any of the offenses specified in this section 2207  
shall be automatically suspended from the board pending 2208  
resolution of the criminal matter. 2209

(I) For the purposes of division (G) (1) of section 121.22 2210  
of the Revised Code, the meeting between the governor and the 2211  
board to review the administrator's performance as required 2212  
under division (F) (15) of this section shall be considered a 2213  
meeting regarding the employment of the administrator. 2214

**Sec. 4121.121.** (A) There is hereby created the bureau of 2215  
workers' compensation, which shall be administered by the 2216  
administrator of workers' compensation. A person appointed to 2217  
the position of administrator shall possess significant 2218  
management experience in effectively managing an organization or 2219  
organizations of substantial size and complexity. A person 2220  
appointed to the position of administrator also shall possess a 2221  
minimum of five years of experience in the field of workers' 2222  
compensation insurance or in another insurance industry, except 2223  
as otherwise provided when the conditions specified in division 2224  
(C) of this section are satisfied. The governor shall appoint 2225

the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4125., 4127., 4131., 4133., and 4167. of the Revised Code. The governor shall not appoint to the position of administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator.

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

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

(1) Perform all acts and exercise all authorities and powers, discretionary and otherwise that are required of or vested in the bureau or any of its employees in this chapter and

Chapters 4123., 4125., 4127., 4131., 4133., and 4167. of the 2256  
Revised Code, except the acts and the exercise of authority and 2257  
power that is required of and vested in the bureau of workers' 2258  
compensation board of directors or the industrial commission 2259  
pursuant to those chapters. The treasurer of state shall honor 2260  
all warrants signed by the administrator, or by one or more of 2261  
the administrator's employees, authorized by the administrator 2262  
in writing, or bearing the facsimile signature of the 2263  
administrator or such employee under sections 4123.42 and 2264  
4123.44 of the Revised Code. 2265

(2) Employ, direct, and supervise all employees required 2266  
in connection with the performance of the duties assigned to the 2267  
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 2268  
4133., and 4167. of the Revised Code, including an actuary, and 2269  
may establish job classification plans and compensation for all 2270  
employees of the bureau provided that this grant of authority 2271  
shall not be construed as affecting any employee for whom the 2272  
state employment relations board has established an appropriate 2273  
bargaining unit under section 4117.06 of the Revised Code. All 2274  
positions of employment in the bureau are in the classified 2275  
civil service except those employees the administrator may 2276  
appoint to serve at the administrator's pleasure in the 2277  
unclassified civil service pursuant to section 124.11 of the 2278  
Revised Code. The administrator shall fix the salaries of 2279  
employees the administrator appoints to serve at the 2280  
administrator's pleasure, including the chief operating officer, 2281  
staff physicians, and other senior management personnel of the 2282  
bureau ~~and~~. The administrator shall establish the compensation 2283  
of staff attorneys of the bureau's legal section and their 2284  
immediate supervisors, and take whatever steps are necessary to 2285  
provide adequate compensation for other staff attorneys. The 2286

administrator shall establish the compensation of the members of 2287  
the occupational pneumoconiosis board created in section 4133.07 2288  
of the Revised Code. 2289

The administrator may appoint a person who holds a 2290  
certified position in the classified service within the bureau 2291  
to a position in the unclassified service within the bureau. A 2292  
person appointed pursuant to this division to a position in the 2293  
unclassified service shall retain the right to resume the 2294  
position and status held by the person in the classified service 2295  
immediately prior to the person's appointment in the 2296  
unclassified service, regardless of the number of positions the 2297  
person held in the unclassified service. An employee's right to 2298  
resume a position in the classified service may only be 2299  
exercised when the administrator demotes the employee to a pay 2300  
range lower than the employee's current pay range or revokes the 2301  
employee's appointment to the unclassified service. An employee 2302  
who holds a position in the classified service and who is 2303  
appointed to a position in the unclassified service on or after 2304  
January 1, 2016, shall have the right to resume a position in 2305  
the classified service under this division only within five 2306  
years after the effective date of the employee's appointment in 2307  
the unclassified service. An employee forfeits the right to 2308  
resume a position in the classified service when the employee is 2309  
removed from the position in the unclassified service due to 2310  
incompetence, inefficiency, dishonesty, drunkenness, immoral 2311  
conduct, insubordination, discourteous treatment of the public, 2312  
neglect of duty, violation of this chapter or Chapter 124., 2313  
4123., 4125., 4127., 4131., 4133., or 4167. of the Revised Code, 2314  
violation of the rules of the director of administrative 2315  
services or the administrator, any other failure of good 2316  
behavior, any other acts of misfeasance, malfeasance, or 2317

nonfeasance in office, or conviction of a felony while employed 2318  
in the civil service. An employee also forfeits the right to 2319  
resume a position in the classified service upon transfer to a 2320  
different agency. 2321

Reinstatement to a position in the classified service 2322  
shall be to a position substantially equal to that position in 2323  
the classified service held previously, as certified by the 2324  
department of administrative services. If the position the 2325  
person previously held in the classified service has been placed 2326  
in the unclassified service or is otherwise unavailable, the 2327  
person shall be appointed to a position in the classified 2328  
service within the bureau that the director of administrative 2329  
services certifies is comparable in compensation to the position 2330  
the person previously held in the classified service. Service in 2331  
the position in the unclassified service shall be counted as 2332  
service in the position in the classified service held by the 2333  
person immediately prior to the person's appointment in the 2334  
unclassified service. When a person is reinstated to a position 2335  
in the classified service as provided in this division, the 2336  
person is entitled to all rights, status, and benefits accruing 2337  
to the position during the person's time of service in the 2338  
position in the unclassified service. 2339

(3) Reorganize the work of the bureau, its sections, 2340  
departments, and offices to the extent necessary to achieve the 2341  
most efficient performance of its functions and to that end may 2342  
establish, change, or abolish positions and assign and reassign 2343  
duties and responsibilities of every employee of the bureau. All 2344  
persons employed by the commission in positions that, after 2345  
November 3, 1989, are supervised and directed by the 2346  
administrator under this section are transferred to the bureau 2347  
in their respective classifications but subject to reassignment 2348

and reclassification of position and compensation as the 2349  
administrator determines to be in the interest of efficient 2350  
administration. The civil service status of any person employed 2351  
by the commission is not affected by this section. Personnel 2352  
employed by the bureau or the commission who are subject to 2353  
Chapter 4117. of the Revised Code shall retain all of their 2354  
rights and benefits conferred pursuant to that chapter as it 2355  
presently exists or is hereafter amended and nothing in this 2356  
chapter or Chapter 4123. of the Revised Code shall be construed 2357  
as eliminating or interfering with Chapter 4117. of the Revised 2358  
Code or the rights and benefits conferred under that chapter to 2359  
public employees or to any bargaining unit. 2360

(4) Provide offices, equipment, supplies, and other 2361  
facilities for the bureau. 2362

(5) Prepare and submit to the board information the 2363  
administrator considers pertinent or the board requires, 2364  
together with the administrator's recommendations, in the form 2365  
of administrative rules, for the advice and consent of the 2366  
board, for classifications of occupations or industries, for 2367  
premium rates and contributions, for the amount to be credited 2368  
to the surplus fund, for rules and systems of rating, rate 2369  
revisions, and merit rating. The administrator shall obtain, 2370  
prepare, and submit any other information the board requires for 2371  
the prompt and efficient discharge of its duties. 2372

(6) Keep the accounts required by division (A) of section 2373  
4123.34 of the Revised Code and all other accounts and records 2374  
necessary to the collection, administration, and distribution of 2375  
the workers' compensation funds and shall obtain the statistical 2376  
and other information required by section 4123.19 of the Revised 2377  
Code. 2378

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

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

(9) Prepare and submit to the board an annual budget for internal operating purposes for the board's approval. The administrator also shall, separately from the budget the industrial commission submits, prepare and submit to the director of budget and management a budget for each biennium. The budgets submitted to the board and the director shall include estimates of the costs and necessary expenditures of the bureau in the discharge of any duty imposed by law.

(10) As promptly as possible in the course of efficient administration, decentralize and relocate such of the personnel and activities of the bureau as is appropriate to the end that

the receipt, investigation, determination, and payment of claims 2409  
may be undertaken at or near the place of injury or the 2410  
residence of the claimant and for that purpose establish 2411  
regional offices, in such places as the administrator considers 2412  
proper, capable of discharging as many of the functions of the 2413  
bureau as is practicable so as to promote prompt and efficient 2414  
administration in the processing of claims. All active and 2415  
inactive lost-time claims files shall be held at the service 2416  
office responsible for the claim. A claimant, at the claimant's 2417  
request, shall be provided with information by telephone as to 2418  
the location of the file pertaining to the claimant's claim. The 2419  
administrator shall ensure that all service office employees 2420  
report directly to the director for their service office. 2421

(11) Provide a written binder on new coverage where the 2422  
administrator considers it to be in the best interest of the 2423  
risk. The administrator, or any other person authorized by the 2424  
administrator, shall grant the binder upon submission of a 2425  
request for coverage by the employer. A binder is effective for 2426  
a period of thirty days from date of issuance and is 2427  
nonrenewable. Payroll reports and premium charges shall coincide 2428  
with the effective date of the binder. 2429

(12) Set standards for the reasonable and maximum handling 2430  
time of claims payment functions, ensure, by rules, the 2431  
impartial and prompt treatment of all claims and employer risk 2432  
accounts, and establish a secure, accurate method of time 2433  
stamping all incoming mail and documents hand delivered to 2434  
bureau employees. 2435

(13) Ensure that all employees of the bureau follow the 2436  
orders and rules of the commission as such orders and rules 2437  
relate to the commission's overall adjudicatory policy-making 2438

and management duties under this chapter and Chapters 4123., 2439  
4127., ~~and 4131.~~, and 4133. of the Revised Code. 2440

(14) Manage and operate a data processing system with a 2441  
common data base for the use of both the bureau and the 2442  
commission and, in consultation with the commission, using 2443  
electronic data processing equipment, shall develop a claims 2444  
tracking system that is sufficient to monitor the status of a 2445  
claim at any time and that lists appeals that have been filed 2446  
and orders or determinations that have been issued pursuant to 2447  
section 4123.511 or 4123.512 of the Revised Code, including the 2448  
dates of such filings and issuances. 2449

(15) Establish and maintain a medical section within the 2450  
bureau. The medical section shall do all of the following: 2451

(a) Assist the administrator in establishing standard 2452  
medical fees, approving medical procedures, and determining 2453  
eligibility and reasonableness of the compensation payments for 2454  
medical, hospital, and nursing services, and in establishing 2455  
guidelines for payment policies which recognize usual, 2456  
customary, and reasonable methods of payment for covered 2457  
services; 2458

(b) Provide a resource to respond to questions from claims 2459  
examiners for employees of the bureau; 2460

(c) Audit fee bill payments; 2461

(d) Implement a program to utilize, to the maximum extent 2462  
possible, electronic data processing equipment for storage of 2463  
information to facilitate authorizations of compensation 2464  
payments for medical, hospital, drug, and nursing services; 2465

(e) Perform other duties assigned to it by the 2466  
administrator. 2467

(16) Appoint, as the administrator determines necessary, 2468  
panels to review and advise the administrator on disputes 2469  
arising over a determination that a health care service or 2470  
supply provided to a claimant is not covered under this chapter 2471  
or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code 2472  
or is medically unnecessary. If an individual health care 2473  
provider is involved in the dispute, the panel shall consist of 2474  
individuals licensed pursuant to the same section of the Revised 2475  
Code as such health care provider. 2476

(17) Pursuant to section 4123.65 of the Revised Code, 2477  
approve applications for the final settlement of claims for 2478  
compensation or benefits under this chapter and Chapters 4123., 2479  
4127., ~~and 4131.~~ and 4133. of the Revised Code as the 2480  
administrator determines appropriate, except in regard to the 2481  
applications of self-insuring employers and their employees. 2482

(18) Comply with section 3517.13 of the Revised Code, and 2483  
except in regard to contracts entered into pursuant to the 2484  
authority contained in section 4121.44 of the Revised Code, 2485  
comply with the competitive bidding procedures set forth in the 2486  
Revised Code for all contracts into which the administrator 2487  
enters provided that those contracts fall within the type of 2488  
contracts and dollar amounts specified in the Revised Code for 2489  
competitive bidding and further provided that those contracts 2490  
are not otherwise specifically exempt from the competitive 2491  
bidding procedures contained in the Revised Code. 2492

(19) Adopt, with the advice and consent of the board, 2493  
rules for the operation of the bureau. 2494

(20) Prepare and submit to the board information the 2495  
administrator considers pertinent or the board requires, 2496  
together with the administrator's recommendations, in the form 2497

of administrative rules, for the advice and consent of the 2498  
board, for the health partnership program and the qualified 2499  
health plan system, as provided in sections 4121.44, 4121.441, 2500  
and 4121.442 of the Revised Code. 2501

(C) The administrator, with the advice and consent of the 2502  
senate, shall appoint a chief operating officer who has a 2503  
minimum of five years of experience in the field of workers' 2504  
compensation insurance or in another similar insurance industry 2505  
if the administrator does not possess such experience. The chief 2506  
operating officer shall not commence the chief operating 2507  
officer's duties until after the senate consents to the chief 2508  
operating officer's appointment. The chief operating officer 2509  
shall serve in the unclassified civil service of the state. 2510

**Sec. 4121.125.** (A) The bureau of workers' compensation 2511  
board of directors, based upon recommendations of the workers' 2512  
compensation actuarial committee, may contract with one or more 2513  
outside actuarial firms and other professional persons, as the 2514  
board determines necessary, to assist the board in measuring the 2515  
performance of Ohio's workers' compensation system and in 2516  
comparing Ohio's workers' compensation system to other state and 2517  
private workers' compensation systems. The board, actuarial firm 2518  
or firms, and professional persons shall make such measurements 2519  
and comparisons using accepted insurance industry standards, 2520  
including, but not limited to, standards promulgated by the 2521  
National Council on Compensation Insurance. 2522

(B) The board may contract with one or more outside firms 2523  
to conduct management and financial audits of the workers' 2524  
compensation system, including audits of the reserve fund 2525  
belonging to the state insurance fund, and to establish 2526  
objective quality management principles and methods by which to 2527

review the performance of the workers' compensation system. 2528

(C) The board shall do all of the following: 2529

(1) Contract to have prepared annually by or under the 2530  
supervision of an actuary a report that meets the requirements 2531  
specified under division (E) of this section and that consists 2532  
of an actuarial valuation of the assets, liabilities, and 2533  
funding requirements of the state insurance fund and all other 2534  
funds specified in this chapter and Chapters 4123., 4127., and 2535  
4131., and 4133. of the Revised Code; 2536

(2) Require that the actuary or person supervised by an 2537  
actuary referred to in division (C)(1) of this section complete 2538  
the valuation in accordance with the actuarial standards of 2539  
practice promulgated by the actuarial standards board of the 2540  
American academy of actuaries; 2541

(3) Submit the report referred to in division (C)(1) of 2542  
this section to the standing committees of the house of 2543  
representatives and the senate with primary responsibility for 2544  
workers' compensation legislation on or before the first day of 2545  
November following the year for which the valuation was made; 2546

(4) Have an actuary or a person who provides actuarial 2547  
services under the supervision of an actuary, at such time as 2548  
the board determines, and at least once during the five-year 2549  
period that commences on September 10, 2007, and once within 2550  
each five-year period thereafter, conduct an actuarial 2551  
investigation of the experience of employers, the mortality, 2552  
service, and injury rate of employees, and the payment of 2553  
temporary total disability, permanent partial disability, and 2554  
permanent total disability under sections 4123.56 to , 4123.57, 2555  
4123.58, 4133.12, 4133.13, and 4133.14 of the Revised Code to 2556

update the actuarial assumptions used in the report required by 2557  
division (C) (1) of this section; 2558

(5) Submit the report required under division (F) of this 2559  
section to the standing committees of the house of 2560  
representatives and the senate with primary responsibility for 2561  
workers' compensation legislation not later than the first day 2562  
of November following the fifth year of the period that the 2563  
report covers; 2564

(6) Have prepared by or under the supervision of an 2565  
actuary an actuarial analysis of any introduced legislation 2566  
expected to have a measurable financial impact on the workers' 2567  
compensation system; 2568

(7) Submit the report required under division (G) of this 2569  
section to the legislative service commission and the standing 2570  
committees of the house of representatives and the senate with 2571  
primary responsibility for workers' compensation legislation not 2572  
later than sixty days after the date of introduction of the 2573  
legislation. 2574

(D) The administrator of workers' compensation and the 2575  
industrial commission shall compile information and provide 2576  
access to records of the bureau and the industrial commission to 2577  
the board to the extent necessary for fulfillment of both of the 2578  
following requirements: 2579

(1) Conduct of the measurements and comparisons described 2580  
in division (A) of this section; 2581

(2) Conduct of the management and financial audits and 2582  
establishment of the principles and methods described in 2583  
division (B) of this section. 2584

(E) The firm or person with whom the board contracts 2585

pursuant to division (C) (1) of this section shall prepare a 2586  
report of the valuation and submit the report to the board. The 2587  
firm or person shall include all of the following information in 2588  
the report that is required under division (C) (1) of this 2589  
section: 2590

(1) A summary of the compensation and benefit provisions 2591  
evaluated; 2592

(2) A description of the actuarial assumptions and 2593  
actuarial cost method used in the valuation; 2594

(3) A schedule showing the effect of any changes in the 2595  
compensation and benefit provisions, actuarial assumptions, or 2596  
cost methods since the previous annual actuarial valuation 2597  
report was submitted to the board. 2598

(F) The actuary or person whom the board designates to 2599  
conduct an actuarial investigation under division (C) (4) of this 2600  
section shall prepare a report of the actuarial investigation 2601  
and shall submit the report to the board. The actuary or person 2602  
shall prepare the report and make any recommended changes in 2603  
actuarial assumptions in accordance with the actuarial standards 2604  
of practice promulgated by the actuarial standards board of the 2605  
American academy of actuaries. The actuary or person shall 2606  
include all of the following information in the report: 2607

(1) A summary of relevant decrement and economic 2608  
assumption experience; 2609

(2) Recommended changes in actuarial assumptions to be 2610  
used in subsequent actuarial valuations required by division (C) 2611  
(1) of this section; 2612

(3) A measurement of the financial effect of the 2613  
recommended changes in actuarial assumptions. 2614

(G) The actuary or person whom the board designates to 2615  
conduct the actuarial analysis under division (C) (6) of this 2616  
section shall prepare a report of the actuarial analysis and 2617  
shall submit that report to the board. The actuary or person 2618  
shall complete the analysis in accordance with the actuarial 2619  
standards of practice promulgated by the actuarial standards 2620  
board of the American academy of actuaries. The actuary or 2621  
person shall include all of the following information in the 2622  
report: 2623

(1) A summary of the statutory changes being evaluated; 2624

(2) A description of or reference to the actuarial 2625  
assumptions and actuarial cost method used in the report; 2626

(3) A description of the participant group or groups 2627  
included in the report; 2628

(4) A statement of the financial impact of the 2629  
legislation, including the resulting increase, if any, in 2630  
employer premiums, in actuarial accrued liabilities, and, if an 2631  
increase in actuarial accrued liabilities is predicted, the per 2632  
cent of premium increase that would be required to amortize the 2633  
increase in those liabilities as a level per cent of employer 2634  
premiums over a period not to exceed thirty years. 2635

(5) A statement of whether the employer premiums paid to 2636  
the bureau of workers' compensation after the proposed change is 2637  
enacted are expected to be sufficient to satisfy the funding 2638  
objectives established by the board. 2639

(H) The board may, at any time, request an actuary to make 2640  
any studies or actuarial valuations to determine the adequacy of 2641  
the premium rates established by the administrator in accordance 2642  
with sections 4123.29 and 4123.34 of the Revised Code, and may 2643

adjust those rates as recommended by the actuary. 2644

(I) The board shall have an independent auditor, at least 2645  
once every ten years, conduct a fiduciary performance audit of 2646  
the investment program of the bureau of workers' compensation. 2647  
That audit shall include an audit of the investment policies 2648  
approved by the board and investment procedures of the bureau. 2649  
The board shall submit a copy of that audit to the auditor of 2650  
state. 2651

(J) The administrator, with the advice and consent of the 2652  
board, shall employ an internal auditor who shall report 2653  
findings directly to the board, workers' compensation audit 2654  
committee, and administrator, except that the internal auditor 2655  
shall not report findings directly to the administrator when 2656  
those findings involve malfeasance, misfeasance, or nonfeasance 2657  
on the part of the administrator. The board and the workers' 2658  
compensation audit committee may request and review internal 2659  
audits conducted by the internal auditor. 2660

(K) The administrator shall pay the expenses incurred by 2661  
the board to effectively fulfill its duties and exercise its 2662  
powers under this section as the administrator pays other 2663  
operating expenses of the bureau. 2664

**Sec. 4121.127.** (A) Except as provided in division (B) of 2665  
this section, a fiduciary shall not cause the bureau of workers' 2666  
compensation to engage in a transaction, if the fiduciary knows 2667  
or should know that such transaction constitutes any of the 2668  
following, whether directly or indirectly: 2669

(1) The sale, exchange, or leasing of any property between 2670  
the bureau and a party in interest; 2671

(2) Lending of money or other extension of credit between 2672

the bureau and a party in interest;	2673
(3) Furnishing of goods, services, or facilities between the bureau and a party in interest;	2674 2675
(4) Transfer to, or use by or for the benefit of a party in interest, of any assets of the bureau;	2676 2677
(5) Acquisition, on behalf of the bureau, of any employer security or employer real property.	2678 2679
(B) Nothing in this section shall prohibit any transaction between the bureau and any fiduciary or party in interest if both of the following occur:	2680 2681 2682
(1) All the terms and conditions of the transaction are comparable to the terms and conditions that might reasonably be expected in a similar transaction between similar parties who are not parties in interest.	2683 2684 2685 2686
(2) The transaction is consistent with fiduciary duties under this chapter and Chapters 4123., 4127., <del>and 4131.</del> , and <u>4133.</u> of the Revised Code.	2687 2688 2689
(C) A fiduciary shall not do any of the following:	2690
(1) Deal with the assets of the bureau in the fiduciary's own interest or for the fiduciary's own account;	2691 2692
(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;	2693 2694 2695 2696 2697
(3) Receive any consideration for the fiduciary's own personal account from any party dealing with the bureau in	2698 2699

connection with a transaction involving the assets of the 2700  
bureau. 2701

(D) In addition to any liability that a fiduciary may have 2702  
under any other provision, a fiduciary, with respect to the 2703  
bureau, shall be liable for a breach of fiduciary responsibility 2704  
in any of the following circumstances: 2705

(1) If the fiduciary knowingly participates in or 2706  
knowingly undertakes to conceal an act or omission of another 2707  
fiduciary, knowing such act or omission is a breach; 2708

(2) If, by the fiduciary's failure to comply with this 2709  
chapter or Chapter 4123., 4127., ~~or~~4131., or 4133. of the 2710  
Revised Code, the fiduciary has enabled another fiduciary to 2711  
commit a breach; 2712

(3) If the fiduciary has knowledge of a breach by another 2713  
fiduciary of that fiduciary's duties under this chapter and 2714  
Chapters 4123., 4127., ~~and~~4131., and 4133. of the Revised Code, 2715  
unless the fiduciary makes reasonable efforts under the 2716  
circumstances to remedy the breach. 2717

(E) Every fiduciary of the bureau shall be bonded or 2718  
insured for an amount of not less than one million dollars for 2719  
loss by reason of acts of fraud or dishonesty. 2720

(F) As used in this section, "fiduciary" means a person 2721  
who does any of the following: 2722

(1) Exercises discretionary authority or control with 2723  
respect to the management of the bureau or with respect to the 2724  
management or disposition of its assets; 2725

(2) Renders investment advice for a fee, directly or 2726  
indirectly, with respect to money or property of the bureau; 2727

(3) Has discretionary authority or responsibility in the 2728  
administration of the bureau. 2729

**Sec. 4121.129.** (A) There is hereby created the workers' 2730  
compensation audit committee consisting of at least three 2731  
members. One member shall be the member of the bureau of 2732  
workers' compensation board of directors who is a certified 2733  
public accountant. The board, by majority vote, shall appoint 2734  
two additional members of the board to serve on the audit 2735  
committee and may appoint additional members who are not board 2736  
members, as the board determines necessary. Members of the audit 2737  
committee serve at the pleasure of the board, and the board, by 2738  
majority vote, may remove any member except the member of the 2739  
committee who is the certified public accountant member of the 2740  
board. The board, by majority vote, shall determine how often 2741  
the audit committee shall meet and report to the board. If the 2742  
audit committee meets on the same day as the board holds a 2743  
meeting, no member shall be compensated for more than one 2744  
meeting held on that day. The audit committee shall do all of 2745  
the following: 2746

(1) Recommend to the board an accounting firm to perform 2747  
the annual audits required under division (B) of section 4123.47 2748  
of the Revised Code; 2749

(2) Recommend an auditing firm for the board to use when 2750  
conducting audits under section 4121.125 of the Revised Code; 2751

(3) Review the results of each annual audit and management 2752  
review and, if any problems exist, assess the appropriate course 2753  
of action to correct those problems and develop an action plan 2754  
to correct those problems; 2755

(4) Monitor the implementation of any action plans created 2756

pursuant to division (A) (3) of this section; 2757

(5) Review all internal audit reports on a regular basis. 2758

(B) There is hereby created the workers' compensation 2759  
actuarial committee consisting of at least three members. One 2760  
member shall be the member of the board who is an actuary. The 2761  
board, by majority vote, shall appoint two additional members of 2762  
the board to serve on the actuarial committee and may appoint 2763  
additional members who are not board members, as the board 2764  
determines necessary. Members of the actuarial committee serve 2765  
at the pleasure of the board and the board, by majority vote, 2766  
may remove any member except the member of the committee who is 2767  
the actuary member of the board. The board, by majority vote, 2768  
shall determine how often the actuarial committee shall meet and 2769  
report to the board. If the actuarial committee meets on the 2770  
same day as the board holds a meeting, no member shall be 2771  
compensated for more than one meeting held on that day. The 2772  
actuarial committee shall do both of the following: 2773

(1) Recommend actuarial consultants for the board to use 2774  
for the funds specified in this chapter and Chapters 4123., 2775  
4127., ~~and 4131.~~, and 4133. of the Revised Code; 2776

(2) Review and approve the various rate schedules prepared 2777  
and presented by the actuarial division of the bureau or by 2778  
actuarial consultants with whom the board enters into a 2779  
contract. 2780

(C) (1) There is hereby created the workers' compensation 2781  
investment committee consisting of at least four members. Two of 2782  
the members shall be the members of the board who serve as the 2783  
investment and securities experts on the board. The board, by 2784  
majority vote, shall appoint two additional members of the board 2785

to serve on the investment committee and may appoint additional 2786  
members who are not board members. Each additional member the 2787  
board appoints shall have at least one of the following 2788  
qualifications: 2789

(a) Experience managing another state's pension funds or 2790  
workers' compensation funds; 2791

(b) Expertise that the board determines is needed to make 2792  
investment decisions. 2793

Members of the investment committee serve at the pleasure 2794  
of the board and the board, by majority vote, may remove any 2795  
member except the members of the committee who are the 2796  
investment and securities expert members of the board. The 2797  
board, by majority vote, shall determine how often the 2798  
investment committee shall meet and report to the board. If the 2799  
investment committee meets on the same day as the board holds a 2800  
meeting, no member shall be compensated for more than one 2801  
meeting held on that day. 2802

(2) The investment committee shall do all of the 2803  
following: 2804

(a) Develop the investment policy for the administration 2805  
of the investment program for the funds specified in this 2806  
chapter and Chapters 4123., 4127., ~~and 4131.~~ and 4133. of the 2807  
Revised Code in accordance with the requirements specified in 2808  
section 4123.442 of the Revised Code; 2809

(b) Submit the investment policy developed pursuant to 2810  
division (C) (2) (a) of this section to the board for approval; 2811

(c) Monitor implementation by the administrator of 2812  
workers' compensation and the bureau of workers' compensation 2813  
chief investment officer of the investment policy approved by 2814

the board; 2815

(d) Recommend outside investment counsel with whom the 2816  
board may contract to assist the investment committee in 2817  
fulfilling its duties; 2818

(e) Review the performance of the bureau of workers' 2819  
compensation chief investment officer and any investment 2820  
consultants retained by the administrator to assure that the 2821  
investments of the assets of the funds specified in this chapter 2822  
and Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the Revised 2823  
Code are made in accordance with the investment policy approved 2824  
by the board and to assure compliance with the investment policy 2825  
and effective management of the funds. 2826

**Sec. 4121.13.** The administrator of workers' compensation 2827  
shall: 2828

(A) Investigate, ascertain, and declare and prescribe what 2829  
hours of labor, safety devices, safeguards, or other means or 2830  
methods of protection are best adapted to render the employees 2831  
of every employment and place of employment and frequenters of 2832  
every place of employment safe, and to protect their welfare as 2833  
required by law or lawful orders, and establish and maintain 2834  
museums of safety and hygiene in which shall be exhibited safety 2835  
devices, safeguards, and other means and methods for the 2836  
protection of life, health, safety, and welfare of employees; 2837

(B) Ascertain and fix reasonable standards and prescribe, 2838  
modify, and enforce reasonable orders for the adoption of safety 2839  
devices, safeguards, and other means or methods of protection to 2840  
be as nearly uniform as possible as may be necessary to carry 2841  
out all laws and lawful orders relative to the protection of the 2842  
life, health, safety, and welfare of employees in employments 2843

and places of employment or frequenters of places of employment; 2844

(C) Ascertain, fix, and order reasonable standards for the 2845  
construction, repair, and maintenance of places of employment as 2846  
shall render them safe; 2847

(D) Investigate, ascertain, and determine reasonable 2848  
classifications of persons, employments, and places of 2849  
employment as are necessary to carry out the applicable sections 2850  
of sections 4101.01 to 4101.16 and 4121.01 to 4121.29 of the 2851  
Revised Code; 2852

(E) Adopt reasonable and proper rules relative to the 2853  
exercise of ~~his~~ the administrator's powers and authorities, and 2854  
proper rules to govern ~~his~~ the administrator's proceedings and 2855  
to regulate the mode and manner of all investigations and 2856  
hearings, which rules shall not be effective until ten days 2857  
after their publication; a copy of the rules shall be delivered 2858  
at cost to every citizen making application therefor; 2859

(F) Investigate all cases of fraud or other illegalities 2860  
pertaining to the operation of the workers' compensation system 2861  
and its several insurance funds and for that purpose, the 2862  
administrator has every power of an inquisitorial nature granted 2863  
to the industrial commission in this chapter and ~~Chapter~~ 2864  
Chapters 4123. and 4133. of the Revised Code; 2865

(G) Do all things convenient and necessary to accomplish 2866  
the purposes directed in sections 4101.01 to 4101.16 and 4121.01 2867  
to 4121.28 of the Revised Code; 2868

(H) Nothing in this section shall be construed to 2869  
supersede section 4105.011 of the Revised Code in particular, or 2870  
Chapter 4105. of the Revised Code in general. 2871

**Sec. 4121.30.** (A) All rules governing the operating 2872

procedure of the bureau of workers' compensation and the 2873  
industrial commission shall be adopted in accordance with 2874  
Chapter 119. of the Revised Code, except that determinations of 2875  
the bureau, district hearing officers, staff hearing officers, 2876  
the occupational pneumoconiosis board, and the commission, with 2877  
respect to an individual employee's claim to participate in the 2878  
state insurance fund are governed only by ~~Chapter~~ Chapters 4123. 2879  
and 4133. of the Revised Code. 2880

The administrator of workers' compensation and commission 2881  
shall proceed jointly, in accordance with Chapter 119. of the 2882  
Revised Code, including a joint hearing, to adopt joint rules 2883  
governing the operating procedures of the bureau and commission. 2884

(B) Upon submission to the bureau or the commission of a 2885  
petition containing not less than fifteen hundred signatures of 2886  
adult residents of the state, any individual may propose a rule 2887  
for adoption, amendment, or rescission by the bureau or the 2888  
commission. If, upon investigation, the bureau or commission is 2889  
satisfied that the signatures upon the petition are valid, it 2890  
shall proceed, in accordance with Chapter 119. of the Revised 2891  
Code, to consider adoption, amendment, or rescission of the 2892  
rule. 2893

(C) The administrator shall make available electronically 2894  
all rules adopted by the bureau and the commission and shall 2895  
make available in a timely manner all rules adopted by the 2896  
bureau and the commission that are currently in force. 2897

(D) The rule-making authority granted to the administrator 2898  
under this section does not limit the commission's rule-making 2899  
authority relative to its overall adjudicatory policy-making and 2900  
management duties under this chapter and Chapters 4123., 4127., 2901  
~~and 4131.,~~ and 4133. of the Revised Code. The administrator 2902

shall not disregard any rule adopted by the commission, provided 2903  
that the rule is within the commission's rule-making authority. 2904

**Sec. 4121.31.** (A) The administrator of workers' 2905  
compensation and the industrial commission jointly shall adopt 2906  
rules covering the following general topics with respect to this 2907  
chapter and ~~Chapter~~ Chapters 4123. and 4133. of the Revised 2908  
Code: 2909

(1) Rules that set forth any general policy and the 2910  
principal operating procedures of the bureau of workers' 2911  
compensation or commission, including but not limited to: 2912

(a) Assignment to various operational units of any duties 2913  
placed upon the administrator or the commission by statute; 2914

(b) Procedures for decision-making; 2915

(c) Procedures governing the appearances of a claimant, 2916  
employer, or their representatives before the agency in a 2917  
hearing; 2918

(d) Procedures that inform claimants, on request, of the 2919  
status of a claim and any actions necessary to maintain the 2920  
claim; 2921

(e) Time goals for activities of the bureau or commission; 2922

(f) Designation of the person or persons authorized to 2923  
issue directives with directives numbered and distributed from a 2924  
central distribution point to persons on a list maintained for 2925  
that purpose. 2926

(2) A rule barring any employee of the bureau or 2927  
commission from having a workers' compensation claims file in 2928  
the employee's possession unless the file is necessary to the 2929  
performance of the employee's duties. 2930

(3) All claims, whether of a state fund or self-insuring employer, be processed in an orderly, uniform, and timely fashion. 2931  
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(4) Rules governing the submission and sending of applications, notices, evidence, and other documents by electronic means. The rules shall provide that where this chapter or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code requires that a document be in writing or requires a signature, the administrator and the commission, to the extent of their respective jurisdictions, may approve of and provide for the electronic submission and sending of those documents, and the use of an electronic signature on those documents. 2934  
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(B) As used in this section: 2943

(1) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, facsimile, or any other form of technology that entails capabilities similar to these technologies. 2944  
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(2) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another. 2948  
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(3) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record. 2952  
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**Sec. 4121.32.** (A) The rules covering operating procedure and criteria for decision-making that the administrator of workers' compensation and the industrial commission are required to adopt pursuant to section 4121.31 of the Revised Code shall be supplemented with operating manuals setting forth the 2955  
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procedural steps in detail for performing each of the assigned 2960  
tasks of each section of the bureau of workers' compensation and 2961  
commission. The administrator and commission jointly shall adopt 2962  
such manuals. No employee may deviate from manual procedures 2963  
without authorization of the section chief. 2964

(B) Manuals shall set forth the procedure for the 2965  
assignment and transfer of claims within sections and be 2966  
designed to provide performance objectives and may require 2967  
employees to record sufficient data to reasonably measure the 2968  
efficiency of functions in all sections. The bureau shall 2969  
perform periodic cost-effectiveness analyses that shall be made 2970  
available to the general assembly, the governor, and to the 2971  
public during normal working hours. 2972

(C) The bureau and commission jointly shall develop, 2973  
adopt, and use a policy manual setting forth the guidelines and 2974  
bases for decision-making for any decision which is the 2975  
responsibility of the bureau, district hearing officers, staff 2976  
hearing officers, or the commission. Guidelines shall be set 2977  
forth in the policy manual by the bureau and commission to the 2978  
extent of their respective jurisdictions for deciding at least 2979  
the following specific matters: 2980

(1) Reasonable ambulance services; 2981

(2) Relationship of drugs to injury; 2982

(3) Awarding lump-sum advances for creditors; 2983

(4) Awarding lump-sum advances for attorney's fees; 2984

(5) Placing a claimant into rehabilitation; 2985

(6) Transferring costs of a claim from employer costs to 2986  
the statutory surplus fund pursuant to section 4123.343 of the 2987

Revised Code;	2988
(7) Utilization of physician specialist reports;	2989
(8) Determining the percentage of permanent partial disability, temporary partial disability, temporary total disability, violations of specific safety requirements, an award under division (B) of section 4123.57 of the Revised Code, and permanent total disability.	2990 2991 2992 2993 2994
(D) The bureau shall establish, adopt, and implement policy guidelines and bases for decisions involving reimbursement issues including, but not limited to, the adjustment of invoices, the reduction of payments for future services when an internal audit concludes that a health care provider was overpaid or improperly paid for past services, reimbursement fees, or other adjustments to payments. These policy guidelines and bases for decisions, and any changes to the guidelines and bases, shall be set forth in a reimbursement manual and provider bulletins.	2995 2996 2997 2998 2999 3000 3001 3002 3003 3004
Neither the policy guidelines nor the bases set forth in the reimbursement manual or provider bulletins referred to in this division is a rule as defined in section 119.01 of the Revised Code.	3005 3006 3007 3008
(E) With respect to any determination of disability under Chapter 4123. <u>or 4133.</u> of the Revised Code, when the physician makes a determination based upon statements or information furnished by the claimant or upon subjective evidence, the physician shall clearly indicate this fact in the physician's report.	3009 3010 3011 3012 3013 3014
(F) The administrator shall publish the manuals and make copies of all manuals available to interested parties at cost.	3015 3016

**Sec. 4121.34.** (A) District hearing officers shall hear the 3017  
matters listed in division (B) of this section. District hearing 3018  
officers are in the classified civil service of the state, are 3019  
full-time employees of the industrial commission, and shall be 3020  
persons admitted to the practice of law in this state. District 3021  
hearing officers shall not engage in any other activity that 3022  
interferes with their full-time employment by the commission 3023  
during normal working hours. 3024

~~(B) District (1) Except as provided in division (B) (2) of~~ 3025  
this section, district hearing officers shall have original 3026  
jurisdiction on all of the following matters: 3027

~~(1)(a)~~ Determinations under section 4123.57 of the 3028  
Revised Code; 3029

~~(2)(b)~~ All appeals from a decision of the administrator 3030  
of workers' compensation under division (B) of section 4123.511 3031  
and section 4133.06 of the Revised Code; 3032

~~(3)(c)~~ All other contested claims matters under this 3033  
chapter and Chapters 4123., 4127., ~~and 4131., and 4133.~~ of the 3034  
Revised Code, except those matters over which staff hearing 3035  
officers have original jurisdiction. 3036

(2) Division (B) (1) of this section does not apply to a 3037  
claim that has been referred to the occupational pneumoconiosis 3038  
board under section 4133.08 of the Revised Code. 3039

(C) The administrator of workers' compensation shall make 3040  
available to each district hearing officer the facilities and 3041  
assistance of bureau employees and furnish all information 3042  
necessary to the performance of the district hearing officer's 3043  
duties. 3044

**Sec. 4121.36.** (A) The industrial commission shall adopt 3045

rules as to the conduct of all hearings before the commission 3046  
and its staff and district hearing officers and the rendering of 3047  
a decision and shall focus such rules on managing, directing, 3048  
and otherwise ensuring a fair, equitable, and uniform hearing 3049  
process. These rules shall provide for at least the following 3050  
steps and procedures: 3051

(1) Adequate notice to all parties and their 3052  
representatives to ensure that no hearing is conducted unless 3053  
all parties have the opportunity to be present and to present 3054  
evidence and arguments in support of their positions or in 3055  
rebuttal to the evidence or arguments of other parties; 3056

(2) A public hearing; 3057

(3) Written decisions; 3058

(4) Impartial assignment of staff and district hearing 3059  
officers and assignment of appeals from a decision of the 3060  
administrator of workers' compensation to a district hearing 3061  
officer located at the commission service office that is the 3062  
closest in geographic proximity to the claimant's residence; 3063

(5) Publication of a docket; 3064

(6) The securing of the attendance or testimony of 3065  
witnesses; 3066

(7) Prehearing rules, including rules relative to 3067  
discovery, the taking of depositions, and exchange of 3068  
information relevant to a claim prior to the conduct of a 3069  
hearing; 3070

(8) The issuance of orders by the district or staff 3071  
hearing officer who renders the decision. 3072

(B) Every decision by a staff or district hearing officer 3073

or the commission shall be in writing and contain all of the 3074  
following elements: 3075

(1) A concise statement of the order or award; 3076

(2) A notation as to notice provided and as to appearance 3077  
of parties; 3078

(3) Signatures of each commissioner or appropriate hearing 3079  
officer on the original copy of the decision only, verifying the 3080  
commissioner's or hearing officer's vote; 3081

(4) Description of the part of the body and nature of the 3082  
disability recognized in the claim. 3083

(C) The commission shall adopt rules that require the 3084  
regular rotation of district hearing officers with respect to 3085  
the types of matters under consideration and that ensure that no 3086  
district or staff hearing officer or the commission hears a 3087  
claim unless all interested and affected parties have the 3088  
opportunity to be present and to present evidence and arguments 3089  
in support of their positions or in rebuttal to the evidence or 3090  
arguments of other parties. 3091

(D) All matters which, at the request of one of the 3092  
parties or on the initiative of the administrator and any 3093  
commissioner, are to be expedited, shall require at least forty- 3094  
eight hours' notice, a public hearing, and a statement in any 3095  
order of the circumstances that justified such expeditious 3096  
hearings. 3097

(E) All meetings of the commission and district and staff 3098  
hearing officers shall be public with adequate notice, including 3099  
if necessary, to the claimant, the employer, their 3100  
representatives, and the administrator. Confidentiality of 3101  
medical evidence presented at a hearing does not constitute a 3102

sufficient ground to relieve the requirement of a public 3103  
hearing, but the presentation of privileged or confidential 3104  
evidence shall not create any greater right of public inspection 3105  
of evidence than presently exists. 3106

(F) The commission shall compile all of its original 3107  
memorandums, orders, and decisions in a journal and make the 3108  
journal available to the public with sufficient indexing to 3109  
allow orderly review of documents. The journal shall indicate 3110  
the vote of each commissioner. 3111

(G) (1) All original orders, rules, and memoranda, and 3112  
decisions of the commission shall contain the signatures of two 3113  
of the three commissioners and state whether adopted at a 3114  
meeting of the commission or by circulation to individual 3115  
commissioners. Any facsimile or secretarial signature, initials 3116  
of commissioners, and delegated employees, and any printed 3117  
record of the "yes" and "no" vote of a commission member or of a 3118  
hearing officer on such original is invalid. 3119

(2) Written copies of final decisions of district or staff 3120  
hearing officers or the commission that are mailed to the 3121  
administrator, employee, employer, and their respective 3122  
representatives need not contain the signatures of the hearing 3123  
officer or commission members if the hearing officer or 3124  
commission members have complied with divisions (B) (3) and (G) 3125  
(1) of this section. 3126

(H) The commission shall do both of the following: 3127

(1) Appoint an individual as a hearing officer trainer who 3128  
is in the unclassified civil service of the state and who serves 3129  
at the pleasure of the commission. The trainer shall be an 3130  
attorney registered to practice law in this state and have 3131

experience in training or education, and the ability to furnish 3132  
the necessary training for district and staff hearing officers. 3133

The hearing officer trainer shall develop and periodically 3134  
update a training manual and such other training materials and 3135  
courses as will adequately prepare district and staff hearing 3136  
officers for their duties under this chapter and Chapter 4123. 3137  
of the Revised Code. All district and staff hearing officers 3138  
shall undergo the training courses developed by the hearing 3139  
officer trainer, the cost of which the commission shall pay. The 3140  
commission shall make the hearing officer manual and all 3141  
revisions thereto available to the public at cost. 3142

The commission shall have the final right of approval over 3143  
all training manuals, courses, and other materials the hearing 3144  
officer trainer develops and updates. 3145

(2) Appoint a hearing administrator, who shall be in the 3146  
classified civil service of the state, for each bureau service 3147  
office, and sufficient support personnel for each hearing 3148  
administrator, which support personnel shall be under the direct 3149  
supervision of the hearing administrator. The hearing 3150  
administrator shall do all of the following: 3151

(a) Assist the commission in ensuring that district 3152  
hearing officers comply with the time limitations for the 3153  
holding of hearings and issuance of orders under section 3154  
4123.511 of the Revised Code. For that purpose, each hearing 3155  
administrator shall prepare a monthly report identifying the 3156  
status of all claims in its office and identifying specifically 3157  
the claims which have not been decided within the time limits 3158  
set forth in section 4123.511 of the Revised Code. The 3159  
commission shall submit an annual report of all such reports to 3160  
the standing committees of the house of representatives and of 3161

the state to which matters concerning workers' compensation are normally referred.	3162 3163
(b) Provide information to requesting parties or their representatives on the status of their claim;	3164 3165
(c) Issue compliance letters, upon a finding of good cause and without a formal hearing in all of the following areas:	3166 3167
(i) Divisions (B) and (C) of section 4123.651 of the Revised Code;	3168 3169
(ii) Requests for the taking of depositions of bureau and commission physicians;	3170 3171
(iii) The issuance of subpoenas;	3172
(iv) The granting or denying of requests for continuances;	3173
(v) Matters involving section 4123.522 of the Revised Code;	3174 3175
(vi) Requests for conducting telephone pre-hearing conferences;	3176 3177
(vii) Any other matter that will cause a free exchange of information prior to the formal hearing.	3178 3179
(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;	3180 3181 3182
(e) Ensure that for occupational disease claims under section 4123.68 of the Revised Code <u>and for occupational pneumoconiosis claims under Chapter 4133. of the Revised Code</u> that require a medical examination the medical examination is conducted prior to the hearing;	3183 3184 3185 3186 3187
(f) Take the necessary steps to prepare a claim to proceed	3188

to a hearing where the parties agree and advise the hearing 3189  
administrator that the claim is not ready for a hearing. 3190

(I) The commission shall permit any person direct access 3191  
to information contained in electronic data processing equipment 3192  
regarding the status of a claim in the hearing process. The 3193  
information shall indicate the number of days that the claim has 3194  
been in process, the number of days the claim has been in its 3195  
current location, and the number of days in the current point of 3196  
the process within that location. 3197

(J) (1) The industrial commission may establish an 3198  
alternative dispute resolution process for workers' compensation 3199  
claims that are within the commission's jurisdiction under 3200  
Chapters 4121., 4123., 4127., ~~and 4131.~~ and 4133. of the 3201  
Revised Code when the commission determines that such a process 3202  
is necessary. Notwithstanding sections 4121.34 and 4121.35 of 3203  
the Revised Code, the commission may enter into personal service 3204  
contracts with individuals who are qualified because of their 3205  
education and experience to act as facilitators in the 3206  
commission's alternative dispute resolution process. 3207

(2) The parties' use of the alternative dispute resolution 3208  
process is voluntary, and requires the agreement of all 3209  
necessary parties. The use of the alternative dispute resolution 3210  
process does not alter the rights or obligations of the parties, 3211  
nor does it delay the timelines set forth in section 4123.511 of 3212  
the Revised Code. 3213

(3) The commission shall prepare monthly reports and 3214  
submit those reports to the governor, the president of the 3215  
senate, and the speaker of the house of representatives 3216  
describing all of the following: 3217

(a) The names of each facilitator employed under a personal service contract;	3218 3219
(b) The hourly amount of money and the total amount of money paid to each facilitator;	3220 3221
(c) The number of disputed issues resolved during that month by each facilitator;	3222 3223
(d) The number of decisions of each facilitator that were appealed by a party;	3224 3225
(e) A certification by the commission that the alternative dispute resolution process did not delay any hearing timelines as set forth in section 4123.511 of the Revised Code for any disputed issue.	3226 3227 3228 3229
(4) The commission may adopt rules in accordance with Chapter 119. of the Revised Code for the administration of any alternative dispute resolution process that the commission establishes.	3230 3231 3232 3233
<b>Sec. 4121.41.</b> (A) The administrator of workers' compensation shall operate a program designed to inform employees and employers of their rights and responsibilities under <del>Chapter</del> <u>Chapters 4123. and 4133.</u> of the Revised Code and as part of that program prepare and distribute pamphlets, which clearly and simply explain at least all of the following:	3234 3235 3236 3237 3238 3239
(1) The rights and responsibilities of claimants and employers;	3240 3241
(2) The procedures for processing claims;	3242
(3) The procedure for fulfilling employer responsibility;	3243
(4) All applicable statutes of limitation;	3244

(5) The availability of services and benefits;	3245
(6) The claimant's right to representation in the processing of a claim or to elect no representation.	3246 3247
The administrator shall ensure that the provisions of this section are faithfully and speedily implemented.	3248 3249
(B) The bureau of workers' compensation shall maintain an ongoing program to identify employers subject to Chapter 4123. of the Revised Code and to audit employers to ensure an optimum level of premium payment. The bureau shall coordinate such efforts with other governmental agencies which have information as to employers who are subject to Chapter 4123. of the Revised Code.	3250 3251 3252 3253 3254 3255 3256
(C) The administrator shall handle complaints through the service offices, the claims section, and the ombudsperson program. The administrator shall provide toll free telephone lines for employers and claimants in order to expedite the handling of complaints. The bureau shall monitor complaint traffic to ensure an adequacy of telephone service to bureau offices and shall compile statistics on complaint subjects. Based upon those compilations, the bureau shall revise procedures and rules to correct major problem areas and submit data and recommendations annually to the appropriate committees of the general assembly.	3257 3258 3259 3260 3261 3262 3263 3264 3265 3266 3267
<b>Sec. 4121.44.</b> (A) The administrator of workers' compensation shall oversee the implementation of the Ohio workers' compensation qualified health plan system as established under section 4121.442 of the Revised Code.	3268 3269 3270 3271
(B) The administrator shall direct the implementation of the health partnership program administered by the bureau as set	3272 3273

forth in section 4121.441 of the Revised Code. To implement the 3274  
health partnership program and to ensure the efficiency and 3275  
effectiveness of the public services provided through the 3276  
program, the bureau: 3277

(1) Shall certify one or more external vendors, which 3278  
shall be known as "managed care organizations," to provide 3279  
medical management and cost containment services in the health 3280  
partnership program for a period of two years beginning on the 3281  
date of certification, consistent with the standards established 3282  
under this section; 3283

(2) May recertify managed care organizations for 3284  
additional periods of two years; and 3285

(3) May integrate the certified managed care organizations 3286  
with bureau staff and existing bureau services for purposes of 3287  
operation and training to allow the bureau to assume operation 3288  
of the health partnership program at the conclusion of the 3289  
certification periods set forth in division (B) (1) or (2) of 3290  
this section; 3291

(4) May enter into a contract with any managed care 3292  
organization that is certified by the bureau, pursuant to 3293  
division (B) (1) or (2) of this section, to provide medical 3294  
management and cost containment services in the health 3295  
partnership program. 3296

(C) A contract entered into pursuant to division (B) (4) of 3297  
this section shall include both of the following: 3298

(1) Incentives that may be awarded by the administrator, 3299  
at the administrator's discretion, based on compliance and 3300  
performance of the managed care organization; 3301

(2) Penalties that may be imposed by the administrator, at 3302

the administrator's discretion, based on the failure of the 3303  
managed care organization to reasonably comply with or perform 3304  
terms of the contract, which may include termination of the 3305  
contract. 3306

(D) Notwithstanding section 119.061 of the Revised Code, a 3307  
contract entered into pursuant to division (B)(4) of this 3308  
section may include provisions limiting, restricting, or 3309  
regulating any marketing or advertising by the managed care 3310  
organization, or by any individual or entity that is affiliated 3311  
with or acting on behalf of the managed care organization, under 3312  
the health partnership program. 3313

(E) No managed care organization shall receive 3314  
compensation under the health partnership program unless the 3315  
managed care organization has entered into a contract with the 3316  
bureau pursuant to division (B)(4) of this section. 3317

(F) Any managed care organization selected shall 3318  
demonstrate all of the following: 3319

(1) Arrangements and reimbursement agreements with a 3320  
substantial number of the medical, professional and pharmacy 3321  
providers currently being utilized by claimants. 3322

(2) Ability to accept a common format of medical bill data 3323  
in an electronic fashion from any provider who wishes to submit 3324  
medical bill data in that form. 3325

(3) A computer system able to handle the volume of medical 3326  
bills and willingness to customize that system to the bureau's 3327  
needs and to be operated by the managed care organization's 3328  
staff, bureau staff, or some combination of both staffs. 3329

(4) A prescription drug system where pharmacies on a 3330  
statewide basis have access to the eligibility and pricing, at a 3331

discounted rate, of all prescription drugs. 3332

(5) A tracking system to record all telephone calls from 3333  
claimants and providers regarding the status of submitted 3334  
medical bills so as to be able to track each inquiry. 3335

(6) Data processing capacity to absorb all of the bureau's 3336  
medical bill processing or at least that part of the processing 3337  
which the bureau arranges to delegate. 3338

(7) Capacity to store, retrieve, array, simulate, and 3339  
model in a relational mode all of the detailed medical bill data 3340  
so that analysis can be performed in a variety of ways and so 3341  
that the bureau and its governing authority can make informed 3342  
decisions. 3343

(8) Wide variety of software programs which translate 3344  
medical terminology into standard codes, and which reveal if a 3345  
provider is manipulating the procedures codes, commonly called 3346  
"unbundling." 3347

(9) Necessary professional staff to conduct, at a minimum, 3348  
authorizations for treatment, medical necessity, utilization 3349  
review, concurrent review, post-utilization review, and have the 3350  
attendant computer system which supports such activity and 3351  
measures the outcomes and the savings. 3352

(10) Management experience and flexibility to be able to 3353  
react quickly to the needs of the bureau in the case of required 3354  
change in federal or state requirements. 3355

(G) (1) The administrator may decertify a managed care 3356  
organization if the managed care organization does any of the 3357  
following: 3358

(a) Fails to maintain any of the requirements set forth in 3359

division (F) of this section; 3360

(b) Fails to reasonably comply with or to perform in 3361  
accordance with the terms of a contract entered into under 3362  
division (B) (4) of this section; 3363

(c) Violates a rule adopted under section 4121.441 of the 3364  
Revised Code. 3365

(2) The administrator shall provide each managed care 3366  
organization that is being decertified pursuant to division (G) 3367  
(1) of this section with written notice of the pending 3368  
decertification and an opportunity for a hearing pursuant to 3369  
rules adopted by the administrator. 3370

(H) (1) Information contained in a managed care 3371  
organization's application for certification in the health 3372  
partnership program, and other information furnished to the 3373  
bureau by a managed care organization for purposes of obtaining 3374  
certification or to comply with performance and financial 3375  
auditing requirements established by the administrator, is for 3376  
the exclusive use and information of the bureau in the discharge 3377  
of its official duties, and shall not be open to the public or 3378  
be used in any court in any proceeding pending therein, unless 3379  
the bureau is a party to the action or proceeding, but the 3380  
information may be tabulated and published by the bureau in 3381  
statistical form for the use and information of other state 3382  
departments and the public. No employee of the bureau, except as 3383  
otherwise authorized by the administrator, shall divulge any 3384  
information secured by the employee while in the employ of the 3385  
bureau in respect to a managed care organization's application 3386  
for certification or in respect to the business or other trade 3387  
processes of any managed care organization to any person other 3388  
than the administrator or to the employee's superior. 3389

(2) Notwithstanding the restrictions imposed by division 3390  
(H) (1) of this section, the governor, members of select or 3391  
standing committees of the senate or house of representatives, 3392  
the auditor of state, the attorney general, or their designees, 3393  
pursuant to the authority granted in this chapter and Chapter 3394  
4123. of the Revised Code, may examine any managed care 3395  
organization application or other information furnished to the 3396  
bureau by the managed care organization. None of those 3397  
individuals shall divulge any information secured in the 3398  
exercise of that authority in respect to a managed care 3399  
organization's application for certification or in respect to 3400  
the business or other trade processes of any managed care 3401  
organization to any person. 3402

(I) On and after January 1, 2001, a managed care 3403  
organization shall not be an insurance company holding a 3404  
certificate of authority issued pursuant to Title XXXIX of the 3405  
Revised Code or a health insuring corporation holding a 3406  
certificate of authority under Chapter 1751. of the Revised 3407  
Code. 3408

(J) The administrator may limit freedom of choice of 3409  
health care provider or supplier by requiring, beginning with 3410  
the period set forth in division (B) (1) or (2) of this section, 3411  
that claimants shall pay an appropriate out-of-plan copayment 3412  
for selecting a medical provider not within the health 3413  
partnership program as provided for in this section. 3414

(K) The administrator, six months prior to the expiration 3415  
of the bureau's certification or recertification of the managed 3416  
care organizations as set forth in division (B) (1) or (2) of 3417  
this section, may certify and provide evidence to the governor, 3418  
the speaker of the house of representatives, and the president 3419

of the senate that the existing bureau staff is able to match or 3420  
exceed the performance and outcomes of the managed care 3421  
organizations and that the bureau should be permitted to 3422  
internally administer the health partnership program upon the 3423  
expiration of the certification or recertification as set forth 3424  
in division (B)(1) or (2) of this section. 3425

(L) The administrator shall establish and operate a bureau 3426  
of workers' compensation health care data program. The 3427  
administrator shall develop reporting requirements from all 3428  
employees, employers, medical providers, managed care 3429  
organizations, and plans that participate in the workers' 3430  
compensation system. The administrator shall do all of the 3431  
following: 3432

(1) Utilize the collected data to measure and perform 3433  
comparison analyses of costs, quality, appropriateness of 3434  
medical care, and effectiveness of medical care delivered by all 3435  
components of the workers' compensation system. 3436

(2) Compile data to support activities of the selected 3437  
managed care organizations and to measure the outcomes and 3438  
savings of the health partnership program. 3439

(3) Publish and report compiled data on the measures of 3440  
outcomes and savings of the health partnership program and 3441  
submit the report to the president of the senate, the speaker of 3442  
the house of representatives, and the governor with the annual 3443  
report prepared under division (F)(3) of section 4121.12 of the 3444  
Revised Code. The administrator shall protect the 3445  
confidentiality of all proprietary pricing data. 3446

(M) Any rehabilitation facility the bureau operates is 3447  
eligible for inclusion in the Ohio workers' compensation 3448

qualified health plan system or the health partnership program 3449  
under the same terms as other providers within health care plans 3450  
or the program. 3451

(N) In areas outside the state or within the state where 3452  
no qualified health plan or an inadequate number of providers 3453  
within the health partnership program exist, the administrator 3454  
shall permit employees to use a nonplan or nonprogram health 3455  
care provider and shall pay the provider for the services or 3456  
supplies provided to or on behalf of an employee for an injury 3457  
or occupational disease that is compensable under this chapter 3458  
or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code 3459  
on a fee schedule the administrator adopts. 3460

(O) No health care provider, whether certified or not, 3461  
shall charge, assess, or otherwise attempt to collect from an 3462  
employee, employer, a managed care organization, or the bureau 3463  
any amount for covered services or supplies that is in excess of 3464  
the allowed amount paid by a managed care organization, the 3465  
bureau, or a qualified health plan. 3466

(P) The administrator shall permit any employer or group 3467  
of employers who agree to abide by the rules adopted under this 3468  
section and sections 4121.441 and 4121.442 of the Revised Code 3469  
to provide services or supplies to or on behalf of an employee 3470  
for an injury or occupational disease that is compensable under 3471  
this chapter or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the 3472  
Revised Code through qualified health plans of the Ohio workers' 3473  
compensation qualified health plan system pursuant to section 3474  
4121.442 of the Revised Code or through the health partnership 3475  
program pursuant to section 4121.441 of the Revised Code. No 3476  
amount paid under the qualified health plan system pursuant to 3477  
section 4121.442 of the Revised Code by an employer who is a 3478

state fund employer shall be charged to the employer's 3479  
experience or otherwise be used in merit-rating or determining 3480  
the risk of that employer for the purpose of the payment of 3481  
premiums under this chapter, and if the employer is a self- 3482  
insuring employer, the employer shall not include that amount in 3483  
the paid compensation the employer reports under section 4123.35 3484  
of the Revised Code. 3485

**Sec. 4121.441.** (A) The administrator of workers' 3486  
compensation, with the advice and consent of the bureau of 3487  
workers' compensation board of directors, shall adopt rules 3488  
under Chapter 119. of the Revised Code for the health care 3489  
partnership program administered by the bureau of workers' 3490  
compensation to provide medical, surgical, nursing, drug, 3491  
hospital, and rehabilitation services and supplies to an 3492  
employee for an injury or occupational disease that is 3493  
compensable under this chapter or Chapter 4123., 4127., ~~or~~ 3494  
4131., or 4133. of the Revised Code, and to regulate contracts 3495  
with managed care organizations pursuant to this chapter. 3496

(1) The rules shall include, but are not limited to, the 3497  
following: 3498

(a) Procedures for the resolution of medical disputes 3499  
between an employer and an employee, an employee and a provider, 3500  
or an employer and a provider, prior to an appeal under section 3501  
4123.511 of the Revised Code. Rules the administrator adopts 3502  
pursuant to division (A)(1)(a) of this section may specify that 3503  
the resolution procedures shall not be used to resolve disputes 3504  
concerning medical services rendered that have been approved 3505  
through standard treatment guidelines, pathways, or presumptive 3506  
authorization guidelines. 3507

(b) Prohibitions against discrimination against any 3508

category of health care providers;	3509
(c) Procedures for reporting injuries to employers and the bureau by providers;	3510 3511
(d) Appropriate financial incentives to reduce service cost and insure proper system utilization without sacrificing the quality of service;	3512 3513 3514
(e) Adequate methods of peer review, utilization review, quality assurance, and dispute resolution to prevent, and provide sanctions for, inappropriate, excessive or not medically necessary treatment;	3515 3516 3517 3518
(f) A timely and accurate method of collection of necessary information regarding medical and health care service and supply costs, quality, and utilization to enable the administrator to determine the effectiveness of the program;	3519 3520 3521 3522
(g) Provisions for necessary emergency medical treatment for an injury or occupational disease provided by a health care provider who is not part of the program;	3523 3524 3525
(h) Discounted pricing for all in-patient and out-patient medical services, all professional services, and all pharmaceutical services;	3526 3527 3528
(i) Provisions for provider referrals, pre-admission and post-admission approvals, second surgical opinions, and other cost management techniques;	3529 3530 3531
(j) Antifraud mechanisms;	3532
(k) Standards and criteria for the bureau to utilize in certifying or recertifying a health care provider or a managed care organization for participation in the health partnership program;	3533 3534 3535 3536

(1) Standards for the bureau to utilize in penalizing or 3537  
decertifying a health care provider from participation in the 3538  
health partnership program. 3539

(2) Notwithstanding section 119.061 of the Revised Code, 3540  
the rules may include provisions limiting, restricting, or 3541  
regulating any marketing or advertising by a managed care 3542  
organization, or by any individual or entity that is affiliated 3543  
with or acting on behalf of the managed care organization, under 3544  
the health partnership program. 3545

(B) The administrator shall implement the health 3546  
partnership program according to the rules the administrator 3547  
adopts under this section for the provision and payment of 3548  
medical, surgical, nursing, drug, hospital, and rehabilitation 3549  
services and supplies to an employee for an injury or 3550  
occupational disease that is compensable under this chapter or 3551  
Chapter 4123., 4127., ~~or 4131.~~, or 4133. of the Revised Code." 3552

**Sec. 4121.442.** (A) The administrator of workers' 3553  
compensation shall develop standards for qualification of health 3554  
care plans of the Ohio workers' compensation qualified health 3555  
plan system to provide medical, surgical, nursing, drug, 3556  
hospital, and rehabilitation services and supplies to an 3557  
employee for an injury or occupational disease that is 3558  
compensable under this chapter or Chapter 4123., 4127., ~~or~~ 3559  
~~4131.~~, or 4133. of the Revised Code. In adopting the standards, 3560  
the administrator shall use nationally recognized accreditation 3561  
standards. The standards the administrator adopts must provide 3562  
that a qualified plan provides for all of the following: 3563

(1) Criteria for selective contracting of health care 3564  
providers; 3565

(2) Adequate plan structure and financial stability;	3566
(3) Procedures for the resolution of medical disputes between an employee and an employer, an employee and a provider, or an employer and a provider, prior to an appeal under section 4123.511 of the Revised Code;	3567 3568 3569 3570
(4) Authorize employees who are dissatisfied with the health care services of the employer's qualified plan and do not wish to obtain treatment under the provisions of this section, to request the administrator for referral to a health care provider in the bureau's health care partnership program. The administrator must refer all requesting employees into the health care partnership program.	3571 3572 3573 3574 3575 3576 3577
(5) Does not discriminate against any category of health care provider;	3578 3579
(6) Provide a procedure for reporting injuries to the bureau of workers' compensation and to employers by providers within the qualified plan;	3580 3581 3582
(7) Provide appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;	3583 3584 3585
(8) Provide adequate methods of peer review, utilization review, quality assurance, and dispute resolution to prevent and provide sanctions for inappropriate, excessive, or not medically necessary treatment;	3586 3587 3588 3589
(9) Provide a timely and accurate method of reporting to the administrator necessary information regarding medical and health care service and supply costs, quality, and utilization to enable the administrator to determine the effectiveness of the plan;	3590 3591 3592 3593 3594

(10) Authorize necessary emergency medical treatment for 3595  
an injury or occupational disease provided by a health care 3596  
provider who is not a part of the qualified health care plan; 3597

(11) Provide an employee the right to change health care 3598  
providers within the qualified health care plan; 3599

(12) Provide for standardized data and reporting 3600  
requirements; 3601

(13) Authorize necessary medical treatment for employees 3602  
who work in Ohio but reside in another state. 3603

(B) Health care plans that meet the approved qualified 3604  
health plan standards shall be considered qualified plans and 3605  
are eligible to become part of the Ohio workers' compensation 3606  
qualified health plan system. Any employer or group of employers 3607  
may provide medical, surgical, nursing, drug, hospital, and 3608  
rehabilitation services and supplies to an employee for an 3609  
injury or occupational disease that is compensable under this 3610  
chapter or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the 3611  
Revised Code through a qualified health plan. 3612

**Sec. 4121.444.** (A) No person, health care provider, 3613  
managed care organization, or owner of a health care provider or 3614  
managed care organization shall obtain or attempt to obtain 3615  
payments by deception under Chapter 4121., 4123., 4127., ~~or~~ 3616  
~~4131.~~ or 4133. of the Revised Code to which the person, health 3617  
care provider, managed care organization, or owner is not 3618  
entitled under rules of the bureau of workers' compensation 3619  
adopted pursuant to sections 4121.441 and 4121.442 of the 3620  
Revised Code. 3621

(B) Any person, health care provider, managed care 3622  
organization, or owner that violates division (A) of this 3623

section is liable, in addition to any other penalties provided 3624  
by law, for all of the following penalties: 3625

(1) Payment of interest on the amount of the excess 3626  
payments at the maximum interest rate allowable for real estate 3627  
mortgages under section 1343.01 of the Revised Code. The 3628  
interest shall be calculated from the date the payment was made 3629  
to the person, owner, health care provider, or managed care 3630  
organization through the date upon which repayment is made to 3631  
the bureau or the self-insuring employer. 3632

(2) Payment of an amount equal to three times the amount 3633  
of any excess payments; 3634

(3) Payment of a sum of not less than five thousand 3635  
dollars and not more than ten thousand dollars for each act of 3636  
deception; 3637

(4) All reasonable and necessary expenses that the court 3638  
determines have been incurred by the bureau or the self-insuring 3639  
employer in the enforcement of this section. 3640

All moneys collected by the bureau pursuant to this 3641  
section shall be deposited into the state insurance fund created 3642  
in section 4123.30 of the Revised Code. All moneys collected by 3643  
a self-insuring employer pursuant to this section shall be 3644  
awarded to the self-insuring employer. 3645

(C)(1) In addition to the monetary penalties provided in 3646  
division (B) of this section and except as provided in division 3647  
(C)(3) of this section, the administrator may terminate any 3648  
agreement between the bureau and a person or a health care 3649  
provider or managed care organization or its owner and cease 3650  
reimbursement to that person, provider, organization, or owner 3651  
for services rendered if any of the following apply: 3652

(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 for health care benefits.

(b) There exists an entry of judgment against 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 and proof of the specific intent of the person, health care provider, managed care organization, or owner to defraud, in a civil action brought pursuant to this section.

(c) There exists an entry of judgment against 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 in a civil action brought pursuant to sections 2923.31 to 2923.36 of the Revised Code.

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

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

(b) Arrange for, render, or order services for claimants 3682  
during the period that the agreement of the person, health care 3683  
provider, managed care organization, or its owner is terminated 3684  
as described in division (C)(1) of this section; 3685

(3) The administrator shall not terminate the agreement or 3686  
reimbursement if the person, health care provider, managed care 3687  
organization, or owner demonstrates that the person, provider, 3688  
organization, or owner did not directly or indirectly sanction 3689  
the action of the authorized agent, associate, manager, or 3690  
employee that resulted in the conviction, plea of guilty, or 3691  
entry of judgment as described in division (C)(1) of this 3692  
section. 3693

(4) Nothing in division (C) of this section prohibits an 3694  
owner, officer, authorized agent, associate, manager, or 3695  
employee of a person, health care provider, or managed care 3696  
organization from entering into an agreement with the bureau if 3697  
the provider, organization, owner, officer, authorized agent, 3698  
associate, manager, or employee demonstrates absence of 3699  
knowledge of the action of the person, health care provider, or 3700  
managed care organization with which that individual or 3701  
organization was formerly associated that resulted in a 3702  
conviction, plea of guilty, or entry of judgment as described in 3703  
division (C)(1) of this section. 3704

(D) The attorney general may bring an action on behalf of 3705  
the state and a self-insuring employer may bring an action on 3706  
its own behalf to enforce this section in any court of competent 3707  
jurisdiction. The attorney general may settle or compromise any 3708  
action brought under this section with the approval of the 3709  
administrator. 3710

Notwithstanding any other law providing a shorter period 3711

of limitations, the attorney general or a self-insuring employer 3712  
may bring an action to enforce this section at any time within 3713  
six years after the conduct in violation of this section 3714  
terminates. 3715

(E) The availability of remedies under this section and 3716  
sections 2913.48 and 2923.31 to 2923.36 of the Revised Code for 3717  
recovering benefits paid on behalf of claimants for medical 3718  
assistance does not limit the authority of the bureau or a self- 3719  
insuring employer to recover excess payments made to an owner, 3720  
health care provider, managed care organization, or person under 3721  
state and federal law. 3722

(F) As used in this section: 3723

(1) "Deception" means acting with actual knowledge in 3724  
order to deceive another or cause another to be deceived by 3725  
means of any of the following: 3726

(a) A false or misleading representation; 3727

(b) The withholding of information; 3728

(c) The preventing of another from acquiring information; 3729

(d) Any other conduct, act, or omission that creates, 3730  
confirms, or perpetuates a false impression as to a fact, the 3731  
law, the value of something, or a person's state of mind. 3732

(2) "Owner" means any person having at least a five per 3733  
cent ownership interest in a health care provider or managed 3734  
care organization. 3735

**Sec. 4121.45.** (A) There is hereby created a workers' 3736  
compensation ombudsperson system to assist claimants and 3737  
employers in matters dealing with the bureau of workers' 3738  
compensation and the industrial commission. The industrial 3739

commission nominating council shall appoint a chief 3740  
ombudsperson. The chief ombudsperson, with the advice and 3741  
consent of the nominating council, may appoint such assistant 3742  
ombudspersons as the nominating council deems necessary. The 3743  
position of chief ombudsperson is for a term of six years. A 3744  
person appointed to the position of chief ombudsperson shall 3745  
serve at the pleasure of the nominating council. The chief 3746  
ombudsperson may not be transferred, demoted, or suspended 3747  
during the person's tenure and may be removed by the nominating 3748  
council only upon a vote of not fewer than nine members of the 3749  
nominating council. The chief ombudsperson shall devote the 3750  
chief ombudsperson's full time and attention to the duties of 3751  
the ombudsperson's office. The administrator of workers' 3752  
compensation shall furnish the chief ombudsperson with the 3753  
office space, supplies, and clerical assistance that will enable 3754  
the chief ombudsperson and the ombudsperson system staff to 3755  
perform their duties effectively. The ombudsperson program shall 3756  
be funded out of the budget of the bureau and the chief 3757  
ombudsperson and the ombudsperson system staff shall be carried 3758  
on the bureau payroll. The chief ombudsperson and the 3759  
ombudsperson system shall be under the direction of the 3760  
nominating council. The administrator and all employees of the 3761  
bureau and the commission shall give the ~~the~~ ombudsperson system 3762  
staff full and prompt cooperation in all matters relating to the 3763  
duties of the chief ombudsperson. 3764

(B) The ombudsperson system staff shall: 3765

(1) Answer inquiries or investigate complaints made by 3766  
employers or claimants under this chapter and ~~Chapter~~ Chapters 3767  
4123. and 4133. of the Revised Code as they relate to the 3768  
processing of a claim for workers' compensation benefits; 3769

(2) Provide claimants and employers with information 3770  
regarding problems which arise out of the functions of the 3771  
bureau, commission hearing officers, and the commission and the 3772  
procedures employed in the processing of claims; 3773

(3) Answer inquiries or investigate complaints of an 3774  
employer as they relate to reserves established and premiums 3775  
charged in connection with the employer's account; 3776

(4) Comply with Chapter 102. and sections 2921.42 and 3777  
2921.43 of the Revised Code and the nominating council's human 3778  
resource and ethics policies; 3779

(5) Not express any opinions as to the merit of a claim or 3780  
the correctness of a decision by the various officers or 3781  
agencies as the decision relates to a claim for benefits or 3782  
compensation. 3783

For the purpose of carrying out the chief ombudsperson's 3784  
duties, the chief ombudsperson or the ombudsperson system staff, 3785  
notwithstanding sections 4123.27 and 4123.88 of the Revised 3786  
Code, has the right at all reasonable times to examine the 3787  
contents of a claim file and discuss with parties in interest 3788  
the contents of the file as long as the ombudsperson does not 3789  
divulge information that would tend to prejudice the case of 3790  
either party to a claim or that would tend to compromise a 3791  
privileged attorney-client or doctor-patient relationship. 3792

(C) The chief ombudsperson shall: 3793

(1) Assist any service office in its duties whenever it 3794  
requires assistance or information that can best be obtained 3795  
from central office personnel or records; 3796

(2) Annually assemble reports from each assistant 3797  
ombudsperson as to their activities for the preceding year 3798

together with their recommendations as to changes or 3799  
improvements in the operations of the workers' compensation 3800  
system. The chief ombudsperson shall prepare a written report 3801  
summarizing the activities of the ombudsperson system together 3802  
with a digest of recommendations. The chief ombudsperson shall 3803  
transmit the report to the nominating council. 3804

(3) Comply with Chapter 102. and sections 2921.42 and 3805  
2921.43 of the Revised Code and the nominating council's human 3806  
resource and ethics policies. 3807

(D) No ombudsperson or assistant ombudsperson shall: 3808

(1) Represent a claimant or employer in claims pending 3809  
before or to be filed with the administrator, a district or 3810  
staff hearing officer, the commission, or the courts of the 3811  
state, nor shall an ombudsperson or assistant ombudsperson 3812  
undertake any such representation for a period of one year after 3813  
the ombudsperson's or assistant ombudsperson's employment 3814  
terminates or be eligible for employment by the bureau or the 3815  
commission or as a district or staff hearing officer for one 3816  
year; 3817

(2) Express any opinions as to the merit of a claim or the 3818  
correctness of a decision by the various officers or agencies as 3819  
the decision relates to a claim for benefits or compensation. 3820

(E) The chief ombudsperson and assistant ombudspersons 3821  
shall receive compensation at a level established by the 3822  
nominating council commensurate with the individual's 3823  
background, education, and experience in workers' compensation 3824  
or related fields. The chief ombudsperson and assistant 3825  
ombudspersons are full-time permanent employees in the 3826  
unclassified service of the state and are entitled to all 3827

benefits that accrue to such employees, including, without 3828  
limitation, sick, vacation, and personal leaves. Assistant 3829  
ombudspersons serve at the pleasure of the chief ombudsperson. 3830

(F) In the event of a vacancy in the position of chief 3831  
ombudsperson, the nominating council may appoint a person to 3832  
serve as acting chief ombudsperson until a chief ombudsperson is 3833  
appointed. The acting chief ombudsperson shall be under the 3834  
direction and control of the nominating council and may be 3835  
removed by the nominating council with or without just cause. 3836

**Sec. 4121.50.** ~~Not later than July 1, 2012, the~~ The 3837  
administrator of workers' compensation shall adopt rules in 3838  
accordance with Chapter 119. of the Revised Code to implement a 3839  
coordinated services program for claimants under this chapter or 3840  
Chapter 4123., 4127., ~~or 4131.,~~ or 4133. of the Revised Code who 3841  
are found to have obtained prescription drugs that were 3842  
reimbursed pursuant to an order of the administrator or of the 3843  
industrial commission or by a self-insuring employer but were 3844  
obtained at a frequency or in an amount that is not medically 3845  
necessary. The program shall be implemented in a manner that is 3846  
substantially similar to the coordinated services programs 3847  
established for the medicaid program under sections 5164.758 and 3848  
5167.13 of the Revised Code. 3849

**Sec. 4121.61.** (A) As used in sections 4121.61 to 4121.69 3850  
of the Revised Code, "self-insuring employer" has the same 3851  
meaning as in section 4123.01 of the Revised Code. 3852

(B) The administrator of workers' compensation, with the 3853  
advice and consent of the bureau of workers' compensation board 3854  
of directors, shall adopt rules, take measures, and make 3855  
expenditures as it deems necessary to aid claimants who have 3856  
sustained compensable injuries or incurred compensable 3857

occupational diseases pursuant to Chapter 4123., 4127., ~~or~~ 3858  
4131., or 4133. of the Revised Code to return to work or to 3859  
assist in lessening or removing any resulting handicap. 3860

**Sec. 4123.025.** Any person, other than those covered by 3861  
section 4123.03 of the Revised Code, who is injured, and the 3862  
dependents of a deceased employee who is killed as the direct 3863  
result of performing any act at the request or order of a duly 3864  
authorized public official of the state, or any institution or 3865  
agency thereof, or any political subdivision thereof, including 3866  
a county, township, or municipal corporation, in time of 3867  
emergency shall be entitled to all the benefits of ~~Chapter~~ 3868  
Chapters 4123. and 4133. of the Revised Code. Any payments made 3869  
from the state insurance fund pursuant to this section shall be 3870  
charged to the surplus fund as created by division (B) of 3871  
section 4123.34 of the Revised Code, in order to encourage 3872  
participation of all persons in times of emergency. 3873

**Sec. 4123.05.** The bureau of workers' compensation shall 3874  
adopt rules to regulate and provide for the kind and character 3875  
of notices, and the services thereof, in cases of injury, 3876  
occupational disease, or death resulting from either, to 3877  
employees, the nature and extent of the proofs and evidence, and 3878  
the method of taking and furnishing the same, and to establish 3879  
the right to benefits or compensation from the state insurance 3880  
fund, the forms of application of those claiming to be entitled 3881  
to benefits or compensation, and the method of making 3882  
investigations, physical examinations, and inspections. Nothing 3883  
in this section shall be interpreted as affecting or limiting 3884  
the rule-making authority of the industrial commission under 3885  
this chapter or Chapter 4121. or 4133. of the Revised Code. 3886

**Sec. 4123.15.** (A) An employer who is a member of a 3887

recognized religious sect or division of a recognized religious 3888  
sect and who is an adherent of established tenets or teachings 3889  
of that sect or division by reason of which the employer is 3890  
conscientiously opposed to benefits to employers and employees 3891  
from any public or private insurance that makes payment in the 3892  
event of death, disability, impairment, old age, or retirement 3893  
or makes payments toward the cost of, or provides services in 3894  
connection with the payment for, medical services, including the 3895  
benefits from any insurance system established by the "Social 3896  
Security Act," 42 U.S.C.A. 301, et seq., may apply to the 3897  
administrator of workers' compensation to be excepted from 3898  
payment of premiums and other charges assessed under this 3899  
chapter and Chapter 4121. of the Revised Code with respect to, 3900  
or if the employer is a self-insuring employer, from payment of 3901  
direct compensation and benefits to and assessments required by 3902  
this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 3903  
Code on account of, an individual employee who meets the 3904  
requirements of this section. The employer shall make an 3905  
application on forms provided by the bureau of workers' 3906  
compensation which forms may be those used by or similar to 3907  
those used by the United States internal revenue service for the 3908  
purpose of granting an exemption from payment of social security 3909  
taxes under 26 U.S.C.A. 1402(g) of the Internal Revenue Code, 3910  
and shall include a written waiver signed by the individual 3911  
employee to be excepted from all the benefits and compensation 3912  
provided in this chapter and ~~Chapter~~ Chapters 4121. and 4133. of 3913  
the Revised Code. 3914

The application also shall include affidavits signed by 3915  
the employer and the individual employee that the employer and 3916  
the individual employee are members of a recognized religious 3917  
sect or division of a recognized religious sect and are 3918

adherents of established tenets or teaching of that sect or 3919  
division by reason of which the employer and the individual 3920  
employee are conscientiously opposed to benefits to employers 3921  
and employees received from any public or private insurance that 3922  
makes payments in the event of death, disability, impairment, 3923  
old age, or retirement or makes payments toward the cost of, or 3924  
provides services in connection with the payment for, medical 3925  
services, including the benefits from any insurance system 3926  
established by the "Social Security Act," 42 U.S.C.A. 301, et 3927  
seq. If the individual is a minor, the guardian of the minor 3928  
shall complete the waiver and affidavit required by this 3929  
division. 3930

(B) The administrator shall grant the waiver and exception 3931  
to the employer for a particular individual employee if the 3932  
administrator finds that the employer and the individual 3933  
employee are members of a sect or division having the 3934  
established tenets or teachings described in division (A) of 3935  
this section, that it is the practice, and has been for a 3936  
substantial number of years, for members of the sect or division 3937  
of the sect to make provision for their dependent members which, 3938  
in the administrator's judgment, is reasonable in view of their 3939  
general level of hiring, and that the sect or division of the 3940  
sect has been in existence at all times since December 31, 1950. 3941

(C) A waiver and exception under division (B) of this 3942  
section is effective on the date the administrator grants the 3943  
waiver and exception. An employer who complies with this chapter 3944  
and the employer's other employees, with respect to an 3945  
individual employee for whom the administrator grants the waiver 3946  
and exception, are entitled, as to that individual employee and 3947  
as to all injuries and occupational diseases of the individual 3948  
employee that occurred prior to the effective date of the waiver 3949

and exception, to the protections of sections 4123.74 and 3950  
4123.741 of the Revised Code. On and after the effective date of 3951  
the waiver and exception, the employer is not liable for the 3952  
payment of any premiums or other charges assessed under this 3953  
chapter or Chapter 4121. of the Revised Code, or if the 3954  
individual is a self-insuring employer, the employer is not 3955  
liable for the payment of any compensation or benefits directly 3956  
or other charges assessed under this chapter or Chapter 4121. or 3957  
4133. of the Revised Code in regard to that individual employee, 3958  
and is considered a complying employer under those chapters, and 3959  
the employer and the employer's other employees are entitled to 3960  
the protections of sections 4123.74 and 4123.741 of the Revised 3961  
Code, as to that individual employee, and as to injuries and 3962  
occupational diseases of that individual employee that occur on 3963  
and after the effective date of the waiver and exception. 3964

(D) A waiver and exception granted in regard to a specific 3965  
employer and individual employee are valid for all future years 3966  
unless the administrator determines that the employer, 3967  
individual employee, or sect or division ceases to meet the 3968  
requirements of this section. If the administrator makes this 3969  
determination, the employer is liable for the payment of 3970  
premiums and other charges assessed under this chapter and 3971  
Chapter 4121. of the Revised Code, or if the employer is a self- 3972  
insuring employer, the employer is liable for the payment of 3973  
compensation and benefits directly and other charges assessed 3974  
under those chapters and Chapter 4133. of the Revised Code, in 3975  
regard to the individual employee for all injuries and 3976  
occupational diseases of that individual that occur on and after 3977  
the date of the administrator's determination, and the 3978  
individual employee is entitled to all of the benefits and 3979  
compensation provided in those chapters for an injury or 3980

occupational disease that occurs on or after the date of the 3981  
administrator's determination. 3982

**Sec. 4123.26.** (A) Every employer shall keep records of, 3983  
and furnish to the bureau of workers' compensation upon request, 3984  
all information required by the administrator of workers' 3985  
compensation to carry out this chapter and Chapter 4133. of the 3986  
Revised Code. 3987

(B) Except as otherwise provided in division (C) of this 3988  
section, every private employer employing one or more employees 3989  
regularly in the same business, or in or about the same 3990  
establishment, shall submit a payroll report to the bureau. 3991  
Until the policy year commencing July 1, 2015, a private 3992  
employer shall submit the payroll report in January of each 3993  
year. For a policy year commencing on or after July 1, 2015, the 3994  
employer shall submit the payroll report on or before August 3995  
fifteenth of each year unless otherwise specified by the 3996  
administrator in rules the administrator adopts. The employer 3997  
shall include all of the following information in the payroll 3998  
report, as applicable: 3999

(1) For payroll reports submitted prior to July 1, 2015, 4000  
the number of employees employed during the preceding year from 4001  
the first day of January through the thirty-first day of 4002  
December who are localized in this state; 4003

(2) For payroll reports submitted on or after July 1, 4004  
2015, the number of employees localized in this state employed 4005  
during the preceding policy year from the first day of July 4006  
through the thirtieth day of June; 4007

(3) The number of such employees localized in this state 4008  
employed at each kind of employment and the aggregate amount of 4009

wages paid to such employees; 4010

(4) ~~(a)~~ If an employer elects to secure other-states' 4011  
coverage or limited other-states' coverage pursuant to section 4012  
4123.292 of the Revised Code through either the administrator, 4013  
if the administrator elects to offer such coverage, or an other- 4014  
states' insurer the information required under divisions (B) (1) 4015  
to (3) of this section and any additional information required 4016  
by the administrator in rules the administrator adopts, with the 4017  
advice and consent of the bureau of workers' compensation board 4018  
of directors, to allow the employer to secure other-states' 4019  
coverage or limited other-states' coverage. 4020

(5) (a) In accordance with the rules adopted by the 4021  
administrator pursuant to division (C) of section 4123.32 of the 4022  
Revised Code, if the employer employs employees who are covered 4023  
under the federal "Longshore and Harbor Workers' Compensation 4024  
Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and under this 4025  
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 4026  
Code, both of the following amounts: 4027

(i) The amount of wages the employer pays to those 4028  
employees when the employees perform labor and provide services 4029  
for which the employees are eligible to receive compensation and 4030  
benefits under the federal "Longshore and Harbor Workers' 4031  
Compensation Act"; 4032

(ii) The amount of wages the employer pays to those 4033  
employees when the employees perform labor and provide services 4034  
for which the employees are eligible to receive compensation and 4035  
benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4133. 4036  
of the Revised Code. 4037

(b) The allocation of wages identified by the employer 4038

pursuant to divisions (B) (5) (a) (i) and (ii) of this section 4039  
shall not be presumed to be an indication of the law under which 4040  
an employee is eligible to receive compensation and benefits. 4041

(C) Beginning August 1, 2015, each employer that is 4042  
recognized by the administrator as a professional employer 4043  
organization shall submit a monthly payroll report containing 4044  
the number of employees employed during the preceding calendar 4045  
month, the number of those employees employed at each kind of 4046  
employment, and the aggregate amount of wages paid to those 4047  
employees. 4048

(D) An employer described in division (B) of this section 4049  
shall submit the payroll report required under this section to 4050  
the bureau on a form prescribed by the bureau. The bureau may 4051  
require that the information required to be furnished be 4052  
verified under oath. The bureau or any person employed by the 4053  
bureau for that purpose, may examine, under oath, any employer, 4054  
or the officer, agent, or employee thereof, for the purpose of 4055  
ascertaining any information which the employer is required to 4056  
furnish to the bureau. 4057

(E) No private employer shall fail to furnish to the 4058  
bureau the payroll report required by this section, nor shall 4059  
any employer fail to keep records of or furnish such other 4060  
information as may be required by the bureau under this section. 4061

(F) The administrator may adopt rules setting forth 4062  
penalties for failure to submit the payroll report required by 4063  
this section, including but not limited to exclusion from 4064  
alternative rating plans and discount programs. 4065

**Sec. 4123.27.** Information contained in the payroll report 4066  
provided for in section 4123.26 of the Revised Code, and such 4067

other information as may be furnished to the bureau of workers' 4068  
compensation by employers in pursuance of that section, is for 4069  
the exclusive use and information of the bureau in the discharge 4070  
of its official duties, and shall not be open to the public nor 4071  
be used in any court in any action or proceeding pending therein 4072  
unless the bureau is a party to the action or proceeding. The 4073  
information contained in the payroll report may be tabulated and 4074  
published by the bureau in statistical form for the use and 4075  
information of other state departments and the public. No person 4076  
in the employ of the bureau, except those who are authorized by 4077  
the administrator of workers' compensation, shall divulge any 4078  
information secured by the person while in the employ of the 4079  
bureau in respect to the transactions, property, claim files, 4080  
records, or papers of the bureau or in respect to the business 4081  
or mechanical, chemical, or other industrial process of any 4082  
company, firm, corporation, person, association, partnership, or 4083  
public utility to any person other than the administrator or to 4084  
the superior of such employee of the bureau. 4085

Notwithstanding the restrictions imposed by this section, 4086  
the governor, select or standing committees of the general 4087  
assembly, the auditor of state, the attorney general, or their 4088  
designees, pursuant to the authority granted in this chapter and 4089  
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code, may 4090  
examine any records, claim files, or papers in possession of the 4091  
industrial commission or the bureau. They also are bound by the 4092  
privilege that attaches to these papers. 4093

The administrator shall report to the director of job and 4094  
family services or to the county director of job and family 4095  
services the name, address, and social security number or other 4096  
identification number of any person receiving workers' 4097  
compensation whose name or social security number or other 4098

identification number is the same as that of a person required 4099  
by a court or child support enforcement agency to provide 4100  
support payments to a recipient or participant of public 4101  
assistance, as that term is defined in section 5101.181 of the 4102  
Revised Code, and whose name is submitted to the administrator 4103  
by the director under section 5101.36 of the Revised Code. The 4104  
administrator also shall inform the director of the amount of 4105  
workers' compensation paid to the person during such period as 4106  
the director specifies. 4107

Within fourteen days after receiving from the director of 4108  
job and family services a list of the names and social security 4109  
numbers of recipients or participants of public assistance 4110  
pursuant to section 5101.181 of the Revised Code, the 4111  
administrator shall inform the auditor of state of the name, 4112  
current or most recent address, and social security number of 4113  
each person receiving workers' compensation pursuant to this 4114  
chapter whose name and social security number are the same as 4115  
that of a person whose name or social security number was 4116  
submitted by the director. The administrator also shall inform 4117  
the auditor of state of the amount of workers' compensation paid 4118  
to the person during such period as the director specifies. 4119

The bureau and its employees, except for purposes of 4120  
furnishing the auditor of state with information required by 4121  
this section, shall preserve the confidentiality of recipients 4122  
or participants of public assistance in compliance with section 4123  
5101.181 of the Revised Code. 4124

**Sec. 4123.291.** (A) An adjudicating committee appointed by 4125  
the administrator of workers' compensation to hear any matter 4126  
specified in divisions (B) (1) to (7) of this section shall hear 4127  
the matter within sixty days of the date on which an employer 4128

files the request, protest, or petition. An employer desiring to 4129  
file a request, protest, or petition regarding any matter 4130  
specified in divisions (B) (1) to (7) of this section shall file 4131  
the request, protest, or petition to the adjudicating committee 4132  
on or before twenty-four months after the administrator sends 4133  
notice of the determination about which the employer is filing 4134  
the request, protest, or petition. 4135

(B) An employer who is adversely affected by a decision of 4136  
an adjudicating committee appointed by the administrator may 4137  
appeal the decision of the committee to the administrator or the 4138  
administrator's designee. The employer shall file the appeal in 4139  
writing within thirty days after the employer receives the 4140  
decision of the adjudicating committee. Except as otherwise 4141  
provided in this division, the administrator or the designee 4142  
shall hold a hearing and consider and issue a decision on the 4143  
appeal if the decision of the adjudicating committee relates to 4144  
one of the following: 4145

(1) An employer request for a waiver of a default in the 4146  
payment of premiums pursuant to section 4123.37 of the Revised 4147  
Code; 4148

(2) An employer request for the settlement of liability as 4149  
a noncomplying employer under section 4123.75 of the Revised 4150  
Code; 4151

(3) An employer petition objecting to an assessment made 4152  
pursuant to section 4123.37 of the Revised Code and the rules 4153  
adopted pursuant to that section; 4154

(4) An employer request for the abatement of penalties 4155  
assessed pursuant to section 4123.32 of the Revised Code and the 4156  
rules adopted pursuant to that section; 4157

(5) An employer protest relating to an audit finding or a determination of a manual classification, experience rating, or transfer or combination of risk experience; 4158  
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(6) Any decision relating to any other risk premium matter under Chapters 4121., 4123., ~~and 4131.~~ and 4133. of the Revised Code; 4161  
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(7) An employer petition objecting to the amount of security required under division (D) of section 4125.05 of the Revised Code and the rules adopted pursuant to that section. 4164  
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An employer may request, in writing, that the administrator waive the hearing before the administrator or the administrator's designee. The administrator shall decide whether to grant or deny a request to waive a hearing. 4167  
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(C) The bureau of workers' compensation board of directors, based upon recommendations of the workers' compensation actuarial committee, shall establish the policy for all adjudicating committee procedures, including, but not limited to, specific criteria for manual premium rate adjustment. 4171  
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**Sec. 4123.30.** Money contributed by the employers mentioned in division (B) (1) of section 4123.01 of the Revised Code constitutes the "public fund" and the money contributed by employers mentioned in division (B) (2) of such section constitutes the "private fund." Each such fund shall be collected, distributed, and its solvency maintained without regard to or reliance upon the other. Whenever in this chapter reference is made to the state insurance fund, the reference is to such two separate funds but such two separate funds and the net premiums contributed thereto by employers after adjustments 4177  
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and dividends, except for the amount thereof which is set aside 4187  
for the investigation and prevention of industrial accidents and 4188  
diseases pursuant to Section 35 of Article II, Ohio 4189  
Constitution, any amounts set aside for actuarial services 4190  
authorized or required by sections 4123.44 and 4123.47 of the 4191  
Revised Code, and any amounts set aside to reinsure the 4192  
liability of the respective insurance funds for the following 4193  
payments, constitute a trust fund for the benefit of employers 4194  
and employees mentioned in sections 4123.01, 4123.03, and 4195  
4123.73 of the Revised Code for the payment of compensation, 4196  
medical services, examinations, recommendations and 4197  
determinations, nursing and hospital services, medicine, 4198  
rehabilitation, death benefits, funeral expenses, and like 4199  
benefits for loss sustained on account of injury, disease, or 4200  
death provided for by this chapter and Chapter 4133. of the 4201  
Revised Code, and for no other purpose. This section does not 4202  
prevent the deposit or investment of all such moneys 4203  
intermingled for such purpose but such funds shall be separate 4204  
and distinct for all other purposes, and the rights and duties 4205  
created in this chapter and Chapter 4133. of the Revised Code 4206  
shall be construed to have been made with respect to two 4207  
separate funds and so as to maintain and continue such funds 4208  
separately except for deposit or investment. Disbursements shall 4209  
not be made on account of injury, disease, or death of employees 4210  
of employers who contribute to one of such funds unless the 4211  
moneys to the credit of such fund are sufficient therefor and no 4212  
such disbursements shall be made for moneys or credits paid or 4213  
credited to the other fund. 4214

**Sec. 4123.311.** (A) The administrator of workers' 4215  
compensation may do all of the following: 4216

(1) Utilize direct deposit of funds by electronic transfer 4217

for all disbursements the administrator is authorized to pay 4218  
under this chapter and Chapters 4121., 4127., ~~and 4131., and~~ 4219  
4133. of the Revised Code; 4220

(2) Require any payee to provide a written authorization 4221  
designating a financial institution and an account number to 4222  
which a payment made according to division (A)(1) of this 4223  
section is to be credited, notwithstanding division (B) of 4224  
section 9.37 of the Revised Code; 4225

(3) Contract with an agent to do both of the following: 4226

(a) Supply debit cards for claimants to access payments 4227  
made to them pursuant to this chapter and Chapters 4121., 4127., 4228  
~~and 4131., and 4133.~~ of the Revised Code; 4229

(b) Credit the debit cards described in division (A)(3)(a) 4230  
of this section with the amounts specified by the administrator 4231  
pursuant to this chapter and Chapters 4121., 4127., ~~and 4131.,~~ 4232  
and 4133. of the Revised Code by utilizing direct deposit of 4233  
funds by electronic transfer. 4234

(4) Enter into agreements with financial institutions to 4235  
credit the debit cards described in division (A)(3)(a) of this 4236  
section with the amounts specified by the administrator pursuant 4237  
to this chapter and Chapters 4121., 4127., ~~and 4131., and 4133.~~ 4238  
of the Revised Code by utilizing direct deposit of funds by 4239  
electronic transfer. 4240

(B) The administrator shall inform claimants about the 4241  
administrator's utilization of direct deposit of funds by 4242  
electronic transfer under this section and section 9.37 of the 4243  
Revised Code, furnish debit cards to claimants as appropriate, 4244  
and provide claimants with instructions regarding use of those 4245  
debit cards. 4246

(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.

**Sec. 4123.32.** The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules with respect to the collection, maintenance, and disbursements of the state insurance fund including all of the following:

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

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

(C) A rule providing that an employer who employs an employee covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and this chapter and ~~Chapter~~ Chapters 4121. and 4133. of

the Revised Code shall be assessed a premium in accordance with 4277  
the expenditure of wages, payroll, or both attributable to only 4278  
labor performed and services provided by such an employee when 4279  
the employee performs labor and provides services for which the 4280  
employee is not eligible to receive compensation and benefits 4281  
under that federal act. 4282

(D) A rule providing for all of the following: 4283

(1) If an employer fails to file a report of the 4284  
employer's actual payroll expenditures pursuant to section 4285  
4123.26 of the Revised Code for private employers or pursuant to 4286  
section 4123.41 of the Revised Code for public employers, the 4287  
premium and assessments due from the employer for the period 4288  
shall be calculated based on the estimated payroll of the 4289  
employer used in calculating the estimated premium due, 4290  
increased by ten per cent; 4291

(2) (a) If an employer fails to pay the premium or 4292  
assessments when due for a policy year commencing prior to July 4293  
1, 2015, the administrator may add a late fee penalty of not 4294  
more than thirty dollars to the premium plus an additional 4295  
penalty amount as follows: 4296

(i) For a premium from sixty-one to ninety days past due, 4297  
the prime interest rate, multiplied by the premium due; 4298

(ii) For a premium from ninety-one to one hundred twenty 4299  
days past due, the prime interest rate plus two per cent, 4300  
multiplied by the premium due; 4301

(iii) For a premium from one hundred twenty-one to one 4302  
hundred fifty days past due, the prime interest rate plus four 4303  
per cent, multiplied by the premium due; 4304

(iv) For a premium from one hundred fifty-one to one 4305

hundred eighty days past due, the prime interest rate plus six 4306  
per cent, multiplied by the premium due; 4307

(v) For a premium from one hundred eighty-one to two 4308  
hundred ten days past due, the prime interest rate plus eight 4309  
per cent, multiplied by the premium due; 4310

(vi) For each additional thirty-day period or portion 4311  
thereof that a premium remains past due after it has remained 4312  
past due for more than two hundred ten days, the prime interest 4313  
rate plus eight per cent, multiplied by the premium due. 4314

(b) For purposes of division (D) (2) (a) of this section, 4315  
"prime interest rate" means the average bank prime rate, and the 4316  
administrator shall determine the prime interest rate in the 4317  
same manner as a county auditor determines the average bank 4318  
prime rate under section 929.02 of the Revised Code. 4319

(c) If an employer fails to pay the premium or assessments 4320  
when due for a policy year commencing on or after July 1, 2015, 4321  
the administrator may assess a penalty at the interest rate 4322  
established by the state tax commissioner pursuant to section 4323  
5703.47 of the Revised Code. 4324

(3) Notwithstanding the interest rates specified in 4325  
division (D) (2) (a) or (c) of this section, at no time shall the 4326  
additional penalty amount assessed under division (D) (2) (a) or 4327  
(c) of this section exceed fifteen per cent of the premium due. 4328

(4) If an employer recognized by the administrator as a 4329  
professional employer organization fails to make a timely 4330  
payment of premiums or assessments as required by section 4331  
4123.35 of the Revised Code, the administrator shall revoke the 4332  
professional employer organization's registration pursuant to 4333  
section 4125.06 of the Revised Code. 4334

(5) An employer may appeal a late fee penalty or 4335  
additional penalty to an adjudicating committee pursuant to 4336  
section 4123.291 of the Revised Code. 4337

(6) If the employer files an appropriate payroll report 4338  
within the time provided by law, the employer shall not be in 4339  
default and division (D) (2) of this section shall not apply if 4340  
the employer pays the premiums within fifteen days after being 4341  
first notified by the administrator of the amount due. 4342

(7) Any deficiencies in the amounts of the premium 4343  
security deposit paid by an employer prior to July 1, 2015, 4344  
shall be subject to an interest charge of six per cent per annum 4345  
from the date the premium obligation is incurred. In determining 4346  
the interest due on deficiencies in premium security deposit 4347  
payments, a charge in each case shall be made against the 4348  
employer in an amount equal to interest at the rate of six per 4349  
cent per annum on the premium security deposit due but remaining 4350  
unpaid sixty days after notice by the administrator. 4351

(8) Any interest charges or penalties provided for in 4352  
divisions (D) (2) and (7) of this section shall be credited to 4353  
the employer's account for rating purposes in the same manner as 4354  
premiums. 4355

(E) A rule providing that each employer, on the occasion 4356  
of instituting coverage under this chapter for an effective date 4357  
prior to July 1, 2015, shall submit a premium security deposit. 4358  
The deposit shall be calculated equivalent to thirty per cent of 4359  
the semiannual premium obligation of the employer based upon the 4360  
employer's estimated expenditure for wages for the ensuing six- 4361  
month period plus thirty per cent of an additional adjustment 4362  
period of two months but only up to a maximum of one thousand 4363  
dollars and not less than ten dollars. The administrator shall 4364

review the security deposit of every employer who has submitted 4365  
a deposit which is less than the one-thousand-dollar maximum. 4366  
The administrator may require any such employer to submit 4367  
additional money up to the maximum of one thousand dollars that, 4368  
in the administrator's opinion, reflects the employer's current 4369  
payroll expenditure for an eight-month period. 4370

(F) A rule providing that each employer, on the occasion 4371  
of instituting coverage under this chapter, shall submit an 4372  
application fee and an application for coverage that completely 4373  
provides all of the information required for the administrator 4374  
to establish coverage for that employer, and that the employer's 4375  
failure to pay the application fee or to provide all of the 4376  
information requested on the application may be grounds for the 4377  
administrator to deny coverage for that employer. 4378

(G) A rule providing that, in addition to any other 4379  
remedies permitted in this chapter, the administrator may 4380  
discontinue an employer's coverage if the employer fails to pay 4381  
the premium due on or before the premium's due date. 4382

(H) A rule providing that if after a final adjudication it 4383  
is determined that an employer has failed to pay an obligation, 4384  
billing, account, or assessment that is greater than one 4385  
thousand dollars on or before its due date, the administrator 4386  
may discontinue the employer's coverage in addition to any other 4387  
remedies permitted in this chapter, and that the administrator 4388  
shall not discontinue an employer's coverage pursuant to this 4389  
division prior to a final adjudication regarding the employer's 4390  
failure to pay such obligation, billing, account, or assessment 4391  
on or before its due date. 4392

(I) As used in divisions (G) and (H) of this section: 4393

(1) "Employer" has the same meaning as in section 4123.01 4394  
of the Revised Code except that "employer" does not include the 4395  
state, a state hospital, or a state university or college. 4396

(2) "State university or college" has the same meaning as 4397  
in section 3345.12 of the Revised Code and also includes the 4398  
Ohio agricultural research and development center and OSU 4399  
extension. 4400

(3) "State hospital" means the Ohio state university 4401  
hospital and its ancillary facilities and the medical university 4402  
of Ohio at Toledo hospital. 4403

**Sec. 4123.324.** (A) The administrator of workers' 4404  
compensation shall adopt rules, for the purpose of encouraging 4405  
economic development, that establish conditions under which any 4406  
negative experience to be transferred to the account of an 4407  
employer who is successor in interest under division (B) of 4408  
section 4123.32 of the Revised Code may be reduced or waived. 4409

(B) The administrator, in adopting rules under division 4410  
(A) of this section, may not permit a waiver or reduction in 4411  
experience transfer if the succession transaction is entered 4412  
into for the purpose of escaping obligations under this chapter 4413  
or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code. 4414

**Sec. 4123.34.** It shall be the duty of the bureau of 4415  
workers' compensation board of directors and the administrator 4416  
of workers' compensation to safeguard and maintain the solvency 4417  
of the state insurance fund and all other funds specified in 4418  
this chapter and Chapters 4121., 4127., ~~and 4131.~~ and 4133. of 4419  
the Revised Code. The administrator, in the exercise of the 4420  
powers and discretion conferred upon the administrator in 4421  
section 4123.29 of the Revised Code, shall fix and maintain, 4422

with the advice and consent of the board, for each class of 4423  
occupation or industry, the lowest possible rates of premium 4424  
consistent with the maintenance of a solvent state insurance 4425  
fund and the creation and maintenance of a reasonable surplus, 4426  
after the payment of legitimate claims for injury, occupational 4427  
disease, and death that the administrator authorizes to be paid 4428  
from the state insurance fund for the benefit of injured, 4429  
diseased, and the dependents of killed employees. In 4430  
establishing rates, the administrator shall take into account 4431  
the necessity of ensuring sufficient money is set aside in the 4432  
premium payment security fund to cover any defaults in premium 4433  
obligations. The administrator shall observe all of the 4434  
following requirements in fixing the rates of premium for the 4435  
risks of occupations or industries: 4436

(A) The administrator shall keep an accurate account of 4437  
the money paid in premiums by each of the several classes of 4438  
occupations or industries, and the losses on account of 4439  
injuries, occupational disease, and death of employees thereof, 4440  
and also keep an account of the money received from each 4441  
individual employer and the amount of losses incurred against 4442  
the state insurance fund on account of injuries, occupational 4443  
disease, and death of the employees of the employer. 4444

(B) A portion of the money paid into the state insurance 4445  
fund shall be set aside for the creation of a surplus fund 4446  
account within the state insurance fund. Any references in this 4447  
chapter or in Chapter 4121., 4125., 4127., ~~or 4131., or 4133.~~ of 4448  
the Revised Code to the surplus fund, the surplus created in 4449  
this division, the statutory surplus fund, or the statutory 4450  
surplus of the state insurance fund are hereby deemed to be 4451  
references to the surplus fund account. The administrator may 4452  
transfer the portion of the state insurance fund to the surplus 4453

fund account as the administrator determines is necessary to 4454  
satisfy the needs of the surplus fund account and to guarantee 4455  
the solvency of the state insurance fund and the surplus fund 4456  
account. In addition to all statutory authority under this 4457  
chapter and Chapter 4121. of the Revised Code, the administrator 4458  
has discretionary and contingency authority to make charges to 4459  
the surplus fund account. The administrator shall account for 4460  
all charges, whether statutory, discretionary, or contingency, 4461  
that the administrator may make to the surplus fund account. A 4462  
revision of basic rates shall be made annually on the first day 4463  
of July. 4464

For policy years commencing prior to July 1, 2016, 4465  
revisions of basic rates for private employers shall be in 4466  
accordance with the oldest four of the last five calendar years 4467  
of the combined accident and occupational disease experience of 4468  
the administrator in the administration of this chapter, as 4469  
shown by the accounts kept as provided in this section. For a 4470  
policy year commencing on or after July 1, 2016, revisions of 4471  
basic rates for private employers shall be in accordance with 4472  
the oldest four of the last five policy years combined accident 4473  
and occupational disease experience of the administrator in the 4474  
administration of this chapter, as shown by the accounts kept as 4475  
provided in this section. 4476

Revisions of basic rates for public employers shall be in 4477  
accordance with the oldest four of the last five policy years of 4478  
the combined accident and occupational disease experience of the 4479  
administrator in the administration of this chapter, as shown by 4480  
the accounts kept as provided in this section. 4481

In revising basic rates, the administrator shall exclude 4482  
the experience of employers that are no longer active if the 4483

administrator determines that the inclusion of those employers 4484  
would have a significant negative impact on the remainder of the 4485  
employers in a particular manual classification. The 4486  
administrator shall adopt rules, with the advice and consent of 4487  
the board, governing rate revisions, the object of which shall 4488  
be to make an equitable distribution of losses among the several 4489  
classes of occupation or industry, which rules shall be general 4490  
in their application. 4491

(C) The administrator may apply that form of rating system 4492  
that the administrator finds is best calculated to merit rate or 4493  
individually rate the risk more equitably, predicated upon the 4494  
basis of its individual industrial accident and occupational 4495  
disease experience, and may encourage and stimulate accident 4496  
prevention. The administrator shall develop fixed and equitable 4497  
rules controlling the rating system, which rules shall conserve 4498  
to each risk the basic principles of workers' compensation 4499  
insurance. 4500

(D) The administrator, from the money paid into the state 4501  
insurance fund, shall set aside into an account of the state 4502  
insurance fund titled a premium payment security fund sufficient 4503  
money to pay for any premiums due from an employer and 4504  
uncollected. 4505

The use of the moneys held by the premium payment security 4506  
fund account is restricted to reimbursement to the state 4507  
insurance fund of premiums due and uncollected. 4508

(E) The administrator may grant discounts on premium rates 4509  
for employers who meet either of the following requirements: 4510

(1) Have not incurred a compensable injury for one year or 4511  
more and who maintain an employee safety committee or similar 4512

organization or make periodic safety inspections of the 4513  
workplace. 4514

(2) Successfully complete a loss prevention program 4515  
prescribed by the superintendent of the division of safety and 4516  
hygiene and conducted by the division or by any other person 4517  
approved by the superintendent. 4518

(F) (1) In determining the premium rates for the 4519  
construction industry the administrator shall calculate the 4520  
employers' premiums based upon the actual remuneration 4521  
construction industry employees receive from construction 4522  
industry employers, provided that the amount of remuneration the 4523  
administrator uses in calculating the premiums shall not exceed 4524  
an average weekly wage equal to one hundred fifty per cent of 4525  
the statewide average weekly wage as defined in division (C) of 4526  
section 4123.62 of the Revised Code. 4527

(2) Division (F) (1) of this section shall not be construed 4528  
as affecting the manner in which benefits to a claimant are 4529  
awarded under this chapter or Chapter 4133. of the Revised Code. 4530

(3) As used in division (F) of this section, "construction 4531  
industry" includes any activity performed in connection with the 4532  
erection, alteration, repair, replacement, renovation, 4533  
installation, or demolition of any building, structure, highway, 4534  
or bridge. 4535

(G) The administrator shall not place a limit on the 4536  
length of time that an employer may participate in the bureau of 4537  
workers' compensation drug free workplace and workplace safety 4538  
programs. 4539

**Sec. 4123.341.** The administrative costs of the industrial 4540  
commission, the bureau of workers' compensation board of 4541

directors, the occupational pneumoconiosis board, and the bureau 4542  
of workers' compensation shall be those costs and expenses that 4543  
are incident to the discharge of the duties and performance of 4544  
the activities of the industrial commission, the board, and the 4545  
bureau under this chapter and Chapters 4121., 4125., 4127., 4546  
4131., 4133., and 4167. of the Revised Code, and all such costs 4547  
shall be borne by the state and by other employers amenable to 4548  
this chapter as follows: 4549

(A) In addition to the contribution required of the state 4550  
under sections 4123.39 and 4123.40 of the Revised Code, the 4551  
state shall contribute the sum determined to be necessary under 4552  
section 4123.342 of the Revised Code. 4553

(B) The director of budget and management may allocate the 4554  
state's share of contributions in the manner the director finds 4555  
most equitably apportions the costs. 4556

(C) The counties and taxing districts therein shall 4557  
contribute such sum as may be required under section 4123.342 of 4558  
the Revised Code. 4559

(D) The private employers shall contribute the sum 4560  
required under section 4123.342 of the Revised Code. 4561

**Sec. 4123.342.** (A) The administrator of workers' 4562  
compensation shall allocate among counties and taxing districts 4563  
therein as a class, the state and its instrumentalities as a 4564  
class, private employers who are insured under the private fund 4565  
as a class, and self-insuring employers as a class their fair 4566  
shares of the administrative costs which are to be borne by such 4567  
employers under division (D) of section 4123.341 of the Revised 4568  
Code, separately allocating to each class those costs solely 4569  
attributable to the activities of the industrial commission and 4570

those costs solely attributable to the activities of the bureau 4571  
of workers' compensation board of directors, the occupational 4572  
pneumoconiosis board, and the bureau of workers' compensation in 4573  
respect of the class, allocating to any combination of classes 4574  
those costs attributable to the activities of the industrial 4575  
commission, bureau of workers' compensation board of directors, 4576  
occupational pneumoconiosis board, or bureau in respect of the 4577  
classes, and allocating to all four classes those costs 4578  
attributable to the activities of the industrial commission, 4579  
bureau of workers' compensation board of directors, occupational 4580  
pneumoconiosis board, and bureau in respect of all classes. The 4581  
administrator shall separately calculate each employer's 4582  
assessment in the class, except self-insuring employers, on the 4583  
basis of the following three factors: payroll, paid 4584  
compensation, and paid medical costs of the employer for those 4585  
costs solely attributable to the activities of the bureau of 4586  
workers' compensation board of directors, the occupational 4587  
pneumoconiosis board, and the bureau. The administrator shall 4588  
separately calculate each employer's assessment in the class, 4589  
except self-insuring employers, on the basis of the following 4590  
three factors: payroll, paid compensation, and paid medical 4591  
costs of the employer for those costs solely attributable to the 4592  
activities of the industrial commission. The administrator shall 4593  
separately calculate each self-insuring employer's assessment in 4594  
accordance with section 4123.35 of the Revised Code for those 4595  
costs solely attributable to the activities of the bureau of 4596  
workers' compensation board of directors, the occupational 4597  
pneumoconiosis board, and the bureau. The administrator shall 4598  
separately calculate each self-insuring employer's assessment in 4599  
accordance with section 4123.35 of the Revised Code for those 4600  
costs solely attributable to the activities of the industrial 4601  
commission. In a timely manner, the industrial commission shall 4602

provide to the administrator, the information necessary for the 4603  
administrator to allocate and calculate, with the approval of 4604  
the chairperson of the industrial commission, for each class of 4605  
employer as described in this division, the costs solely 4606  
attributable to the activities of the industrial commission. 4607

(B) The administrator shall divide the administrative cost 4608  
assessments collected by the administrator into two 4609  
administrative assessment accounts within the state insurance 4610  
fund. One of the administrative assessment accounts shall 4611  
consist of the administrative cost assessment collected by the 4612  
administrator for the industrial commission. One of the 4613  
administrative assessment accounts shall consist of the 4614  
administrative cost assessments collected by the administrator 4615  
for the bureau, the occupational pneumoconiosis board, and the 4616  
bureau of workers' compensation board of directors. The 4617  
administrator may invest the administrative cost assessments in 4618  
these accounts on behalf of the bureau and the industrial 4619  
commission as authorized in section 4123.44 of the Revised Code. 4620  
In a timely manner, the administrator shall provide to the 4621  
industrial commission the information and reports the commission 4622  
deems necessary for the commission to monitor the receipts and 4623  
the disbursements from the administrative assessment account for 4624  
the industrial commission. 4625

(C) The administrator or the administrator's designee 4626  
shall transfer moneys as necessary from the administrative 4627  
assessment account identified for the bureau, the occupational 4628  
pneumoconiosis board, and the bureau of workers' compensation 4629  
board of directors to the workers' compensation fund for the use 4630  
of the bureau, the occupational pneumoconiosis board, and the 4631  
bureau of workers' compensation board of directors. As necessary 4632  
and upon the authorization of the industrial commission, the 4633

administrator or the administrator's designee shall transfer 4634  
moneys from the administrative assessment account identified for 4635  
the industrial commission to the industrial commission operating 4636  
fund created under section 4121.021 of the Revised Code. To the 4637  
extent that the moneys collected by the administrator in any 4638  
fiscal biennium of the state equal the sum appropriated by the 4639  
general assembly for administrative costs of the industrial 4640  
commission, bureau of workers' compensation board of directors, 4641  
occupational pneumoconiosis board, and bureau for the biennium, 4642  
the moneys shall be paid into the workers' compensation fund and 4643  
the industrial commission operating fund of the state, as 4644  
appropriate, and any remainder shall be retained in those funds 4645  
and applied to reduce the amount collected during the next 4646  
biennium. 4647

Sections 4123.41, 4123.35, and 4123.37 of the Revised Code 4648  
apply to the collection of assessments from public and private 4649  
employers respectively, except that for boards of county 4650  
hospital trustees that are self-insuring employers, only those 4651  
provisions applicable to the collection of assessments for 4652  
private employers apply. 4653

**Sec. 4123.343.** This section shall be construed liberally 4654  
to the end that employers shall be encouraged to employ and 4655  
retain in their employment handicapped employees as defined in 4656  
this section. 4657

(A) As used in this section, "handicapped employee" means 4658  
an employee who is afflicted with or subject to any physical or 4659  
mental impairment, or both, whether congenital or due to an 4660  
injury or disease of such character that the impairment 4661  
constitutes a handicap in obtaining employment or would 4662  
constitute a handicap in obtaining reemployment if the employee 4663

should become unemployed and whose handicap is due to any of the	4664
following diseases or conditions:	4665
(1) Epilepsy;	4666
(2) Diabetes;	4667
(3) Cardiac disease;	4668
(4) Arthritis;	4669
(5) Amputated foot, leg, arm, or hand;	4670
(6) Loss of sight of one or both eyes or a partial loss of	4671
uncorrected vision of more than seventy-five per cent	4672
bilaterally;	4673
(7) Residual disability from poliomyelitis;	4674
(8) Cerebral palsy;	4675
(9) Multiple sclerosis;	4676
(10) Parkinson's disease;	4677
(11) Cerebral vascular accident;	4678
(12) Tuberculosis;	4679
(13) Silicosis;	4680
(14) Psycho-neurotic disability following treatment in a	4681
recognized medical or mental institution;	4682
(15) Hemophilia;	4683
(16) Chronic osteomyelitis;	4684
(17) Ankylosis of joints;	4685
(18) Hyper insulinism;	4686
(19) Muscular dystrophies;	4687

(20) Arterio-sclerosis;	4688
(21) Thrombo-phlebitis;	4689
(22) Varicose veins;	4690
(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 constituted police department or fire department;	4691 4692 4693 4694
(24) <del>Coal miners' Occupational pneumoconiosis, commonly</del> <del>referred to as "black lung disease" as defined in section</del> <u>4133.01 of the Revised Code;</u>	4695 4696 4697
(25) Disability with respect to which an individual has completed a rehabilitation program conducted pursuant to sections 4121.61 to 4121.69 of the Revised Code.	4698 4699 4700
(B) Under the circumstances set forth in this section all or such portion as the administrator determines of the compensation and benefits paid in any claim arising hereafter shall be charged to and paid from the statutory surplus fund created under section 4123.34 of the Revised Code and only the portion remaining shall be merit-rated or otherwise treated as part of the accident or occupational disease experience of the employer. The provisions of this section apply only in cases of death, total disability, whether temporary or permanent, and all disabilities compensated under division (B) of section 4123.57 of the Revised Code. The administrator shall adopt rules specifying the grounds upon which charges to the statutory surplus fund are to be made. The rules shall prohibit as a grounds any agreement between employer and claimant as to the merits of a claim and the amount of the charge.	4701 4702 4703 4704 4705 4706 4707 4708 4709 4710 4711 4712 4713 4714 4715
(C) Any employer who has in its employ a handicapped	4716

employee is entitled, in the event the person is injured, to a 4717  
determination under this section. 4718

An employer shall file an application under this section 4719  
for a determination with the bureau or commission in the same 4720  
manner as other claims. An application only may be made in cases 4721  
where a handicapped employee or a handicapped employee's 4722  
dependents claim or are receiving an award of compensation as a 4723  
result of an injury or occupational disease occurring or 4724  
contracted on or after the date on which division (A) of this 4725  
section first included the handicap of such employee. 4726

(D) The circumstances under and the manner in which an 4727  
apportionment under this section shall be made are: 4728

(1) Whenever a handicapped employee is injured or disabled 4729  
or dies as the result of an injury or occupational disease 4730  
sustained in the course of and arising out of a handicapped 4731  
employee's employment in this state and the administrator awards 4732  
compensation therefor and when it appears to the satisfaction of 4733  
the administrator that the injury or occupational disease or the 4734  
death resulting therefrom would not have occurred but for the 4735  
pre-existing physical or mental impairment of the handicapped 4736  
employee, all compensation and benefits payable on account of 4737  
the disability or death shall be paid from the surplus fund. 4738

(2) Whenever a handicapped employee is injured or disabled 4739  
or dies as a result of an injury or occupational disease and the 4740  
administrator finds that the injury or occupational disease 4741  
would have been sustained or suffered without regard to the 4742  
employee's pre-existing impairment but that the resulting 4743  
disability or death was caused at least in part through 4744  
aggravation of the employee's pre-existing disability, the 4745  
administrator shall determine in a manner that is equitable and 4746

reasonable and based upon medical evidence the amount of 4747  
disability or proportion of the cost of the death award that is 4748  
attributable to the employee's pre-existing disability and the 4749  
amount found shall be charged to the statutory surplus fund. 4750

(E) The benefits and provisions of this section apply only 4751  
to employers who have complied with this chapter through 4752  
insurance with the state fund. 4753

(F) No employer shall in any year receive credit under 4754  
this section in an amount greater than the premium the employer 4755  
paid. 4756

(G) An order issued by the administrator pursuant to this 4757  
section is appealable under section 4123.511 of the Revised Code 4758  
but is not appealable to a court under section 4123.512 of the 4759  
Revised Code. 4760

**Sec. 4123.35.** (A) Except as provided in this section, and 4761  
until the policy year commencing July 1, 2015, every private 4762  
employer and every publicly owned utility shall pay semiannually 4763  
in the months of January and July into the state insurance fund 4764  
the amount of annual premium the administrator of workers' 4765  
compensation fixes for the employment or occupation of the 4766  
employer, the amount of which premium to be paid by each 4767  
employer to be determined by the classifications, rules, and 4768  
rates made and published by the administrator. The employer 4769  
shall pay semiannually a further sum of money into the state 4770  
insurance fund as may be ascertained to be due from the employer 4771  
by applying the rules of the administrator. 4772

Except as otherwise provided in this section, for a policy 4773  
year commencing on or after July 1, 2015, every private employer 4774  
and every publicly owned utility shall pay annually in the month 4775

of June immediately preceding the policy year into the state 4776  
insurance fund the amount of estimated annual premium the 4777  
administrator fixes for the employment or occupation of the 4778  
employer, the amount of which estimated premium to be paid by 4779  
each employer to be determined by the classifications, rules, 4780  
and rates made and published by the administrator. The employer 4781  
shall pay a further sum of money into the state insurance fund 4782  
as may be ascertained to be due from the employer by applying 4783  
the rules of the administrator. Upon receipt of the payroll 4784  
report required by division (B) of section 4123.26 of the 4785  
Revised Code, the administrator shall adjust the premium and 4786  
assessments charged to each employer for the difference between 4787  
estimated gross payrolls and actual gross payrolls, and any 4788  
balance due to the administrator shall be immediately paid by 4789  
the employer. Any balance due the employer shall be credited to 4790  
the employer's account. 4791

For a policy year commencing on or after July 1, 2015, 4792  
each employer that is recognized by the administrator as a 4793  
professional employer organization shall pay monthly into the 4794  
state insurance fund the amount of premium the administrator 4795  
fixes for the employer for the prior month based on the actual 4796  
payroll of the employer reported pursuant to division (C) of 4797  
section 4123.26 of the Revised Code. 4798

A receipt certifying that payment has been made shall be 4799  
issued to the employer by the bureau of workers' compensation. 4800  
The receipt is prima-facie evidence of the payment of the 4801  
premium. The administrator shall provide each employer written 4802  
proof of workers' compensation coverage as is required in 4803  
section 4123.83 of the Revised Code. Proper posting of the 4804  
notice constitutes the employer's compliance with the notice 4805  
requirement mandated in section 4123.83 of the Revised Code. 4806

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

A private employer who has contracted with a subcontractor  
is liable for the unpaid premium due from any subcontractor with  
respect to that part of the payroll of the subcontractor that is  
for work performed pursuant to the contract with the employer.

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

The administrator, with the advice and consent of the  
board, shall adopt rules to permit employers to make periodic  
payments of the premium and assessment due under this division.  
The rules shall include provisions for the assessment of  
interest charges, where appropriate, and for the assessment of  
penalties when an employer fails to make timely premium  
payments. The administrator, in the rules the administrator

adopts, may set an administrative fee for these periodic 4837  
payments. An employer who timely pays the amounts due under this 4838  
division is entitled to all of the benefits and protections of 4839  
this chapter. Upon receipt of payment, the bureau shall issue a 4840  
receipt to the employer certifying that payment has been made, 4841  
which receipt is prima-facie evidence of payment. Workers' 4842  
compensation coverage under this chapter continues uninterrupted 4843  
upon timely receipt of payment under this division. 4844

Every public employer, except public employers that are 4845  
self-insuring employers under this section, shall comply with 4846  
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 4847  
regard to the contribution of moneys to the public insurance 4848  
fund. 4849

(B) Employers who will abide by the rules of the 4850  
administrator and who may be of sufficient financial ability to 4851  
render certain the payment of compensation to injured employees 4852  
or the dependents of killed employees, and the furnishing of 4853  
medical, surgical, nursing, and hospital attention and services 4854  
and medicines, and funeral expenses, equal to or greater than is 4855  
provided for in sections 4123.52, 4123.55 to 4123.62, ~~and~~ 4856  
4123.64 to 4123.67, 4133.12, 4133.13, and 4133.14 of the Revised 4857  
Code, and who do not desire to insure the payment thereof or 4858  
indemnify themselves against loss sustained by the direct 4859  
payment thereof, upon a finding of such facts by the 4860  
administrator, may be granted the privilege to pay individually 4861  
compensation, and furnish medical, surgical, nursing, and 4862  
hospital services and attention and funeral expenses directly to 4863  
injured employees or the dependents of killed employees, thereby 4864  
being granted status as a self-insuring employer. The 4865  
administrator may charge employers who apply for the status as a 4866  
self-insuring employer a reasonable application fee to cover the 4867

bureau's costs in connection with processing and making a 4868  
determination with respect to an application. 4869

All employers granted status as self-insuring employers 4870  
shall demonstrate sufficient financial and administrative 4871  
ability to assure that all obligations under this section are 4872  
promptly met. The administrator shall deny the privilege where 4873  
the employer is unable to demonstrate the employer's ability to 4874  
promptly meet all the obligations imposed on the employer by 4875  
this section. 4876

(1) The administrator shall consider, but is not limited 4877  
to, the following factors, where applicable, in determining the 4878  
employer's ability to meet all of the obligations imposed on the 4879  
employer by this section: 4880

(a) The employer has operated in this state for a minimum 4881  
of two years, provided that an employer who has purchased, 4882  
acquired, or otherwise succeeded to the operation of a business, 4883  
or any part thereof, situated in this state that has operated 4884  
for at least two years in this state, also shall qualify; 4885

(b) Where the employer previously contributed to the state 4886  
insurance fund or is a successor employer as defined by bureau 4887  
rules, the amount of the buyout, as defined by bureau rules; 4888

(c) The sufficiency of the employer's assets located in 4889  
this state to insure the employer's solvency in paying 4890  
compensation directly; 4891

(d) The financial records, documents, and data, certified 4892  
by a certified public accountant, necessary to provide the 4893  
employer's full financial disclosure. The records, documents, 4894  
and data include, but are not limited to, balance sheets and 4895  
profit and loss history for the current year and previous four 4896

years. 4897

(e) The employer's organizational plan for the 4898  
administration of the workers' compensation law; 4899

(f) The employer's proposed plan to inform employees of 4900  
the change from a state fund insurer to a self-insuring 4901  
employer, the procedures the employer will follow as a self- 4902  
insuring employer, and the employees' rights to compensation and 4903  
benefits; and 4904

(g) The employer has either an account in a financial 4905  
institution in this state, or if the employer maintains an 4906  
account with a financial institution outside this state, ensures 4907  
that workers' compensation checks are drawn from the same 4908  
account as payroll checks or the employer clearly indicates that 4909  
payment will be honored by a financial institution in this 4910  
state. 4911

The administrator may waive the requirements of division 4912  
(B) (1) (a) of this section and the requirement of division (B) (1) 4913  
(d) of this section that the financial records, documents, and 4914  
data be certified by a certified public accountant. The 4915  
administrator shall adopt rules establishing the criteria that 4916  
an employer shall meet in order for the administrator to waive 4917  
the requirements of divisions (B) (1) (a) and (d) of this section. 4918  
Such rules may require additional security of that employer 4919  
pursuant to division (E) of section 4123.351 of the Revised 4920  
Code. 4921

The administrator shall not grant the status of self- 4922  
insuring employer to the state, except that the administrator 4923  
may grant the status of self-insuring employer to a state 4924  
institution of higher education, including its hospitals, that 4925

meets the requirements of division (B) (2) of this section. 4926

(2) When considering the application of a public employer, 4927  
except for a board of county commissioners described in division 4928  
(G) of section 4123.01 of the Revised Code, a board of a county 4929  
hospital, or a publicly owned utility, the administrator shall 4930  
verify that the public employer satisfies all of the following 4931  
requirements as the requirements apply to that public employer: 4932

(a) For the two-year period preceding application under 4933  
this section, the public employer has maintained an unvoted debt 4934  
capacity equal to at least two times the amount of the current 4935  
annual premium established by the administrator under this 4936  
chapter for that public employer for the year immediately 4937  
preceding the year in which the public employer makes 4938  
application under this section. 4939

(b) For each of the two fiscal years preceding application 4940  
under this section, the unreserved and undesignated year-end 4941  
fund balance in the public employer's general fund is equal to 4942  
at least five per cent of the public employer's general fund 4943  
revenues for the fiscal year computed in accordance with 4944  
generally accepted accounting principles. 4945

(c) For the five-year period preceding application under 4946  
this section, the public employer, to the extent applicable, has 4947  
complied fully with the continuing disclosure requirements 4948  
established in rules adopted by the United States securities and 4949  
exchange commission under 17 C.F.R. 240.15c 2-12. 4950

(d) For the five-year period preceding application under 4951  
this section, the public employer has not had its local 4952  
government fund distribution withheld on account of the public 4953  
employer being indebted or otherwise obligated to the state. 4954

(e) For the five-year period preceding application under 4955  
this section, the public employer has not been under a fiscal 4956  
watch or fiscal emergency pursuant to section 118.023, 118.04, 4957  
or 3316.03 of the Revised Code. 4958

(f) For the public employer's fiscal year preceding 4959  
application under this section, the public employer has obtained 4960  
an annual financial audit as required under section 117.10 of 4961  
the Revised Code, which has been released by the auditor of 4962  
state within seven months after the end of the public employer's 4963  
fiscal year. 4964

(g) On the date of application, the public employer holds 4965  
a debt rating of Aa3 or higher according to Moody's investors 4966  
service, inc., or a comparable rating by an independent rating 4967  
agency similar to Moody's investors service, inc. 4968

(h) The public employer agrees to generate an annual 4969  
accumulating book reserve in its financial statements reflecting 4970  
an actuarially generated reserve adequate to pay projected 4971  
claims under this chapter for the applicable period of time, as 4972  
determined by the administrator. 4973

(i) For a public employer that is a hospital, the public 4974  
employer shall submit audited financial statements showing the 4975  
hospital's overall liquidity characteristics, and the 4976  
administrator shall determine, on an individual basis, whether 4977  
the public employer satisfies liquidity standards equivalent to 4978  
the liquidity standards of other public employers. 4979

(j) Any additional criteria that the administrator adopts 4980  
by rule pursuant to division (E) of this section. 4981

The administrator may adopt rules establishing the 4982  
criteria that a public employer shall satisfy in order for the 4983

administrator to waive any of the requirements listed in 4984  
divisions (B) (2) (a) to (j) of this section. The rules may 4985  
require additional security from that employer pursuant to 4986  
division (E) of section 4123.351 of the Revised Code. The 4987  
administrator shall not waive any of the requirements listed in 4988  
divisions (B) (2) (a) to (j) of this section for a public employer 4989  
who does not satisfy the criteria established in the rules the 4990  
administrator adopts. 4991

(C) A board of county commissioners described in division 4992  
(G) of section 4123.01 of the Revised Code, as an employer, that 4993  
will abide by the rules of the administrator and that may be of 4994  
sufficient financial ability to render certain the payment of 4995  
compensation to injured employees or the dependents of killed 4996  
employees, and the furnishing of medical, surgical, nursing, and 4997  
hospital attention and services and medicines, and funeral 4998  
expenses, equal to or greater than is provided for in sections 4999  
4123.52, 4123.55 to 4123.62, ~~and 4123.64 to 4123.67, 4133.12,~~ 5000  
4133.13, and 4133.14 of the Revised Code, and that does not 5001  
desire to insure the payment thereof or indemnify itself against 5002  
loss sustained by the direct payment thereof, upon a finding of 5003  
such facts by the administrator, may be granted the privilege to 5004  
pay individually compensation, and furnish medical, surgical, 5005  
nursing, and hospital services and attention and funeral 5006  
expenses directly to injured employees or the dependents of 5007  
killed employees, thereby being granted status as a self- 5008  
insuring employer. The administrator may charge a board of 5009  
county commissioners described in division (G) of section 5010  
4123.01 of the Revised Code that applies for the status as a 5011  
self-insuring employer a reasonable application fee to cover the 5012  
bureau's costs in connection with processing and making a 5013  
determination with respect to an application. All employers 5014

granted such status shall demonstrate sufficient financial and 5015  
administrative ability to assure that all obligations under this 5016  
section are promptly met. The administrator shall deny the 5017  
privilege where the employer is unable to demonstrate the 5018  
employer's ability to promptly meet all the obligations imposed 5019  
on the employer by this section. The administrator shall 5020  
consider, but is not limited to, the following factors, where 5021  
applicable, in determining the employer's ability to meet all of 5022  
the obligations imposed on the board as an employer by this 5023  
section: 5024

(1) The board has operated in this state for a minimum of 5025  
two years; 5026

(2) Where the board previously contributed to the state 5027  
insurance fund or is a successor employer as defined by bureau 5028  
rules, the amount of the buyout, as defined by bureau rules; 5029

(3) The sufficiency of the board's assets located in this 5030  
state to insure the board's solvency in paying compensation 5031  
directly; 5032

(4) The financial records, documents, and data, certified 5033  
by a certified public accountant, necessary to provide the 5034  
board's full financial disclosure. The records, documents, and 5035  
data include, but are not limited to, balance sheets and profit 5036  
and loss history for the current year and previous four years. 5037

(5) The board's organizational plan for the administration 5038  
of the workers' compensation law; 5039

(6) The board's proposed plan to inform employees of the 5040  
proposed self-insurance, the procedures the board will follow as 5041  
a self-insuring employer, and the employees' rights to 5042  
compensation and benefits; 5043

(7) The board has either an account in a financial 5044  
institution in this state, or if the board maintains an account 5045  
with a financial institution outside this state, ensures that 5046  
workers' compensation checks are drawn from the same account as 5047  
payroll checks or the board clearly indicates that payment will 5048  
be honored by a financial institution in this state; 5049

(8) The board shall provide the administrator a surety 5050  
bond in an amount equal to one hundred twenty-five per cent of 5051  
the projected losses as determined by the administrator. 5052

(D) The administrator shall require a surety bond from all 5053  
self-insuring employers, issued pursuant to section 4123.351 of 5054  
the Revised Code, that is sufficient to compel, or secure to 5055  
injured employees, or to the dependents of employees killed, the 5056  
payment of compensation and expenses, which shall in no event be 5057  
less than that paid or furnished out of the state insurance fund 5058  
in similar cases to injured employees or to dependents of killed 5059  
employees whose employers contribute to the fund, except when an 5060  
employee of the employer, who has suffered the loss of a hand, 5061  
arm, foot, leg, or eye prior to the injury for which 5062  
compensation is to be paid, and thereafter suffers the loss of 5063  
any other of the members as the result of any injury sustained 5064  
in the course of and arising out of the employee's employment, 5065  
the compensation to be paid by the self-insuring employer is 5066  
limited to the disability suffered in the subsequent injury, 5067  
additional compensation, if any, to be paid by the bureau out of 5068  
the surplus created by section 4123.34 of the Revised Code. 5069

(E) In addition to the requirements of this section, the 5070  
administrator shall make and publish rules governing the manner 5071  
of making application and the nature and extent of the proof 5072  
required to justify a finding of fact by the administrator as to 5073

granting the status of a self-insuring employer, which rules 5074  
shall be general in their application, one of which rules shall 5075  
provide that all self-insuring employers shall pay into the 5076  
state insurance fund such amounts as are required to be credited 5077  
to the surplus fund in division (B) of section 4123.34 of the 5078  
Revised Code. The administrator may adopt rules establishing 5079  
requirements in addition to the requirements described in 5080  
division (B)(2) of this section that a public employer shall 5081  
meet in order to qualify for self-insuring status. 5082

Employers shall secure directly from the bureau central 5083  
offices application forms upon which the bureau shall stamp a 5084  
designating number. Prior to submission of an application, an 5085  
employer shall make available to the bureau, and the bureau 5086  
shall review, the information described in division (B)(1) of 5087  
this section, and public employers shall make available, and the 5088  
bureau shall review, the information necessary to verify whether 5089  
the public employer meets the requirements listed in division 5090  
(B)(2) of this section. An employer shall file the completed 5091  
application forms with an application fee, which shall cover the 5092  
costs of processing the application, as established by the 5093  
administrator, by rule, with the bureau at least ninety days 5094  
prior to the effective date of the employer's new status as a 5095  
self-insuring employer. The application form is not deemed 5096  
complete until all the required information is attached thereto. 5097  
The bureau shall only accept applications that contain the 5098  
required information. 5099

(F) The bureau shall review completed applications within 5100  
a reasonable time. If the bureau determines to grant an employer 5101  
the status as a self-insuring employer, the bureau shall issue a 5102  
statement, containing its findings of fact, that is prepared by 5103  
the bureau and signed by the administrator. If the bureau 5104

determines not to grant the status as a self-insuring employer, 5105  
the bureau shall notify the employer of the determination and 5106  
require the employer to continue to pay its full premium into 5107  
the state insurance fund. The administrator also shall adopt 5108  
rules establishing a minimum level of performance as a criterion 5109  
for granting and maintaining the status as a self-insuring 5110  
employer and fixing time limits beyond which failure of the 5111  
self-insuring employer to provide for the necessary medical 5112  
examinations and evaluations may not delay a decision on a 5113  
claim. 5114

(G) The administrator shall adopt rules setting forth 5115  
procedures for auditing the program of self-insuring employers. 5116  
The bureau shall conduct the audit upon a random basis or 5117  
whenever the bureau has grounds for believing that a self- 5118  
insuring employer is not in full compliance with bureau rules or 5119  
this chapter. 5120

The administrator shall monitor the programs conducted by 5121  
self-insuring employers, to ensure compliance with bureau 5122  
requirements and for that purpose, shall develop and issue to 5123  
self-insuring employers standardized forms for use by the self- 5124  
insuring employer in all aspects of the self-insuring employers' 5125  
direct compensation program and for reporting of information to 5126  
the bureau. 5127

The bureau shall receive and transmit to the self-insuring 5128  
employer all complaints concerning any self-insuring employer. 5129  
In the case of a complaint against a self-insuring employer, the 5130  
administrator shall handle the complaint through the self- 5131  
insurance division of the bureau. The bureau shall maintain a 5132  
file by employer of all complaints received that relate to the 5133  
employer. The bureau shall evaluate each complaint and take 5134

appropriate action. 5135

The administrator shall adopt as a rule a prohibition 5136  
against any self-insuring employer from harassing, dismissing, 5137  
or otherwise disciplining any employee making a complaint, which 5138  
rule shall provide for a financial penalty to be levied by the 5139  
administrator payable by the offending self-insuring employer. 5140

(H) For the purpose of making determinations as to whether 5141  
to grant status as a self-insuring employer, the administrator 5142  
may subscribe to and pay for a credit reporting service that 5143  
offers financial and other business information about individual 5144  
employers. The costs in connection with the bureau's 5145  
subscription or individual reports from the service about an 5146  
applicant may be included in the application fee charged 5147  
employers under this section. 5148

(I) A self-insuring employer that returns to the state 5149  
insurance fund as a state fund employer shall provide the 5150  
administrator with medical costs and indemnity costs by claim, 5151  
and payroll by manual classification and year, and such other 5152  
information the administrator may require. The self-insuring 5153  
employer shall submit this information by dates and in a format 5154  
determined by the administrator. The administrator shall develop 5155  
a state fund experience modification factor for a self-insuring 5156  
employer that returns to the state insurance fund based in whole 5157  
or in part on the employer's self-insured experience and the 5158  
information submitted. 5159

(J) On the first day of July of each year, the 5160  
administrator shall calculate separately each self-insuring 5161  
employer's assessments for the safety and hygiene fund, 5162  
administrative costs pursuant to section 4123.342 of the Revised 5163  
Code, and for the surplus fund under division (B) of section 5164

4123.34 of the Revised Code, on the basis of the paid 5165  
compensation attributable to the individual self-insuring 5166  
employer according to the following calculation: 5167

(1) The total assessment against all self-insuring 5168  
employers as a class for each fund and for the administrative 5169  
costs for the year that the assessment is being made, as 5170  
determined by the administrator, divided by the total amount of 5171  
paid compensation for the previous calendar year attributable to 5172  
all amenable self-insuring employers; 5173

(2) Multiply the quotient in division (J)(1) of this 5174  
section by the total amount of paid compensation for the 5175  
previous calendar year that is attributable to the individual 5176  
self-insuring employer for whom the assessment is being 5177  
determined. Each self-insuring employer shall pay the assessment 5178  
that results from this calculation, unless the assessment 5179  
resulting from this calculation falls below a minimum 5180  
assessment, which minimum assessment the administrator shall 5181  
determine on the first day of July of each year with the advice 5182  
and consent of the bureau of workers' compensation board of 5183  
directors, in which event, the self-insuring employer shall pay 5184  
the minimum assessment. 5185

In determining the total amount due for the total 5186  
assessment against all self-insuring employers as a class for 5187  
each fund and the administrative assessment, the administrator 5188  
shall reduce proportionately the total for each fund and 5189  
assessment by the amount of money in the self-insurance 5190  
assessment fund as of the date of the computation of the 5191  
assessment. 5192

The administrator shall calculate the assessment for the 5193  
portion of the surplus fund under division (B) of section 5194

4123.34 of the Revised Code that is used for reimbursement to a 5195  
self-insuring employer under division (H) of section 4123.512 of 5196  
the Revised Code in the same manner as set forth in divisions 5197  
(J) (1) and (2) of this section except that the administrator 5198  
shall calculate the total assessment for this portion of the 5199  
surplus fund only on the basis of those self-insuring employers 5200  
that retain participation in reimbursement to the self-insuring 5201  
employer under division (H) of section 4123.512 of the Revised 5202  
Code and the individual self-insuring employer's proportion of 5203  
paid compensation shall be calculated only for those self- 5204  
insuring employers who retain participation in reimbursement to 5205  
the self-insuring employer under division (H) of section 5206  
4123.512 of the Revised Code. 5207

An employer who no longer is a self-insuring employer in 5208  
this state or who no longer is operating in this state, shall 5209  
continue to pay assessments for administrative costs and for the 5210  
surplus fund under division (B) of section 4123.34 of the 5211  
Revised Code based upon paid compensation attributable to claims 5212  
that occurred while the employer was a self-insuring employer 5213  
within this state. 5214

(K) There is hereby created in the state treasury the 5215  
self-insurance assessment fund. All investment earnings of the 5216  
fund shall be deposited in the fund. The administrator shall use 5217  
the money in the self-insurance assessment fund only for 5218  
administrative costs as specified in section 4123.341 of the 5219  
Revised Code. 5220

(L) Every self-insuring employer shall certify, in 5221  
affidavit form subject to the penalty for perjury, to the bureau 5222  
the amount of the self-insuring employer's paid compensation for 5223  
the previous calendar year. In reporting paid compensation paid 5224

for the previous year, a self-insuring employer shall exclude 5225  
from the total amount of paid compensation any reimbursement the 5226  
self-insuring employer receives in the previous calendar year 5227  
from the surplus fund pursuant to section 4123.512 of the 5228  
Revised Code for any paid compensation. The self-insuring 5229  
employer also shall exclude from the paid compensation reported 5230  
any amount recovered under section 4123.931 of the Revised Code 5231  
and any amount that is determined not to have been payable to or 5232  
on behalf of a claimant in any final administrative or judicial 5233  
proceeding. The self-insuring employer shall exclude such 5234  
amounts from the paid compensation reported in the reporting 5235  
period subsequent to the date the determination is made. The 5236  
administrator shall adopt rules, in accordance with Chapter 119. 5237  
of the Revised Code, that provide for all of the following: 5238

(1) Establishing the date by which self-insuring employers 5239  
must submit such information and the amount of the assessments 5240  
provided for in division (J) of this section for employers who 5241  
have been granted self-insuring status within the last calendar 5242  
year; 5243

(2) If an employer fails to pay the assessment when due, 5244  
the administrator may add a late fee penalty of not more than 5245  
five hundred dollars to the assessment plus an additional 5246  
penalty amount as follows: 5247

(a) For an assessment from sixty-one to ninety days past 5248  
due, the prime interest rate, multiplied by the assessment due; 5249

(b) For an assessment from ninety-one to one hundred 5250  
twenty days past due, the prime interest rate plus two per cent, 5251  
multiplied by the assessment due; 5252

(c) For an assessment from one hundred twenty-one to one 5253

hundred fifty days past due, the prime interest rate plus four 5254  
per cent, multiplied by the assessment due; 5255

(d) For an assessment from one hundred fifty-one to one 5256  
hundred eighty days past due, the prime interest rate plus six 5257  
per cent, multiplied by the assessment due; 5258

(e) For an assessment from one hundred eighty-one to two 5259  
hundred ten days past due, the prime interest rate plus eight 5260  
per cent, multiplied by the assessment due; 5261

(f) For each additional thirty-day period or portion 5262  
thereof that an assessment remains past due after it has 5263  
remained past due for more than two hundred ten days, the prime 5264  
interest rate plus eight per cent, multiplied by the assessment 5265  
due. 5266

(3) An employer may appeal a late fee penalty and penalty 5267  
assessment to the administrator. 5268

For purposes of division (L) (2) of this section, "prime 5269  
interest rate" means the average bank prime rate, and the 5270  
administrator shall determine the prime interest rate in the 5271  
same manner as a county auditor determines the average bank 5272  
prime rate under section 929.02 of the Revised Code. 5273

The administrator shall include any assessment and 5274  
penalties that remain unpaid for previous assessment periods in 5275  
the calculation and collection of any assessments due under this 5276  
division or division (J) of this section. 5277

(M) As used in this section, "paid compensation" means all 5278  
amounts paid by a self-insuring employer for living maintenance 5279  
benefits, all amounts for compensation paid pursuant to sections 5280  
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, 5281  
~~and~~ 4123.64, 4133.12, 4133.13, and 4133.14 of the Revised Code, 5282

all amounts paid as wages in lieu of such compensation, all 5283  
amounts paid in lieu of such compensation under a 5284  
nonoccupational accident and sickness program fully funded by 5285  
the self-insuring employer, and all amounts paid by a self- 5286  
insuring employer for a violation of a specific safety standard 5287  
pursuant to Section 35 of Article II, Ohio Constitution and 5288  
section 4121.47 of the Revised Code. 5289

(N) Should any section of this chapter or Chapter 4121. of 5290  
the Revised Code providing for self-insuring employers' 5291  
assessments based upon compensation paid be declared 5292  
unconstitutional by a final decision of any court, then that 5293  
section of the Revised Code declared unconstitutional shall 5294  
revert back to the section in existence prior to November 3, 5295  
1989, providing for assessments based upon payroll. 5296

(O) The administrator may grant a self-insuring employer 5297  
the privilege to self-insure a construction project entered into 5298  
by the self-insuring employer that is scheduled for completion 5299  
within six years after the date the project begins, and the 5300  
total cost of which is estimated to exceed one hundred million 5301  
dollars or, for employers described in division (R) of this 5302  
section, if the construction project is estimated to exceed 5303  
twenty-five million dollars. The administrator may waive such 5304  
cost and time criteria and grant a self-insuring employer the 5305  
privilege to self-insure a construction project regardless of 5306  
the time needed to complete the construction project and 5307  
provided that the cost of the construction project is estimated 5308  
to exceed fifty million dollars. A self-insuring employer who 5309  
desires to self-insure a construction project shall submit to 5310  
the administrator an application listing the dates the 5311  
construction project is scheduled to begin and end, the 5312  
estimated cost of the construction project, the contractors and 5313

subcontractors whose employees are to be self-insured by the 5314  
self-insuring employer, the provisions of a safety program that 5315  
is specifically designed for the construction project, and a 5316  
statement as to whether a collective bargaining agreement 5317  
governing the rights, duties, and obligations of each of the 5318  
parties to the agreement with respect to the construction 5319  
project exists between the self-insuring employer and a labor 5320  
organization. 5321

A self-insuring employer may apply to self-insure the 5322  
employees of either of the following: 5323

(1) All contractors and subcontractors who perform labor 5324  
or work or provide materials for the construction project; 5325

(2) All contractors and, at the administrator's 5326  
discretion, a substantial number of all the subcontractors who 5327  
perform labor or work or provide materials for the construction 5328  
project. 5329

Upon approval of the application, the administrator shall 5330  
mail a certificate granting the privilege to self-insure the 5331  
construction project to the self-insuring employer. The 5332  
certificate shall contain the name of the self-insuring employer 5333  
and the name, address, and telephone number of the self-insuring 5334  
employer's representatives who are responsible for administering 5335  
workers' compensation claims for the construction project. The 5336  
self-insuring employer shall post the certificate in a 5337  
conspicuous place at the site of the construction project. 5338

The administrator shall maintain a record of the 5339  
contractors and subcontractors whose employees are covered under 5340  
the certificate issued to the self-insured employer. A self- 5341  
insuring employer immediately shall notify the administrator 5342

when any contractor or subcontractor is added or eliminated from 5343  
inclusion under the certificate. 5344

Upon approval of the application, the self-insuring 5345  
employer is responsible for the administration and payment of 5346  
all claims under this chapter and ~~Chapter~~ Chapters 4121. and 5347  
4133. of the Revised Code for the employees of the contractor 5348  
and subcontractors covered under the certificate who receive 5349  
injuries or are killed in the course of and arising out of 5350  
employment on the construction project, or who contract an 5351  
occupational disease in the course of employment on the 5352  
construction project. For purposes of this chapter and ~~Chapter~~ 5353  
Chapters 4121. and 4133. of the Revised Code, a claim that is 5354  
administered and paid in accordance with this division is 5355  
considered a claim against the self-insuring employer listed in 5356  
the certificate. A contractor or subcontractor included under 5357  
the certificate shall report to the self-insuring employer 5358  
listed in the certificate, all claims that arise under this 5359  
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised Code 5360  
in connection with the construction project for which the 5361  
certificate is issued. 5362

A self-insuring employer who complies with this division 5363  
is entitled to the protections provided under this chapter and 5364  
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code with 5365  
respect to the employees of the contractors and subcontractors 5366  
covered under a certificate issued under this division for death 5367  
or injuries that arise out of, or death, injuries, or 5368  
occupational diseases that arise in the course of, those 5369  
employees' employment on that construction project, as if the 5370  
employees were employees of the self-insuring employer, provided 5371  
that the self-insuring employer also complies with this section. 5372  
No employee of the contractors and subcontractors covered under 5373

a certificate issued under this division shall be considered the 5374  
employee of the self-insuring employer listed in that 5375  
certificate for any purposes other than this chapter and ~~Chapter~~ 5376  
Chapters 4121. and 4133. of the Revised Code. Nothing in this 5377  
division gives a self-insuring employer authority to control the 5378  
means, manner, or method of employment of the employees of the 5379  
contractors and subcontractors covered under a certificate 5380  
issued under this division. 5381

The contractors and subcontractors included under a 5382  
certificate issued under this division are entitled to the 5383  
protections provided under this chapter and ~~Chapter~~ Chapters 5384  
4121. and 4133. of the Revised Code with respect to the 5385  
contractor's or subcontractor's employees who are employed on 5386  
the construction project which is the subject of the 5387  
certificate, for death or injuries that arise out of, or death, 5388  
injuries, or occupational diseases that arise in the course of, 5389  
those employees' employment on that construction project. 5390

The contractors and subcontractors included under a 5391  
certificate issued under this division shall identify in their 5392  
payroll records the employees who are considered the employees 5393  
of the self-insuring employer listed in that certificate for 5394  
purposes of this chapter and ~~Chapter~~ Chapters 4121. and 4133. of 5395  
the Revised Code, and the amount that those employees earned for 5396  
employment on the construction project that is the subject of 5397  
that certificate. Notwithstanding any provision to the contrary 5398  
under this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the 5399  
Revised Code, the administrator shall exclude the payroll that 5400  
is reported for employees who are considered the employees of 5401  
the self-insuring employer listed in that certificate, and that 5402  
the employees earned for employment on the construction project 5403  
that is the subject of that certificate, when determining those 5404

contractors' or subcontractors' premiums or assessments required 5405  
under this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the 5406  
Revised Code. A self-insuring employer issued a certificate 5407  
under this division shall include in the amount of paid 5408  
compensation it reports pursuant to division (L) of this 5409  
section, the amount of paid compensation the self-insuring 5410  
employer paid pursuant to this division for the previous 5411  
calendar year. 5412

Nothing in this division shall be construed as altering 5413  
the rights of employees under this chapter and Chapter 4121. of 5414  
the Revised Code as those rights existed prior to September 17, 5415  
1996. Nothing in this division shall be construed as altering 5416  
the rights devolved under sections 2305.31 and 4123.82 of the 5417  
Revised Code as those rights existed prior to September 17, 5418  
1996. 5419

As used in this division, "privilege to self-insure a 5420  
construction project" means privilege to pay individually 5421  
compensation, and to furnish medical, surgical, nursing, and 5422  
hospital services and attention and funeral expenses directly to 5423  
injured employees or the dependents of killed employees. 5424

(P) A self-insuring employer whose application is granted 5425  
under division (O) of this section shall designate a safety 5426  
professional to be responsible for the administration and 5427  
enforcement of the safety program that is specifically designed 5428  
for the construction project that is the subject of the 5429  
application. 5430

A self-insuring employer whose application is granted 5431  
under division (O) of this section shall employ an ombudsperson 5432  
for the construction project that is the subject of the 5433  
application. The ombudsperson shall have experience in workers' 5434

compensation or the construction industry, or both. The 5435  
ombudsperson shall perform all of the following duties: 5436

(1) Communicate with and provide information to employees 5437  
who are injured in the course of, or whose injury arises out of 5438  
employment on the construction project, or who contract an 5439  
occupational disease in the course of employment on the 5440  
construction project; 5441

(2) Investigate the status of a claim upon the request of 5442  
an employee to do so; 5443

(3) Provide information to claimants, third party 5444  
administrators, employers, and other persons to assist those 5445  
persons in protecting their rights under this chapter and 5446  
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code. 5447

A self-insuring employer whose application is granted 5448  
under division (O) of this section shall post the name of the 5449  
safety professional and the ombudsperson and instructions for 5450  
contacting the safety professional and the ombudsperson in a 5451  
conspicuous place at the site of the construction project. 5452

(Q) The administrator may consider all of the following 5453  
when deciding whether to grant a self-insuring employer the 5454  
privilege to self-insure a construction project as provided 5455  
under division (O) of this section: 5456

(1) Whether the self-insuring employer has an 5457  
organizational plan for the administration of the workers' 5458  
compensation law; 5459

(2) Whether the safety program that is specifically 5460  
designed for the construction project provides for the safety of 5461  
employees employed on the construction project, is applicable to 5462  
all contractors and subcontractors who perform labor or work or 5463

provide materials for the construction project, and has as a 5464  
component, a safety training program that complies with 5465  
standards adopted pursuant to the "Occupational Safety and 5466  
Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and 5467  
provides for continuing management and employee involvement; 5468

(3) Whether granting the privilege to self-insure the 5469  
construction project will reduce the costs of the construction 5470  
project; 5471

(4) Whether the self-insuring employer has employed an 5472  
ombudsperson as required under division (P) of this section; 5473

(5) Whether the self-insuring employer has sufficient 5474  
surety to secure the payment of claims for which the self- 5475  
insuring employer would be responsible pursuant to the granting 5476  
of the privilege to self-insure a construction project under 5477  
division (O) of this section. 5478

(R) As used in divisions (O), (P), and (Q), "self-insuring 5479  
employer" includes the following employers, whether or not they 5480  
have been granted the status of being a self-insuring employer 5481  
under division (B) of this section: 5482

(1) A state institution of higher education; 5483

(2) A school district; 5484

(3) A county school financing district; 5485

(4) An educational service center; 5486

(5) A community school established under Chapter 3314. of 5487  
the Revised Code; 5488

(6) A municipal power agency as defined in section 5489  
3734.058 of the Revised Code. 5490

(S) As used in this section: 5491

(1) "Unvoted debt capacity" means the amount of money that 5492  
a public employer may borrow without voter approval of a tax 5493  
levy; 5494

(2) "State institution of higher education" means the 5495  
state universities listed in section 3345.011 of the Revised 5496  
Code, community colleges created pursuant to Chapter 3354. of 5497  
the Revised Code, university branches created pursuant to 5498  
Chapter 3355. of the Revised Code, technical colleges created 5499  
pursuant to Chapter 3357. of the Revised Code, and state 5500  
community colleges created pursuant to Chapter 3358. of the 5501  
Revised Code. 5502

**Sec. 4123.351.** (A) The administrator of workers' 5503  
compensation shall require every self-insuring employer, 5504  
including any self-insuring employer that is indemnified by a 5505  
captive insurance company granted a certificate of authority 5506  
under Chapter 3964. of the Revised Code, to pay a contribution, 5507  
calculated under this section, to the self-insuring employers' 5508  
guaranty fund established pursuant to this section. The fund 5509  
shall provide for payment of compensation and benefits to 5510  
employees of the self-insuring employer in order to cover any 5511  
default in payment by that employer. 5512

(B) The bureau of workers' compensation shall operate the 5513  
self-insuring employers' guaranty fund for self-insuring 5514  
employers. The administrator annually shall establish the 5515  
contributions due from self-insuring employers for the fund at 5516  
rates as low as possible but such as will assure sufficient 5517  
moneys to guarantee the payment of any claims against the fund. 5518  
The bureau's operation of the fund is not subject to sections 5519  
3929.10 to 3929.18 of the Revised Code or to regulation by the 5520

superintendent of insurance. 5521

(C) If a self-insuring employer defaults, the bureau shall 5522  
recover the amounts paid as a result of the default from the 5523  
self-insuring employers' guaranty fund. If a self-insuring 5524  
employer defaults and is in compliance with this section for the 5525  
payment of contributions to the fund, such self-insuring 5526  
employer is entitled to the immunity conferred by section 5527  
4123.74 of the Revised Code for any claim arising during any 5528  
period the employer is in compliance with this section. 5529

(D) (1) There is hereby established a self-insuring 5530  
employers' guaranty fund, which shall be in the custody of the 5531  
treasurer of state and which shall be separate from the other 5532  
funds established and administered pursuant to this chapter. The 5533  
fund shall consist of contributions and other payments made by 5534  
self-insuring employers under this section. All investment 5535  
earnings of the fund shall be credited to the fund. The bureau 5536  
shall make disbursements from the fund pursuant to this section. 5537

(2) The administrator has the same powers to invest any of 5538  
the surplus or reserve belonging to the fund as are delegated to 5539  
the administrator under section 4123.44 of the Revised Code with 5540  
respect to the state insurance fund. The administrator shall 5541  
apply interest earned solely to the reduction of assessments for 5542  
contributions from self-insuring employers and to the payments 5543  
required due to defaults. 5544

(3) If the bureau of workers' compensation board of 5545  
directors determines that reinsurance of the risks of the fund 5546  
is necessary to assure solvency of the fund, the board may: 5547

(a) Enter into contracts for the purchase of reinsurance 5548  
coverage of the risks of the fund with any company or agency 5549

authorized by law to issue contracts of reinsurance; 5550

(b) Require the administrator to pay the cost of 5551  
reinsurance from the fund; 5552

(c) Include the costs of reinsurance as a liability and 5553  
estimated liability of the fund. 5554

(E) The administrator, with the advice and consent of the 5555  
board, may adopt rules pursuant to Chapter 119. of the Revised 5556  
Code for the implementation of this section, including a rule, 5557  
notwithstanding division (C) of this section, requiring self- 5558  
insuring employers to provide security in addition to the 5559  
contribution to the self-insuring employers' guaranty fund 5560  
required by this section. The additional security required by 5561  
the rule, as the administrator determines appropriate, shall be 5562  
sufficient and adequate to provide for financial assurance to 5563  
meet the obligations of self-insuring employers under this 5564  
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 5565  
Code. 5566

(F) The purchase of coverage under this section by self- 5567  
insuring employers is valid notwithstanding the prohibitions 5568  
contained in division (A) of section 4123.82 of the Revised Code 5569  
and is in addition to the indemnity contracts that self-insuring 5570  
employers may purchase pursuant to division (B) of section 5571  
4123.82 of the Revised Code. 5572

(G) The administrator, on behalf of the self-insuring 5573  
employers' guaranty fund, has the rights of reimbursement and 5574  
subrogation and shall collect from a defaulting self-insuring 5575  
employer or other liable person all amounts the administrator 5576  
has paid or reasonably expects to pay from the fund on account 5577  
of the defaulting self-insuring employer. 5578

(H) The assessments for contributions, the administration 5579  
of the self-insuring employers' guaranty fund, the investment of 5580  
the money in the fund, and the payment of liabilities incurred 5581  
by the fund do not create any liability upon the state. 5582

Except for a gross abuse of discretion, neither the board, 5583  
nor the individual members thereof, nor the administrator shall 5584  
incur any obligation or liability respecting the assessments for 5585  
contributions, the administration of the self-insuring 5586  
employers' guaranty fund, the investment of the fund, or the 5587  
payment of liabilities therefrom. 5588

**Sec. 4123.353.** (A) A public employer, except for a board 5589  
of county commissioners described in division (G) of section 5590  
4123.01 of the Revised Code, a board of a county hospital, or a 5591  
publicly owned utility, who is granted the status of self- 5592  
insuring employer pursuant to section 4123.35 of the Revised 5593  
Code shall do all of the following: 5594

(1) Reserve funds as necessary, in accordance with sound 5595  
and prudent actuarial judgment, to cover the costs the public 5596  
employer may potentially incur to remain in compliance with this 5597  
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 5598  
Code; 5599

(2) Include all activity under this chapter and ~~Chapter~~ 5600  
Chapters 4121. and 4133. of the Revised Code in a single fund on 5601  
the public employer's accounting records; 5602

(3) Within ninety days after the last day of each fiscal 5603  
year, prepare and maintain a report of the reserved funds 5604  
described in division (A) (1) of this section and disbursements 5605  
made from those reserved funds. 5606

(B) A public employer who is subject to division (A) of 5607

this section shall make the reports required by that division 5608  
available for inspection by the administrator of workers' 5609  
compensation and any other person at all reasonable times during 5610  
regular business hours. 5611

**Sec. 4123.402.** The department of administrative services 5612  
shall act as employer for workers' compensation claims arising 5613  
under this chapter and Chapters 4121., 4127., ~~and 4131., and~~ 5614  
4133. of the Revised Code for all state agencies, offices, 5615  
institutions, boards, or commissions except for public colleges 5616  
and universities. The department shall review, process, certify 5617  
or contest, and administer workers' compensation claims for each 5618  
state agency, office, institution, board, and commission, except 5619  
for a public college or university, unless otherwise agreed to 5620  
between the department and a state agency, office, institution, 5621  
board, or commission. 5622

The department may enter into a contract with one or more 5623  
third party administrators for claims management of a state 5624  
agency, office, institution, board, or commission, except for a 5625  
public college or university, for workers' compensation claims 5626  
and for claims covered by the occupational injury leave program 5627  
adopted pursuant to section 124.381 of the Revised Code. 5628

**Sec. 4123.441.** (A) The administrator of workers' 5629  
compensation, with the advice and consent of the bureau of 5630  
workers' compensation board of directors shall employ a person 5631  
or designate an employee of the bureau of workers' compensation 5632  
who is designated as a chartered financial analyst by the CFA 5633  
institute and who is licensed by the division of securities in 5634  
the department of commerce as a bureau of workers' compensation 5635  
chief investment officer to be the chief investment officer for 5636  
the bureau of workers' compensation. After ninety days after 5637

September 29, 2005, the bureau of workers' compensation may not 5638  
employ a bureau of workers' compensation chief investment 5639  
officer, as defined in section 1707.01 of the Revised Code, who 5640  
does not hold a valid bureau of workers' compensation chief 5641  
investment officer license issued by the division of securities 5642  
in the department of commerce. The board shall notify the 5643  
division of securities of the department of commerce in writing 5644  
of its designation and of any change in its designation within 5645  
ten calendar days after the designation or change. 5646

(B) The bureau of workers' compensation chief investment 5647  
officer shall reasonably supervise employees of the bureau who 5648  
handle investment of assets of funds specified in this chapter 5649  
and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the Revised 5650  
Code with a view toward preventing violations of Chapter 1707. 5651  
of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 5652  
7 U.S.C. 1, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 5653  
77a, the "Securities Exchange Act of 1934," 48 Stat. 881, 15 5654  
U.S.C. 78a, and the rules and regulations adopted under those 5655  
statutes. This duty of reasonable supervision shall include the 5656  
adoption, implementation, and enforcement of written policies 5657  
and procedures reasonably designed to prevent employees of the 5658  
bureau who handle investment of assets of the funds specified in 5659  
this chapter and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of 5660  
the Revised Code, from misusing material, nonpublic information 5661  
in violation of those laws, rules, and regulations. 5662

For purposes of this division, no bureau of workers' 5663  
compensation chief investment officer shall be considered to 5664  
have failed to satisfy the officer's duty of reasonable 5665  
supervision if the officer has done all of the following: 5666

(1) Adopted and implemented written procedures, and a 5667

system for applying the procedures, that would reasonably be 5668  
expected to prevent and detect, insofar as practicable, any 5669  
violation by employees handling investments of assets of the 5670  
funds specified in this chapter and Chapters 4121., 4127., ~~and~~ 5671  
4131., and 4133. of the Revised Code; 5672

(2) Reasonably discharged the duties and obligations 5673  
incumbent on the bureau of workers' compensation chief 5674  
investment officer by reason of the established procedures and 5675  
the system for applying the procedures when the officer had no 5676  
reasonable cause to believe that there was a failure to comply 5677  
with the procedures and systems; 5678

(3) Reviewed, at least annually, the adequacy of the 5679  
policies and procedures established pursuant to this section and 5680  
the effectiveness of their implementation. 5681

(C) The bureau of workers' compensation chief investment 5682  
officer shall establish and maintain a policy to monitor and 5683  
evaluate the effectiveness of securities transactions executed 5684  
on behalf of the bureau. 5685

**Sec. 4123.442.** When developing the investment policy for 5686  
the investment of the assets of the funds specified in this 5687  
chapter and Chapters 4121., 4127., ~~and~~ 4131., and 4133. of the 5688  
Revised Code, the workers' compensation investment committee 5689  
shall do all of the following: 5690

(A) Specify the asset allocation targets and ranges, risk 5691  
factors, asset class benchmarks, time horizons, total return 5692  
objectives, and performance evaluation guidelines; 5693

(B) Prohibit investing the assets of those funds, directly 5694  
or indirectly, in vehicles that target any of the following: 5695

(1) Coins; 5696

(2) Artwork;	5697
(3) Horses;	5698
(4) Jewelry or gems;	5699
(5) Stamps;	5700
(6) Antiques;	5701
(7) Artifacts;	5702
(8) Collectibles;	5703
(9) Memorabilia;	5704
(10) Similar unregulated investments that are not commonly part of an institutional portfolio, that lack liquidity, and that lack readily determinable valuation.	5705 5706 5707
(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;	5708 5709 5710 5711
(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;	5712 5713 5714 5715
(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	5716 5717 5718 5719 5720 5721 5722 5723

more restrictive than the restrictions described in divisions 5724  
(Y) and (Z) of section 3517.13 of the Revised Code. 5725

**Sec. 4123.444.** (A) As used in this section and section 5726  
4123.445 of the Revised Code: 5727

(1) "Bureau of workers' compensation funds" means any fund 5728  
specified in Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. of 5729  
the Revised Code that the administrator of workers' compensation 5730  
has the authority to invest, in accordance with the 5731  
administrator's investment authority under section 4123.44 of 5732  
the Revised Code. 5733

(2) "Investment manager" means any person with whom the 5734  
administrator of workers' compensation contracts pursuant to 5735  
section 4123.44 of the Revised Code to facilitate the investment 5736  
of assets of bureau of workers' compensation funds. 5737

(3) "Business entity" means any person with whom an 5738  
investment manager contracts for the investment of assets of 5739  
bureau of workers' compensation funds. 5740

(4) "Financial or investment crime" means any criminal 5741  
offense involving theft, receiving stolen property, 5742  
embezzlement, forgery, fraud, passing bad checks, money 5743  
laundering, drug trafficking, or any criminal offense involving 5744  
money or securities, as set forth in Chapters 2909., 2911., 5745  
2913., 2915., 2921., 2923., and 2925. of the Revised Code or 5746  
other law of this state, or the laws of any other state or the 5747  
United States that are substantially equivalent to those 5748  
offenses. 5749

(B) (1) Before entering into a contract with an investment 5750  
manager to invest bureau of workers' compensation funds, the 5751  
administrator shall do both of the following: 5752

(a) Request from any investment manager with whom the administrator wishes to contract for those investments a list of all employees who will be investing assets of bureau of workers' compensation funds. The list shall specify each employee's state of residence for the five years prior to the date of the administrator's request.

(b) Request that the superintendent of the bureau of criminal investigation and identification conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the investment manager names in that list.

(2) After an investment manager enters into a contract with the administrator to invest bureau of workers' compensation funds and before an investment manager enters into a contract with a business entity to facilitate those investments, the investment manager shall request from any business entity with whom the investment manager wishes to contract to make those investments a list of all employees who will be investing assets of the bureau of workers' compensation funds. The list shall specify each employee's state of residence for the five years prior to the investment manager's request. The investment manager shall forward to the administrator the list received from the business entity. The administrator shall request the superintendent to conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the business entity names in that list. Upon receipt of the results of the criminal records check, the administrator shall advise the investment manager whether the results were favorable or unfavorable.

(3) If, after a contract has been entered into between the

administrator and an investment manager or between an investment 5783  
manager and a business entity for the investment of assets of 5784  
bureau of workers' compensation funds, the investment manager or 5785  
business entity wishes to have an employee who was not the 5786  
subject of a criminal records check under division (B) (1) or (B) 5787  
(2) of this section invest assets of the bureau of workers' 5788  
compensation funds, that employee shall be the subject of a 5789  
criminal records check pursuant to this section and section 5790  
109.579 of the Revised Code prior to handling the investment of 5791  
assets of those funds. The investment manager shall submit to 5792  
the administrator the name of that employee along with the 5793  
employee's state of residence for the five years prior to the 5794  
date in which the administrator requests the criminal records 5795  
check. The administrator shall request that the superintendent 5796  
conduct a criminal records check on that employee pursuant to 5797  
this section and section 109.579 of the Revised Code. 5798

(C) (1) If an employee who is the subject of a criminal 5799  
records check pursuant to division (B) of this section has not 5800  
been a resident of this state for the five-year period 5801  
immediately prior to the time the criminal records check is 5802  
requested or does not provide evidence that within that five- 5803  
year period the superintendent has requested information about 5804  
the employee from the federal bureau of investigation in a 5805  
criminal records check, the administrator shall request that the 5806  
superintendent obtain information from the federal bureau of 5807  
investigation as a part of the criminal records check for the 5808  
employee. If the employee has been a resident of this state for 5809  
at least that five-year period, the administrator may, but is 5810  
not required to, request that the superintendent request and 5811  
include in the criminal records check information about that 5812  
employee from the federal bureau of investigation. 5813

(2) The administrator shall provide to an investment manager a copy of the form prescribed pursuant to division (C) (1) of section 109.579 of the Revised Code and a standard impression sheet for each employee for whom a criminal records check must be performed, to obtain fingerprint impressions as prescribed pursuant to division (C) (2) of section 109.579 of the Revised Code. The investment manager shall obtain the completed form and impression sheet either directly from each employee or from a business entity and shall forward the completed form and sheet to the administrator, who shall forward these forms and sheets to the superintendent.

(3) Any employee who receives a copy of the form and the impression sheet pursuant to division (C) (2) of this section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall complete the impression sheets in the manner prescribed in division (C) (2) of section 109.579 of the Revised Code.

(D) For each criminal records check the administrator requests under this section, at the time the administrator makes a request the administrator shall pay to the superintendent the fee the superintendent prescribes pursuant to division (E) of section 109.579 of the Revised Code.

**Sec. 4123.46.** (A) (1) Except as provided in division (A) (2) of this section, the bureau of workers' compensation shall disburse the state insurance fund to employees of employers who have paid into the fund the premiums applicable to the classes to which they belong when the employees have been injured in the course of their employment, wherever the injuries have occurred, and provided the injuries have not been purposely self-

inflicted, or to the dependents of the employees in case death 5844  
has ensued. 5845

(2) As long as injuries have not been purposely self- 5846  
inflicted, the bureau shall disburse the surplus fund created 5847  
under section 4123.34 of the Revised Code to off-duty peace 5848  
officers, firefighters, emergency medical technicians, and first 5849  
responders, or to their dependents if death ensues, who are 5850  
injured while responding to inherently dangerous situations that 5851  
call for an immediate response on the part of the person, 5852  
regardless of whether the person was within the limits of the 5853  
person's jurisdiction when responding, on the condition that the 5854  
person responds to the situation as the person otherwise would 5855  
if the person were on duty in the person's jurisdiction. 5856

As used in division (A) (2) of this section, "peace 5857  
officer," "firefighter," "emergency medical technician," and 5858  
"first responder," ~~and "jurisdiction"~~ have the same meanings as 5859  
in section 4123.01 of the Revised Code. 5860

(B) All self-insuring employers, in compliance with this 5861  
chapter, shall pay the compensation to injured employees, or to 5862  
the dependents of employees who have been killed in the course 5863  
of their employment, unless the injury or death of the employee 5864  
was purposely self-inflicted, and shall furnish the medical, 5865  
surgical, nurse, and hospital care and attention or funeral 5866  
expenses as would have been paid and furnished by virtue of this 5867  
chapter or Chapter 4133. of the Revised Code under a similar 5868  
state of facts by the bureau out of the state insurance fund if 5869  
the employer had paid the premium into the fund. 5870

If any rule or regulation of a self-insuring employer 5871  
provides for or authorizes the payment of greater compensation 5872  
or more complete or extended medical care, nursing, surgical, 5873

and hospital attention, or funeral expenses to the injured 5874  
employees, or to the dependents of the employees as may be 5875  
killed, the employer shall pay to the employees, or to the 5876  
dependents of employees killed, the amount of compensation and 5877  
furnish the medical care, nursing, surgical, and hospital 5878  
attention or funeral expenses provided by the self-insuring 5879  
employer's rules and regulations. 5880

(C) Payment to injured employees, or to their dependents 5881  
in case death has ensued, is in lieu of any and all rights of 5882  
action against the employer of the injured or killed employees. 5883

**Sec. 4123.47.** (A) The administrator of workers' 5884  
compensation shall have an actuarial analysis of the state 5885  
insurance fund and all other funds specified in this chapter and 5886  
Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the Revised Code 5887  
made at least once each year. The analysis shall be made and 5888  
certified by recognized, credentialed property or casualty 5889  
actuaries who shall be selected by the bureau of workers' 5890  
compensation board of directors. The expense of the analysis 5891  
shall be paid from the state insurance fund. The administrator 5892  
shall make copies of the analysis available to the workers' 5893  
compensation audit committee at no charge and to the public at 5894  
cost. 5895

(B) The auditor of state annually shall conduct an audit 5896  
of the administration of this chapter and Chapter 4133. of the 5897  
Revised Code by the industrial commission, the occupational 5898  
pneumoconiosis board, and the bureau of workers' compensation 5899  
and of the safety and hygiene fund. The cost of the audit shall 5900  
be charged to the administrative costs of the bureau as defined 5901  
in section 4123.341 of the Revised Code. The audit shall include 5902  
audits of all fiscal activities, claims processing and handling, 5903

and employer premium collections. The auditor shall prepare a 5904  
report of the audit together with recommendations and transmit 5905  
copies of the report to the industrial commission, the bureau of 5906  
workers' compensation board of directors, the administrator, the 5907  
governor, and to the general assembly. The auditor shall make 5908  
copies of the report available to the public at cost. 5909

(C) The administrator may retain the services of a 5910  
recognized actuary on a consulting basis for the purpose of 5911  
evaluating the actuarial soundness of premium rates and 5912  
classifications and all other matters involving the 5913  
administration of the state insurance fund. The expense of 5914  
services provided by the actuary shall be paid from the state 5915  
insurance fund. 5916

**Sec. 4123.51.** The administrator of workers' compensation 5917  
shall by published notices and other appropriate means endeavor 5918  
to cause claims to be filed in the service office of the bureau 5919  
of workers' compensation from which the investigation and 5920  
determination of the claim may be made most expeditiously. A 5921  
claim or appeal under this chapter or Chapter 4121., 4127., ~~or~~ 5922  
4131., or 4133. of the Revised Code may be filed with any office 5923  
of the bureau of workers' compensation or the industrial 5924  
commission, within the required statutory period, and is 5925  
considered received for the purpose of processing the claims or 5926  
appeals. 5927

The administrator, on the form an employee or an 5928  
individual acting on behalf of the employee files with the 5929  
administrator or a self-insuring employer to initiate a claim 5930  
under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4133. 5931  
of the Revised Code, shall include a statement that is 5932  
substantially similar to the following statement in bold font 5933

and set apart from all other text in the form: 5934

"By signing this form, I elect to only receive 5935  
compensation, benefits, or both that are provided for in this 5936  
claim under Ohio's workers' compensation laws. I understand and 5937  
I hereby waive and release my right to receive compensation and 5938  
benefits under the workers' compensation laws of another state 5939  
for the injury or occupational disease, or the death resulting 5940  
from an injury or occupational disease, for which I am filing 5941  
this claim. I have not received compensation and benefits under 5942  
the workers' compensation laws of another state for this claim, 5943  
and I will not file and have not filed a claim in another state 5944  
for the injury or occupational disease or death resulting from 5945  
an injury or occupational disease for which I am filing this 5946  
claim." 5947

**Sec. 4123.511.** (A) Within seven days after receipt of any 5948  
claim under this chapter or Chapter 4133. of the Revised Code, 5949  
the bureau of workers' compensation shall notify the claimant 5950  
and the employer of the claimant of the receipt of the claim and 5951  
of the facts alleged therein. If the bureau receives from a 5952  
person other than the claimant written or facsimile information 5953  
or information communicated verbally over the telephone 5954  
indicating that an injury or occupational disease has occurred 5955  
or been contracted which may be compensable under this chapter 5956  
or Chapter 4133. of the Revised Code, the bureau shall notify 5957  
the employee and the employer of the information. If the 5958  
information is provided verbally over the telephone, the person 5959  
providing the information shall provide written verification of 5960  
the information to the bureau according to division (E) of 5961  
section 4123.84 of the Revised Code. The receipt of the 5962  
information in writing or facsimile, or if initially by 5963  
telephone, the subsequent written verification, and the notice 5964

by the bureau shall be considered an application for 5965  
compensation under section 4123.84 or 4123.85 of the Revised 5966  
Code, provided that the conditions of division (E) of section 5967  
4123.84 of the Revised Code apply to information provided 5968  
verbally over the telephone. Upon receipt of a claim, the bureau 5969  
shall advise the claimant of the claim number assigned and the 5970  
claimant's right to representation in the processing of a claim 5971  
or to elect no representation. If the bureau determines that a 5972  
claim is determined to be a compensable lost-time claim, the 5973  
bureau shall notify the claimant and the employer of the 5974  
availability of rehabilitation services. No bureau or industrial 5975  
commission employee shall directly or indirectly convey any 5976  
information in derogation of this right. This section shall in 5977  
no way abrogate the bureau's responsibility to aid and assist a 5978  
claimant in the filing of a claim and to advise the claimant of 5979  
the claimant's rights under the law. 5980

The administrator of workers' compensation shall assign 5981  
all claims and investigations to the bureau service office from 5982  
which investigation and determination may be made most 5983  
expeditiously. 5984

The bureau shall investigate the facts concerning an 5985  
injury or occupational disease and ascertain such facts in 5986  
whatever manner is most appropriate and may obtain statements of 5987  
the employee, employer, attending physician, and witnesses in 5988  
whatever manner is most appropriate. 5989

The administrator, with the advice and consent of the 5990  
bureau of workers' compensation board of directors, may adopt 5991  
rules that identify specified medical conditions that have a 5992  
historical record of being allowed whenever included in a claim. 5993  
The administrator may grant immediate allowance of any medical 5994

condition identified in those rules upon the filing of a claim 5995  
involving that medical condition and may make immediate payment 5996  
of medical bills for any medical condition identified in those 5997  
rules that is included in a claim. If an employer contests the 5998  
allowance of a claim involving any medical condition identified 5999  
in those rules, and the claim is disallowed, payment for the 6000  
medical condition included in that claim shall be charged to and 6001  
paid from the surplus fund created under section 4123.34 of the 6002  
Revised Code. 6003

(B) (1) Except as provided in division (B) (2) of this 6004  
section, in claims other than those in which the employer is a 6005  
self-insuring employer, if the administrator determines under 6006  
division (A) of this section that a claimant is or is not 6007  
entitled to an award of compensation or benefits, the 6008  
administrator shall issue an order no later than twenty-eight 6009  
days after the sending of the notice under division (A) of this 6010  
section, granting or denying the payment of the compensation or 6011  
benefits, or both as is appropriate to the claimant. 6012  
Notwithstanding the time limitation specified in this division 6013  
for the issuance of an order, if a medical examination of the 6014  
claimant is required by statute, the administrator promptly 6015  
shall schedule the claimant for that examination and shall issue 6016  
an order no later than twenty-eight days after receipt of the 6017  
report of the examination. The administrator shall notify the 6018  
claimant and the employer of the claimant and their respective 6019  
representatives in writing of the nature of the order and the 6020  
amounts of compensation and benefit payments involved. The 6021  
employer or claimant may appeal the order pursuant to division 6022  
(C) of this section within fourteen days after the date of the 6023  
receipt of the order. The employer and claimant may waive, in 6024  
writing, their rights to an appeal under this division. 6025

(2) Notwithstanding the time limitation specified in 6026  
division (B) (1) of this section for the issuance of an order, if 6027  
the employer certifies a claim for payment of compensation or 6028  
benefits, or both, to a claimant, and the administrator has 6029  
completed the investigation of the claim, the payment of 6030  
benefits or compensation, or both, as is appropriate, shall 6031  
commence upon the later of the date of the certification or 6032  
completion of the investigation and issuance of the order by the 6033  
administrator, provided that the administrator shall issue the 6034  
order no later than the time limitation specified in division 6035  
(B) (1) of this section. 6036

(3) If an appeal is made under division (B) (1) or (2) of 6037  
this section, the administrator shall forward the claim file to 6038  
the appropriate district hearing officer within seven days of 6039  
the appeal. In contested claims other than state fund claims, 6040  
the administrator shall forward the claim within seven days of 6041  
the administrator's receipt of the claim to the industrial 6042  
commission, which shall refer the claim to an appropriate 6043  
district hearing officer for a hearing in accordance with 6044  
division (C) of this section. 6045

~~(C) If an employer or claimant timely appeals the order of~~ 6046  
~~the administrator issued under division (B) of this section or~~ 6047  
~~in the case of other contested claims other than state fund~~ 6048  
~~claims, (1) Except as provided in division (C) (2) of this~~ 6049  
section, the commission shall refer ~~the~~ a claim to an 6050  
appropriate district hearing officer according to rules the 6051  
commission adopts under section 4121.36 of the Revised Code if 6052  
an employer or claimant timely appeals any of the following: 6053

(a) An order or determination of the administrator issued 6054  
under division (B) of this section or section 4133.06 of the 6055

Revised Code; 6056

(b) A determination of the occupational pneumoconiosis board issued under section 4133.09 of the Revised Code; 6057  
6058

(c) Other contested claims other than state fund claims. 6059

(2) Division (C) (1) of this section does not apply to a claim that has been referred to the occupational pneumoconiosis board under section 4133.08 of the Revised Code. 6060  
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The district hearing officer shall notify the parties and their respective representatives of the time and place of the hearing. 6063  
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The district hearing officer shall hold a hearing on a disputed issue or claim within forty-five days after the filing of the appeal under this division and issue a decision within seven days after holding the hearing. The district hearing officer shall notify the parties and their respective representatives in writing of the order. Any party may appeal an order issued under this division pursuant to division (D) of this section within fourteen days after receipt of the order under this division. 6066  
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(D) Upon the timely filing of an appeal of the order of the district hearing officer issued under division (C) of this section, the commission shall refer the claim file to an appropriate staff hearing officer according to its rules adopted under section 4121.36 of the Revised Code. The staff hearing officer shall hold a hearing within forty-five days after the filing of an appeal under this division and issue a decision within seven days after holding the hearing under this division. The staff hearing officer shall notify the parties and their respective representatives in writing of the staff hearing 6075  
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officer's order. Any party may appeal an order issued under this 6085  
division pursuant to division (E) of this section within 6086  
fourteen days after receipt of the order under this division. 6087

(E) Upon the filing of a timely appeal of the order of the 6088  
staff hearing officer issued under division (D) of this section, 6089  
the commission or a designated staff hearing officer, on behalf 6090  
of the commission, shall determine whether the commission will 6091  
hear the appeal. If the commission or the designated staff 6092  
hearing officer decides to hear the appeal, the commission or 6093  
the designated staff hearing officer shall notify the parties 6094  
and their respective representatives in writing of the time and 6095  
place of the hearing. The commission shall hold the hearing 6096  
within forty-five days after the filing of the notice of appeal 6097  
and, within seven days after the conclusion of the hearing, the 6098  
commission shall issue its order affirming, modifying, or 6099  
reversing the order issued under division (D) of this section. 6100  
The commission shall notify the parties and their respective 6101  
representatives in writing of the order. If the commission or 6102  
the designated staff hearing officer determines not to hear the 6103  
appeal, within fourteen days after the expiration of the period 6104  
in which an appeal of the order of the staff hearing officer may 6105  
be filed as provided in division (D) of this section, the 6106  
commission or the designated staff hearing officer shall issue 6107  
an order to that effect and notify the parties and their 6108  
respective representatives in writing of that order. 6109

Except as otherwise provided in this chapter and Chapters 6110  
4121., 4127., ~~and 4131.~~, and 4133. of the Revised Code, any 6111  
party may appeal an order issued under this division to the 6112  
court pursuant to section 4123.512 of the Revised Code within 6113  
sixty days after receipt of the order, subject to the 6114  
limitations contained in that section. 6115

(F) Every notice of an appeal from an order issued under 6116  
divisions (B), (C), (D), and (E) of this section shall state the 6117  
names of the claimant and employer, the number of the claim, the 6118  
date of the decision appealed from, and the fact that the 6119  
appellant appeals therefrom. 6120

(G) All of the following apply to the proceedings under 6121  
divisions (C), (D), and (E) of this section: 6122

(1) The parties shall proceed promptly and without 6123  
continuances except for good cause; 6124

(2) The parties, in good faith, shall engage in the free 6125  
exchange of information relevant to the claim prior to the 6126  
conduct of a hearing according to the rules the commission 6127  
adopts under section 4121.36 of the Revised Code; 6128

(3) The administrator is a party and may appear and 6129  
participate at all administrative proceedings on behalf of the 6130  
state insurance fund. However, in cases in which the employer is 6131  
represented, the administrator shall neither present arguments 6132  
nor introduce testimony that is cumulative to that presented or 6133  
introduced by the employer or the employer's representative. The 6134  
administrator may file an appeal under this section on behalf of 6135  
the state insurance fund; however, except in cases arising under 6136  
section 4123.343 of the Revised Code, the administrator only may 6137  
appeal questions of law or issues of fraud when the employer 6138  
appears in person or by representative. 6139

(H) Except as provided in section 4121.63 of the Revised 6140  
Code and division (K) of this section, payments of compensation 6141  
to a claimant or on behalf of a claimant as a result of any 6142  
order issued under this chapter or Chapter 4133. of the Revised 6143  
Code shall commence upon the earlier of the following: 6144

(1) Fourteen days after the date the administrator issues 6145  
an order under division (B) of this section or section 4133.06 6146  
of the Revised Code, unless that order is appealed or the claim 6147  
has been referred to the occupational pneumoconiosis board, as 6148  
applicable; 6149

(2) Fourteen days after the date the occupational 6150  
pneumoconiosis board makes a determination under section 4133.09 6151  
of the Revised Code; 6152

(3) The date when the employer has waived the right to 6153  
appeal a decision issued under division (B) of this section or 6154  
Chapter 4133. of the Revised Code; 6155

~~(3)~~ (4) If no appeal of an order has been filed under this 6156  
section or to a court under section 4123.512 of the Revised 6157  
Code, the expiration of the time limitations for the filing of 6158  
an appeal of an order; 6159

~~(4)~~ (5) The date of receipt by the employer of an order of 6160  
a district hearing officer, a staff hearing officer, or the 6161  
industrial commission issued under division (C), (D), or (E) of 6162  
this section. 6163

(I) Except as otherwise provided in division (B) of 6164  
section 4123.66 of the Revised Code, payments of medical 6165  
benefits payable under this chapter or Chapter 4121., 4127., ~~or~~ 6166  
4131., or 4133. of the Revised Code shall commence upon the 6167  
earlier of the following: 6168

(1) The date of the issuance of the staff hearing 6169  
officer's order under division (D) of this section; 6170

(2) The date of the final administrative or judicial 6171  
determination. 6172

(J) The administrator shall charge the compensation 6173  
payments made in accordance with division (H) of this section or 6174  
medical benefits payments made in accordance with division (I) 6175  
of this section to an employer's experience immediately after 6176  
the employer has exhausted the employer's administrative appeals 6177  
as provided in this section or section 4133.06 of the Revised 6178  
Code or has waived the employer's right to an administrative 6179  
appeal under division (B) of this section or Chapter 4133. of 6180  
the Revised Code, subject to the adjustment specified in 6181  
division (H) of section 4123.512 of the Revised Code. 6182

(K) Upon the final administrative or judicial 6183  
determination under this section or section 4123.512 of the 6184  
Revised Code of an appeal of an order to pay compensation, if a 6185  
claimant is found to have received compensation pursuant to a 6186  
prior order which is reversed upon subsequent appeal, the 6187  
claimant's employer, if a self-insuring employer, or the bureau, 6188  
shall withhold from any amount to which the claimant becomes 6189  
entitled pursuant to any claim, past, present, or future, under 6190  
Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised 6191  
Code, the amount of previously paid compensation to the claimant 6192  
which, due to reversal upon appeal, the claimant is not 6193  
entitled, pursuant to the following criteria: 6194

(1) No withholding for the first twelve weeks of temporary 6195  
total disability compensation pursuant to ~~section~~ sections 6196  
4123.56 and 4133.12 of the Revised Code shall be made; 6197

(2) Forty per cent of all awards of compensation paid 6198  
pursuant to sections 4123.56 ~~and~~ , 4123.57, 4133.12, and 4133.13 6199  
of the Revised Code, until the amount overpaid is refunded; 6200

(3) Twenty-five per cent of any compensation paid pursuant 6201  
to ~~section~~ sections 4123.58 and 4133.14 of the Revised Code 6202

until the amount overpaid is refunded; 6203

(4) If, pursuant to an appeal under section 4123.512 of 6204  
the Revised Code, the court of appeals or the supreme court 6205  
reverses the allowance of the claim, then no amount of any 6206  
compensation will be withheld. 6207

The administrator and self-insuring employers, as 6208  
appropriate, are subject to the repayment schedule of this 6209  
division only with respect to an order to pay compensation that 6210  
was properly paid under a previous order, but which is 6211  
subsequently reversed upon an administrative or judicial appeal. 6212  
The administrator and self-insuring employers are not subject 6213  
to, but may utilize, the repayment schedule of this division, or 6214  
any other lawful means, to collect payment of compensation made 6215  
to a person who was not entitled to the compensation due to 6216  
fraud as determined by the administrator or the industrial 6217  
commission. 6218

(L) If a staff hearing officer or the commission fails to 6219  
issue a decision or the commission fails to refuse to hear an 6220  
appeal within the time periods required by this section, 6221  
payments to a claimant shall cease until the staff hearing 6222  
officer or commission issues a decision or hears the appeal, 6223  
unless the failure was due to the fault or neglect of the 6224  
employer or the employer agrees that the payments should 6225  
continue for a longer period of time. 6226

(M) Except as otherwise provided in this section or 6227  
section 4123.522 of the Revised Code, no appeal is timely filed 6228  
under this section unless the appeal is filed with the time 6229  
limits set forth in this section. 6230

(N) No person who is not an employee of the bureau or 6231

commission or who is not by law given access to the contents of 6232  
a claims file shall have a file in the person's possession. 6233

(O) Upon application of a party who resides in an area in 6234  
which an emergency or disaster is declared, the industrial 6235  
commission and hearing officers of the commission may waive the 6236  
time frame within which claims and appeals of claims set forth 6237  
in this section must be filed upon a finding that the applicant 6238  
was unable to comply with a filing deadline due to an emergency 6239  
or a disaster. 6240

As used in this division: 6241

(1) "Emergency" means any occasion or instance for which 6242  
the governor of Ohio or the president of the United States 6243  
publicly declares an emergency and orders state or federal 6244  
assistance to save lives and protect property, the public health 6245  
and safety, or to lessen or avert the threat of a catastrophe. 6246

(2) "Disaster" means any natural catastrophe or fire, 6247  
flood, or explosion, regardless of the cause, that causes damage 6248  
of sufficient magnitude that the governor of Ohio or the 6249  
president of the United States, through a public declaration, 6250  
orders state or federal assistance to alleviate damage, loss, 6251  
hardship, or suffering that results from the occurrence. 6252

**Sec. 4123.512.** (A) The claimant or the employer may appeal 6253  
an order of the industrial commission made under division (E) of 6254  
section 4123.511 of the Revised Code in any injury or 6255  
occupational disease case, other than a decision as to the 6256  
extent of disability to the court of common pleas of the county 6257  
in which the injury was inflicted or in which the contract of 6258  
employment was made if the injury occurred outside the state, or 6259  
in which the contract of employment was made if the exposure 6260

occurred outside the state. If no common pleas court has 6261  
jurisdiction for the purposes of an appeal by the use of the 6262  
jurisdictional requirements described in this division, the 6263  
appellant may use the venue provisions in the Rules of Civil 6264  
Procedure to vest jurisdiction in a court. If the claim is for 6265  
an occupational disease, the appeal shall be to the court of 6266  
common pleas of the county in which the exposure which caused 6267  
the disease occurred. Like appeal may be taken from an order of 6268  
a staff hearing officer made under division (D) of section 6269  
4123.511 of the Revised Code from which the commission has 6270  
refused to hear an appeal. The appellant shall file the notice 6271  
of appeal with a court of common pleas within sixty days after 6272  
the date of the receipt of the order appealed from or the date 6273  
of receipt of the order of the commission refusing to hear an 6274  
appeal of a staff hearing officer's decision under division (D) 6275  
of section 4123.511 of the Revised Code. The filing of the 6276  
notice of the appeal with the court is the only act required to 6277  
perfect the appeal. 6278

If an action has been commenced in a court of a county 6279  
other than a court of a county having jurisdiction over the 6280  
action, the court, upon notice by any party or upon its own 6281  
motion, shall transfer the action to a court of a county having 6282  
jurisdiction. 6283

Notwithstanding anything to the contrary in this section, 6284  
if the commission determines under section 4123.522 of the 6285  
Revised Code that an employee, employer, or their respective 6286  
representatives have not received written notice of an order or 6287  
decision which is appealable to a court under this section and 6288  
which grants relief pursuant to section 4123.522 of the Revised 6289  
Code, the party granted the relief has sixty days from receipt 6290  
of the order under section 4123.522 of the Revised Code to file 6291

a notice of appeal under this section. 6292

(B) The notice of appeal shall state the names of the 6293  
administrator of workers' compensation, the claimant, and the 6294  
employer; the number of the claim; the date of the order 6295  
appealed from; and the fact that the appellant appeals 6296  
therefrom. 6297

The administrator, the claimant, and the employer shall be 6298  
parties to the appeal and the court, upon the application of the 6299  
commission, shall make the commission a party. The party filing 6300  
the appeal shall serve a copy of the notice of appeal on the 6301  
administrator at the central office of the bureau of workers' 6302  
compensation in Columbus. The administrator shall notify the 6303  
employer that if the employer fails to become an active party to 6304  
the appeal, then the administrator may act on behalf of the 6305  
employer and the results of the appeal could have an adverse 6306  
effect upon the employer's premium rates or may result in a 6307  
recovery from the employer if the employer is determined to be a 6308  
noncomplying employer under section 4123.75 of the Revised Code. 6309

(C) The attorney general or one or more of the attorney 6310  
general's assistants or special counsel designated by the 6311  
attorney general shall represent the administrator and the 6312  
commission. In the event the attorney general or the attorney 6313  
general's designated assistants or special counsel are absent, 6314  
the administrator or the commission shall select one or more of 6315  
the attorneys in the employ of the administrator or the 6316  
commission as the administrator's attorney or the commission's 6317  
attorney in the appeal. Any attorney so employed shall continue 6318  
the representation during the entire period of the appeal and in 6319  
all hearings thereof except where the continued representation 6320  
becomes impractical. 6321

(D) Upon receipt of notice of appeal, the clerk of courts 6322  
shall provide notice to all parties who are appellees and to the 6323  
commission. 6324

The claimant shall, within thirty days after the filing of 6325  
the notice of appeal, file a petition containing a statement of 6326  
facts in ordinary and concise language showing a cause of action 6327  
to participate or to continue to participate in the fund and 6328  
setting forth the basis for the jurisdiction of the court over 6329  
the action. Further pleadings shall be had in accordance with 6330  
the Rules of Civil Procedure, provided that service of summons 6331  
on such petition shall not be required and provided that the 6332  
claimant may not dismiss the complaint without the employer's 6333  
consent if the employer is the party that filed the notice of 6334  
appeal to court pursuant to this section. The clerk of the court 6335  
shall, upon receipt thereof, transmit by certified mail a copy 6336  
thereof to each party named in the notice of appeal other than 6337  
the claimant. Any party may file with the clerk prior to the 6338  
trial of the action a deposition of any physician taken in 6339  
accordance with the provisions of the Revised Code, which 6340  
deposition may be read in the trial of the action even though 6341  
the physician is a resident of or subject to service in the 6342  
county in which the trial is had. The bureau of workers' 6343  
compensation shall pay the cost of the stenographic deposition 6344  
filed in court and of copies of the stenographic deposition for 6345  
each party from the surplus fund and charge the costs thereof 6346  
against the unsuccessful party if the claimant's right to 6347  
participate or continue to participate is finally sustained or 6348  
established in the appeal. In the event the deposition is taken 6349  
and filed, the physician whose deposition is taken is not 6350  
required to respond to any subpoena issued in the trial of the 6351  
action. The court, or the jury under the instructions of the 6352

court, if a jury is demanded, shall determine the right of the claimant to participate or to continue to participate in the fund upon the evidence adduced at the hearing of the action.

(E) The court shall certify its decision to the commission and the certificate shall be entered in the records of the court. Appeals from the judgment are governed by the law applicable to the appeal of civil actions.

(F) The cost of any legal proceedings authorized by this section, including an attorney's fee to the claimant's attorney to be fixed by the trial judge, based upon the effort expended, in the event the claimant's right to participate or to continue to participate in the fund is established upon the final determination of an appeal, shall be taxed against the employer or the commission if the commission or the administrator rather than the employer contested the right of the claimant to participate in the fund. The attorney's fee shall not exceed forty-two hundred dollars.

(G) If the finding of the court or the verdict of the jury is in favor of the claimant's right to participate in the fund, the commission and the administrator shall thereafter proceed in the matter of the claim as if the judgment were the decision of the commission, subject to the power of modification provided by section 4123.52 of the Revised Code.

(H) (1) An appeal from an order issued under division (E) of section 4123.511 of the Revised Code or any action filed in court in a case in which an award of compensation or medical benefits has been made shall not stay the payment of compensation or medical benefits under the award, or payment for subsequent periods of total disability or medical benefits during the pendency of the appeal. If, in a final administrative

or judicial action, it is determined that payments of 6383  
compensation or benefits, or both, made to or on behalf of a 6384  
claimant should not have been made, the amount thereof shall be 6385  
charged to the surplus fund account under division (B) of 6386  
section 4123.34 of the Revised Code. In the event the employer 6387  
is a state risk, the amount shall not be charged to the 6388  
employer's experience, and the administrator shall adjust the 6389  
employer's account accordingly. In the event the employer is a 6390  
self-insuring employer, the self-insuring employer shall deduct 6391  
the amount from the paid compensation the self-insuring employer 6392  
reports to the administrator under division (L) of section 6393  
4123.35 of the Revised Code. If an employer is a state risk and 6394  
has paid an assessment for a violation of a specific safety 6395  
requirement, and, in a final administrative or judicial action, 6396  
it is determined that the employer did not violate the specific 6397  
safety requirement, the administrator shall reimburse the 6398  
employer from the surplus fund account under division (B) of 6399  
section 4123.34 of the Revised Code for the amount of the 6400  
assessment the employer paid for the violation. 6401

(2) (a) Notwithstanding a final determination that payments 6402  
of benefits made to or on behalf of a claimant should not have 6403  
been made, the administrator or self-insuring employer shall 6404  
award payment of medical or vocational rehabilitation services 6405  
submitted for payment after the date of the final determination 6406  
if all of the following apply: 6407

(i) The services were approved and were rendered by the 6408  
provider in good faith prior to the date of the final 6409  
determination. 6410

(ii) The services were payable under division (I) of 6411  
section 4123.511 of the Revised Code prior to the date of the 6412

final determination. 6413

(iii) The request for payment is submitted within the time 6414  
limit set forth in section 4123.52 of the Revised Code. 6415

(b) Payments made under division (H) (1) of this section 6416  
shall be charged to the surplus fund account under division (B) 6417  
of section 4123.34 of the Revised Code. If the employer of the 6418  
employee who is the subject of a claim described in division (H) 6419  
(2) (a) of this section is a state fund employer, the payments 6420  
made under that division shall not be charged to the employer's 6421  
experience. If that employer is a self-insuring employer, the 6422  
self-insuring employer shall deduct the amount from the paid 6423  
compensation the self-insuring employer reports to the 6424  
administrator under division (L) of section 4123.35 of the 6425  
Revised Code. 6426

(c) Division (H) (2) of this section shall apply only to a 6427  
claim under this chapter or Chapter 4121., 4127., or 4131. of 6428  
the Revised Code arising on or after July 29, 2011, and in the 6429  
case of Chapter 4133. of the Revised Code, a claim arising on or 6430  
after the effective date of this amendment. 6431

(3) A self-insuring employer may elect to pay compensation 6432  
and benefits under this section directly to an employee or an 6433  
employee's dependents by filing an application with the bureau 6434  
of workers' compensation not more than one hundred eighty days 6435  
and not less than ninety days before the first day of the 6436  
employer's next six-month coverage period. If the self-insuring 6437  
employer timely files the application, the application is 6438  
effective on the first day of the employer's next six-month 6439  
coverage period, provided that the administrator shall compute 6440  
the employer's assessment for the surplus fund account due with 6441  
respect to the period during which that application was filed 6442

without regard to the filing of the application. On and after 6443  
the effective date of the employer's election, the self-insuring 6444  
employer shall pay directly to an employee or to an employee's 6445  
dependents compensation and benefits under this section 6446  
regardless of the date of the injury or occupational disease, 6447  
and the employer shall receive no money or credits from the 6448  
surplus fund account on account of those payments and shall not 6449  
be required to pay any amounts into the surplus fund account on 6450  
account of this section. The election made under this division 6451  
is irrevocable. 6452

(I) All actions and proceedings under this section which 6453  
are the subject of an appeal to the court of common pleas or the 6454  
court of appeals shall be preferred over all other civil actions 6455  
except election causes, irrespective of position on the 6456  
calendar. 6457

This section applies to all decisions of the commission or 6458  
the administrator on November 2, 1959, and all claims filed 6459  
thereafter are governed by sections 4123.511 and 4123.512 of the 6460  
Revised Code. 6461

Any action pending in common pleas court or any other 6462  
court on January 1, 1986, under this section is governed by 6463  
former sections 4123.514, 4123.515, 4123.516, and 4123.519 and 6464  
section 4123.522 of the Revised Code. 6465

**Sec. 4123.522.** The employee, employer, and their 6466  
respective representatives are entitled to written notice of any 6467  
hearing, determination, order, award, or decision under this 6468  
chapter and Chapter 4133. of the Revised Code and the 6469  
administrator of workers' compensation and ~~his~~ the 6470  
administrator's representative are entitled to like notice for 6471  
orders issued under divisions (C) and (D) of section 4123.511 6472

and section 4123.512 of the Revised Code. An employee, employer, 6473  
or the administrator is deemed not to have received notice until 6474  
the notice is received from the industrial commission or its 6475  
district or staff hearing officers, the administrator, or the 6476  
bureau of workers' compensation by both the employee and ~~his~~ the 6477  
employee's representative of record, both the employer and ~~his~~ 6478  
the employer's representative of record, and by both the 6479  
administrator and ~~his~~ the administrator's representative. 6480

If any person to whom a notice is mailed fails to receive 6481  
the notice and the commission, upon hearing, determines that the 6482  
failure was due to cause beyond the control and without the 6483  
fault or neglect of such person or ~~his~~ the person's 6484  
representative and that such person or ~~his~~ the person's 6485  
representative did not have actual knowledge of the import of 6486  
the information contained in the notice, such person may take 6487  
the action afforded to such person within twenty-one days after 6488  
the receipt of the notice of such determination of the 6489  
commission. Delivery of the notice to the address of the person 6490  
or ~~his~~ the person's representative is prima-facie evidence of 6491  
receipt of the notice by the person. 6492

**Sec. 4123.53.** (A) The administrator of workers' 6493  
compensation or the industrial commission may require any 6494  
employee claiming the right to receive compensation to submit to 6495  
a medical examination, vocational evaluation, or vocational 6496  
questionnaire at any time, and from time to time, at a place 6497  
reasonably convenient for the employee, and as provided by the 6498  
rules of the commission or the administrator of workers' 6499  
compensation. A claimant required by the commission or 6500  
administrator to submit to a medical examination or vocational 6501  
evaluation, at a point outside of the place of permanent or 6502  
temporary residence of the claimant, as provided in this 6503

section, is entitled to have paid to the claimant by the bureau 6504  
of workers' compensation the necessary and actual expenses on 6505  
account of the attendance for the medical examination or 6506  
vocational evaluation after approval of the expense statement by 6507  
the bureau. Under extraordinary circumstances and with the 6508  
unanimous approval of the commission, if the commission requires 6509  
the medical examination or vocational evaluation, or with the 6510  
approval of the administrator, if the administrator requires the 6511  
medical examination or vocational evaluation, the bureau shall 6512  
pay an injured or diseased employee the necessary, actual, and 6513  
authorized expenses of treatment at a point outside the place of 6514  
permanent or temporary residence of the claimant. 6515

(B) When an employee initially receives temporary total 6516  
disability compensation pursuant to section 4123.56 of the 6517  
Revised Code for a consecutive ninety-day period, the 6518  
administrator shall refer the employee to the bureau medical 6519  
section for a medical examination to determine the employee's 6520  
continued entitlement to such compensation, the employee's 6521  
rehabilitation potential, and the appropriateness of the medical 6522  
treatment the employee is receiving. The bureau medical section 6523  
shall conduct the examination not later than thirty days 6524  
following the end of the initial ninety-day period. If the 6525  
medical examiner, upon an initial or any subsequent examination 6526  
recommended by the medical examiner under this division, 6527  
determines that the employee is temporarily and totally 6528  
impaired, the medical examiner shall recommend a date when the 6529  
employee should be reexamined. Upon the issuance of the medical 6530  
examination report containing a recommendation for 6531  
reexamination, the administrator shall schedule an examination 6532  
and, if at the date of reexamination the employee is receiving 6533  
temporary total disability compensation, the employee shall be 6534

examined. The administrator shall adopt a rule, pursuant to 6535  
Chapter 119. of the Revised Code, permitting employers to waive 6536  
the administrator's scheduling of any such examinations. 6537

(C) If an employee refuses to submit to any medical 6538  
examination or vocational evaluation scheduled pursuant to this 6539  
section or obstructs the same, or refuses to complete and submit 6540  
to the bureau or commission a vocational questionnaire within 6541  
thirty days after the bureau or commission mails the request to 6542  
complete and submit the questionnaire the employee's right to 6543  
have ~~his or her~~ the employee's claim for compensation 6544  
considered, if the claim is pending before the bureau or 6545  
commission, or to receive any payment for compensation 6546  
theretofore granted, is suspended during the period of the 6547  
refusal or obstruction. Notwithstanding this section, an 6548  
employee's failure to submit to a medical examination or 6549  
vocational evaluation, or to complete and submit a vocational 6550  
questionnaire, shall not result in the dismissal of the 6551  
employee's claim. 6552

(D) Medical examinations scheduled under this section do 6553  
not limit medical examinations provided for in other provisions 6554  
of this chapter or Chapter 4121. or 4133. of the Revised Code. 6555

**Sec. 4123.54.** (A) Except as otherwise provided in this 6556  
division or divisions (I) and (K) of this section, every 6557  
employee, who is injured or who contracts an occupational 6558  
disease, and the dependents of each employee who is killed, or 6559  
dies as the result of an occupational disease contracted in the 6560  
course of employment, wherever the injury has occurred or 6561  
occupational disease has been contracted, is entitled to receive 6562  
the compensation for loss sustained on account of the injury, 6563  
occupational disease, or death, and the medical, nurse, and 6564

hospital services and medicines, and the amount of funeral 6565  
expenses in case of death, as are provided by this chapter and 6566  
Chapter 4133. of the Revised Code. The compensation and benefits 6567  
shall be provided, as applicable, directly from the employee's 6568  
self-insuring employer as provided in section 4123.35 of the 6569  
Revised Code or from the state insurance fund. An employee or 6570  
dependent is not entitled to receive compensation or benefits 6571  
under this division if the employee's injury or occupational 6572  
disease is either of the following: 6573

(1) Purposely self-inflicted; 6574

(2) Caused by the employee being intoxicated, under the 6575  
influence of a controlled substance not prescribed by a 6576  
physician, or under the influence of marihuana if being 6577  
intoxicated, under the influence of a controlled substance not 6578  
prescribed by a physician, or under the influence of marihuana 6579  
was the proximate cause of the injury. 6580

(B) For the purpose of this section, provided that an 6581  
employer has posted written notice to employees that the results 6582  
of, or the employee's refusal to submit to, any chemical test 6583  
described under this division may affect the employee's 6584  
eligibility for compensation and benefits pursuant to this 6585  
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 6586  
Code, there is a rebuttable presumption that an employee is 6587  
intoxicated, under the influence of a controlled substance not 6588  
prescribed by the employee's physician, or under the influence 6589  
of marihuana and that being intoxicated, under the influence of 6590  
a controlled substance not prescribed by the employee's 6591  
physician, or under the influence of marihuana is the proximate 6592  
cause of an injury under either of the following conditions: 6593

(1) When any one or more of the following is true: 6594

(a) The employee, through a qualifying chemical test 6595  
administered within eight hours of an injury, is determined to 6596  
have an alcohol concentration level equal to or in excess of the 6597  
levels established in divisions (A) (1) (b) to (i) of section 6598  
4511.19 of the Revised Code; 6599

(b) The employee, through a qualifying chemical test 6600  
administered within thirty-two hours of an injury, is determined 6601  
to have one of the following controlled substances not 6602  
prescribed by the employee's physician or marihuana in the 6603  
employee's system that tests above the following levels in an 6604  
enzyme multiplied immunoassay technique screening test and above 6605  
the levels established in division (B) (1) (c) of this section in 6606  
a gas chromatography mass spectrometry test: 6607

(i) For amphetamines, one thousand nanograms per 6608  
milliliter of urine; 6609

(ii) For cannabinoids, fifty nanograms per milliliter of 6610  
urine; 6611

(iii) For cocaine, including crack cocaine, three hundred 6612  
nanograms per milliliter of urine; 6613

(iv) For opiates, two thousand nanograms per milliliter of 6614  
urine; 6615

(v) For phencyclidine, twenty-five nanograms per 6616  
milliliter of urine. 6617

(c) The employee, through a qualifying chemical test 6618  
administered within thirty-two hours of an injury, is determined 6619  
to have one of the following controlled substances not 6620  
prescribed by the employee's physician or marihuana in the 6621  
employee's system that tests above the following levels by a gas 6622  
chromatography mass spectrometry test: 6623

- (i) For amphetamines, five hundred nanograms per milliliter of urine; 6624  
6625
- (ii) For cannabinoids, fifteen nanograms per milliliter of urine; 6626  
6627
- (iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine; 6628  
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- (iv) For opiates, two thousand nanograms per milliliter of urine; 6630  
6631
- (v) For phencyclidine, twenty-five nanograms per milliliter of urine. 6632  
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- (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. 6634  
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- (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 ~~Chapter~~ Chapters 4121. and 4133. of the Revised Code. 6640  
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- (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: 6647  
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- (a) When the employee's employer had reasonable cause to 6651

suspect that the employee may be intoxicated, under the 6652  
influence of a controlled substance not prescribed by the 6653  
employee's physician, or under the influence of marihuana; 6654

(b) At the request of a police officer pursuant to section 6655  
4511.191 of the Revised Code, and not at the request of the 6656  
employee's employer; 6657

(c) At the request of a licensed physician who is not 6658  
employed by the employee's employer, and not at the request of 6659  
the employee's employer. 6660

(2) As used in division (C) (1) (a) of this section, 6661  
"reasonable cause" means, but is not limited to, evidence that 6662  
an employee is or was using alcohol, a controlled substance, or 6663  
marihuana drawn from specific, objective facts and reasonable 6664  
inferences drawn from these facts in light of experience and 6665  
training. These facts and inferences may be based on, but are 6666  
not limited to, any of the following: 6667

(a) Observable phenomena, such as direct observation of 6668  
use, possession, or distribution of alcohol, a controlled 6669  
substance, or marihuana, or of the physical symptoms of being 6670  
under the influence of alcohol, a controlled substance, or 6671  
marihuana, such as but not limited to slurred speech; dilated 6672  
pupils; odor of alcohol, a controlled substance, or marihuana; 6673  
changes in affect; or dynamic mood swings; 6674

(b) A pattern of abnormal conduct, erratic or aberrant 6675  
behavior, or deteriorating work performance such as frequent 6676  
absenteeism, excessive tardiness, or recurrent accidents, that 6677  
appears to be related to the use of alcohol, a controlled 6678  
substance, or marihuana, and does not appear to be attributable 6679  
to other factors; 6680

(c) The identification of an employee as the focus of a criminal investigation into unauthorized possession, use, or trafficking of a controlled substance or marihuana;

(d) A report of use of alcohol, a controlled substance, or marihuana provided by a reliable and credible source;

(e) Repeated or flagrant violations of the safety or work rules of the employee's employer, that are determined by the employee's supervisor to pose a substantial risk of physical injury or property damage and that appear to be related to the use of alcohol, a controlled substance, or marihuana and that do not appear attributable to other factors.

(D) Nothing in this section shall be construed to affect the rights of an employer to test employees for alcohol or controlled substance abuse.

(E) For the purpose of this section, laboratories certified by the United States department of health and human services or laboratories that meet or exceed the standards of that department for laboratory certification shall be used for processing the test results of a qualifying chemical test.

(F) The written notice required by division (B) of this section shall be the same size or larger than the proof of workers' compensation coverage furnished by the bureau of workers' compensation and shall be posted by the employer in the same location as the proof of workers' compensation coverage or the certificate of self-insurance.

(G) If a condition that pre-existed an injury is substantially aggravated by the injury, and that substantial aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results, no

compensation or benefits are payable because of the pre-existing 6710  
condition once that condition has returned to a level that would 6711  
have existed without the injury. 6712

(H) (1) Whenever, with respect to an employee of an 6713  
employer who is subject to and has complied with this chapter 6714  
and Chapter 4133. of the Revised Code, there is possibility of 6715  
conflict with respect to the application of workers' 6716  
compensation laws because the contract of employment is entered 6717  
into and all or some portion of the work is or is to be 6718  
performed in a state or states other than Ohio, the employer and 6719  
the employee may agree to be bound by the laws of this state or 6720  
by the laws of some other state in which all or some portion of 6721  
the work of the employee is to be performed. The agreement shall 6722  
be in writing and shall be filed with the bureau of workers' 6723  
compensation within ten days after it is executed and shall 6724  
remain in force until terminated or modified by agreement of the 6725  
parties similarly filed. If the agreement is to be bound by the 6726  
laws of this state and the employer has complied with this 6727  
chapter and Chapter 4133. of the Revised Code, then the employee 6728  
is entitled to compensation and benefits regardless of where the 6729  
injury occurs or the disease is contracted and the rights of the 6730  
employee and the employee's dependents under the laws of this 6731  
state are the exclusive remedy against the employer on account 6732  
of injury, disease, or death in the course of and arising out of 6733  
the employee's employment. If the agreement is to be bound by 6734  
the laws of another state and the employer has complied with the 6735  
laws of that state, the rights of the employee and the 6736  
employee's dependents under the laws of that state are the 6737  
exclusive remedy against the employer on account of injury, 6738  
disease, or death in the course of and arising out of the 6739  
employee's employment without regard to the place where the 6740

injury was sustained or the disease contracted. If an employer 6741  
and an employee enter into an agreement under this division, the 6742  
fact that the employer and the employee entered into that 6743  
agreement shall not be construed to change the status of an 6744  
employee whose continued employment is subject to the will of 6745  
the employer or the employee, unless the agreement contains a 6746  
provision that expressly changes that status. 6747

(2) If an employee or the employee's dependents receive an 6748  
award of compensation or benefits under this chapter or Chapter 6749  
4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code for the 6750  
same injury, occupational disease, or death for which the 6751  
employee or the employee's dependents previously pursued or 6752  
otherwise elected to accept workers' compensation benefits and 6753  
received a decision on the merits as defined in section 4123.542 6754  
of the Revised Code under the laws of another state or recovered 6755  
damages under the laws of another state, the claim shall be 6756  
disallowed and the administrator or any self-insuring employer, 6757  
by any lawful means, may collect from the employee or the 6758  
employee's dependents any of the following: 6759

(a) The amount of compensation or benefits paid to or on 6760  
behalf of the employee or the employee's dependents by the 6761  
administrator or a self-insuring employer pursuant to this 6762  
chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the 6763  
Revised Code for that award; 6764

(b) Any interest, attorney's fees, and costs the 6765  
administrator or the self-insuring employer incurs in collecting 6766  
that payment. 6767

(3) If an employee or the employee's dependents receive an 6768  
award of compensation or benefits under this chapter or Chapter 6769  
4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code and 6770

subsequently pursue or otherwise elect to accept workers' 6771  
compensation benefits or damages under the laws of another state 6772  
for the same injury, occupational disease, or death the claim 6773  
under this chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. 6774  
of the Revised Code shall be disallowed. The administrator or a 6775  
self-insuring employer, by any lawful means, may collect from 6776  
the employee or the employee's dependents or other-states' 6777  
insurer any of the following: 6778

(a) The amount of compensation or benefits paid to or on 6779  
behalf of the employee or the employee's dependents by the 6780  
administrator or the self-insuring employer pursuant to this 6781  
chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. of the 6782  
Revised Code for that award; 6783

(b) Any interest, costs, and attorney's fees the 6784  
administrator or the self-insuring employer incurs in collecting 6785  
that payment; 6786

(c) Any costs incurred by an employer in contesting or 6787  
responding to any claim filed by the employee or the employee's 6788  
dependents for the same injury, occupational disease, or death 6789  
that was filed after the original claim for which the employee 6790  
or the employee's dependents received a decision on the merits 6791  
as described in section 4123.542 of the Revised Code. 6792

(4) If the employee's employer pays premiums into the 6793  
state insurance fund, the administrator shall not charge the 6794  
amount of compensation or benefits the administrator collects 6795  
pursuant to division (H) (2) or (3) of this section to the 6796  
employer's experience. If the administrator collects any costs 6797  
incurred by an employer in contesting or responding to any claim 6798  
pursuant to division (H) (2) or (3) of this section, the 6799  
administrator shall forward the amount collected to that 6800

employer. If the employee's employer is a self-insuring 6801  
employer, the self-insuring employer shall deduct the amount of 6802  
compensation or benefits the self-insuring employer collects 6803  
pursuant to this division from the paid compensation the self- 6804  
insuring employer reports to the administrator under division 6805  
(L) of section 4123.35 of the Revised Code. 6806

(5) If an employee is a resident of a state other than 6807  
this state and is insured under the workers' compensation law or 6808  
similar laws of a state other than this state, the employee and 6809  
the employee's dependents are not entitled to receive 6810  
compensation or benefits under this chapter or Chapter 4133. of 6811  
the Revised Code, on account of injury, disease, or death 6812  
arising out of or in the course of employment while temporarily 6813  
within this state, and the rights of the employee and the 6814  
employee's dependents under the laws of the other state are the 6815  
exclusive remedy against the employer on account of the injury, 6816  
disease, or death. 6817

(6) An employee, or the dependent of an employee, who 6818  
elects to receive compensation and benefits under this chapter 6819  
or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code 6820  
for a claim may not receive compensation and benefits under the 6821  
workers' compensation laws of any state other than this state 6822  
for that same claim. For each claim submitted by or on behalf of 6823  
an employee, the administrator or, if the employee is employed 6824  
by a self-insuring employer, the self-insuring employer, shall 6825  
request the employee or the employee's dependent to sign an 6826  
election that affirms the employee's or employee's dependent's 6827  
acceptance of electing to receive compensation and benefits 6828  
under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. 6829  
of the Revised Code for that claim that also affirmatively 6830  
waives and releases the employee's or the employee's dependent's 6831

right to file for and receive compensation and benefits under 6832  
the laws of any state other than this state for that claim. The 6833  
employee or employee's dependent shall sign the election form 6834  
within twenty-eight days after the administrator or self- 6835  
insuring employer submits the request or the administrator or 6836  
self-insuring employer shall dismiss that claim. 6837

In the event a workers' compensation claim has been filed 6838  
in another jurisdiction on behalf of an employee or the 6839  
dependents of an employee, and the employee or dependents 6840  
subsequently elect to receive compensation, benefits, or both 6841  
under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. 6842  
of the Revised Code, the employee or dependent shall withdraw or 6843  
refuse acceptance of the workers' compensation claim filed in 6844  
the other jurisdiction in order to pursue compensation or 6845  
benefits under the laws of this state. If the employee or 6846  
dependents were awarded workers' compensation benefits or had 6847  
recovered damages under the laws of the other state, any 6848  
compensation and benefits awarded under this chapter or Chapter 6849  
4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code shall be 6850  
paid only to the extent to which those payments exceed the 6851  
amounts paid under the laws of the other state. If the employee 6852  
or dependent fails to withdraw or to refuse acceptance of the 6853  
workers' compensation claim in the other jurisdiction within 6854  
twenty-eight days after a request made by the administrator or a 6855  
self-insuring employer, the administrator or self-insuring 6856  
employer shall dismiss the employee's or employee's dependents' 6857  
claim made in this state. 6858

(I) If an employee who is covered under the federal 6859  
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 6860  
33 U.S.C. 901 et seq., is injured or contracts an occupational 6861  
disease or dies as a result of an injury or occupational 6862

disease, and if that employee's or that employee's dependents' 6863  
claim for compensation or benefits for that injury, occupational 6864  
disease, or death is subject to the jurisdiction of that act, 6865  
the employee or the employee's dependents are not entitled to 6866  
apply for and shall not receive compensation or benefits under 6867  
this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 6868  
Code. The rights of such an employee and the employee's 6869  
dependents under the federal "Longshore and Harbor Workers' 6870  
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the 6871  
exclusive remedy against the employer for that injury, 6872  
occupational disease, or death. 6873

(J) Compensation or benefits are not payable to a claimant 6874  
during the period of confinement of the claimant in any state or 6875  
federal correctional institution, or in any county jail in lieu 6876  
of incarceration in a state or federal correctional institution, 6877  
whether in this or any other state for conviction of violation 6878  
of any state or federal criminal law. 6879

(K) An employer, upon the approval of the administrator, 6880  
may provide for workers' compensation coverage for the 6881  
employer's employees who are professional athletes and coaches 6882  
by submitting to the administrator proof of coverage under a 6883  
league policy issued under the laws of another state under 6884  
either of the following circumstances: 6885

(1) The employer administers the payroll and workers' 6886  
compensation insurance for a professional sports team subject to 6887  
a collective bargaining agreement, and the collective bargaining 6888  
agreement provides for the uniform administration of workers' 6889  
compensation benefits and compensation for professional 6890  
athletes. 6891

(2) The employer is a professional sports league, or is a 6892

member team of a professional sports league, and all of the 6893  
following apply: 6894

(a) The professional sports league operates as a single 6895  
entity, whereby all of the players and coaches of the sports 6896  
league are employees of the sports league and not of the 6897  
individual member teams. 6898

(b) The professional sports league at all times maintains 6899  
workers' compensation insurance that provides coverage for the 6900  
players and coaches of the sports league. 6901

(c) Each individual member team of the professional sports 6902  
league, pursuant to the organizational or operating documents of 6903  
the sports league, is obligated to the sports league to pay to 6904  
the sports league any workers' compensation claims that are not 6905  
covered by the workers' compensation insurance maintained by the 6906  
sports league. 6907

If the administrator approves the employer's proof of 6908  
coverage submitted under division (K) of this section, a 6909  
professional athlete or coach who is an employee of the employer 6910  
and the dependents of the professional athlete or coach are not 6911  
entitled to apply for and shall not receive compensation or 6912  
benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4133. 6913  
of the Revised Code. The rights of such an athlete or coach and 6914  
the dependents of such an athlete or coach under the laws of the 6915  
state where the policy was issued are the exclusive remedy 6916  
against the employer for the athlete or coach if the athlete or 6917  
coach suffers an injury or contracts an occupational disease in 6918  
the course of employment, or for the dependents of the athlete 6919  
or the coach if the athlete or coach is killed as a result of an 6920  
injury or dies as a result of an occupational disease, 6921  
regardless of the location where the injury was suffered or the 6922

occupational disease was contracted. 6923

**Sec. 4123.542.** An employee or the dependents of an 6924  
employee who receive a decision on the merits of a claim for 6925  
compensation or benefits under this chapter or Chapter 4121., 6926  
4127., ~~or 4131.~~ or 4133. of the Revised Code shall not file a 6927  
claim for the same injury, occupational disease, or death in 6928  
another state under the workers' compensation laws of that 6929  
state. Except as otherwise provided in division (H) of section 6930  
4123.54 of the Revised Code, an employee or the employee's 6931  
dependents who receive a decision on the merits of a claim for 6932  
compensation or benefits under the workers' compensation laws of 6933  
another state shall not file a claim for compensation and 6934  
benefits under this chapter or Chapter 4121., 4127., ~~or 4131.~~ 6935  
or 4133. of the Revised Code for the same injury, occupational 6936  
disease, or death. 6937

As used in this section, "a decision on the merits" means 6938  
a decision determined or adjudicated for compensability of a 6939  
claim and not on jurisdictional grounds. 6940

**Sec. 4123.57.** Partial disability compensation shall be 6941  
paid as follows. 6942

Except as provided in this section, not earlier than 6943  
twenty-six weeks after the date of termination of the latest 6944  
period of payments under section 4123.56 of the Revised Code, or 6945  
not earlier than twenty-six weeks after the date of the injury 6946  
or contraction of an occupational disease in the absence of 6947  
payments under section 4123.56 of the Revised Code, the employee 6948  
may file an application with the bureau of workers' compensation 6949  
for the determination of the percentage of the employee's 6950  
permanent partial disability resulting from an injury or 6951  
occupational disease. 6952

Whenever the application is filed, the bureau shall send a 6953  
copy of the application to the employee's employer or the 6954  
employer's representative and shall schedule the employee for a 6955  
medical examination by the bureau medical section. The bureau 6956  
shall send a copy of the report of the medical examination to 6957  
the employee, the employer, and their representatives. 6958  
Thereafter, the administrator of workers' compensation shall 6959  
review the employee's claim file and make a tentative order as 6960  
the evidence before the administrator at the time of the making 6961  
of the order warrants. If the administrator determines that 6962  
there is a conflict of evidence, the administrator shall send 6963  
the application, along with the claimant's file, to the district 6964  
hearing officer who shall set the application for a hearing. 6965

The administrator shall notify the employee, the employer, 6966  
and their representatives, in writing, of the tentative order 6967  
and of the parties' right to request a hearing. Unless the 6968  
employee, the employer, or their representative notifies the 6969  
administrator, in writing, of an objection to the tentative 6970  
order within twenty days after receipt of the notice thereof, 6971  
the tentative order shall go into effect and the employee shall 6972  
receive the compensation provided in the order. In no event 6973  
shall there be a reconsideration of a tentative order issued 6974  
under this division. 6975

If the employee, the employer, or their representatives 6976  
timely notify the administrator of an objection to the tentative 6977  
order, the matter shall be referred to a district hearing 6978  
officer who shall set the application for hearing with written 6979  
notices to all interested persons. Upon referral to a district 6980  
hearing officer, the employer may obtain a medical examination 6981  
of the employee, pursuant to rules of the industrial commission. 6982

(A) The district hearing officer, upon the application, 6983  
shall determine the percentage of the employee's permanent 6984  
disability, except as is subject to division (B) of this 6985  
section, based upon that condition of the employee resulting 6986  
from the injury or occupational disease and causing permanent 6987  
impairment evidenced by medical or clinical findings reasonably 6988  
demonstrable. The employee shall receive sixty-six and two- 6989  
thirds per cent of the employee's average weekly wage, but not 6990  
more than a maximum of thirty-three and one-third per cent of 6991  
the statewide average weekly wage as defined in division (C) of 6992  
section 4123.62 of the Revised Code, per week regardless of the 6993  
average weekly wage, for the number of weeks which equals the 6994  
percentage of two hundred weeks. Except on application for 6995  
reconsideration, review, or modification, which is filed within 6996  
ten days after the date of receipt of the decision of the 6997  
district hearing officer, in no instance shall the former award 6998  
be modified unless it is found from medical or clinical findings 6999  
that the condition of the claimant resulting from the injury has 7000  
so progressed as to have increased the percentage of permanent 7001  
partial disability. A staff hearing officer shall hear an 7002  
application for reconsideration filed and the staff hearing 7003  
officer's decision is final. An employee may file an application 7004  
for a subsequent determination of the percentage of the 7005  
employee's permanent disability. If such an application is 7006  
filed, the bureau shall send a copy of the application to the 7007  
employer or the employer's representative. No sooner than sixty 7008  
days from the date of the mailing of the application to the 7009  
employer or the employer's representative, the administrator 7010  
shall review the application. The administrator may require a 7011  
medical examination or medical review of the employee. The 7012  
administrator shall issue a tentative order based upon the 7013  
evidence before the administrator, provided that if the 7014

administrator requires a medical examination or medical review, 7015  
the administrator shall not issue the tentative order until the 7016  
completion of the examination or review. 7017

The employer may obtain a medical examination of the 7018  
employee and may submit medical evidence at any stage of the 7019  
process up to a hearing before the district hearing officer, 7020  
pursuant to rules of the commission. The administrator shall 7021  
notify the employee, the employer, and their representatives, in 7022  
writing, of the nature and amount of any tentative order issued 7023  
on an application requesting a subsequent determination of the 7024  
percentage of an employee's permanent disability. An employee, 7025  
employer, or their representatives may object to the tentative 7026  
order within twenty days after the receipt of the notice 7027  
thereof. If no timely objection is made, the tentative order 7028  
shall go into effect. In no event shall there be a 7029  
reconsideration of a tentative order issued under this division. 7030  
If an objection is timely made, the application for a subsequent 7031  
determination shall be referred to a district hearing officer 7032  
who shall set the application for a hearing with written notice 7033  
to all interested persons. No application for subsequent 7034  
percentage determinations on the same claim for injury or 7035  
occupational disease shall be accepted for review by the 7036  
district hearing officer unless supported by substantial 7037  
evidence of new and changed circumstances developing since the 7038  
time of the hearing on the original or last determination. 7039

No award shall be made under this division based upon a 7040  
percentage of disability which, when taken with all other 7041  
percentages of permanent disability, exceeds one hundred per 7042  
cent. If the percentage of the permanent disability of the 7043  
employee equals or exceeds ninety per cent, compensation for 7044  
permanent partial disability shall be paid for two hundred 7045

weeks. 7046

Compensation payable under this division accrues and is 7047  
payable to the employee from the date of last payment of 7048  
compensation, or, in cases where no previous compensation has 7049  
been paid, from the date of the injury or the date of the 7050  
diagnosis of the occupational disease. 7051

When an award under this division has been made prior to 7052  
the death of an employee, all unpaid installments accrued or to 7053  
accrue under the provisions of the award are payable to the 7054  
surviving spouse, or if there is no surviving spouse, to the 7055  
dependent children of the employee, and if there are no children 7056  
surviving, then to other dependents as the administrator 7057  
determines. 7058

(B) For purposes of this division, "payable per week" 7059  
means the seven-consecutive-day period in which compensation is 7060  
paid in installments according to the schedule associated with 7061  
the applicable injury as set forth in this division. 7062

Compensation paid in weekly installments according to the 7063  
schedule described in this division may only be commuted to one 7064  
or more lump sum payments pursuant to the procedure set forth in 7065  
section 4123.64 of the Revised Code. 7066

In cases included in the following schedule the 7067  
compensation payable per week to the employee is the statewide 7068  
average weekly wage as defined in division (C) of section 7069  
4123.62 of the Revised Code per week and shall be paid in 7070  
installments according to the following schedule: 7071

For the loss of a first finger, commonly known as a thumb, 7072  
sixty weeks. 7073

For the loss of a second finger, commonly called index 7074

finger, thirty-five weeks.	7075
For the loss of a third finger, thirty weeks.	7076
For the loss of a fourth finger, twenty weeks.	7077
For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.	7078 7079
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.	7080 7081 7082 7083
The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	7084 7085
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	7086 7087
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.	7088 7089 7090 7091 7092
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.	7093 7094 7095
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.	7096 7097 7098 7099
If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the	7100 7101

claimant's employment in the course of which the claimant was 7102  
working at the time of the injury or occupational disease is 7103  
such that the handicap or disability resulting from the loss of 7104  
fingers, or loss of use of fingers, exceeds the normal handicap 7105  
or disability resulting from the loss of fingers, or loss of use 7106  
of fingers, the administrator may take that fact into 7107  
consideration and increase the award of compensation 7108  
accordingly, but the award made shall not exceed the amount of 7109  
compensation for loss of a hand. 7110

For the loss of a hand, one hundred seventy-five weeks. 7111

For the loss of an arm, two hundred twenty-five weeks. 7112

For the loss of a great toe, thirty weeks. 7113

For the loss of one of the toes other than the great toe, 7114  
ten weeks. 7115

The loss of more than two-thirds of any toe is considered 7116  
equal to the loss of the whole toe. 7117

The loss of less than two-thirds of any toe is considered 7118  
no loss, except as to the great toe; the loss of the great toe 7119  
up to the interphalangeal joint is co-equal to the loss of one- 7120  
half of the great toe; the loss of the great toe beyond the 7121  
interphalangeal joint is considered equal to the loss of the 7122  
whole great toe. 7123

For the loss of a foot, one hundred fifty weeks. 7124

For the loss of a leg, two hundred weeks. 7125

For the loss of the sight of an eye, one hundred twenty- 7126  
five weeks. 7127

For the permanent partial loss of sight of an eye, the 7128

portion of one hundred twenty-five weeks as the administrator in 7129  
each case determines, based upon the percentage of vision 7130  
actually lost as a result of the injury or occupational disease, 7131  
but, in no case shall an award of compensation be made for less 7132  
than twenty-five per cent loss of uncorrected vision. "Loss of 7133  
uncorrected vision" means the percentage of vision actually lost 7134  
as the result of the injury or occupational disease. 7135

For the permanent and total loss of hearing of one ear, 7136  
twenty-five weeks; but in no case shall an award of compensation 7137  
be made for less than permanent and total loss of hearing of one 7138  
ear. 7139

For the permanent and total loss of hearing, one hundred 7140  
twenty-five weeks; but, except pursuant to the next preceding 7141  
paragraph, in no case shall an award of compensation be made for 7142  
less than permanent and total loss of hearing. 7143

In case an injury or occupational disease results in 7144  
serious facial or head disfigurement which either impairs or may 7145  
in the future impair the opportunities to secure or retain 7146  
employment, the administrator shall make an award of 7147  
compensation as it deems proper and equitable, in view of the 7148  
nature of the disfigurement, and not to exceed the sum of ten 7149  
thousand dollars. For the purpose of making the award, it is not 7150  
material whether the employee is gainfully employed in any 7151  
occupation or trade at the time of the administrator's 7152  
determination. 7153

When an award under this division has been made prior to 7154  
the death of an employee all unpaid installments accrued or to 7155  
accrue under the provisions of the award shall be payable to the 7156  
surviving spouse, or if there is no surviving spouse, to the 7157  
dependent children of the employee and if there are no such 7158

children, then to such dependents as the administrator 7159  
determines. 7160

When an employee has sustained the loss of a member by 7161  
severance, but no award has been made on account thereof prior 7162  
to the employee's death, the administrator shall make an award 7163  
in accordance with this division for the loss which shall be 7164  
payable to the surviving spouse, or if there is no surviving 7165  
spouse, to the dependent children of the employee and if there 7166  
are no such children, then to such dependents as the 7167  
administrator determines. 7168

(C) Compensation for partial impairment under divisions 7169  
(A) and (B) of this section is in addition to the compensation 7170  
paid the employee pursuant to section 4123.56 of the Revised 7171  
Code. A claimant may receive compensation under divisions (A) 7172  
and (B) of this section. 7173

In all cases arising under division (B) of this section, 7174  
if it is determined by any one of the following: (1) the amputee 7175  
clinic at University hospital, Ohio state university; (2) the 7176  
opportunities for Ohioans with disabilities agency; (3) an 7177  
amputee clinic or prescribing physician approved by the 7178  
administrator or the administrator's designee, that an injured 7179  
or disabled employee is in need of an artificial appliance, or 7180  
in need of a repair thereof, regardless of whether the appliance 7181  
or its repair will be serviceable in the vocational 7182  
rehabilitation of the injured employee, and regardless of 7183  
whether the employee has returned to or can ever again return to 7184  
any gainful employment, the bureau shall pay the cost of the 7185  
artificial appliance or its repair out of the surplus created by 7186  
division (B) of section 4123.34 of the Revised Code. 7187

In those cases where an opportunities for Ohioans with 7188

disabilities agency's recommendation that an injured or disabled 7189  
employee is in need of an artificial appliance would conflict 7190  
with their state plan, adopted pursuant to the "Rehabilitation 7191  
Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator 7192  
or the administrator's designee or the bureau may obtain a 7193  
recommendation from an amputee clinic or prescribing physician 7194  
that they determine appropriate. 7195

~~(D) If an employee of a state fund employer makes 7196  
application for a finding and the administrator finds that the 7197  
employee has contracted silicosis as defined in division (Y), or 7198  
coal miners' pneumoconiosis as defined in division (Z), or 7199  
asbestosis as defined in division (BB) of section 4123.68 of the 7200  
Revised Code, and that a change of such employee's occupation is 7201  
medically advisable in order to decrease substantially further 7202  
exposure to silica dust, asbestos, or coal dust and if the 7203  
employee, after the finding, has changed or shall change the 7204  
employee's occupation to an occupation in which the exposure to 7205  
silica dust, asbestos, or coal dust is substantially decreased, 7206  
the administrator shall allow to the employee an amount equal to 7207  
fifty per cent of the statewide average weekly wage per week for 7208  
a period of thirty weeks, commencing as of the date of the 7209  
discontinuance or change, and for a period of one hundred weeks 7210  
immediately following the expiration of the period of thirty 7211  
weeks, the employee shall receive sixty six and two thirds per 7212  
cent of the loss of wages resulting directly and solely from the 7213  
change of occupation but not to exceed a maximum of an amount 7214  
equal to fifty per cent of the statewide average weekly wage per 7215  
week. No such employee is entitled to receive more than one 7216  
allowance on account of discontinuance of employment or change 7217  
of occupation and benefits shall cease for any period during 7218  
which the employee is employed in an occupation in which the 7219~~

~~exposure to silica dust, asbestos, or coal dust is not~~ 7220  
~~substantially less than the exposure in the occupation in which~~ 7221  
~~the employee was formerly employed or for any period during~~ 7222  
~~which the employee may be entitled to receive compensation or~~ 7223  
~~benefits under section 4123.68 of the Revised Code on account of~~ 7224  
~~disability from silicosis, asbestosis, or coal miners'~~ 7225  
~~pneumoconiosis. An award for change of occupation for a coal~~ 7226  
~~miner who has contracted coal miners' pneumoconiosis may be~~ 7227  
~~granted under this division even though the coal miner continues~~ 7228  
~~employment with the same employer, so long as the coal miner's~~ 7229  
~~employment subsequent to the change is such that the coal~~ 7230  
~~miner's exposure to coal dust is substantially decreased and a~~ 7231  
~~change of occupation is certified by the claimant as permanent.~~ 7232  
~~The administrator may accord to the employee medical and other~~ 7233  
~~benefits in accordance with section 4123.66 of the Revised Code.~~ 7234

~~(E)~~ If a firefighter or police officer makes application 7235  
for a finding and the administrator finds that the firefighter 7236  
or police officer has contracted a cardiovascular and pulmonary 7237  
disease as defined in division (W) of section 4123.68 of the 7238  
Revised Code, and that a change of the firefighter's or police 7239  
officer's occupation is medically advisable in order to decrease 7240  
substantially further exposure to smoke, toxic gases, chemical 7241  
fumes, and other toxic vapors, and if the firefighter, or police 7242  
officer, after the finding, has changed or changes occupation to 7243  
an occupation in which the exposure to smoke, toxic gases, 7244  
chemical fumes, and other toxic vapors is substantially 7245  
decreased, the administrator shall allow to the firefighter or 7246  
police officer an amount equal to fifty per cent of the 7247  
statewide average weekly wage per week for a period of thirty 7248  
weeks, commencing as of the date of the discontinuance or 7249  
change, and for a period of seventy-five weeks immediately 7250

following the expiration of the period of thirty weeks the 7251  
administrator shall allow the firefighter or police officer 7252  
sixty-six and two-thirds per cent of the loss of wages resulting 7253  
directly and solely from the change of occupation but not to 7254  
exceed a maximum of an amount equal to fifty per cent of the 7255  
statewide average weekly wage per week. No such firefighter or 7256  
police officer is entitled to receive more than one allowance on 7257  
account of discontinuance of employment or change of occupation 7258  
and benefits shall cease for any period during which the 7259  
firefighter or police officer is employed in an occupation in 7260  
which the exposure to smoke, toxic gases, chemical fumes, and 7261  
other toxic vapors is not substantially less than the exposure 7262  
in the occupation in which the firefighter or police officer was 7263  
formerly employed or for any period during which the firefighter 7264  
or police officer may be entitled to receive compensation or 7265  
benefits under section 4123.68 of the Revised Code on account of 7266  
disability from a cardiovascular and pulmonary disease. The 7267  
administrator may accord to the firefighter or police officer 7268  
medical and other benefits in accordance with section 4123.66 of 7269  
the Revised Code. 7270

~~(F)~~ (E) An order issued under this section is appealable 7271  
pursuant to section 4123.511 of the Revised Code but is not 7272  
appealable to court under section 4123.512 of the Revised Code. 7273

**Sec. 4123.571.** In connection with the procedural and 7274  
remedial rights of employees, all claims which have accrued 7275  
prior to ~~the effective date of this act~~ November 2, 1959, 7276  
whether or not an application for claim has been filed, or 7277  
whether or not jurisdiction has been established or whether or 7278  
not an application for an award under divisions (A), (B), or 7279  
(C), ~~or (D)~~ of section 4123.57 of the Revised Code has been 7280  
filed shall be governed by the provisions of section 4123.57 of 7281

the Revised Code, as amended by this act. 7282

**Sec. 4123.65.** (A) A state fund employer or the employee of 7283  
such an employer may file an application with the administrator 7284  
of workers' compensation for approval of a final settlement of a 7285  
claim under this chapter or Chapter 4133. of the Revised Code. 7286  
The application shall include the settlement agreement, and 7287  
except as otherwise specified in this division, be signed by the 7288  
claimant and employer, and clearly set forth the circumstances 7289  
by reason of which the proposed settlement is deemed desirable 7290  
and that the parties agree to the terms of the settlement 7291  
agreement. A claimant may file an application without an 7292  
employer's signature in the following situations: 7293

(1) The employer is no longer doing business in Ohio; 7294

(2) The claim no longer is in the employer's industrial 7295  
accident or occupational disease experience as provided in 7296  
division (B) of section 4123.34 of the Revised Code and the 7297  
claimant no longer is employed with that employer; 7298

(3) The employer has failed to comply with section 4123.35 7299  
of the Revised Code. 7300

If a claimant files an application without an employer's 7301  
signature, and the employer still is doing business in this 7302  
state, the administrator shall send written notice of the 7303  
application to the employer immediately upon receipt of the 7304  
application. If the employer fails to respond to the notice 7305  
within thirty days after the notice is sent, the application 7306  
need not contain the employer's signature. 7307

If a state fund employer or an employee of such an 7308  
employer has not filed an application for a final settlement 7309  
under this division, the administrator may file an application 7310

on behalf of the employer or the employee, provided that the 7311  
administrator gives notice of the filing to the employer and the 7312  
employee and to the representative of record of the employer and 7313  
of the employee immediately upon the filing. An application 7314  
filed by the administrator shall contain all of the information 7315  
and signatures required of an employer or an employee who files 7316  
an application under this division. Every self-insuring employer 7317  
that enters into a final settlement agreement with an employee 7318  
shall mail, within seven days of executing the agreement, a copy 7319  
of the agreement to the administrator and the employee's 7320  
representative. The administrator shall place the agreement into 7321  
the claimant's file. 7322

(B) Except as provided in divisions (C) and (D) of this 7323  
section, a settlement agreed to under this section is binding 7324  
upon all parties thereto and as to items, injuries, and 7325  
occupational diseases to which the settlement applies. 7326

(C) No settlement agreed to under division (A) of this 7327  
section or agreed to by a self-insuring employer and the self- 7328  
insuring employer's employee shall take effect until thirty days 7329  
after the administrator approves the settlement for state fund 7330  
employees and employers, or after the self-insuring employer and 7331  
employee sign the final settlement agreement. During the thirty- 7332  
day period, the employer, employee, or administrator, for state 7333  
fund settlements, and the employer or employee, for self- 7334  
insuring settlements, may withdraw consent to the settlement by 7335  
an employer providing written notice to the employer's employee 7336  
and the administrator or by an employee providing written notice 7337  
to the employee's employer and the administrator, or by the 7338  
administrator providing written notice to the state fund 7339  
employer and employee. If an employee dies during the thirty-day 7340  
waiting period following the approval of a settlement, the 7341

settlement can be voided by any party for good cause shown. 7342

(D) At the time of agreement to any final settlement 7343  
agreement under division (A) of this section or agreement 7344  
between a self-insuring employer and the self-insuring 7345  
employer's employee, the administrator, for state fund 7346  
settlements, and the self-insuring employer, for self-insuring 7347  
settlements, immediately shall send a copy of the agreement to 7348  
the industrial commission who shall assign the matter to a staff 7349  
hearing officer. The staff hearing officer shall determine, 7350  
within the time limitations specified in division (C) of this 7351  
section, whether the settlement agreement is or is not a gross 7352  
miscarriage of justice. If the staff hearing officer determines 7353  
within that time period that the settlement agreement is clearly 7354  
unfair, the staff hearing officer shall issue an order 7355  
disapproving the settlement agreement. If the staff hearing 7356  
officer determines that the settlement agreement is not clearly 7357  
unfair or fails to act within those time limits, the settlement 7358  
agreement is approved. 7359

(E) A settlement entered into under this section may 7360  
pertain to one or more claims of a claimant, or one or more 7361  
parts of a claim, or the compensation or benefits pertaining to 7362  
either, or any combination thereof, provided that nothing in 7363  
this section shall be interpreted to require a claimant to enter 7364  
into a settlement agreement for every claim that has been filed 7365  
with the bureau of workers' compensation by that claimant under 7366  
Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. of the Revised 7367  
Code. 7368

(F) A settlement entered into under this section is not 7369  
appealable under section 4123.511 or 4123.512 of the Revised 7370  
Code. 7371

**Sec. 4123.651.** (A) The employer of a claimant who is 7372  
injured or disabled in the course of ~~his~~ the claimant's 7373  
employment may require, without the approval of the 7374  
administrator or the industrial commission, that the claimant be 7375  
examined by a physician of the employer's choice one time upon 7376  
any issue asserted by the employee or a physician of the 7377  
employee's choice or which is to be considered by the 7378  
commission. Any further requests for medical examinations shall 7379  
be made to the commission which shall consider and rule on the 7380  
request. The employer shall pay the cost of any examinations 7381  
initiated by the employer. 7382

(B) The bureau of workers' compensation shall prepare a 7383  
form for the release of medical information, records, and 7384  
reports relative to the issues necessary for the administration 7385  
of a claim under this chapter or Chapter 4133. of the Revised 7386  
Code. The claimant promptly shall provide a current signed 7387  
release of the information, records, and reports when requested 7388  
by the employer. The employer promptly shall provide copies of 7389  
all medical information, records, and reports to the bureau and 7390  
to the claimant or ~~his~~ the claimant's representative upon 7391  
request. 7392

(C) If, without good cause, an employee refuses to submit 7393  
to any examination scheduled under this section or refuses to 7394  
release or execute a release for any medical information, 7395  
record, or report that is required to be released under this 7396  
section and involves an issue pertinent to the condition alleged 7397  
in the claim, ~~his~~ the employee's right to have ~~his~~ the 7398  
employee's claim for compensation or benefits considered, if ~~his~~ 7399  
the employee's claim is pending before the administrator, 7400  
commission, occupational pneumoconiosis board, or a district or 7401  
staff hearing officer, or to receive any payment for 7402

compensation or benefits previously granted, is suspended during 7403  
the period of refusal. 7404

(D) No bureau or commission employee shall alter any 7405  
medical report obtained from a health care provider the bureau 7406  
or commission has selected or cause or request the health care 7407  
provider to alter or change a report. The bureau and commission 7408  
shall make any request for clarification of a health care 7409  
provider's report in writing and shall provide a copy of the 7410  
request to the affected parties and their representatives at the 7411  
time of making the request. 7412

**Sec. 4123.66.** (A) In addition to the compensation provided 7413  
for in this chapter and Chapter 4133. of the Revised Code, the 7414  
administrator of workers' compensation shall disburse and pay 7415  
from the state insurance fund the amounts for medical, nurse, 7416  
and hospital services and medicine as the administrator deems 7417  
proper and, in case death ensues from the injury or occupational 7418  
disease, the administrator shall disburse and pay from the fund 7419  
reasonable funeral expenses in an amount not to exceed fifty- 7420  
five hundred dollars. The bureau of workers' compensation shall 7421  
reimburse anyone, whether dependent, volunteer, or otherwise, 7422  
who pays the funeral expenses of any employee whose death ensues 7423  
from any injury or occupational disease as provided in this 7424  
section. The administrator may adopt rules, with the advice and 7425  
consent of the bureau of workers' compensation board of 7426  
directors, with respect to furnishing medical, nurse, and 7427  
hospital service and medicine to injured or disabled employees 7428  
entitled thereto, and for the payment therefor. In case an 7429  
injury or industrial accident that injures an employee also 7430  
causes damage to the employee's eyeglasses, artificial teeth or 7431  
other denture, or hearing aid, or in the event an injury or 7432  
occupational disease makes it necessary or advisable to replace, 7433

repair, or adjust the same, the bureau shall disburse and pay a 7434  
reasonable amount to repair or replace the same. 7435

(B) The administrator, in the rules the administrator 7436  
adopts pursuant to division (A) of this section, may adopt rules 7437  
specifying the circumstances under which the bureau may make 7438  
immediate payment for the first fill of prescription drugs for 7439  
medical conditions identified in an application for compensation 7440  
or benefits under section 4123.84 or 4123.85 of the Revised Code 7441  
that occurs prior to the date the administrator issues an 7442  
initial determination order under division (B) of section 7443  
4123.511 of the Revised Code. If the claim is ultimately 7444  
disallowed in a final administrative or judicial order, and if 7445  
the employer is a state fund employer who pays assessments into 7446  
the surplus fund account created under section 4123.34 of the 7447  
Revised Code, the payments for medical services made pursuant to 7448  
this division for the first fill of prescription drugs shall be 7449  
charged to and paid from the surplus fund account and not 7450  
charged through the state insurance fund to the employer against 7451  
whom the claim was filed. 7452

(C) (1) If an employer or a welfare plan has provided to or 7453  
on behalf of an employee any benefits or compensation for an 7454  
injury or occupational disease and that injury or occupational 7455  
disease is determined compensable under this chapter or Chapter 7456  
4133. of the Revised Code, the employer or a welfare plan may 7457  
request that the administrator reimburse the employer or welfare 7458  
plan for the amount the employer or welfare plan paid to or on 7459  
behalf of the employee in compensation or benefits. The 7460  
administrator shall reimburse the employer or welfare plan for 7461  
the compensation and benefits paid if, at the time the employer 7462  
or welfare plan provides the benefits or compensation to or on 7463  
behalf of employee, the injury or occupational disease had not 7464

been determined to be compensable under this chapter or Chapter 7465  
4133. of the Revised Code and if the employee was not receiving 7466  
compensation or benefits under this chapter or Chapter 4133. of 7467  
the Revised Code for that injury or occupational disease. The 7468  
administrator shall reimburse the employer or welfare plan in 7469  
the amount that the administrator would have paid to or on 7470  
behalf of the employee under this chapter if the injury or 7471  
occupational disease originally would have been determined 7472  
compensable under this chapter or Chapter 4133. of the Revised 7473  
Code. If the employer is a merit-rated employer, the 7474  
administrator shall adjust the amount of premium next due from 7475  
the employer according to the amount the administrator pays the 7476  
employer. The administrator shall adopt rules, in accordance 7477  
with Chapter 119. of the Revised Code, to implement this 7478  
division. 7479

(2) As used in this division, "welfare plan" has the same 7480  
meaning as in division (1) of 29 U.S.C.A. 1002. 7481

**Sec. 4123.67.** Except as otherwise provided in sections 7482  
3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised 7483  
Code, compensation before payment shall be exempt from all 7484  
claims of creditors and from any attachment or execution, and 7485  
shall be paid only to the employees or their dependents. In all 7486  
cases where property of an employer is placed in the hands of an 7487  
assignee, receiver, or trustee, claims arising under any award 7488  
or finding of the industrial commission or bureau of workers' 7489  
compensation, pursuant to this chapter or Chapter 4133. of the 7490  
Revised Code, including claims for premiums, and any judgment 7491  
recovered thereon shall first be paid out of the trust fund in 7492  
preference to all other claims, except claims for taxes and the 7493  
cost of administration, and with the same preference given to 7494  
claims for taxes. 7495

**Sec. 4123.68.** Every employee who is disabled because of 7496  
the contraction of an occupational disease or the dependent of 7497  
an employee whose death is caused by an occupational disease, is 7498  
entitled to the compensation provided by sections 4123.55 to 7499  
4123.59 and 4123.66 of the Revised Code subject to the 7500  
modifications relating to occupational diseases contained in 7501  
this chapter. An order of the administrator issued under this 7502  
section is appealable pursuant to sections 4123.511 and 4123.512 7503  
of the Revised Code. 7504

The following diseases are occupational diseases and 7505  
compensable as such when contracted by an employee in the course 7506  
of the employment in which such employee was engaged and due to 7507  
the nature of any process described in this section. A disease 7508  
which meets the definition of an occupational disease is 7509  
compensable pursuant to this chapter though it is not 7510  
specifically listed in this section. 7511

A disease that is occupational pneumoconiosis as defined 7512  
in section 4133.01 of the Revised Code is subject to the 7513  
requirements and procedures specified in Chapter 4133. of the 7514  
Revised Code. 7515

SCHEDULE 7516

Description of disease or injury and description of 7517  
process: 7518

(A) Anthrax: Handling of wool, hair, bristles, hides, and 7519  
skins. 7520

(B) Glanders: Care of any equine animal suffering from 7521  
glanders; handling carcass of such animal. 7522

(C) Lead poisoning: Any industrial process involving the 7523  
use of lead or its preparations or compounds. 7524

(D) Mercury poisoning: Any industrial process involving the use of mercury or its preparations or compounds.	7525 7526
(E) Phosphorous poisoning: Any industrial process involving the use of phosphorous or its preparations or compounds.	7527 7528 7529
(F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds.	7530 7531
(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.	7532 7533 7534 7535 7536
(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.	7537 7538 7539 7540
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	7541 7542 7543
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	7544 7545
(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.	7546 7547 7548 7549 7550 7551
(L) Epithelion cancer or ulceration of the skin or of the	7552

corneal surface of the eye due to carbon, pitch, tar, or tarry	7553
compounds: Handling or industrial use of carbon, pitch, or tarry	7554
compounds.	7555
(M) Compressed air illness: Any industrial process carried	7556
on in compressed air.	7557
(N) Carbon dioxide poisoning: Any process involving the	7558
evolution or resulting in the escape of carbon dioxide.	7559
(O) Brass or zinc poisoning: Any process involving the	7560
manufacture, founding, or refining of brass or the melting or	7561
smelting of zinc.	7562
(P) Manganese dioxide poisoning: Any process involving the	7563
grinding or milling of manganese dioxide or the escape of	7564
manganese dioxide dust.	7565
(Q) Radium poisoning: Any industrial process involving the	7566
use of radium and other radioactive substances in luminous	7567
paint.	7568
(R) Tenosynovitis and prepatellar bursitis: Primary	7569
tenosynovitis characterized by a passive effusion or crepitus	7570
into the tendon sheath of the flexor or extensor muscles of the	7571
hand, due to frequently repetitive motions or vibrations, or	7572
prepatellar bursitis due to continued pressure.	7573
(S) Chrome ulceration of the skin or nasal passages: Any	7574
industrial process involving the use of or direct contact with	7575
chromic acid or bichromates of ammonium, potassium, or sodium or	7576
their preparations.	7577
(T) Potassium cyanide poisoning: Any industrial process	7578
involving the use of or direct contact with potassium cyanide.	7579
(U) Sulphur dioxide poisoning: Any industrial process in	7580

which sulphur dioxide gas is evolved by the expansion of liquid sulphur dioxide. 7581  
7582

(V) Berylliosis: Berylliosis means a disease of the lungs 7583  
caused by breathing beryllium in the form of dust or fumes, 7584  
producing characteristic changes in the lungs and, if caused by 7585  
breathing beryllium in the form of fumes, demonstrated by x-ray 7586  
examination, by biopsy or by autopsy. 7587

This chapter does not entitle an employee or the 7588  
employee's dependents to ~~compensation,~~ medical treatment, or 7589  
payment of funeral expenses for disability or death from 7590  
berylliosis unless the employee has been subjected to injurious 7591  
exposure to beryllium dust or fumes in the employee's employment 7592  
in this state preceding the employee's disablement and only in 7593  
the event of such disability or death resulting within eight 7594  
years after the last injurious exposure; provided that such 7595  
eight-year limitation does not apply to ~~disability or~~ death from 7596  
exposure occurring after January 1, 1976. In the event of death 7597  
following continuous total disability commencing within eight 7598  
years after the last injurious exposure, the requirement of 7599  
death within eight years after the last injurious exposure does 7600  
not apply. 7601

Before awarding compensation for partial or total 7602  
disability or death due to berylliosis, the administrator of 7603  
workers' compensation shall refer the claim to a qualified 7604  
medical specialist for examination and recommendation with 7605  
regard to the diagnosis, the extent of the disability, the 7606  
nature of the disability, whether permanent or temporary, the 7607  
cause of death, and other medical questions connected with the 7608  
claim. An employee shall submit to such examinations, including 7609  
clinical and x-ray examinations, as the administrator requires. 7610

In the event that an employee refuses to submit to examinations, 7611  
including clinical and x-ray examinations, after notice from the 7612  
administrator, or in the event that a claimant for compensation 7613  
for death due to berylliosis fails to produce necessary consents 7614  
and permits, after notice from the administrator, so that such 7615  
autopsy examination and tests may be performed, then all rights 7616  
for compensation are forfeited. The reasonable compensation of 7617  
such specialist and the expenses of examinations and tests shall 7618  
be paid, if the claim is allowed, as part of the expenses of the 7619  
claim, otherwise they shall be paid from the surplus fund. 7620

(W) Cardiovascular, pulmonary, or respiratory diseases 7621  
incurred by firefighters or police officers following exposure 7622  
to heat, smoke, toxic gases, chemical fumes and other toxic 7623  
substances: Any cardiovascular, pulmonary, or respiratory 7624  
disease of a firefighter or police officer caused or induced by 7625  
the cumulative effect of exposure to heat, the inhalation of 7626  
smoke, toxic gases, chemical fumes and other toxic substances in 7627  
the performance of the firefighter's or police officer's duty 7628  
constitutes a presumption, which may be refuted by affirmative 7629  
evidence, that such occurred in the course of and arising out of 7630  
the firefighter's or police officer's employment. For the 7631  
purpose of this section, "firefighter" means any regular member 7632  
of a lawfully constituted fire department of a municipal 7633  
corporation or township, whether paid or volunteer, and "police 7634  
officer" means any regular member of a lawfully constituted 7635  
police department of a municipal corporation, township or 7636  
county, whether paid or volunteer. 7637

This chapter does not entitle a firefighter, or police 7638  
officer, or the firefighter's or police officer's dependents to 7639  
compensation, medical treatment, or payment of funeral expenses 7640  
for disability or death from a cardiovascular, pulmonary, or 7641

respiratory disease, unless the firefighter or police officer 7642  
has been subject to injurious exposure to heat, smoke, toxic 7643  
gases, chemical fumes, and other toxic substances in the 7644  
firefighter's or police officer's employment in this state 7645  
preceding the firefighter's or police officer's disablement, 7646  
some portion of which has been after January 1, 1967, except as 7647  
provided in division ~~(E)~~(D) of section 4123.57 of the Revised 7648  
Code. 7649

Compensation on account of cardiovascular, pulmonary, or 7650  
respiratory diseases of firefighters and police officers is 7651  
payable only in the event of temporary total disability, 7652  
permanent total disability, or death, in accordance with section 7653  
4123.56, 4123.58, or 4123.59 of the Revised Code. Medical, 7654  
hospital, and nursing expenses are payable in accordance with 7655  
this chapter. Compensation, medical, hospital, and nursing 7656  
expenses are payable only in the event of such disability or 7657  
death resulting within eight years after the last injurious 7658  
exposure; provided that such eight-year limitation does not 7659  
apply to disability or death from exposure occurring after 7660  
January 1, 1976. In the event of death following continuous 7661  
total disability commencing within eight years after the last 7662  
injurious exposure, the requirement of death within eight years 7663  
after the last injurious exposure does not apply. 7664

This chapter does not entitle a firefighter or police 7665  
officer, or the firefighter's or police officer's dependents, to 7666  
compensation, medical, hospital, and nursing expenses, or 7667  
payment of funeral expenses for disability or death due to a 7668  
cardiovascular, pulmonary, or respiratory disease in the event 7669  
of failure or omission on the part of the firefighter or police 7670  
officer truthfully to state, when seeking employment, the place, 7671  
duration, and nature of previous employment in answer to an 7672

inquiry made by the employer. 7673

Before awarding compensation for disability or death under 7674  
this division, the administrator shall refer the claim to a 7675  
qualified medical specialist for examination and recommendation 7676  
with regard to the diagnosis, the extent of disability, the 7677  
cause of death, and other medical questions connected with the 7678  
claim. A firefighter or police officer shall submit to such 7679  
examinations, including clinical and x-ray examinations, as the 7680  
administrator requires. In the event that a firefighter or 7681  
police officer refuses to submit to examinations, including 7682  
clinical and x-ray examinations, after notice from the 7683  
administrator, or in the event that a claimant for compensation 7684  
for death under this division fails to produce necessary 7685  
consents and permits, after notice from the administrator, so 7686  
that such autopsy examination and tests may be performed, then 7687  
all rights for compensation are forfeited. The reasonable 7688  
compensation of such specialists and the expenses of examination 7689  
and tests shall be paid, if the claim is allowed, as part of the 7690  
expenses of the claim, otherwise they shall be paid from the 7691  
surplus fund. 7692

(X) (1) Cancer contracted by a firefighter: Cancer 7693  
contracted by a firefighter who has been assigned to at least 7694  
six years of hazardous duty as a firefighter constitutes a 7695  
presumption that the cancer was contracted in the course of and 7696  
arising out of the firefighter's employment if the firefighter 7697  
was exposed to an agent classified by the international agency 7698  
for research on cancer or its successor organization as a group 7699  
1 or 2A carcinogen. 7700

(2) The presumption described in division (X) (1) of this 7701  
section is rebuttable in any of the following situations: 7702

(a) There is evidence that the firefighter's exposure, 7703  
outside the scope of the firefighter's official duties, to 7704  
cigarettes, tobacco products, or other conditions presenting an 7705  
extremely high risk for the development of the cancer alleged, 7706  
was probably a significant factor in the cause or progression of 7707  
the cancer. 7708

(b) There is evidence that the firefighter was not exposed 7709  
to an agent classified by the international agency for research 7710  
on cancer as a group 1 or 2A carcinogen. 7711

(c) There is evidence that the firefighter incurred the 7712  
type of cancer alleged before becoming a member of the fire 7713  
department. 7714

(d) The firefighter is seventy years of age or older. 7715

(3) The presumption described in division (X)(1) of this 7716  
section does not apply if it has been more than twenty years 7717  
since the firefighter was last assigned to hazardous duty as a 7718  
firefighter. 7719

(4) Compensation for cancer contracted by a firefighter in 7720  
the course of hazardous duty under division (X) of this section 7721  
is payable only in the event of temporary total disability, 7722  
permanent total disability, or death, in accordance with 7723  
sections 4123.56, 4123.58, and 4123.59 of the Revised Code. 7724

(5) As used in division (X) of this section, "hazardous 7725  
duty" has the same meaning as in 5 C.F.R. 550.902, as amended. 7726

(Y) Silicosis: Silicosis means a disease of the lungs 7727  
caused by breathing silica dust (silicon dioxide) producing 7728  
fibrous nodules distributed through the lungs ~~and demonstrated~~ 7729  
~~by x-ray examination, by biopsy or by autopsy.~~ 7730

(Z) Coal miners' pneumoconiosis: Coal miners' 7731  
pneumoconiosis, commonly referred to as "black lung disease," 7732  
resulting from working in the coal mine industry and due to 7733  
exposure to the breathing of coal dust, ~~and demonstrated by x-~~ 7734  
~~ray examination, biopsy, autopsy or other medical or clinical-~~ 7735  
~~tests.~~ 7736

This chapter does not entitle an employee or the 7737  
employee's dependents to compensation, medical treatment, or 7738  
payment of funeral expenses for disability or death from 7739  
silicosis, asbestosis, or coal miners' pneumoconiosis unless the 7740  
employee has been subject to injurious exposure to silica dust 7741  
(silicon dioxide), asbestos, or coal dust in the employee's 7742  
employment in this state preceding the employee's disablement, 7743  
some portion of which has been after October 12, 1945, except as 7744  
provided in division ~~(E)~~ (D) of section 4123.57 of the Revised 7745  
Code. 7746

Compensation on account of silicosis, asbestosis, or coal 7747  
miners' pneumoconiosis are payable only in the event of 7748  
temporary total disability, permanent partial disability, 7749  
permanent total disability, or death, in accordance with 7750  
~~sections 4123.56, 4123.58, and section 4123.59 and Chapter 4133.~~ 7751  
of the Revised Code. Medical, hospital, and nursing expenses are 7752  
payable in accordance with this chapter. ~~Compensation, medical-~~ 7753  
Medical, hospital, and nursing expenses are payable only in the 7754  
event of such disability or death resulting within eight years 7755  
after the last injurious exposure; provided that such eight-year 7756  
limitation does not apply to ~~disability or~~ death occurring after 7757  
January 1, 1976, and further provided that such eight-year 7758  
limitation does not apply to any asbestosis cases. In the event 7759  
of death following continuous total disability commencing within 7760  
eight years after the last injurious exposure, the requirement 7761

of death within eight years after the last injurious exposure 7762  
does not apply. 7763

~~This chapter does not entitle an employee or the 7764  
employee's dependents to compensation, medical, hospital and 7765  
nursing expenses, or payment of funeral expenses for disability- 7766  
or death due to silicosis, asbestosis, or coal miners' 7767  
pneumoconiosis in the event of the failure or omission on the 7768  
part of the employee truthfully to state, when seeking 7769  
employment, the place, duration, and nature of previous 7770  
employment in answer to an inquiry made by the employer. 7771~~

~~Before awarding compensation for disability or death due- 7772  
to silicosis, asbestosis, or coal miners' pneumoconiosis, the 7773  
administrator shall refer the claim to a qualified medical- 7774  
specialist for examination and recommendation with regard to the 7775  
diagnosis, the extent of disability, the cause of death, and 7776  
other medical questions connected with the claim. An employee- 7777  
shall submit to such examinations, including clinical and x ray 7778  
examinations, as the administrator requires. In the event that- 7779  
an employee refuses to submit to examinations, including- 7780  
clinical and x-ray examinations, after notice from the 7781  
administrator, or in the event that a claimant for compensation- 7782  
for death due to silicosis, asbestosis, or coal miners' 7783  
pneumoconiosis fails to produce necessary consents and permits,- 7784  
after notice from the commission, so that such autopsy 7785  
examination and tests may be performed, then all rights for 7786  
compensation are forfeited. The reasonable compensation of such 7787  
specialist and the expenses of examinations and tests shall be 7788  
paid, if the claim is allowed, as a part of the expenses of the 7789  
claim, otherwise they shall be paid from the surplus fund. 7790~~

(AA) Radiation illness: Any industrial process involving 7791

the use of radioactive materials. 7792

Claims for compensation and benefits due to radiation 7793  
illness are payable only in the event death or disability 7794  
occurred within eight years after the last injurious exposure 7795  
provided that such eight-year limitation does not apply to 7796  
disability or death from exposure occurring after January 1, 7797  
1976. In the event of death following continuous disability 7798  
which commenced within eight years of the last injurious 7799  
exposure the requirement of death within eight years after the 7800  
last injurious exposure does not apply. 7801

(BB) Asbestosis: Asbestosis means a disease caused by 7802  
inhalation or ingestion of asbestos, ~~demonstrated by x-ray~~ 7803  
~~examination, biopsy, autopsy, or other objective medical or~~ 7804  
~~clinical tests.~~ 7805

All conditions, restrictions, limitations, and other 7806  
provisions of this section, with reference to the payment of 7807  
compensation or benefits on account of silicosis or coal miners' 7808  
pneumoconiosis apply to the payment of compensation or benefits 7809  
on account of any other occupational disease of the respiratory 7810  
tract resulting from injurious exposures to dust. 7811

The refusal to produce the necessary consents and permits 7812  
for autopsy examination and testing shall not result in 7813  
forfeiture of compensation provided the administrator finds that 7814  
such refusal was the result of bona fide religious convictions 7815  
or teachings to which the claimant for compensation adhered 7816  
prior to the death of the decedent. 7817

**Sec. 4123.69.** Every employee mentioned in section 4123.68 7818  
of the Revised Code and the dependents and the employer or 7819  
employers of such employee shall be entitled to all the rights, 7820

benefits, and immunities and shall be subject to all the 7821  
liabilities, penalties, and regulations provided for injured 7822  
employees and their employers by this chapter and Chapter 4133. 7823  
of the Revised Code. 7824

~~The administrator of workers' compensation shall have all- 7825  
of the powers, authority, and duties with respect to the- 7826  
collection, administration, and disbursement of the state- 7827  
occupational disease fund as are provided for in this chapter,- 7828  
providing for the collection, administration, and disbursement- 7829  
of the state insurance fund for the compensation of injured- 7830  
employees.~~ 7831

**Sec. 4123.74.** Employers who comply with section 4123.35 of 7832  
the Revised Code shall not be liable to respond in damages at 7833  
common law or by statute for any injury, or occupational 7834  
disease, or bodily condition, received or contracted by any 7835  
employee in the course of or arising out of ~~his~~ employment, or 7836  
for any death resulting from such injury, occupational disease, 7837  
or bodily condition occurring during the period covered by such 7838  
premium so paid into the state insurance fund, or during the 7839  
interval the employer is a self-insuring employer, whether or 7840  
not such injury, occupational disease, bodily condition, or 7841  
death is compensable under this chapter or Chapter 4133. of the 7842  
Revised Code. 7843

**Sec. 4123.741.** No employee of any employer, as defined in 7844  
division (B) of section 4123.01 of the Revised Code, shall be 7845  
liable to respond in damages at common law or by statute for any 7846  
injury or occupational disease, received or contracted by any 7847  
other employee of such employer in the course of and arising out 7848  
of the latter employee's employment, or for any death resulting 7849  
from such injury or occupational disease, on the condition that 7850

such injury, occupational disease, or death is found to be 7851  
compensable under sections 4123.01 to 4123.94, ~~inclusive, or~~ 7852  
Chapter 4133. of the Revised Code. 7853

**Sec. 4123.85.** ~~In~~ Except as provided in Chapter 4133. of 7854  
the Revised Code, in all cases of occupational disease, or death 7855  
resulting from occupational disease, claims for compensation or 7856  
benefits are forever barred unless, within two years after the 7857  
disability due to the disease began, or within such longer 7858  
period as does not exceed six months after diagnosis of the 7859  
occupational disease by a licensed physician or within two years 7860  
after death occurs, application is made to the industrial 7861  
commission or the bureau of workers' compensation or to the 7862  
employer if ~~he~~ the employer is a self-insuring employer. 7863

**Sec. 4123.89.** For the purpose of this chapter and Chapter 7864  
4133. of the Revised Code, a minor is sui juris, and no other 7865  
person shall have any cause of action or right to compensation 7866  
for an injury to the minor employee, but in the event of the 7867  
award of a lump sum of compensation to the minor employee, the 7868  
sum shall be paid to the legally appointed guardian of the minor 7869  
or in accordance with section 2111.05 of the Revised Code. 7870

When it is found upon hearing by the industrial commission 7871  
that an injury, occupational disease, or death of a minor 7872  
working in employment which is prohibited by any law enacted by 7873  
the general assembly was directly caused by a hazard of such 7874  
prohibited employment, the commission shall assess an additional 7875  
award of one hundred per cent of the maximum award established 7876  
by law, to the amount of the compensation that may be awarded on 7877  
account of such injury, occupational disease, or death, and paid 7878  
in like manner as other awards. If the compensation is paid from 7879  
the state fund, the premium of the employer shall be increased 7880

in such amount, covering such period of time as may be fixed, as 7881  
will recoup the state fund in the amount of the additional 7882  
award. 7883

**Sec. 4123.93.** As used in sections 4123.93 to 4123.932 of 7884  
the Revised Code: 7885

(A) "Claimant" means a person who is eligible to receive 7886  
compensation, medical benefits, or death benefits under this 7887  
chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the 7888  
Revised Code. 7889

(B) "Statutory subrogee" means the administrator of 7890  
workers' compensation, a self-insuring employer, or an employer 7891  
that contracts for the direct payment of medical services 7892  
pursuant to division (P) of section 4121.44 of the Revised Code. 7893

(C) "Third party" means an individual, private insurer, 7894  
public or private entity, or public or private program that is 7895  
or may be liable to make payments to a person without regard to 7896  
any statutory duty contained in this chapter or Chapter 4121., 7897  
4127., ~~or 4131.~~ or 4133. of the Revised Code. 7898

(D) "Subrogation interest" includes past, present, and 7899  
estimated future payments of compensation, medical benefits, 7900  
rehabilitation costs, or death benefits, and any other costs or 7901  
expenses paid to or on behalf of the claimant by the statutory 7902  
subrogee pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 7903  
~~4131.~~ or 4133. of the Revised Code. 7904

(E) "Net amount recovered" means the amount of any award, 7905  
settlement, compromise, or recovery by a claimant against a 7906  
third party, minus the attorney's fees, costs, or other expenses 7907  
incurred by the claimant in securing the award, settlement, 7908  
compromise, or recovery. "Net amount recovered" does not include 7909

any punitive damages that may be awarded by a judge or jury. 7910

(F) "Uncompensated damages" means the claimant's 7911  
demonstrated or proven damages minus the statutory subrogee's 7912  
subrogation interest. 7913

**Sec. 4123.931.** (A) The payment of compensation or benefits 7914  
pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 7915  
4133. of the Revised Code creates a right of recovery in favor 7916  
of a statutory subrogee against a third party, and the statutory 7917  
subrogee is subrogated to the rights of a claimant against that 7918  
third party. The net amount recovered is subject to a statutory 7919  
subrogee's right of recovery. 7920

(B) If a claimant, statutory subrogee, and third party 7921  
settle or attempt to settle a claimant's claim against a third 7922  
party, the claimant shall receive an amount equal to the 7923  
uncompensated damages divided by the sum of the subrogation 7924  
interest plus the uncompensated damages, multiplied by the net 7925  
amount recovered, and the statutory subrogee shall receive an 7926  
amount equal to the subrogation interest divided by the sum of 7927  
the subrogation interest plus the uncompensated damages, 7928  
multiplied by the net amount recovered, except that the net 7929  
amount recovered may instead be divided and paid on a more fair 7930  
and reasonable basis that is agreed to by the claimant and 7931  
statutory subrogee. If while attempting to settle, the claimant 7932  
and statutory subrogee cannot agree to the allocation of the net 7933  
amount recovered, the claimant and statutory subrogee may file a 7934  
request with the administrator of workers' compensation for a 7935  
conference to be conducted by a designee appointed by the 7936  
administrator, or the claimant and statutory subrogee may agree 7937  
to utilize any other binding or non-binding alternative dispute 7938  
resolution process. 7939

The claimant and statutory subrogee shall pay equal shares 7940  
of the fees and expenses of utilizing an alternative dispute 7941  
resolution process, unless they agree to pay those fees and 7942  
expenses in another manner. The administrator shall not assess 7943  
any fees to a claimant or statutory subrogee for a conference 7944  
conducted by the administrator's designee. 7945

(C) If a claimant and statutory subrogee request that a 7946  
conference be conducted by the administrator's designee pursuant 7947  
to division (B) of this section, both of the following apply: 7948

(1) The administrator's designee shall schedule a 7949  
conference on or before sixty days after the date that the 7950  
claimant and statutory subrogee filed a request for the 7951  
conference. 7952

(2) The determination made by the administrator's designee 7953  
is not subject to Chapter 119. of the Revised Code. 7954

(D) When a claimant's action against a third party 7955  
proceeds to trial and damages are awarded, both of the following 7956  
apply: 7957

(1) The claimant shall receive an amount equal to the 7958  
uncompensated damages divided by the sum of the subrogation 7959  
interest plus the uncompensated damages, multiplied by the net 7960  
amount recovered, and the statutory subrogee shall receive an 7961  
amount equal to the subrogation interest divided by the sum of 7962  
the subrogation interest plus the uncompensated damages, 7963  
multiplied by the net amount recovered. 7964

(2) The court in a nonjury action shall make findings of 7965  
fact, and the jury in a jury action shall return a general 7966  
verdict accompanied by answers to interrogatories that specify 7967  
the following: 7968

(a) The total amount of the compensatory damages;	7969
(b) The portion of the compensatory damages specified	7970
pursuant to division (D) (2) (a) of this section that represents	7971
economic loss;	7972
(c) The portion of the compensatory damages specified	7973
pursuant to division (D) (2) (a) of this section that represents	7974
noneconomic loss.	7975
(E) (1) After a claimant and statutory subrogee know the	7976
net amount recovered, and after the means for dividing it has	7977
been determined under division (B) or (D) of this section, a	7978
claimant may establish an interest-bearing trust account for the	7979
full amount of the subrogation interest that represents	7980
estimated future payments of compensation, medical benefits,	7981
rehabilitation costs, or death benefits, reduced to present	7982
value, from which the claimant shall make reimbursement payments	7983
to the statutory subrogee for the future payments of	7984
compensation, medical benefits, rehabilitation costs, or death	7985
benefits. If the workers' compensation claim associated with the	7986
subrogation interest is settled, or if the claimant dies, or if	7987
any other circumstance occurs that would preclude any future	7988
payments of compensation, medical benefits, rehabilitation	7989
costs, and death benefits by the statutory subrogee, any amount	7990
remaining in the trust account after final reimbursement is paid	7991
to the statutory subrogee for all payments made by the statutory	7992
subrogee before the ending of future payments shall be paid to	7993
the claimant or the claimant's estate.	7994
(2) A claimant may use interest that accrues on the trust	7995
account to pay the expenses of establishing and maintaining the	7996
trust account, and all remaining interest shall be credited to	7997
the trust account.	7998

(3) If a claimant establishes a trust account, the 7999  
statutory subrogee shall provide payment notices to the claimant 8000  
on or before the thirtieth day of June and the thirty-first day 8001  
of December every year listing the total amount that the 8002  
statutory subrogee has paid for compensation, medical benefits, 8003  
rehabilitation costs, or death benefits during the half of the 8004  
year preceding the notice. The claimant shall make reimbursement 8005  
payments to the statutory subrogee from the trust account on or 8006  
before the thirty-first day of July every year for a notice 8007  
provided by the thirtieth day of June, and on or before the 8008  
thirty-first day of January every year for a notice provided by 8009  
the thirty-first day of December. The claimant's reimbursement 8010  
payment shall be in an amount that equals the total amount 8011  
listed on the notice the claimant receives from the statutory 8012  
subrogee. 8013

(F) If a claimant does not establish a trust account as 8014  
described in division (E)(1) of this section, the claimant shall 8015  
pay to the statutory subrogee, on or before thirty days after 8016  
receipt of funds from the third party, the full amount of the 8017  
subrogation interest that represents estimated future payments 8018  
of compensation, medical benefits, rehabilitation costs, or 8019  
death benefits. 8020

(G) A claimant shall notify a statutory subrogee and the 8021  
attorney general of the identity of all third parties against 8022  
whom the claimant has or may have a right of recovery, except 8023  
that when the statutory subrogee is a self-insuring employer, 8024  
the claimant need not notify the attorney general. No 8025  
settlement, compromise, judgment, award, or other recovery in 8026  
any action or claim by a claimant shall be final unless the 8027  
claimant provides the statutory subrogee and, when required, the 8028  
attorney general, with prior notice and a reasonable opportunity 8029

to assert its subrogation rights. If a statutory subrogee and, 8030  
when required, the attorney general are not given that notice, 8031  
or if a settlement or compromise excludes any amount paid by the 8032  
statutory subrogee, the third party and the claimant shall be 8033  
jointly and severally liable to pay the statutory subrogee the 8034  
full amount of the subrogation interest. 8035

(H) The right of subrogation under this chapter is 8036  
automatic, regardless of whether a statutory subrogee is joined 8037  
as a party in an action by a claimant against a third party. A 8038  
statutory subrogee may assert its subrogation rights through 8039  
correspondence with the claimant and the third party or their 8040  
legal representatives. A statutory subrogee may institute and 8041  
pursue legal proceedings against a third party either by itself 8042  
or in conjunction with a claimant. If a statutory subrogee 8043  
institutes legal proceedings against a third party, the 8044  
statutory subrogee shall provide notice of that fact to the 8045  
claimant. If the statutory subrogee joins the claimant as a 8046  
necessary party, or if the claimant elects to participate in the 8047  
proceedings as a party, the claimant may present the claimant's 8048  
case first if the matter proceeds to trial. If a claimant 8049  
disputes the validity or amount of an asserted subrogation 8050  
interest, the claimant shall join the statutory subrogee as a 8051  
necessary party to the action against the third party. 8052

(I) The statutory subrogation right of recovery applies 8053  
to, but is not limited to, all of the following: 8054

(1) Amounts recoverable from a claimant's insurer in 8055  
connection with underinsured or uninsured motorist coverage, 8056  
notwithstanding any limitation contained in Chapter 3937. of the 8057  
Revised Code; 8058

(2) Amounts that a claimant would be entitled to recover 8059

from a political subdivision, notwithstanding any limitations 8060  
contained in Chapter 2744. of the Revised Code; 8061

(3) Amounts recoverable from an intentional tort action. 8062

(J) If a claimant's claim against a third party is for 8063  
wrongful death or the claim involves any minor beneficiaries, 8064  
amounts allocated under this section are subject to the approval 8065  
of probate court. 8066

(K) Except as otherwise provided in this division, the 8067  
administrator shall deposit any money collected under this 8068  
section into the public fund or the private fund of the state 8069  
insurance fund, as appropriate. Any money collected under this 8070  
section for compensation or benefits that were charged pursuant 8071  
to section 4123.932 of the Revised Code to the surplus fund 8072  
account created in division (B) of section 4123.34 of the 8073  
Revised Code and not charged to an employer's experience shall 8074  
be deposited in the surplus fund account and not applied to an 8075  
individual employer's account. If a self-insuring employer 8076  
collects money under this section of the Revised Code, the self- 8077  
insuring employer shall deduct the amount collected, in the year 8078  
collected, from the amount of paid compensation the self-insured 8079  
employer is required to report under section 4123.35 of the 8080  
Revised Code. 8081

**Sec. 4125.03.** (A) The professional employer organization 8082  
with whom a shared employee is coemployed shall do all of the 8083  
following: 8084

(1) Pay wages associated with a shared employee pursuant 8085  
to the terms and conditions of compensation in the professional 8086  
employer organization agreement between the professional 8087  
employer organization and the client employer; 8088

(2) Pay all related payroll taxes associated with a shared 8089  
employee independent of the terms and conditions contained in 8090  
the professional employer organization agreement between the 8091  
professional employer organization and the client employer; 8092

(3) Maintain workers' compensation coverage, pay all 8093  
workers' compensation premiums and manage all workers' 8094  
compensation claims, filings, and related procedures associated 8095  
with a shared employee in compliance with Chapters 4121. ~~and,~~  8096  
4123., and 4133. of the Revised Code, except that when shared 8097  
employees include family farm officers, ordained ministers, or 8098  
corporate officers of the client employer, payroll reports shall 8099  
include the entire amount of payroll associated with those 8100  
persons; 8101

(4) Provide written notice to each shared employee it 8102  
assigns to perform services to a client employer of the 8103  
relationship between and the responsibilities of the 8104  
professional employer organization and the client employer; 8105

(5) Maintain complete records separately listing the 8106  
manual classifications of each client employer and the payroll 8107  
reported to each manual classification for each client employer 8108  
for each payroll reporting period during the time period covered 8109  
in the professional employer organization agreement; 8110

(6) Maintain a record of workers' compensation claims for 8111  
each client employer; 8112

(7) Make periodic reports, as determined by the 8113  
administrator of workers' compensation, of client employers and 8114  
total workforce to the administrator; 8115

(8) Report individual client employer payroll, claims, and 8116  
classification data under a separate and unique subaccount to 8117

the administrator; 8118

(9) Within fourteen days after receiving notice from the 8119  
bureau of workers' compensation that a refund or rebate will be 8120  
applied to workers' compensation premiums, provide a copy of 8121  
that notice to any client employer to whom that notice is 8122  
relevant. 8123

(B) The professional employer organization with whom a 8124  
shared employee is coemployed shall provide a list of all of the 8125  
following information to the client employer upon the written 8126  
request of the client employer: 8127

(1) All workers' compensation claims, premiums, and 8128  
payroll associated with that client employer; 8129

(2) Compensation and benefits paid and reserves 8130  
established for each claim listed under division (B)(1) of this 8131  
section; 8132

(3) Any other information available to the professional 8133  
employer organization from the bureau of workers' compensation 8134  
regarding that client employer. 8135

(C)(1) A professional employer organization shall provide 8136  
the information required under division (B) of this section in 8137  
writing to the requesting client employer within forty-five days 8138  
after receiving a written request from the client employer. 8139

(2) For purposes of division (C) of this section, a 8140  
professional employer organization has provided the required 8141  
information to the client employer when the information is 8142  
received by the United States postal service or when the 8143  
information is personally delivered, in writing, directly to the 8144  
client employer. 8145

(D) Except as provided in section 4125.08 of the Revised Code and unless otherwise agreed to in the professional employer organization agreement, the professional employer organization with whom a shared employee is coemployed has a right of direction and control over each shared employee assigned to a client employer's location. However, a client employer shall retain sufficient direction and control over a shared employee as is necessary to do any of the following:

(1) Conduct the client employer's business, including training and supervising shared employees;

(2) Ensure the quality, adequacy, and safety of the goods or services produced or sold in the client employer's business;

(3) Discharge any fiduciary responsibility that the client employer may have;

(4) Comply with any applicable licensure, regulatory, or statutory requirement of the client employer.

(E) Unless otherwise agreed to in the professional employer organization agreement, liability for acts, errors, and omissions shall be determined as follows:

(1) A professional employer organization shall not be liable for the acts, errors, and omissions of a client employer or a shared employee when those acts, errors, and omissions occur under the direction and control of the client employer.

(2) A client employer shall not be liable for the acts, errors, and omissions of a professional employer organization or a shared employee when those acts, errors, and omissions occur under the direction and control of the professional employer organization.

(F) Nothing in divisions (D) and (E) of this section shall 8174  
be construed to limit any liability or obligation specifically 8175  
agreed to in the professional employer organization agreement. 8176

**Sec. 4125.04.** (A) When a client employer enters into a 8177  
professional employer organization agreement with a professional 8178  
employer organization, the professional employer organization is 8179  
the employer of record and the succeeding employer for the 8180  
purposes of determining a workers' compensation experience 8181  
rating pursuant to Chapter 4123. of the Revised Code. 8182

(B) Pursuant to Section 35 of Article II, Ohio 8183  
Constitution, and section 4123.74 of the Revised Code, the 8184  
exclusive remedy for a shared employee to recover for injuries, 8185  
diseases, or death incurred in the course of and arising out of 8186  
the employment relationship against either the professional 8187  
employer organization or the client employer are those benefits 8188  
provided under Chapters 4121.~~and~~, 4123., and 4133. of the 8189  
Revised Code. 8190

**Sec. 4131.01.** As used in sections 4131.01 to 4131.06 of 8191  
the Revised Code: 8192

(A) "Federal act" means Title IV of the "Federal Coal Mine 8193  
Health and Safety Act of 1969," 83 Stat. 742, 30 U.S.C.A. 801, 8194  
as now or hereafter amended. 8195

(B) "Coal-workers pneumoconiosis fund" means the fund 8196  
created and administered pursuant to sections 4131.01 to 4131.06 8197  
of the Revised Code and does not refer, directly or indirectly, 8198  
to any fund created and administered pursuant to Chapter 4123. 8199  
or 4133. of the Revised Code. 8200

(C) "Premium" means payment by or on behalf of an operator 8201  
of a coal mine in Ohio who is required by the federal act to 8202

secure the payment of benefits for which ~~he~~ the operator is 8203  
liable under that act, which payments are to be credited to the 8204  
coal-workers pneumoconiosis fund and does not refer, directly or 8205  
indirectly, to premiums or contributions paid or required to be 8206  
paid pursuant to Chapter 4123. of the Revised Code. 8207

(D) "Subscriber" means an operator who has elected to 8208  
subscribe to the coal-workers pneumoconiosis fund and whose 8209  
election has been approved by the bureau of workers' 8210  
compensation. 8211

**Sec. 4133.01.** As used in this chapter: 8212

(A) "Board-certified internist," "board-certified 8213  
pathologist," and "board-certified pulmonary specialist" have 8214  
the same meanings as in section 2307.84 of the Revised Code. 8215

(B) "Occupational pneumoconiosis" means a disease of the 8216  
lungs caused by the inhalation of minute particles of dust over 8217  
a period of time due to causes and conditions arising out of and 8218  
in the course of employment. "Occupational pneumoconiosis" 8219  
includes all of the following diseases: 8220

(1) Silicosis; 8221

(2) Anthracosilicosis; 8222

(3) Coal worker's pneumoconiosis, commonly known as black 8223  
lung or miner's asthma; 8224

(4) Silico-tuberculosis (silicosis accompanied by active 8225  
tuberculosis of the lungs); 8226

(5) Coal worker's pneumoconiosis accompanied by active 8227  
tuberculosis of the lungs; 8228

(6) Asbestosis; 8229

<u>(7) Siderosis;</u>	8230
<u>(8) Anthrax;</u>	8231
<u>(9) Any other dust diseases of the lungs and conditions</u>	8232
<u>and diseases caused by occupational pneumoconiosis not</u>	8233
<u>specifically designated in division (B) of this section.</u>	8234
<u>(C) "Statewide average weekly wage" has the same meaning</u>	8235
<u>as in section 4123.62 of the Revised Code.</u>	8236
<u>Sec. 4133.02. Except as otherwise provided in this</u>	8237
<u>chapter, Chapters 4121. and 4123. of the Revised Code apply to</u>	8238
<u>all claims arising under this chapter.</u>	8239
<u>Sec. 4133.03. Except as provided in section 4133.05 of the</u>	8240
<u>Revised Code, all claims for compensation and benefits for</u>	8241
<u>disability or death due to occupational pneumoconiosis are</u>	8242
<u>forever barred unless an employee or an individual on behalf of</u>	8243
<u>an employee applies to the industrial commission or the bureau</u>	8244
<u>of workers' compensation or to the employer if the employer is a</u>	8245
<u>self-insuring employer not later than the following dates, as</u>	8246
<u>applicable:</u>	8247
<u>(A) In the case of disability, not later than three years</u>	8248
<u>after the occurrence of either of the following, whichever is</u>	8249
<u>later:</u>	8250
<u>(1) The last day of the last continuous period of sixty</u>	8251
<u>days or more during which the employee was exposed to the</u>	8252
<u>hazards of occupational pneumoconiosis;</u>	8253
<u>(2) A diagnosed impairment due to occupational</u>	8254
<u>pneumoconiosis was made known to the employee by a physician.</u>	8255
<u>(B) In the case of death, not later than two years after</u>	8256
<u>the date of the employee's death.</u>	8257

Sec. 4133.04. (A) When filing a claim for compensation and 8258  
benefits for occupational pneumoconiosis, an employee or, if the 8259  
employee is deceased, a dependent of the employee, shall submit 8260  
to the administrator of workers' compensation or a self-insuring 8261  
employer a written certification by a board-certified pulmonary 8262  
specialist stating both of the following: 8263

(1) That the employee is or was suffering from complicated 8264  
pneumoconiosis or pulmonary massive fibrosis; 8265

(2) That the occupational pneumoconiosis has or had 8266  
resulted in pulmonary impairment as measured by the standards or 8267  
methods used by the occupational pneumoconiosis board of at 8268  
least fifteen per cent, as confirmed by valid and reproducible 8269  
ventilatory testing. 8270

(B) The pulmonary specialist shall disclose all evidence 8271  
upon which the written certification is based, including all 8272  
radiographic, pathologic, or other diagnostic test results the 8273  
pulmonary specialist reviewed. 8274

Sec. 4133.05. (A) (1) For a claim filed not later than 8275  
three years after the last date of exposure to the hazards of 8276  
occupational pneumoconiosis, the administrator of workers' 8277  
compensation or a self-insuring employer shall determine all of 8278  
the following: 8279

(a) Whether the employee who is the subject of the claim 8280  
was exposed to the hazards of occupational pneumoconiosis for a 8281  
continuous period of not less than sixty days in the course of 8282  
the employee's employment not later than three years before 8283  
filing the claim; 8284

(b) Whether the employee was exposed to the hazard in this 8285  
state over a continuous period of not less than two years during 8286

the ten years immediately preceding the date of last exposure to 8287  
the hazard; 8288

(c) Whether the employee was exposed to the hazard over a 8289  
period of not less than ten years during the fifteen years 8290  
immediately preceding the date of last exposure to the hazard. 8291

(2) For a claim filed not later than three years after the 8292  
date of diagnosis of occupational pneumoconiosis, the 8293  
administrator or self-insuring employer shall determine whether 8294  
the employee satisfies the requirements of divisions (A) (1) (b) 8295  
and (c) of this section. 8296

(B) For a claim filed by a dependent of an employee whose 8297  
death is caused by occupational pneumoconiosis, the 8298  
administrator or self-insuring employer shall determine all of 8299  
the following: 8300

(1) Whether the deceased employee was exposed to the 8301  
hazards of occupational pneumoconiosis for a continuous period 8302  
of not less than sixty days in the course of the employee's 8303  
employment within ten years before filing the claim; 8304

(2) Whether the deceased employee was exposed to the 8305  
hazard in this state over a continuous period of not less than 8306  
two years during the ten years immediately preceding the date of 8307  
last exposure to the hazard; 8308

(3) Whether the deceased employee was exposed to the 8309  
hazard over a period of not less than ten years during the 8310  
fifteen years immediately preceding the date of last exposure to 8311  
the hazard. 8312

(C) The administrator or self-insuring employer shall 8313  
determine other nonmedical facts that, in the opinion of the 8314  
administrator or self-insuring employer, are pertinent to a 8315

decision on the validity of a claim. 8316

(D) The administrator may allocate to and divide any 8317  
charges resulting from an occupational pneumoconiosis claim 8318  
among the employers for whom the employee who is the subject of 8319  
the claim was employed up to sixty days during the period of 8320  
three years immediately preceding the date of last exposure to 8321  
the hazards of occupational pneumoconiosis. The administrator 8322  
shall base the allocation on the time and degree of exposure the 8323  
employee had with each employer. 8324

**Sec. 4133.06.** (A) The administrator of workers' 8325  
compensation or a self-insuring employer shall determine the 8326  
nonmedical findings for an occupational pneumoconiosis claim 8327  
filed under section 4133.05 of the Revised Code not later than 8328  
ninety days after the administrator or self-insuring employer 8329  
receives the claimant's application and the pulmonary 8330  
specialist's written certification specified in section 4133.04 8331  
of the Revised Code. The administrator or self-insuring employer 8332  
shall provide each interested party written notice of the 8333  
determination. 8334

(B) The administrator's or self-insuring employer's 8335  
determination under this chapter is final unless the employer or 8336  
claimant objects to the determination not later than sixty days 8337  
after receipt of the notice described in division (A) of this 8338  
section. 8339

(C) If a claimant objects to the administrator's 8340  
determination regarding the occupational pneumoconiosis claim 8341  
for compensation and benefits, the claimant may appeal the claim 8342  
in accordance with section 4123.511 or 4123.512 of the Revised 8343  
Code. If an employer objects to the determination under this 8344  
section, the administrator shall refer the claim to the 8345

occupational pneumoconiosis board as if the objection had not 8346  
been filed. 8347

Sec. 4133.07. There is hereby created the occupational 8348  
pneumoconiosis board within the bureau of workers' compensation 8349  
to determine, under the direction and supervision of the 8350  
administrator of workers' compensation, all medical questions 8351  
relating to claims for compensation and benefits for 8352  
occupational pneumoconiosis. 8353

The board consists of five physicians in good professional 8354  
standing holding a certificate issued under Chapter 4731. of the 8355  
Revised Code to practice medicine and surgery or osteopathic 8356  
medicine and surgery. Members shall be board-certified 8357  
internists or board-certified pulmonary specialists. The 8358  
administrator shall appoint the members to the board. 8359

Not later than ninety days after the effective date of 8360  
this section, the administrator shall appoint the initial 8361  
members to the board. The administrator shall appoint three 8362  
members to terms ending one year after the effective date of 8363  
this section, two members to terms ending two years after that 8364  
date, and one member to a term ending three years after that 8365  
date. Thereafter, terms of office for all members are six years, 8366  
with each term ending on the same day of the same month as did 8367  
the term that it succeeds. Each member shall hold office from 8368  
the date of appointment until the end of the term for which the 8369  
member was appointed. Members may be reappointed. 8370

Vacancies shall be filled in the same manner as original 8371  
appointments. Any member appointed to fill a vacancy occurring 8372  
before the expiration of the term for which the member's 8373  
predecessor was appointed shall hold office for the remainder of 8374  
the term. Any member shall continue in office subsequent to the 8375

expiration date of the member's term until a successor takes 8376  
office, or until a period of sixty days has elapsed, whichever 8377  
occurs first. 8378

The administrator annually shall select from among the 8379  
board members a chairperson. A majority of board members 8380  
constitutes a quorum. 8381

Members of the occupational pneumoconiosis board shall 8382  
receive compensation for their service on the board and be 8383  
reimbursed for travel and actual and necessary expenses incurred 8384  
in the conduct of their official duties. The administrator shall 8385  
establish the compensation of members in accordance with section 8386  
4121.121 of the Revised Code. 8387

Sections 101.82 to 101.87 of the Revised Code do not apply 8388  
to the occupational pneumoconiosis board. 8389

**Sec. 4133.08.** (A) On referral to the occupational 8390  
pneumoconiosis board, the board shall notify the claimant and 8391  
administrator or self-insuring employer, as applicable, to 8392  
appear before the board at a time and place stated in the 8393  
notice. If the claimant is living, the claimant shall appear 8394  
before the board at the specified time and place and submit to 8395  
any examination, including clinical and x-ray examinations, 8396  
required by the board. 8397

If a licensed physician files an affidavit with the board 8398  
that the claimant is physically unable to appear at the 8399  
specified time and place, the board shall, on notice to the 8400  
proper parties, change the time and place as may reasonably 8401  
facilitate the hearing or examination of the claimant or may 8402  
appoint a qualified specialist in the field of respiratory 8403  
disease to examine the claimant on the board's behalf. 8404

(B) The claimant and employer shall produce as evidence to the board all medical reports and x-ray examinations that are in the claimant's or employer's possession or control and that show the employee's past or present condition. 8405  
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If the employee who is the subject of the claim is deceased, the notice specified in division (A) of this section may require the claimant to produce any consents and permits necessary so that an autopsy may be performed. If the board determines an autopsy is necessary to accurately and scientifically determine the cause of death, the board shall order the autopsy. The board shall designate a physician holding a certificate issued under Chapter 4731. of the Revised Code, board-certified pathologist, or any other specialist the board determines necessary to conduct the examination and tests to determine the cause of death and certify the findings in writing to the board. Notwithstanding section 4123.88 of the Revised Code, the findings are public records under section 149.43 of the Revised Code. 8409  
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(C) In determining the presence of occupational pneumoconiosis, the board may consider x-ray evidence, but the board shall not give that evidence greater weight than any other type of evidence demonstrating occupational pneumoconiosis. 8423  
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(D) If an employee refuses to submit to an examination, the employee's claim shall be suspended during the period of the refusal in accordance with section 4123.53 of the Revised Code. If a claimant fails to produce necessary consents and permits so that an autopsy may be performed, the claimant forfeits all rights for compensation and benefits under this chapter. 8427  
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(E) The claimant and employer are entitled to be present at all examinations conducted by the board and to be represented 8433  
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by attorneys and physicians. 8435

Sec. 4133.09. (A) The occupational pneumoconiosis board, 8436  
as soon as practicable after completing its investigation under 8437  
section 4133.08 of the Revised Code, shall issue a written 8438  
report on its determination of every medical question in 8439  
controversy to the administrator of workers' compensation or 8440  
self-insuring employer. The board shall send one copy of the 8441  
report to the claimant and one copy to the claimant's employer 8442  
if the employer is not a self-insuring employer. 8443

(B) The board shall return to and file with the 8444  
administrator or self-insuring employer all evidence and medical 8445  
reports and x-ray examinations produced by or on behalf of the 8446  
claimant or employer. 8447

(C) The board shall include all of the following in its 8448  
determination: 8449

(1) Whether the employee contracted occupational 8450  
pneumoconiosis and, if so, the percentage of permanent 8451  
disability resulting from the occupational pneumoconiosis; 8452

(2) Whether the exposure in the employment was sufficient 8453  
to have caused the employee's occupational pneumoconiosis or to 8454  
have perceptibly aggravated an existing occupational 8455  
pneumoconiosis or other occupational disease; 8456

(3) What, if any, physician appeared before the board on 8457  
the claimant's or employer's behalf and what, if any, medical 8458  
evidence was produced by or on the claimant's or employer's 8459  
behalf. 8460

(D) (1) It shall be presumed that the employee is suffering 8461  
or if the employee is deceased, the deceased employee was 8462  
suffering at the time of the employee's death, from occupational 8463

pneumoconiosis that arose out of and in the course of employment 8464  
if both of the following are shown: 8465

(a) The employee has or had been exposed to the hazard of 8466  
inhaling minute particles of dust in the course of and arising 8467  
from the employee's employment for a period of ten years during 8468  
the fifteen years immediately preceding the date of the 8469  
employee's last exposure to the hazard; 8470

(b) The employee has or had sustained a chronic 8471  
respiratory disability. 8472

(2) The presumption described in division (D) (1) of this 8473  
section is not conclusive. 8474

(E) If either party contests the board's determination in 8475  
division (C) of this section, the party shall file an appeal 8476  
with the industrial commission in accordance with section 8477  
4123.511 of the Revised Code. 8478

(F) (1) Except as provided in division (F) (2) of this 8479  
section, a claimant who receives a final determination from the 8480  
board that the employee who is the subject of the claim has or 8481  
had no evidence of occupational pneumoconiosis is barred for a 8482  
period of three years from filing a new claim or pursuing a 8483  
previously filed, but unruled upon, claim for occupational 8484  
pneumoconiosis or requesting a modification of any prior ruling 8485  
finding the employee not to be suffering from occupational 8486  
pneumoconiosis. 8487

The three-year period described in this division begins on 8488  
the date of the board's decision or the date on which the 8489  
employee's employment with the employer who employed the 8490  
employee at the time designated as the employee's last date of 8491  
exposure in the denied claim terminates, whichever is sooner. 8492

For purposes of this division, an employee's employment is 8493  
considered terminated if the employee has not worked for that 8494  
employer for a period of more than ninety days. 8495

The administrator or a self-insuring employer shall 8496  
consolidate any previously filed but unruled upon claim with the 8497  
claim in which the board's decision is made and must be denied 8498  
together with the decided claim. The administrator or self- 8499  
insuring employer shall not apply these limitations to a claim 8500  
if doing so would later cause a claimant's claim to be forever 8501  
barred for failing to file within the applicable time 8502  
limitation. 8503

(2) This division does not apply if the claimant 8504  
demonstrates that the occupational pneumoconiosis has 8505  
deteriorated. 8506

**Sec. 4133.10.** The administrator of workers' compensation 8507  
or a self-insuring employer may require a claimant to appear for 8508  
examination before the occupational pneumoconiosis board. If the 8509  
claimant is required to appear for a board examination, the 8510  
party that referred the claimant to the board shall reimburse 8511  
the claimant for loss of wages and reasonable traveling expenses 8512  
and other expenses in connection with the examination. 8513

**Sec. 4133.11.** An employee filing a claim for compensation 8514  
and benefits for occupational pneumoconiosis shall receive 8515  
medical, nurse, and hospital services in accordance with section 8516  
4123.66 of the Revised Code. 8517

**Sec. 4133.12.** An employee who is awarded compensation for 8518  
temporary total disability for occupational pneumoconiosis shall 8519  
receive sixty-six and two-thirds per cent of the employee's 8520  
average weekly wage so long as such disability is total. The 8521

employee shall not receive an amount of weekly compensation that 8522  
exceeds an amount that is equal to the statewide average weekly 8523  
wage or that is less than an amount that is equal to thirty- 8524  
three and one-third per cent of the statewide average weekly 8525  
wage. In no event, however, shall the minimum weekly 8526  
compensation exceed the level of compensation determined by 8527  
using the federal minimum hourly wage. 8528

The number of weeks of temporary total disability 8529  
compensation an employee may receive for a single occupational 8530  
pneumoconiosis claim shall not exceed one hundred four weeks. 8531

**Sec. 4133.13.** (A) An employee who is awarded compensation 8532  
for permanent partial disability for occupational pneumoconiosis 8533  
shall receive sixty-six and two-thirds per cent of the 8534  
employee's average weekly wage. The employee shall not receive 8535  
an amount of weekly compensation that exceeds an amount that is 8536  
equal to seventy per cent of the statewide average weekly wage 8537  
or that is less than an amount equal to thirty-three and one- 8538  
third per cent of the statewide average weekly wage. In no 8539  
event, however, shall the minimum weekly compensation exceed the 8540  
level of compensation determined by using the federal minimum 8541  
hourly wage. 8542

(B) (1) Except as provided in division (B) (2) of this 8543  
section, an employee shall receive four weeks of compensation 8544  
for each percentage of disability that the administrator of 8545  
workers' compensation determines to be permanent. 8546

(2) If an employee is released by the employee's treating 8547  
physician to return to work at the position the employee held 8548  
before the occupational pneumoconiosis occurred and the 8549  
employee's preinjury employer does not offer the preinjury 8550  
position or a comparable position to the employee when a 8551

position is available, the award for the percentage of partial 8552  
disability shall be computed on the basis of six weeks of 8553  
compensation for each percentage of disability. 8554

(C) The degree of permanent partial disability shall be 8555  
determined by the degree of whole body medical impairment that 8556  
an employee has suffered. Once the degree of an employee's 8557  
medical impairment has been determined, that degree of 8558  
impairment is the percentage of permanent partial disability 8559  
that shall be awarded to the employee. The occupational 8560  
pneumoconiosis board shall premise its decision on the degree of 8561  
pulmonary function impairment that an employee suffers solely 8562  
upon whole body medical impairment. 8563

(D) The administrator shall adopt standards for 8564  
determining an employee's degree of whole body medical 8565  
impairment. 8566

**Sec. 4133.14.** An employee who is awarded compensation for 8567  
permanent total disability for occupational pneumoconiosis shall 8568  
receive sixty-six and two-thirds per cent of the employee's 8569  
average weekly wage. The employee shall not receive an amount of 8570  
weekly compensation that exceeds an amount that is equal to one 8571  
hundred per cent of the statewide average weekly wage or that is 8572  
less than an amount that is equal to thirty-three and one-third 8573  
per cent of the statewide average weekly wage. In no event, 8574  
however, shall the minimum weekly compensation exceed the level 8575  
of compensation determined by using the federal minimum hourly 8576  
wage. 8577

Permanent total disability compensation for occupational 8578  
pneumoconiosis shall cease upon the employee reaching seventy 8579  
years of age. 8580

If an employee is determined to be permanently disabled 8581  
due to occupational pneumoconiosis, the percentage of permanent 8582  
disability shall be determined by the degree of medical 8583  
impairment found by the occupational pneumoconiosis board. 8584

In cases of permanent disability or death due to 8585  
occupational pneumoconiosis accompanied by active tuberculosis 8586  
of the lungs, compensation is payable for disability or death 8587  
due to occupational pneumoconiosis alone. 8588

Sec. 4133.15. Benefits in case of death due to 8589  
occupational pneumoconiosis shall be paid in accordance with 8590  
section 4123.60 of the Revised Code. 8591

Sec. 4133.16. In computing compensation for occupational 8592  
pneumoconiosis claims, the administrator of workers' 8593  
compensation or a self-insuring employer shall deduct the amount 8594  
of all prior compensation or benefits paid to the same claimant 8595  
due to silicosis under this chapter or Chapter 4123. of the 8596  
Revised Code, but a prior silicosis award shall not, in any 8597  
event, preclude an award for occupational pneumoconiosis 8598  
otherwise payable under this chapter. 8599

**Sec. 4729.80.** (A) If the state board of pharmacy 8600  
establishes and maintains a drug database pursuant to section 8601  
4729.75 of the Revised Code, the board is authorized or required 8602  
to provide information from the database in accordance with the 8603  
following: 8604

(1) On receipt of a request from a designated 8605  
representative of a government entity responsible for the 8606  
licensure, regulation, or discipline of health care 8607  
professionals with authority to prescribe, administer, or 8608  
dispense drugs, the board may provide to the representative 8609

information from the database relating to the professional who 8610  
is the subject of an active investigation being conducted by the 8611  
government entity. 8612

(2) On receipt of a request from a federal officer, or a 8613  
state or local officer of this or any other state, whose duties 8614  
include enforcing laws relating to drugs, the board shall 8615  
provide to the officer information from the database relating to 8616  
the person who is the subject of an active investigation of a 8617  
drug abuse offense, as defined in section 2925.01 of the Revised 8618  
Code, being conducted by the officer's employing government 8619  
entity. 8620

(3) Pursuant to a subpoena issued by a grand jury, the 8621  
board shall provide to the grand jury information from the 8622  
database relating to the person who is the subject of an 8623  
investigation being conducted by the grand jury. 8624

(4) Pursuant to a subpoena, search warrant, or court order 8625  
in connection with the investigation or prosecution of a 8626  
possible or alleged criminal offense, the board shall provide 8627  
information from the database as necessary to comply with the 8628  
subpoena, search warrant, or court order. 8629

(5) On receipt of a request from a prescriber or the 8630  
prescriber's delegate approved by the board, the board shall 8631  
provide to the prescriber a report of information from the 8632  
database relating to a patient who is either a current patient 8633  
of the prescriber or a potential patient of the prescriber based 8634  
on a referral of the patient to the prescriber, if all of the 8635  
following conditions are met: 8636

(a) The prescriber certifies in a form specified by the 8637  
board that it is for the purpose of providing medical treatment 8638

to the patient who is the subject of the request; 8639

(b) The prescriber has not been denied access to the 8640  
database by the board. 8641

(6) On receipt of a request from a pharmacist or the 8642  
pharmacist's delegate approved by the board, the board shall 8643  
provide to the pharmacist information from the database relating 8644  
to a current patient of the pharmacist, if the pharmacist 8645  
certifies in a form specified by the board that it is for the 8646  
purpose of the pharmacist's practice of pharmacy involving the 8647  
patient who is the subject of the request and the pharmacist has 8648  
not been denied access to the database by the board. 8649

(7) On receipt of a request from an individual seeking the 8650  
individual's own database information in accordance with the 8651  
procedure established in rules adopted under section 4729.84 of 8652  
the Revised Code, the board may provide to the individual the 8653  
individual's own database information. 8654

(8) On receipt of a request from a medical director or a 8655  
pharmacy director of a managed care organization that has 8656  
entered into a contract with the department of medicaid under 8657  
section 5167.10 of the Revised Code and a data security 8658  
agreement with the board required by section 5167.14 of the 8659  
Revised Code, the board shall provide to the medical director or 8660  
the pharmacy director information from the database relating to 8661  
a medicaid recipient enrolled in the managed care organization, 8662  
including information in the database related to prescriptions 8663  
for the recipient that were not covered or reimbursed under a 8664  
program administered by the department of medicaid. 8665

(9) On receipt of a request from the medicaid director, 8666  
the board shall provide to the director information from the 8667

database relating to a recipient of a program administered by 8668  
the department of medicaid, including information in the 8669  
database related to prescriptions for the recipient that were 8670  
not covered or paid by a program administered by the department. 8671

(10) On receipt of a request from a medical director of a 8672  
managed care organization that has entered into a contract with 8673  
the administrator of workers' compensation under division (B) (4) 8674  
of section 4121.44 of the Revised Code and a data security 8675  
agreement with the board required by section 4121.447 of the 8676  
Revised Code, the board shall provide to the medical director 8677  
information from the database relating to a claimant under 8678  
Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised 8679  
Code assigned to the managed care organization, including 8680  
information in the database related to prescriptions for the 8681  
claimant that were not covered or reimbursed under Chapter 8682  
4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code, if 8683  
the administrator of workers' compensation confirms, upon 8684  
request from the board, that the claimant is assigned to the 8685  
managed care organization. 8686

(11) On receipt of a request from the administrator of 8687  
workers' compensation, the board shall provide to the 8688  
administrator information from the database relating to a 8689  
claimant under Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. 8690  
of the Revised Code, including information in the database 8691  
related to prescriptions for the claimant that were not covered 8692  
or reimbursed under Chapter 4121., 4123., 4127., ~~or 4131.~~ or 8693  
4133. of the Revised Code. 8694

(12) On receipt of a request from a prescriber or the 8695  
prescriber's delegate approved by the board, the board shall 8696  
provide to the prescriber information from the database relating 8697

to a patient's mother, if the prescriber certifies in a form 8698  
specified by the board that it is for the purpose of providing 8699  
medical treatment to a newborn or infant patient diagnosed as 8700  
opioid dependent and the prescriber has not been denied access 8701  
to the database by the board. 8702

(13) On receipt of a request from the director of health, 8703  
the board shall provide to the director information from the 8704  
database relating to the duties of the director or the 8705  
department of health in implementing the Ohio violent death 8706  
reporting system established under section 3701.93 of the 8707  
Revised Code. 8708

(14) On receipt of a request from a requestor described in 8709  
division (A)(1), (2), (5), or (6) of this section who is from or 8710  
participating with another state's prescription monitoring 8711  
program, the board may provide to the requestor information from 8712  
the database, but only if there is a written agreement under 8713  
which the information is to be used and disseminated according 8714  
to the laws of this state. 8715

(15) On receipt of a request from a delegate of a retail 8716  
dispensary licensed under Chapter 3796. of the Revised Code who 8717  
is approved by the board to serve as the dispensary's delegate, 8718  
the board shall provide to the delegate a report of information 8719  
from the database pertaining only to a patient's use of medical 8720  
marijuana, if both of the following conditions are met: 8721

(a) The delegate certifies in a form specified by the 8722  
board that it is for the purpose of dispensing medical marijuana 8723  
for use in accordance with Chapter 3796. of the Revised Code. 8724

(b) The retail dispensary or delegate has not been denied 8725  
access to the database by the board. 8726

(B) The state board of pharmacy shall maintain a record of 8727  
each individual or entity that requests information from the 8728  
database pursuant to this section. In accordance with rules 8729  
adopted under section 4729.84 of the Revised Code, the board may 8730  
use the records to document and report statistics and law 8731  
enforcement outcomes. 8732

The board may provide records of an individual's requests 8733  
for database information to the following: 8734

(1) A designated representative of a government entity 8735  
that is responsible for the licensure, regulation, or discipline 8736  
of health care professionals with authority to prescribe, 8737  
administer, or dispense drugs who is involved in an active 8738  
criminal or disciplinary investigation being conducted by the 8739  
government entity of the individual who submitted the requests 8740  
for database information; 8741

(2) A federal officer, or a state or local officer of this 8742  
or any other state, whose duties include enforcing laws relating 8743  
to drugs and who is involved in an active investigation being 8744  
conducted by the officer's employing government entity of the 8745  
individual who submitted the requests for database information. 8746

(C) Information contained in the database and any 8747  
information obtained from it is confidential and is not a public 8748  
record. Information contained in the records of requests for 8749  
information from the database is confidential and is not a 8750  
public record. Information contained in the database that does 8751  
not identify a person, including any licensee or registrant of 8752  
the board or other entity, may be released in summary, 8753  
statistical, or aggregate form. 8754

(D) Information contained in the database may be provided 8755

only as expressly permitted in law, including any information 8756  
contained in the database that relates to any person, including 8757  
any licensee or registrant of the board or other entity. 8758

(E) A pharmacist or prescriber shall not be held liable in 8759  
damages to any person in any civil action for injury, death, or 8760  
loss to person or property on the basis that the pharmacist or 8761  
prescriber did or did not seek or obtain information from the 8762  
database. 8763

**Sec. 5145.163.** (A) As used in this section: 8764

(1) "Customer model enterprise" means an enterprise 8765  
conducted under a federal prison industries enhancement 8766  
certification program in which a private party participates in 8767  
the enterprise only as a purchaser of goods and services. 8768

(2) "Employer model enterprise" means an enterprise 8769  
conducted under a federal prison industries enhancement 8770  
certification program in which a private party participates in 8771  
the enterprise as an operator of the enterprise. 8772

(3) "Injury" means a diagnosable injury to an inmate 8773  
supported by medical findings that it was sustained in the 8774  
course of and arose out of authorized work activity that was an 8775  
integral part of the inmate's participation in the Ohio penal 8776  
industries program. 8777

(4) "Inmate" means any person who is committed to the 8778  
custody of the department of rehabilitation and correction and 8779  
who is participating in an Ohio penal industries program that is 8780  
under the federal prison industries enhancement certification 8781  
program. 8782

(5) "Federal prison industries enhancement certification 8783  
program" means the program authorized pursuant to 18 U.S.C. 8784

1761. 8785

(6) "Loss of earning capacity" means an impairment of the 8786  
body of an inmate to a degree that makes the inmate unable to 8787  
return to work activity under the Ohio penal industries program 8788  
and results in a reduction of compensation earned by the inmate 8789  
at the time the injury occurred. 8790

(B) Every inmate shall be covered by a policy of 8791  
disability insurance to provide benefits for loss of earning 8792  
capacity due to an injury and for medical treatment of the 8793  
injury following the inmate's release from prison. If the 8794  
enterprise for which the inmate works is a customer model 8795  
enterprise, Ohio penal industries shall purchase the policy. If 8796  
the enterprise for which the inmate works is an employer model 8797  
enterprise, the private participant shall purchase the policy. 8798  
The person required to purchase the policy shall submit proof of 8799  
coverage to the prison labor advisory board before the 8800  
enterprise begins operation. 8801

(C) Within ninety days after an inmate sustains an injury, 8802  
the inmate may file a disability claim with the person required 8803  
to purchase the policy of disability insurance. Upon the request 8804  
of the insurer, the inmate shall be medically examined, and the 8805  
insurer shall determine the inmate's entitlement to disability 8806  
benefits based on the medical examination. The inmate shall 8807  
accept or reject an award within thirty days after a 8808  
determination of the inmate's entitlement to the award. If the 8809  
inmate accepts the award, the benefits shall be paid upon the 8810  
inmate's release from prison. The amount of disability benefits 8811  
payable to the inmate shall be reduced by sick leave benefits or 8812  
other compensation for lost pay made by Ohio penal industries to 8813  
the inmate due to an injury that rendered the inmate unable to 8814

work. An inmate shall not receive disability benefits for 8815  
injuries occurring as the result of a fight, assault, horseplay, 8816  
purposely self-inflicted injury, use of alcohol or controlled 8817  
substances, misuse of prescription drugs, or other activity that 8818  
is prohibited by the department's or institution's inmate 8819  
conduct rules or the work rules of the private participant in 8820  
the enterprise. 8821

(D) Inmates are not employees of the department of 8822  
rehabilitation and correction or the private participant in an 8823  
enterprise. 8824

(E) An inmate is ineligible to receive compensation or 8825  
benefits under Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. 8826  
of the Revised Code for any injury, death, or occupational 8827  
disease received in the course of, and arising out of, 8828  
participation in the Ohio penal industries program. Any claim 8829  
for an injury arising from an inmate's participation in the 8830  
program is specifically excluded from the jurisdiction of the 8831  
Ohio bureau of workers' compensation and the industrial 8832  
commission of Ohio. 8833

(F) Any disability benefit award accepted by an inmate 8834  
under this section shall be the inmate's exclusive remedy 8835  
against the insurer, the private participant in an enterprise, 8836  
and the state. If an inmate rejects an award or a disability 8837  
claim is denied, the inmate may bring an action in the court of 8838  
claims within the appropriate period of limitations. 8839

(G) If any inmate who is paid disability benefits under 8840  
this section is reincarcerated, the benefits shall immediately 8841  
cease but shall resume upon the inmate's subsequent release from 8842  
incarceration. 8843

**Sec. 5503.08.** Each state highway patrol officer shall, in 8844  
addition to the sick leave benefits provided in section 124.38 8845  
of the Revised Code, be entitled to occupational injury leave. 8846  
Occupational injury leave of one thousand five hundred hours 8847  
with pay may, with the approval of the superintendent of the 8848  
state highway patrol, be used for absence resulting from each 8849  
independent injury incurred in the line of duty, except that 8850  
occupational injury leave is not available for injuries incurred 8851  
during those times when the patrol officer is actually engaged 8852  
in administrative or clerical duties at a patrol facility, when 8853  
a patrol officer is on a meal or rest period, or when the patrol 8854  
officer is engaged in any personal business. The superintendent 8855  
of the state highway patrol shall, by rule, define those 8856  
administrative and clerical duties and those situations where 8857  
the occurrence of an injury does not entitle the patrol officer 8858  
to occupational injury leave. Each injury incurred in the line 8859  
of duty which aggravates a previously existing injury, whether 8860  
the previously existing injury was so incurred or not, shall be 8861  
considered an independent injury. When its use is authorized 8862  
under this section, all occupational injury leave shall be 8863  
exhausted before any credit is deducted from unused sick leave 8864  
accumulated under section 124.38 of the Revised Code, except 8865  
that, unless otherwise provided by the superintendent of the 8866  
state highway patrol, occupational injury leave shall not be 8867  
used for absence occurring within seven calendar days of the 8868  
injury. During that seven calendar day period, unused sick leave 8869  
may be used for such an absence. 8870

When occupational injury leave is used, it shall be 8871  
deducted from the unused balance of the patrol officer's 8872  
occupational injury leave for that injury on the basis of one 8873  
hour for every one hour of absence from previously scheduled 8874

work. 8875

Before a patrol officer may use occupational injury leave, 8876  
the patrol officer shall: 8877

(A) Apply to the superintendent for permission to use 8878  
occupational injury leave on a form that requires the patrol 8879  
officer to explain the nature of the patrol officer's 8880  
independent injury and the circumstances under which it 8881  
occurred; and 8882

(B) Submit to a medical examination. The individual who 8883  
conducts the examination shall report to the superintendent the 8884  
results of the examination and whether or not the independent 8885  
injury prevents the patrol officer from attending work. 8886

The superintendent shall, by rule, provide for periodic 8887  
medical examinations of patrol officers who are using 8888  
occupational injury leave. The individual selected to conduct 8889  
the medical examinations shall report to the superintendent the 8890  
results of each such examination, including a description of the 8891  
progress made by the patrol officer in recovering from the 8892  
independent injury, and whether or not the independent injury 8893  
continues to prevent the patrol officer from attending work. 8894

The superintendent shall appoint to conduct medical 8895  
examinations under this division individuals authorized by the 8896  
Revised Code to do so, including any physician assistant, 8897  
clinical nurse specialist, certified nurse practitioner, or 8898  
certified nurse-midwife. 8899

A patrol officer is not entitled to use or continue to use 8900  
occupational injury leave after refusing to submit to a medical 8901  
examination or if the individual examining the patrol officer 8902  
reports that the independent injury does not prevent the patrol 8903

officer from attending work. 8904

A patrol officer who falsifies an application for 8905  
permission to use occupational injury leave or a medical 8906  
examination report is subject to disciplinary action, including 8907  
dismissal. 8908

The superintendent shall, by rule, prescribe forms for the 8909  
application and medical examination report. 8910

Occupational injury leave pay made according to this 8911  
section is in lieu of such workers' compensation benefits as 8912  
would have been payable directly to a patrol officer pursuant to 8913  
sections 4123.56~~and~~, 4123.58, 4133.12, and 4133.14 of the 8914  
Revised Code, but all other compensation and benefits pursuant 8915  
to ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code are 8916  
payable as in any other case. If at the close of the period, the 8917  
patrol officer remains disabled, the patrol officer is entitled 8918  
to all compensation and benefits, without a waiting period 8919  
pursuant to section 4123.55 of the Revised Code based upon the 8920  
injury received, for which the patrol officer qualifies pursuant 8921  
to ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code. 8922  
Compensation shall be paid from the date that the patrol officer 8923  
ceases to receive the patrol officer's regular rate of pay 8924  
pursuant to this section. 8925

Occupational injury leave shall not be credited to or, 8926  
upon use, deducted from, a patrol officer's sick leave. 8927

**Section 2.** That existing sections 109.84, 126.30, 8928  
145.2915, 2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 8929  
3701.741, 3963.10, 4115.03, 4121.03, 4121.12, 4121.121, 8930  
4121.125, 4121.127, 4121.129, 4121.13, 4121.30, 4121.31, 8931  
4121.32, 4121.34, 4121.36, 4121.41, 4121.44, 4121.441, 4121.442, 8932

4121.444, 4121.45, 4121.50, 4121.61, 4123.025, 4123.05, 4123.15, 8933  
4123.26, 4123.27, 4123.291, 4123.30, 4123.311, 4123.32, 8934  
4123.324, 4123.34, 4123.341, 4123.342, 4123.343, 4123.35, 8935  
4123.351, 4123.353, 4123.402, 4123.441, 4123.442, 4123.444, 8936  
4123.46, 4123.47, 4123.51, 4123.511, 4123.512, 4123.522, 8937  
4123.53, 4123.54, 4123.542, 4123.57, 4123.571, 4123.65, 8938  
4123.651, 4123.66, 4123.67, 4123.68, 4123.69, 4123.74, 4123.741, 8939  
4123.85, 4123.89, 4123.93, 4123.931, 4125.03, 4125.04, 4131.01, 8940  
4729.80, 5145.163, and 5503.08 of the Revised Code are hereby 8941  
repealed. 8942

**Section 3.** Sections 1 and 2 of this act apply to claims 8943  
for compensation and benefits for disability or death due to 8944  
occupational pneumoconiosis arising on or after the effective 8945  
date of this act. 8946

**Section 4.** The General Assembly, applying the principle 8947  
stated in division (B) of section 1.52 of the Revised Code that 8948  
amendments are to be harmonized if reasonably capable of 8949  
simultaneous operation, finds that the following sections, 8950  
presented in this act as composites of the sections as amended 8951  
by the acts indicated, are the resulting version of the sections 8952  
in effect prior to the effective date of the section as 8953  
presented in this act: 8954

Section 4121.12 of the Revised Code, as amended by Sub. 8955  
H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 8956  
General Assembly. 8957

Section 4121.125 of the Revised Code, as amended by Sub. 8958  
H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 8959  
General Assembly. 8960