Amendment No. **AM_134_1209**

I_134_0003-3

___________________________ moved to amend as follows:

In line 1 of the title, after "sections" insert "109.84, 126.30, 145.2915, 715.27, 2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 3701.741, 3923.281, 3963.10, 4115.03, 4121.03, 4121.12, 4121.121, 4121.125, 4121.127, 4121.129, 4121.13, 4121.30, 4121.31, 4121.32, 4121.34, 4121.36, 4121.41,"; after "4121.43" insert ", 4121.44, 4121.441, 4121.442, 4121.444, 4121.45, 4121.50, 4121.61, 4123.025, 4123.05, 4123.15, 4123.26, 4123.27, 4123.291, 4123.30, 4123.311, 4123.32, 4123.324, 4123.34, 4123.341, 4123.342, 4123.343, 4123.35, 4123.351, 4123.353, 4123.402, 4123.441, 4123.442, 4123.444, 4123.46, 4123.47, 4123.51, 4123.511, 4123.512, 4123.522, 4123.53, 4123.54, 4123.542"; after "4123.57" insert ", 4123.571"; after "4123.58" insert ", 4123.65, 4123.651, 4123.66, 4123.67, 4123.68, 4123.69, 4123.74, 4123.741, 4123.85, 4123.89, 4123.93, 4123.931, 4123.932, 4125.03, 4125.04, 4125.041, 4125.05, 4131.01, 4133.03, 4133.04, 4133.05, 4133.07, 4729.80, 5145.163, 5502.41, 5503.08" 1 2 3 4 5 6 7 8 9 10 11 12 13 14

In line 2 of the title, delete "4123.85" and insert "5505.01 and to enact sections 4135.01, 4135.02, 4135.03, 4135.04, 4135.05, 4135.06, 4135.07, 4135.08, 4135.09, 4135.10, 4135.11, 4135.12, 4135.13, 4135.14, 4135.15, and 4135.16" 15 16 17 18

After line 611, insert: 19

jlgrfcm7wmzqqyzaw8s2ie

"**Section 9**. That sections 109.84, 126.30, 145.2915, 715.27, 2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 3701.741, 3923.281, 3963.10, 4115.03, 4121.03, 4121.12, 4121.121, 4121.125, 4121.127, 4121.129, 4121.13, 4121.30, 4121.31, 4121.32, 4121.34, 4121.36, 4121.41, 4121.44, 4121.441, 4121.442, 4121.444, 4121.45, 4121.50, 4121.61, 4123.025, 4123.05, 4123.15, 4123.26, 4123.27, 4123.291, 4123.30, 4123.311, 4123.32, 4123.324, 4123.34, 4123.341, 4123.342, 4123.343, 4123.35, 4123.351, 4123.353, 4123.402, 4123.441, 4123.442, 4123.444, 4123.46, 4123.47, 4123.51, 4123.511, 4123.512, 4123.522, 4123.53, 4123.54, 4123.542, 4123.57, 4123.571, 4123.65, 4123.651, 4123.66, 4123.67, 4123.68, 4123.69, 4123.74, 4123.741, 4123.85, 4123.89, 4123.93, 4123.931, 4123.932, 4125.03, 4125.04, 4125.041, 4125.05, 4131.01, 4133.03, 4133.04, 4133.05, 4133.07, 4729.80, 5145.163, 5502.41, 5503.08, and 5505.01 be amended and sections 4135.01, 4135.02, 4135.03, 4135.04, 4135.05, 4135.06, 4135.07, 4135.08, 4135.09, 4135.10, 4135.11, 4135.12, 4135.13, 4135.14, 4135.15, and 4135.16 of the Revised Code be enacted to read as follows:

Sec. 109.84. (A) Upon the written request of the governor, the industrial commission, the administrator of workers' compensation, or upon the attorney general's becoming aware of criminal or improper activity related to Chapter 4121. ~~or~~ , 4123., or 4135. of the Revised Code, the attorney general shall investigate any criminal or civil violation of law related to Chapter 4121. ~~or~~ , 4123., or 4135. of the Revised Code.

(B) When it appears to the attorney general, as a result of an investigation under division (A) of this section, that there is cause to prosecute for the commission of a crime or to pursue a civil remedy, ~~he~~the attorney general may refer the evidence to the prosecuting attorney having jurisdiction of the

matter, or to a regular grand jury drawn and impaneled pursuant 51
to sections 2939.01 to 2939.24 of the Revised Code, or to a 52
special grand jury drawn and impaneled pursuant to section 53
2939.17 of the Revised Code, or ~~he~~the attorney general may 54
initiate and prosecute any necessary criminal or civil actions 55
in any court or tribunal of competent jurisdiction in this 56
state. When proceeding under this section, the attorney general 57
has all rights, privileges, and powers of prosecuting attorneys, 58
and any assistant or special counsel designated by ~~him~~the 59
attorney general for that purpose has the same authority. 60

(C) The attorney general shall be reimbursed by the bureau 61
of workers' compensation for all actual and necessary costs 62
incurred in conducting investigations requested by the governor, 63
the commission, or the administrator and all actual and 64
necessary costs in conducting the prosecution arising out of 65
such investigation. 66

Sec. 126.30. (A) Any state agency that purchases, leases, 67
or otherwise acquires any equipment, materials, goods, supplies, 68
or services from any person and fails to make payment for the 69
equipment, materials, goods, supplies, or services by the 70
required payment date shall pay an interest charge to the person 71
in accordance with division (E) of this section, unless the 72
amount of the interest charge is less than ten dollars. Except 73
as otherwise provided in division (B), (C), or (D) of this 74
section, the required payment date shall be the date on which 75
payment is due under the terms of a written agreement between 76
the state agency and the person or, if a specific payment date 77
is not established by such a written agreement, the required 78
payment date shall be thirty days after the state agency 79
receives a proper invoice for the amount of the payment due. 80

(B) If the invoice submitted to the state agency contains a defect or impropriety, the agency shall send written notification to the person within fifteen days after receipt of the invoice. The notice shall contain a description of the defect or impropriety and any additional information necessary to correct the defect or impropriety. If the agency sends such written notification to the person, the required payment date shall be thirty days after the state agency receives a proper invoice. 81 82 83 84 85 86 87 88 89

(C) In applying this section to claims submitted to the department of job and family services by providers of equipment, materials, goods, supplies, or services, the required payment date shall be the date on which payment is due under the terms of a written agreement between the department and the provider. If a specific payment date is not established by a written agreement, the required payment date shall be thirty days after the department receives a proper claim. If the department determines that the claim is improperly executed or that additional evidence of the validity of the claim is required, the department shall notify the claimant in writing or by telephone within fifteen days after receipt of the claim. The notice shall state that the claim is improperly executed and needs correction or that additional information is necessary to establish the validity of the claim. If the department makes such notification to the provider, the required payment date shall be thirty days after the department receives the corrected claim or such additional information as may be necessary to establish the validity of the claim. 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108

(D) In applying this section to invoices submitted to the bureau of workers' compensation for equipment, materials, goods, supplies, or services provided to employees in connection with 109 110 111

an employee's claim against the state insurance fund, the public 112
work-relief employees' compensation fund, the coal-workers 113
pneumoconiosis fund, or the marine industry fund as compensation 114
for injuries or occupational disease pursuant to Chapter 4123., 115
4127., ~~or~~ 4131., or 4135. of the Revised Code, the required 116
payment date shall be the date on which payment is due under the 117
terms of a written agreement between the bureau and the 118
provider. If a specific payment date is not established by a 119
written agreement, the required payment date shall be thirty 120
days after the bureau receives a proper invoice for the amount 121
of the payment due or thirty days after the final adjudication 122
allowing payment of an award to the employee, whichever is 123
later. Nothing in this section shall supersede any faster 124
timetable for payments to health care providers contained in 125
sections 4121.44 and 4123.512 of the Revised Code. 126

For purposes of this division, a "proper invoice" includes 127
the claimant's name, claim number and date of injury, employer's 128
name, the provider's name and address, the provider's assigned 129
payee number, a description of the equipment, materials, goods, 130
supplies, or services provided by the provider to the claimant, 131
the date provided, and the amount of the charge. If more than 132
one item of equipment, materials, goods, supplies, or services 133
is listed by a provider on a single application for payment, 134
each item shall be considered separately in determining if it is 135
a proper invoice. 136

If prior to a final adjudication the bureau determines 137
that the invoice contains a defect, the bureau shall notify the 138
provider in writing at least fifteen days prior to what would be 139
the required payment date if the invoice did not contain a 140
defect. The notice shall contain a description of the defect and 141
any additional information necessary to correct the defect. If 142

the bureau sends a notification to the provider, the required 143
payment date shall be redetermined in accordance with this 144
division after the bureau receives a proper invoice. 145

For purposes of this division, "final adjudication" means 146
the later of the date of the decision or other action by the 147
bureau, the industrial commission, or a court allowing payment 148
of the award to the employee from which there is no further 149
right to reconsideration or appeal that would require the bureau 150
to withhold compensation and benefits, or the date on which the 151
rights to reconsideration or appeal have expired without an 152
application therefor having been filed or, if later, the date on 153
which an application for reconsideration or appeal is withdrawn. 154
If after final adjudication, the administrator of the bureau of 155
workers' compensation or the industrial commission makes a 156
modification with respect to former findings or orders, pursuant 157
to Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code 158
or pursuant to court order, the adjudication process shall no 159
longer be considered final for purposes of determining the 160
required payment date for invoices for equipment, materials, 161
goods, supplies, or services provided after the date of the 162
modification when the propriety of the invoices is affected by 163
the modification. 164

(E) The interest charge on amounts due shall be paid to 165
the person for the period beginning on the day after the 166
required payment date and ending on the day that payment of the 167
amount due is made. The amount of the interest charge that 168
remains unpaid at the end of any thirty-day period after the 169
required payment date, including amounts under ten dollars, 170
shall be added to the principal amount of the debt and 171
thereafter the interest charge shall accrue on the principal 172
amount of the debt plus the added interest charge. The interest 173

charge shall be at the rate per calendar month that equals one-twelfth of the rate per annum prescribed by section 5703.47 of the Revised Code for the calendar year that includes the month for which the interest charge accrues. 174 175 176 177

(F) No appropriations shall be made for the payment of any interest charges required by this section. Any state agency required to pay interest charges under this section shall make the payments from moneys available for the administration of agency programs. 178 179 180 181 182

If a state agency pays interest charges under this section, but determines that all or part of the interest charges should have been paid by another state agency, the state agency that paid the interest charges may request the attorney general to determine the amount of the interest charges that each state agency should have paid under this section. If the attorney general determines that the state agency that paid the interest charges should have paid none or only a part of the interest charges, the attorney general shall notify the state agency that paid the interest charges, any other state agency that should have paid all or part of the interest charges, and the director of budget and management of the attorney general's decision, stating the amount of interest charges that each state agency should have paid. The director shall transfer from the appropriate funds of any other state agency that should have paid all or part of the interest charges to the appropriate funds of the state agency that paid the interest charges an amount necessary to implement the attorney general's decision. 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200

(G) Not later than forty-five days after the end of each fiscal year, each state agency shall file with the director of budget and management a detailed report concerning the interest 201 202 203

charges the agency paid under this section during the previous fiscal year. The report shall include the number, amounts, and frequency of interest charges the agency incurred during the previous fiscal year and the reasons why the interest charges were not avoided by payment prior to the required payment date. The director shall compile a summary of all the reports submitted under this division and shall submit a copy of the summary to the president and minority leader of the senate and to the speaker and minority leader of the house of representatives no later than the thirtieth day of September of each year.

Sec. 145.2915. (A) As used in this section, "workers' compensation" means benefits paid under Chapter 4121. ~~or~~ , 4123., or 4135. of the Revised Code.

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

(C) For credit purchased under this section:

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

(2) If the member is employed by more than one public employer, the member is eligible to purchase credit under this section and make payments under division (C)(1) of this section only for the position for which the member received workers' compensation. For each year of credit, the member shall pay to the system for credit to the employees' savings fund an amount equal to the employee contribution required under section 145.47 of the Revised Code that would have been paid had the member not been out of service based on the salary of the member earned for the position for which the member received workers' compensation before the member was out of service. To this amount shall be added an amount equal to compound interest at a rate established by the public employees retirement board from the first date the member was out of service to the final date of payment. 234 235 236 237 238 239 240 241 242 243 244 245 246 247

(D) The member may choose to purchase only part of such credit in any one payment, subject to board rules. 248 249

(E) If a member makes a payment under division (C) of this section, the employer to which workers' compensation benefits are attributed shall pay to the system for credit to the employers' accumulation fund an amount equal to the employer contribution required under section 145.48 or 145.49 of the Revised Code corresponding to that payment that would have been paid had the member not been out of service based on the salary of the member before the member was out of service. 250 251 252 253 254 255 256 257

Compound interest at a rate established by the board from the later of the member's date of re-employment or January 7, 2013, to the date of payment shall be added to this amount if the employer pays all or any portion of the amount after the end of the earlier of the following: 258 259 260 261 262

(1) A period of five years; 263

(2) A period that is three times the period during which the member was out of service and receiving workers' compensation. 264 265 266

The period described in division (E)(1) or (2) of this section begins with the later of the member's date of re-employment or January 7, 2013. 267 268 269

(F) The number of years purchased under this section shall not exceed three. Credit purchased under this section may be combined pursuant to section 145.37 of the Revised Code with credit purchased or obtained under Chapter 3307. or 3309. of the Revised Code for periods the member was out of service and receiving workers' compensation, but not more than a total of three years of credit may be used in determining retirement eligibility or calculating benefits under section 145.37 of the Revised Code. 270 271 272 273 274 275 276 277 278

Sec. 715.27. (A) Any municipal corporation may: 279

(1) Regulate the erection of fences, billboards, signs, and other structures, within the municipal corporation, and provide for the removal and repair of insecure billboards, signs, and other structures; 280 281 282 283

(2) Regulate the construction and repair of wires, poles, plants, and all equipment to be used for the generation and application of electricity; 284 285 286

(3) Provide for the licensing of house movers; plumbers; sewer tappers; vault cleaners; and specialty contractors who are not required to hold a valid license issued pursuant to Chapter 4740. of the Revised Code; 287 288 289 290

(4) Require all specialty contractors other than those who 291

hold a valid license issued pursuant to Chapter 4740. of the 292
Revised Code, to successfully complete an examination, test, or 293
demonstration of technical skills, and may impose a fee and 294
additional requirements for a license or registration to engage 295
in their respective occupations within the jurisdiction of the 296
municipal corporation. 297

(B) No municipal corporation shall require any specialty 298
contractor who holds a valid license issued pursuant to Chapter 299
4740. of the Revised Code to complete an examination, test, or 300
demonstration of technical skills to engage in the type of 301
contracting for which the license is held, within the municipal 302
corporation. 303

(C) A municipal corporation may require a specialty 304
contractor who holds a valid license issued pursuant to Chapter 305
4740. of the Revised Code to register with the municipal 306
corporation and pay any fee the municipal corporation imposes 307
before that specialty contractor may engage within the municipal 308
corporation in the type of contracting for which the license is 309
held. Any fee shall be the same for all specialty contractors 310
who engage in the same type of contracting. A municipal 311
corporation may require a bond and proof of all of the 312
following: 313

(1) Insurance pursuant to division (B)(4) of section 314
4740.06 of the Revised Code; 315

(2) Compliance with Chapters 4121.~~ and ~~, 4123., and 4135. 316
of the Revised Code; 317

(3) Registration with the tax department of the municipal 318
corporation. 319

If a municipal corporation requires registration, imposes 320

such a fee, or requires a bond or proof of the items listed in divisions (C)(1), (2), and (3) of this section, the municipal corporation immediately shall permit a contractor who presents proof of holding a valid license issued pursuant to Chapter 4740. of the Revised Code, who registers, pays the fee, obtains a bond, and submits the proof described under divisions (C)(1), (2), and (3) of this section, as required, to engage in the type of contracting for which the license is held, within the municipal corporation. 321 322 323 324 325 326 327 328 329

(D) A municipal corporation may revoke the registration of a contractor registered with that municipal corporation for good cause shown. Good cause shown includes the failure of a contractor to maintain a bond or the items listed in divisions (C)(1), (2), and (3) of this section, if the municipal corporation requires those. 330 331 332 333 334 335

(E) A municipal corporation that licenses specialty contractors pursuant to division (A)(3) of this section may accept, for purposes of satisfying its licensing requirements, a valid license issued pursuant to Chapter 4740. of the Revised Code that a specialty contractor holds, for the construction, replacement, maintenance, or repair of one-family, two-family, or three-family dwelling houses or accessory structures incidental to those dwelling houses. 336 337 338 339 340 341 342 343

(F) A municipal corporation shall not register a specialty contractor who is required to hold a license under Chapter 4740. of the Revised Code but does not hold a valid license issued under that chapter. 344 345 346 347

(G) As used in this section, "specialty contractor" means a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing 348 349 350

contractor, or hydronics contractor, as those contractors are described in Chapter 4740. of the Revised Code. 351 352

Sec. 2307.84. As used in sections 2307.84 to 2307.90 and 2307.901 of the Revised Code: 353 354

(A) "AMA guides to the evaluation of permanent impairment" means the American medical association's guides to the evaluation of permanent impairment (fifth edition 2000) as may be modified by the American medical association. 355 356 357 358

(B) "Board-certified internist" means a medical doctor who is currently certified by the American board of internal medicine. 359 360 361

(C) "Board-certified occupational medicine specialist" means a medical doctor who is currently certified by the American board of preventive medicine in the specialty of occupational medicine. 362 363 364 365

(D) "Board-certified oncologist" means a medical doctor who is currently certified by the American board of internal medicine in the subspecialty of medical oncology. 366 367 368

(E) "Board-certified pathologist" means a medical doctor who is currently certified by the American board of pathology. 369 370

(F) "Board-certified pulmonary specialist" means a medical doctor who is currently certified by the American board of internal medicine in the subspecialty of pulmonary medicine. 371 372 373

(G) "Certified B-reader" means an individual qualified as a "final" or "B-reader" as defined in 42 C.F.R. section 37.51(b), as amended. 374 375 376

(H) "Civil action" means all suits or claims of a civil nature in a state or federal court, whether cognizable as cases 377 378

at law or in equity or admiralty. "Civil action" does not include any of the following: 379 380

(1) A civil action relating to any workers' compensation law; 381 382

(2) A civil action alleging any claim or demand made against a trust established pursuant to 11 U.S.C. section 524(g); 383 384 385

(3) A civil action alleging any claim or demand made against a trust established pursuant to a plan of reorganization confirmed under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. Chapter 11. 386 387 388 389

(I) "Competent medical authority" means a medical doctor who is providing a diagnosis for purposes of constituting prima-facie evidence of an exposed person's physical impairment that meets the requirements specified in section 2307.85 or 2307.86 of the Revised Code, whichever is applicable, and who meets the following requirements: 390 391 392 393 394 395

(1) The medical doctor is a board-certified internist, pulmonary specialist, oncologist, pathologist, or occupational medicine specialist. 396 397 398

(2) The medical doctor is actually treating or has treated the exposed person and has or had a doctor-patient relationship with the person. 399 400 401

(3) As the basis for the diagnosis, the medical doctor has not relied, in whole or in part, on any of the following: 402 403

(a) The reports or opinions of any doctor, clinic, laboratory, or testing company that performed an examination, test, or screening of the claimant's medical condition in 404 405 406

violation of any law, regulation, licensing requirement, or medical code of practice of the state in which that examination, test, or screening was conducted; 407 408 409

(b) The reports or opinions of any doctor, clinic, laboratory, or testing company that performed an examination, test, or screening of the claimant's medical condition that was conducted without clearly establishing a doctor-patient relationship with the claimant or medical personnel involved in the examination, test, or screening process; 410 411 412 413 414 415

(c) The reports or opinions of any doctor, clinic, laboratory, or testing company that performed an examination, test, or screening of the claimant's medical condition that required the claimant to agree to retain the legal services of the law firm sponsoring the examination, test, or screening. 416 417 418 419 420

(4) The medical doctor spends not more than twenty-five per cent of the medical doctor's professional practice time in providing consulting or expert services in connection with actual or potential tort actions, and the medical doctor's medical group, professional corporation, clinic, or other affiliated group earns not more than twenty per cent of its revenues from providing those services. 421 422 423 424 425 426 427

(J) "Exposed person" means either of the following, whichever is applicable: 428 429

(1) A person whose exposure to silica is the basis for a silicosis claim under section 2307.85 of the Revised Code; 430 431

(2) A person whose exposure to mixed dust is the basis for a mixed dust disease claim under section 2307.86 of the Revised Code. 432 433 434

(K) "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. 435 436 437 438

(L) "Lung cancer" means a malignant tumor in which the primary site of origin of the cancer is inside the lungs. 439 440

(M) "Mixed dust" means a mixture of dusts composed of silica and one or more other fibrogenic dusts capable of inducing pulmonary fibrosis if inhaled in sufficient quantity. 441 442 443

(N) "Mixed dust disease claim" means any claim for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to inhalation 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. 444 445 446 447 448 449 450 451 452 453 454

(O) "Mixed dust pneumoconiosis" means the interstitial lung disease caused by the pulmonary response to inhaled mixed dusts. 455 456 457

(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: 458 459 460

(1) Silica, as provided in section 2307.85 of the Revised Code; 461 462

(2) Mixed dust, as provided in section 2307.86 of the Revised Code. 463 464

(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. 465 466 467 468 469 470 471

(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 structures consistent with silica (well-organized concentric whorls of collagen surrounded by inflammatory cells) in the lung parenchyma and that there is no other more likely explanation for the presence of the fibrosis. 472 473 474 475 476 477 478 479 480

(S) "Physical impairment" means any of the following, whichever is applicable: 481 482

(1) A nonmalignant condition that meets the minimum requirements of division (B) of section 2307.85 of the Revised Code or lung cancer of an exposed person who is a smoker that meets the minimum requirements of division (C) of section 2307.85 of the Revised Code; 483 484 485 486 487

(2) A nonmalignant condition that meets the minimum requirements of division (B) of section 2307.86 of the Revised Code or lung cancer of an exposed person who is a smoker that meets the minimum requirements of division (C) of section 488 489 490 491

2307.86 of the Revised Code. 492

(T) "Premises owner" means a person who owns, in whole or in part, leases, rents, maintains, or controls privately owned lands, ways, or waters, or any buildings and structures on those lands, ways, or waters, and all privately owned and state-owned lands, ways, or waters leased to a private person, firm, or organization, including any buildings and structures on those lands, ways, or waters. 493 494 495 496 497 498 499

(U) "Radiological evidence of mixed dust pneumoconiosis" means a chest x-ray showing bilateral rounded or irregular opacities in the upper lung fields graded by a certified B-reader as at least 1/1 on the ILO scale. 500 501 502 503

(V) "Radiological evidence of silicosis" means a chest x-ray showing bilateral small rounded opacities (p, q, or r) in the upper lung fields graded by a certified B-reader as at least 1/1 on the ILO scale. 504 505 506 507

(W) "Regular basis" means on a frequent or recurring basis. 508 509

(X) "Silica" means a respirable crystalline form of silicon dioxide, including, but not limited to, alpha quartz, cristobalite, and trydmite. 510 511 512

(Y) "Silicosis claim" means any claim for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to inhalation of, exposure to, or contact with silica. "Silicosis claim" includes a claim made by or on behalf of any person who has been exposed to silica, 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 513 514 515 516 517 518 519 520

of medical monitoring or surveillance, or any other effects on the person's health that are caused by the person's exposure to silica. 521 522 523

(Z) "Silicosis" means an interstitial lung disease caused by the pulmonary response to inhaled silica. 524 525

(AA) "Smoker" means a person who has smoked the equivalent of one-pack year, as specified in the written report of a competent medical authority pursuant to section 2307.85 or 2307.86 and section 2307.87 of the Revised Code, during the last fifteen years. 526 527 528 529 530

(BB) "Substantial contributing factor" means both of the following: 531 532

(1) Exposure to silica or mixed dust is the predominate cause of the physical impairment alleged in the silicosis claim or mixed dust disease claim, whichever is applicable. 533 534 535

(2) A competent medical authority has determined with a reasonable degree of medical certainty that without the silica or mixed dust exposures the physical impairment of the exposed person would not have occurred. 536 537 538 539

(CC) "Substantial occupational exposure to silica" means employment for a cumulative period of at least five years in an industry and an occupation in which, for a substantial portion of a normal work year for that occupation, the exposed person did any of the following: 540 541 542 543 544

(1) Handled silica; 545

(2) Fabricated silica-containing products so that the person was exposed to silica in the fabrication process; 546 547

(3) Altered, repaired, or otherwise worked with a silica- 548

containing product in a manner that exposed the person on a regular basis to silica; 549 550

(4) Worked in close proximity to other workers engaged in any of the activities described in division (CC)(1), (2), or (3) of this section in a manner that exposed the person on a regular basis to silica. 551 552 553 554

(DD) "Substantial occupational exposure to mixed dust" means employment for a cumulative period of at least five years in an industry and an occupation in which, for a substantial portion of a normal work year for that occupation, the exposed person did any of the following: 555 556 557 558 559

(1) Handled mixed dust; 560

(2) Fabricated mixed dust-containing products so that the person was exposed to mixed dust in the fabrication process; 561 562

(3) Altered, repaired, or otherwise worked with a mixed dust-containing product in a manner that exposed the person on a regular basis to mixed dust; 563 564 565

(4) Worked in close proximity to other workers engaged in any of the activities described in division (DD)(1), (2), or (3) of this section in a manner that exposed the person on a regular basis to mixed dust. 566 567 568 569

(EE) "Tort action" means a civil action for damages for injury, death, or loss to person. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code. "Tort action" does not include a civil action for damages for a breach of contract or another agreement between persons. 570 571 572 573 574 575

(FF) "Veterans' benefit program" means any program for 576

benefits in connection with military service administered by the veterans' administration under ~~title~~ Title 38 of the United States Code. 577 578 579

(GG) "Workers' compensation law" means Chapters 4121., 4123., 4127., ~~and~~ 4131., and 4135. of the Revised Code. 580 581

Sec. 2307.91. As used in sections 2307.91 to 2307.96 of the Revised Code: 582 583

(A) "AMA guides to the evaluation of permanent impairment" means the American medical association's guides to the evaluation of permanent impairment (fifth edition 2000) as may be modified by the American medical association. 584 585 586 587

(B) "Asbestos" means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated or altered. 588 589 590 591

(C) "Asbestos claim" means any claim for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos. "Asbestos claim" includes a claim made by or on behalf of any person who has been exposed to asbestos, or any representative, spouse, parent, child, or other relative of that person, for injury, including 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. 592 593 594 595 596 597 598 599 600 601

(D) "Asbestosis" means bilateral diffuse interstitial fibrosis of the lungs caused by inhalation of asbestos fibers. 602 603

(E) "Board-certified internist" means a medical doctor who 604

is currently certified by the American board of internal medicine. 605 606

(F) "Board-certified occupational medicine specialist" means a medical doctor who is currently certified by the American board of preventive medicine in the specialty of occupational medicine. 607 608 609 610

(G) "Board-certified oncologist" means a medical doctor who is currently certified by the American board of internal medicine in the subspecialty of medical oncology. 611 612 613

(H) "Board-certified pathologist" means a medical doctor who is currently certified by the American board of pathology. 614 615

(I) "Board-certified pulmonary specialist" means a medical doctor who is currently certified by the American board of internal medicine in the subspecialty of pulmonary medicine. 616 617 618

(J) "Certified B-reader" means an individual qualified as a "final" or "B-reader" as defined in 42 C.F.R. section 37.51(b), as amended. 619 620 621

(K) "Certified industrial hygienist" means an industrial hygienist who has attained the status of diplomate of the American academy of industrial hygiene subject to compliance with requirements established by the American board of industrial hygiene. 622 623 624 625 626

(L) "Certified safety professional" means a safety professional who has met and continues to meet all requirements established by the board of certified safety professionals and is authorized by that board to use the certified safety professional title or the CSP designation. 627 628 629 630 631

(M) "Civil action" means all suits or claims of a civil 632

nature in a state or federal court, whether cognizable as cases at law or in equity or admiralty. "Civil action" does not include any of the following: 633 634 635

(1) A civil action relating to any workers' compensation law; 636 637

(2) A civil action alleging any claim or demand made against a trust established pursuant to 11 U.S.C. section 524(g); 638 639 640

(3) A civil action alleging any claim or demand made against a trust established pursuant to a plan of reorganization confirmed under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. Chapter 11. 641 642 643 644

(N) "Exposed person" means any person whose exposure to asbestos or to asbestos-containing products is the basis for an asbestos claim under section 2307.92 of the Revised Code. 645 646 647

(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. 648 649 650

(P) "FVC" means forced vital capacity that is maximal volume of air expired with maximum effort from a position of full inspiration. 651 652 653

(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. 654 655 656 657

(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. 658 659 660

(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. 661 662 663 664 665

(T) "Nonmalignant condition" means a condition that is caused or may be caused by asbestos other than a diagnosed cancer. 666 667 668

(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. 669 670 671 672 673 674 675

(V) "Physical impairment" means a nonmalignant condition that meets the minimum requirements specified in division (B) of section 2307.92 of the Revised Code, lung cancer of an exposed person who is a smoker that meets the minimum requirements specified in division (C) of section 2307.92 of the Revised Code, or a condition of a deceased exposed person that meets the minimum requirements specified in division (D) of section 2307.92 of the Revised Code. 676 677 678 679 680 681 682 683

(W) "Plethysmography" means a test for determining lung volume, also known as "body plethysmography," in which the subject of the test is enclosed in a chamber that is equipped to measure pressure, flow, or volume changes. 684 685 686 687

(X) "Predicted lower limit of normal" means the fifth percentile of healthy populations based on age, height, and 688 689

gender, as referenced in the AMA guides to the evaluation of permanent impairment. 690 691

(Y) "Premises owner" means a person who owns, in whole or in part, leases, rents, maintains, or controls privately owned lands, ways, or waters, or any buildings and structures on those lands, ways, or waters, and all privately owned and state-owned lands, ways, or waters leased to a private person, firm, or organization, including any buildings and structures on those lands, ways, or waters. 692 693 694 695 696 697 698

(Z) "Competent medical authority" means a medical doctor who is providing a diagnosis for purposes of constituting prima-facie evidence of an exposed person's physical impairment that meets the requirements specified in section 2307.92 of the Revised Code and who meets the following requirements: 699 700 701 702 703

(1) The medical doctor is a board-certified internist, pulmonary specialist, oncologist, pathologist, or occupational medicine specialist. 704 705 706

(2) The medical doctor is actually treating or has treated the exposed person and has or had a doctor-patient relationship with the person. 707 708 709

(3) As the basis for the diagnosis, the medical doctor has not relied, in whole or in part, on any of the following: 710 711

(a) The reports or opinions of any doctor, clinic, laboratory, or testing company that performed an examination, test, or screening of the claimant's medical condition in violation of any law, regulation, licensing requirement, or medical code of practice of the state in which that examination, test, or screening was conducted; 712 713 714 715 716 717

(b) The reports or opinions of any doctor, clinic, laboratory, or testing company that performed an examination, test, or screening of the claimant's medical condition that was conducted without clearly establishing a doctor-patient relationship with the claimant or medical personnel involved in the examination, test, or screening process; 718 719 720 721 722 723

(c) The reports or opinions of any doctor, clinic, laboratory, or testing company that performed an examination, test, or screening of the claimant's medical condition that required the claimant to agree to retain the legal services of the law firm sponsoring the examination, test, or screening. 724 725 726 727 728

(4) The medical doctor spends not more than twenty-five per cent of the medical doctor's professional practice time in providing consulting or expert services in connection with actual or potential tort actions, and the medical doctor's medical group, professional corporation, clinic, or other affiliated group earns not more than twenty per cent of its revenues from providing those services. 729 730 731 732 733 734 735

(AA) "Radiological evidence of asbestosis" means a chest x-ray showing small, irregular opacities (s, t) graded by a certified B-reader as at least 1/1 on the ILO scale. 736 737 738

(BB) "Radiological evidence of diffuse pleural thickening" means a chest x-ray showing bilateral pleural thickening graded by a certified B-reader as at least B2 on the ILO scale and blunting of at least one costophrenic angle. 739 740 741 742

(CC) "Regular basis" means on a frequent or recurring basis. 743 744

(DD) "Smoker" means a person who has smoked the equivalent of one-pack year, as specified in the written report of a 745 746

competent medical authority pursuant to sections 2307.92 and 2307.93 of the Revised Code, during the last fifteen years. 747 748

(EE) "Spirometry" means the measurement of volume of air inhaled or exhaled by the lung. 749 750

(FF) "Substantial contributing factor" means both of the following: 751 752

(1) Exposure to asbestos is the predominate cause of the physical impairment alleged in the asbestos claim. 753 754

(2) A competent medical authority has determined with a reasonable degree of medical certainty that without the asbestos exposures the physical impairment of the exposed person would not have occurred. 755 756 757 758

(GG) "Substantial occupational exposure to asbestos" means employment for a cumulative period of at least five years in an industry and an occupation in which, for a substantial portion of a normal work year for that occupation, the exposed person did any of the following: 759 760 761 762 763

(1) Handled raw asbestos fibers; 764

(2) Fabricated asbestos-containing products so that the person was exposed to raw asbestos fibers in the fabrication process; 765 766 767

(3) Altered, repaired, or otherwise worked with an asbestos-containing product in a manner that exposed the person on a regular basis to asbestos fibers; 768 769 770

(4) Worked in close proximity to other workers engaged in any of the activities described in division (GG)(1), (2), or (3) of this section in a manner that exposed the person on a regular basis to asbestos fibers. 771 772 773 774

(HH) "Timed gas dilution" means a method for measuring total lung capacity in which the subject breathes into a spirometer containing a known concentration of an inert and insoluble gas for a specific time, and the concentration of the inert and insoluble gas in the lung is then compared to the concentration of that type of gas in the spirometer. 775 776 777 778 779 780

(II) "Tort action" means a civil action for damages for injury, death, or loss to person. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code. "Tort action" does not include a civil action for damages for a breach of contract or another agreement between persons. 781 782 783 784 785 786

(JJ) "Total lung capacity" means the volume of air contained in the lungs at the end of a maximal inspiration. 787 788

(KK) "Veterans' benefit program" means any program for benefits in connection with military service administered by the veterans' administration under ~~title~~ Title 38 of the United States Code. 789 790 791 792

(LL) "Workers' compensation law" means Chapters 4121., 4123., 4127., ~~and~~ 4131., and 4135. of the Revised Code. 793 794

Sec. 2307.97. (A) As used in this section: 795

(1) "Asbestos" means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated or altered. 796 797 798 799

(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 800 801 802

asbestos. "Asbestos claim" includes any of the following: 803

(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; 804 805 806 807 808 809 810

(b) A claim for damage or loss to property that is caused by the installation, presence, or removal of asbestos. 811 812

(3) "Corporation" means a corporation for profit, including the following: 813 814

(a) A domestic corporation that is organized under the laws of this state; 815 816

(b) A foreign corporation that is organized under laws other than the laws of this state and that has had a certificate of authority to transact business in this state or has done business in this state. 817 818 819 820

(4) "Successor" means a corporation or a subsidiary of a corporation that assumes or incurs, or had assumed or incurred, successor asbestos-related liabilities or had successor asbestos-related liabilities imposed on it by court order. 821 822 823 824

(5)(a) "Successor asbestos-related liabilities" means any liabilities, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due, if the liabilities are related in any way to asbestos claims and either of the following applies: 825 826 827 828 829 830

(i) The liabilities are assumed or incurred by a successor as a result of or in connection with an asset purchase, stock purchase, merger, consolidation, or agreement providing for an asset purchase, stock purchase, merger, or consolidation, including a plan of merger. 831 832 833 834 835

(ii) The liabilities were imposed by court order on a successor. 836 837

(b) "Successor asbestos-related liabilities" includes any liabilities described in division (A)(5)(a)(i) of this section that, after the effective date of the asset purchase, stock purchase, merger, or consolidation, are paid, otherwise discharged, committed to be paid, or committed to be otherwise discharged by or on behalf of the successor, or by or on behalf of a transferor, in connection with any judgment, settlement, or other discharge of those liabilities in this state or another jurisdiction. 838 839 840 841 842 843 844 845 846

(6) "Transferor" means a corporation or its shareholders from which successor asbestos-related liabilities are or were assumed or incurred by a successor or were imposed by court order on a successor. 847 848 849 850

(B) The limitations set forth in division (C) of this section apply to a corporation that is either of the following: 851 852

(1) A successor that became a successor prior to January 1, 1972, if either of the following applies: 853 854

(a) In the case of a successor in a stock purchase or an asset purchase, the successor paid less then fifteen million dollars for the stock or assets of the transferor. 855 856 857

(b) In the case of a successor in a merger or 858

consolidation, the fair market value of the total gross assets of the transferor, at the time of the merger or consolidation, excluding any insurance of the transferor, was less than fifty million dollars. 859 860 861 862

(2) Any successor to a prior successor if the prior successor met the requirements of division (B)(1)(a) or (b) of this section, whichever is applicable. 863 864 865

(C)(1) Except as otherwise provided in division (C)(2) of this section, the cumulative successor asbestos-related liabilities of a corporation shall be limited to either of the following: 866 867 868 869

(a) In the case of a corporation that is a successor in a stock purchase or an asset purchase, the fair market value of the acquired stock or assets of the transferor, as determined on the effective date of the stock or asset purchase; 870 871 872 873

(b) In the case of a corporation that is a successor in a merger or consolidation, the fair market value of the total gross assets of the transferor, as determined on the effective date of the merger or consolidation. 874 875 876 877

(2)(a) If a transferor had assumed or incurred successor asbestos-related liabilities in connection with a prior purchase of assets or stock involving a prior transferor, the fair market value of the assets or stock purchased from the prior transferor, determined as of the effective date of the prior purchase of the assets or stock, shall be substituted for the limitation set forth in division (C)(1)(a) of this section for the purpose of determining the limitation of the liability of a corporation. 878 879 880 881 882 883 884 885 886

(b) If a transferor had assumed or incurred successor 887

asbestos-related liabilities in connection with a merger or consolidation involving a prior transferor, the fair market value of the total gross assets of the prior transferor, determined as of the effective date of the prior merger or consolidation, shall be substituted for the limitation set forth in division (C)(1)(b) of this section for the purpose of determining the limitation of the liability of a corporation. 888 889 890 891 892 893 894

(3) A corporation described in division (C)(1) or (2) of this section shall have no responsibility for any successor asbestos-related liabilities in excess of the limitation of those liabilities as described in the applicable division. 895 896 897 898

(D)(1) A corporation may establish the fair market value of assets, stock, or total gross assets under division (C) of this section by means of any method that is reasonable under the circumstances, including by reference to their going-concern value, to the purchase price attributable to or paid for them in an arm's length transaction, or, in the absence of other readily available information from which fair market value can be determined, to their value recorded on a balance sheet. Assets and total gross assets shall include intangible assets. A showing by the successor of a reasonable determination of the fair market value of assets, stock, or total gross assets is prima-facie evidence of their fair market value. 899 900 901 902 903 904 905 906 907 908 909 910

(2) For purposes of establishing the fair market value of total gross assets under division (D)(1) of this section, the total gross assets include the aggregate coverage under any applicable liability insurance that was issued to the transferor the assets of which are being valued for purposes of the limitations set forth in division (C) of this section, if the insurance has been collected or is collectable to cover the 911 912 913 914 915 916 917

successor asbestos-related liabilities involved. Those successor 918
asbestos-related liabilities do not include any compensation for 919
any liabilities arising from the exposure of workers to asbestos 920
solely during the course of their employment by the transferor. 921
Any settlement of a dispute concerning the insurance coverage 922
described in this division that is entered into by a transferor 923
or successor with the insurer of the transferor before ~~the~~ 924
~~effective date of this section~~ April 7, 2005, is determinative 925
of the aggregate coverage of the liability insurance that is 926
included in the determination of the transferor's total gross 927
assets. 928

(3) After a successor has established a reasonable 929
determination of the fair market value of assets, stock, or 930
total gross assets under divisions (D)(1) and (2) of this 931
section, a claimant that disputes that determination of the fair 932
market value has the burden of establishing a different fair 933
market value. 934

(4)(a) Subject to divisions (D)(4)(b), (c), and (d) of 935
this section, the fair market value of assets, stock, or total 936
gross assets at the time of the asset purchase, stock purchase, 937
merger, or consolidation increases annually, at a rate equal to 938
the sum of the following: 939

(i) The prime rate as listed in the first edition of the 940
wall street journal published for each calendar year since the 941
effective date of the asset purchase, stock purchase, merger, or 942
consolidation, or, if the prime rate is not published in that 943
edition of the wall street journal, the prime rate as reasonably 944
determined on the first business day of the year; 945

(ii) One per cent. 946

(b) The rate that is determined pursuant to division (D) 947
(4)(a) of this section shall not be compounded. 948

(c) The adjustment of the fair market value of assets, 949
stock, or total gross assets shall continue in the manner 950
described in division (D)(4)(a) of this section until the 951
adjusted fair market value is first exceeded by the cumulative 952
amounts of successor asbestos-related liabilities that are paid 953
or committed to be paid by or on behalf of a successor or prior 954
transferor, or by or on behalf of a transferor, after the time 955
of the asset purchase, stock purchase, merger, or consolidation 956
for which the fair market value of assets, stock, or total gross 957
assets is determined. 958

(d) No adjustment of the fair market value of total gross 959
assets as provided in division (D)(4)(a) of this section shall 960
be applied to any liability insurance that is otherwise included 961
in total gross assets as provided in division (D)(2) of this 962
section. 963

(E)(1) The limitations set forth in division (C) of this 964
section shall apply to the following: 965

(a) All asbestos claims, including asbestos claims that 966
are pending on ~~the effective date of this section~~ April 7, 2005, 967
and all litigation involving asbestos claims, including 968
litigation that is pending on ~~the effective date of this section~~ 969
April 7, 2005; 970

(b) Successors of a corporation to which this section 971
applies. 972

(2) The limitations set forth in division (C) of this 973
section do not apply to any of the following: 974

(a) Workers' compensation benefits that are paid by or on 975
behalf of an employer to an employee pursuant to any provision 976
of Chapter 4121., 4123., 4127., ~~or~~ 4131., or 4135. of the 977
Revised Code or comparable workers' compensation law of another 978
jurisdiction; 979

(b) Any claim against a successor that does not constitute 980
a claim for a successor asbestos-related liability; 981

(c) Any obligations arising under the "National Labor 982
Relations Act," 49 Stat. 449, 29 U.S.C. 151 et seq., as amended, 983
or under any collective bargaining agreement; 984

(d) Any contractual rights to indemnification. 985

(F) The courts in this state shall apply, to the fullest 986
extent permissible under the Constitution of the United States, 987
this state's substantive law, including the provisions of this 988
section, to the issue of successor asbestos-related liabilities. 989

Sec. 2317.02. The following persons shall not testify in 990
certain respects: 991

(A)(1) An attorney, concerning a communication made to the 992
attorney by a client in that relation or concerning the 993
attorney's advice to a client, except that the attorney may 994
testify by express consent of the client or, if the client is 995
deceased, by the express consent of the surviving spouse or the 996
executor or administrator of the estate of the deceased client. 997
However, if the client voluntarily reveals the substance of 998
attorney-client communications in a nonprivileged context or is 999
deemed by section 2151.421 of the Revised Code to have waived 1000
any testimonial privilege under this division, the attorney may 1001
be compelled to testify on the same subject. 1002

The testimonial privilege established under this division does not apply concerning either of the following: 1003 1004

(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; 1005 1006 1007 1008 1009 1010

(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. 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020

(2) An attorney, concerning a communication made to the attorney by a client in that relationship or the attorney's advice to a client, except that if the client is an insurance company, the attorney may be compelled to testify, subject to an in camera inspection by a court, about communications made by the client to the attorney or by the attorney to the client that are related to the attorney's aiding or furthering an ongoing or future commission of bad faith by the client, if the party seeking disclosure of the communications has made a prima-facie showing of bad faith, fraud, or criminal misconduct by the client. 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031

(B)(1) A physician, advanced practice registered nurse, or 1032

dentist concerning a communication made to the physician, advanced practice registered nurse, or dentist by a patient in that relation or the advice of a physician, advanced practice registered nurse, or dentist given to a patient, except as otherwise provided in this division, division (B)(2), and division (B)(3) of this section, and except that, if the patient is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the physician or advanced practice registered nurse may be compelled to testify on the same subject. 1033 1034 1035 1036 1037 1038 1039 1040 1041 1042

The testimonial privilege established under this division does not apply, and a physician, advanced practice registered nurse, or dentist may testify or may be compelled to testify, in any of the following circumstances: 1043 1044 1045 1046

(a) In any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. or 4135. of the Revised Code, under any of the following circumstances: 1047 1048 1049 1050 1051

(i) If the patient or the guardian or other legal representative of the patient gives express consent; 1052 1053

(ii) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent; 1054 1055 1056

(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. or 4135. of the Revised Code is filed by the patient, the personal 1057 1058 1059 1060 1061

representative of the estate of the patient if deceased, or the patient's guardian or other legal representative. 1062 1063

(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. 1064 1065 1066 1067 1068 1069 1070

(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. 1071 1072 1073 1074 1075 1076 1077

(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 prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician, advanced practice registered nurse, or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician, advanced practice registered nurse, or dentist to testify in such an action or permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in 1078 1079 1080 1081 1082 1083 1084 1085 1086 1087 1088 1089 1090 1091

the records is maintained. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records. 1092 1093 1094

(e)(i) If the communication was between a patient who has since died and the deceased patient's physician, advanced practice registered nurse, or dentist, the communication is relevant to a dispute between parties who claim through that deceased patient, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased patient when the deceased patient executed a document that is the basis of the dispute or whether the deceased patient was a victim of fraud, undue influence, or duress when the deceased patient executed a document that is the basis of the dispute. 1095 1096 1097 1098 1099 1100 1101 1102 1103 1104 1105

(ii) If neither the spouse of a patient nor the executor or administrator of that patient's estate gives consent under division (B)(1)(a)(ii) of this section, testimony or the disclosure of the patient's medical records by a physician, advanced practice registered nurse, dentist, or other health care provider under division (B)(1)(e)(i) of this section is a permitted use or disclosure of protected health information, as defined in 45 C.F.R. 160.103, and an authorization or opportunity to be heard shall not be required. 1106 1107 1108 1109 1110 1111 1112 1113 1114

(iii) Division (B)(1)(e)(i) of this section does not require a mental health professional to disclose psychotherapy notes, as defined in 45 C.F.R. 164.501. 1115 1116 1117

(iv) An interested person who objects to testimony or disclosure under division (B)(1)(e)(i) of this section may seek a protective order pursuant to Civil Rule 26. 1118 1119 1120

(v) A person to whom protected health information is disclosed under division (B)(1)(e)(i) of this section shall not use or disclose the protected health information for any purpose other than the litigation or proceeding for which the information was requested and shall return the protected health information to the covered entity or destroy the protected health information, including all copies made, at the conclusion of the litigation or proceeding. 1121 1122 1123 1124 1125 1126 1127 1128

(2)(a) If any law enforcement officer submits a written statement to a health care provider that states that an official criminal investigation has begun regarding a specified person or that a criminal action or proceeding has been commenced against a specified person, that requests the provider to supply to the officer copies of any records the provider possesses that pertain to any test or the results of any test administered to the specified person to determine 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 person's whole blood, blood serum or plasma, breath, or urine at any time relevant to the criminal offense in question, and that conforms to section 2317.022 of the Revised Code, the provider, except to the extent specifically prohibited by any law of this state or of the United States, shall supply to the officer a copy of any of the requested records the provider possesses. If the health care provider does not possess any of the requested records, the provider shall give the officer a written statement that indicates that the provider does not possess any of the requested records. 1129 1130 1131 1132 1133 1134 1135 1136 1137 1138 1139 1140 1141 1142 1143 1144 1145 1146 1147 1148

(b) If a health care provider possesses any records of the type described in division (B)(2)(a) of this section regarding the person in question at any time relevant to the criminal 1149 1150 1151

offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test to which the records pertain, the person under whose supervision the test was administered, the custodian of the records, the person who made the records, or the person under whose supervision the records were made. 1152 1153 1154 1155 1156 1157 1158 1159 1160 1161 1162 1163 1164 1165

(3)(a) If the testimonial privilege described in division (B)(1) of this section does not apply as provided in division (B)(1)(a)(iii) of this section, a physician, advanced practice registered nurse, or dentist may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the physician, advanced practice registered nurse, or dentist by the patient in question in that relation, or the advice of the physician, advanced practice registered nurse, or dentist given to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. or 4135. of the Revised Code. 1166 1167 1168 1169 1170 1171 1172 1173 1174 1175 1176 1177 1178 1179

(b) If the testimonial privilege described in division (B)(1) of this section does not apply to a physician, advanced practice registered nurse, or dentist as provided in division 1180 1181 1182

(B)(1)(c) of this section, the physician, advanced practice registered nurse, or dentist, in lieu of personally testifying as to the results of the test in question, may submit a certified copy of those results, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of results submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test in question, the person under whose supervision the test was administered, the custodian of the results of the test, the person who compiled the results, or the person under whose supervision the results were compiled. 1183 1184 1185 1186 1187 1188 1189 1190 1191 1192 1193 1194 1195 1196

(4) The testimonial privilege described in division (B)(1) of this section is not waived when a communication is made by a physician or advanced practice registered nurse to a pharmacist or when there is communication between a patient and a pharmacist in furtherance of the physician-patient or advanced practice registered nurse-patient relation. 1197 1198 1199 1200 1201 1202

(5)(a) As used in divisions (B)(1) to (4) of this section, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a physician, advanced practice registered nurse, or dentist to diagnose, treat, prescribe, or act for a patient. A "communication" may include, but is not limited to, any medical or dental, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis. 1203 1204 1205 1206 1207 1208 1209 1210 1211 1212

(b) As used in division (B)(2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner. 1213 1214 1215 1216

(c) As used in division (B)(5)(b) of this section: 1217

(i) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory health care facility" does not include the private office of a physician, advanced practice registered nurse, or dentist, whether the office is for an individual or group practice. 1218 1219 1220 1221 1222 1223 1224 1225 1226 1227 1228

(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services. 1229 1230 1231

(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code. 1232 1233

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 1234 1235

(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a 1236 1237 1238 1239 1240 1241

nursing facility, as defined in section 5165.01 of the Revised Code; a skilled nursing facility, as defined in section 5165.01 of the Revised Code; and an intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code. 1242 1243 1244 1245 1246

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code. 1247 1248

(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code. 1249 1250 1251

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, advanced practice registered nurses, and dentists. 1252 1253 1254 1255

(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians or advanced practice registered nurses who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code and "advanced practice registered nurse" has the same meaning as in section 4723.01 of the Revised Code. 1256 1257 1258 1259 1260 1261 1262 1263 1264 1265 1266 1267 1268

(C)(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, 1269 1270

concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust. 1271 1272 1273 1274 1275 1276 1277 1278 1279 1280 1281

(2) As used in division (C) of this section: 1282

(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect. 1283 1284 1285 1286

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply: 1287 1288 1289 1290 1291

(i) The confession or confidential communication was made directly to the cleric. 1292 1293

(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. 1294 1295 1296 1297

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of 1298 1299

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; 1300 1301 1302 1303

(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; 1304 1305 1306

(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. 1307 1308 1309 1310 1311 1312

(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 therapist, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication received from a client in that relation or the person's advice to a client unless any of the following applies: 1313 1314 1315 1316 1317 1318 1319 1320 1321 1322 1323

(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger. 1324 1325 1326 1327 1328

(b) The client gives express consent to the testimony. 1329

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent. 1330 1331 1332

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject. 1333 1334 1335 1336

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship. 1337 1338 1339 1340

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action. 1341 1342 1343 1344

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code. 1345 1346 1347 1348 1349 1350 1351

(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code. 1352 1353 1354 1355 1356

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent who takes part in mediation in accordance with the order and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of parenting time rights in relation to their children; 1357 1358 1359 1360 1361 1362 1363 1364 1365 1366 1367 1368 1369 1370

(I) A communications assistant, acting within the scope of the communication assistant's authority, when providing telecommunications relay service pursuant to section 4931.06 of the Revised Code or Title II of the "Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication made through a telecommunications relay service. Nothing in this section shall limit the obligation of a communications assistant to divulge information or testify when mandated by federal law or regulation or pursuant to subpoena in a criminal proceeding. 1371 1372 1373 1374 1375 1376 1377 1378 1379 1380

Nothing in this section shall limit any immunity or privilege granted under federal law or regulation. 1381 1382

(J)(1) A chiropractor in a civil proceeding concerning a communication made to the chiropractor by a patient in that relation or the chiropractor's advice to a patient, except as otherwise provided in this division. The testimonial privilege 1383 1384 1385 1386

established under this division does not apply, and a chiropractor may testify or may be compelled to testify, in any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. or 4135. of the Revised Code, under any of the following circumstances: 1387 1388 1389 1390 1391 1392

(a) If the patient or the guardian or other legal representative of the patient gives express consent. 1393 1394

(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent. 1395 1396 1397

(c) 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. or 4135. 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. 1398 1399 1400 1401 1402 1403 1404

(2) If the testimonial privilege described in division (J)(1) of this section does not apply as provided in division (J)(1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. or 4135. of the Revised Code. 1405 1406 1407 1408 1409 1410 1411 1412 1413 1414 1415 1416

(3) The testimonial privilege established under this division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding. 1417 1418 1419 1420

(4) As used in this division, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis. 1421 1422 1423 1424 1425 1426 1427 1428

(K)(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member's advice to the individual, during a debriefing session. 1429 1430 1431 1432 1433 1434

(2) The testimonial privilege established under division (K)(1) of this section does not apply if any of the following are true: 1435 1436 1437

(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. 1438 1439 1440 1441 1442 1443

(b) The individual who received crisis response services gives express consent to the testimony. 1444 1445

(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. 1446 1447 1448 1449

(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. 1450 1451 1452

(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. 1453 1454 1455 1456

(f) The communication or advice pertains or is related to any criminal act. 1457 1458

(3) As used in division (K) of this section: 1459

(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. 1460 1461 1462 1463

(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 or local crisis response team that holds membership in the Ohio critical incident stress management network. 1464 1465 1466 1467 1468

(c) "Debriefing session" means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster. 1469 1470 1471

(L)(1) Subject to division (L)(2) of this section and except as provided in division (L)(3) of this section, an 1472 1473

employee assistance professional, concerning a communication made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional. 1474 1475 1476 1477

(2) Division (L)(1) of this section applies to an employee assistance professional who meets either or both of the following requirements: 1478 1479 1480

(a) Is certified by the employee assistance certification commission to engage in the employee assistance profession; 1481 1482

(b) Has education, training, and experience in all of the following: 1483 1484

(i) Providing workplace-based services designed to address employer and employee productivity issues; 1485 1486

(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance; 1487 1488 1489 1490

(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues; 1491 1492 1493 1494

(iv) Selecting and evaluating available community resources; 1495 1496

(v) Making appropriate referrals; 1497

(vi) Local and national employee assistance agreements; 1498

(vii) Client confidentiality. 1499

(3) Division (L)(1) of this section does not apply to any 1500

of the following: 1501

(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense; 1502 1503 1504 1505 1506

(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act; 1507 1508 1509

(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse; 1510 1511 1512 1513

(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered; 1514 1515 1516

(e) A civil or criminal malpractice action brought against the employee assistance professional; 1517 1518

(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative; 1519 1520 1521

(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law. 1522 1523

Sec. 2913.48. (A) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following: 1524 1525 1526

(1) Receive workers' compensation benefits to which the person is not entitled; 1527 1528

(2) Make or present or cause to be made or presented a 1529
false or misleading statement with the purpose to secure payment 1530
for goods or services rendered under Chapter 4121., 4123., 1531
4127., ~~or~~ 4131., or 4135. of the Revised Code or to secure 1532
workers' compensation benefits; 1533

(3) Alter, falsify, destroy, conceal, or remove any record 1534
or document that is necessary to fully establish the validity of 1535
any claim filed with, or necessary to establish the nature and 1536
validity of all goods and services for which reimbursement or 1537
payment was received or is requested from, the bureau of 1538
workers' compensation, or a self-insuring employer under Chapter 1539
4121., 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code; 1540

(4) Enter into an agreement or conspiracy to defraud the 1541
bureau or a self-insuring employer by making or presenting or 1542
causing to be made or presented a false claim for workers' 1543
compensation benefits; 1544

(5) Make or present or cause to be made or presented a 1545
false statement concerning manual codes, classification of 1546
employees, payroll, paid compensation, or number of personnel, 1547
when information of that nature is necessary to determine the 1548
actual workers' compensation premium or assessment owed to the 1549
bureau by an employer; 1550

(6) Alter, forge, or create a workers' compensation 1551
certificate to falsely show current or correct workers' 1552
compensation coverage; 1553

(7) Fail to secure or maintain workers' compensation 1554
coverage as required by Chapter 4123. of the Revised Code with 1555
the intent to defraud the bureau of workers' compensation. 1556

(B) Whoever violates this section is guilty of workers' 1557

compensation fraud. Except as otherwise provided in this division, a violation of this section is a misdemeanor of the first degree. If the value of premiums and assessments unpaid pursuant to actions described in division (A)(5), (6), or (7) of this section, or of goods, services, property, or money stolen is one thousand dollars or more and is less than seven thousand five hundred dollars, a violation of this section is a felony of the fifth degree. If the value of premiums and assessments unpaid pursuant to actions described in division (A)(5), (6), or (7) of this section, or of goods, services, property, or money stolen is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, a violation of this section is a felony of the fourth degree. If the value of premiums and assessments unpaid pursuant to actions described in division (A)(5), (6), or (7) of this section, or of goods, services, property, or money stolen is one hundred fifty thousand dollars or more, a violation of this section is a felony of the third degree. 1558 1559 1560 1561 1562 1563 1564 1565 1566 1567 1568 1569 1570 1571 1572 1573 1574 1575

(C) Upon application of the governmental body that conducted the investigation and prosecution of a violation of this section, the court shall order the person who is convicted of the violation to pay the governmental body its costs of investigating and prosecuting the case. These costs are in addition to any other costs or penalty provided in the Revised Code or any other section of law. 1576 1577 1578 1579 1580 1581 1582

(D) The remedies and penalties provided in this section are not exclusive remedies and penalties and do not preclude the use of any other criminal or civil remedy or penalty for any act that is in violation of this section. 1583 1584 1585 1586

(E) As used in this section: 1587

(1) "False" means wholly or partially untrue or deceptive. 1588

(2) "Goods" includes, but is not limited to, medical supplies, appliances, rehabilitative equipment, and any other apparatus or furnishing provided or used in the care, treatment, or rehabilitation of a claimant for workers' compensation benefits. 1589 1590 1591 1592 1593

(3) "Services" includes, but is not limited to, any service provided by any health care provider to a claimant for workers' compensation benefits and any and all services provided by the bureau as part of workers' compensation insurance coverage. 1594 1595 1596 1597 1598

(4) "Claim" means any attempt to cause the bureau, an independent third party with whom the administrator or an employer contracts under section 4121.44 of the Revised Code, or a self-insuring employer to make payment or reimbursement for workers' compensation benefits. 1599 1600 1601 1602 1603

(5) "Employment" means participating in any trade, occupation, business, service, or profession for substantial gainful remuneration. 1604 1605 1606

(6) "Employer," "employee," and "self-insuring employer" have the same meanings as in section 4123.01 of the Revised Code. 1607 1608 1609

(7) "Remuneration" includes, but is not limited to, wages, commissions, rebates, and any other reward or consideration. 1610 1611

(8) "Statement" includes, but is not limited to, any oral, written, electronic, electronic impulse, or magnetic communication notice, letter, memorandum, receipt for payment, invoice, account, financial statement, or bill for services; a 1612 1613 1614 1615

diagnosis, prognosis, prescription, hospital, medical, or dental 1616
chart or other record; and a computer generated document. 1617

(9) "Records" means any medical, professional, financial, 1618
or business record relating to the treatment or care of any 1619
person, to goods or services provided to any person, or to rates 1620
paid for goods or services provided to any person, or any record 1621
that the administrator of workers' compensation requires 1622
pursuant to rule. 1623

(10) "Workers' compensation benefits" means any 1624
compensation or benefits payable under Chapter 4121., 4123., 1625
4127., ~~or~~ 4131., or 4135. of the Revised Code. 1626

Sec. 3121.899. (A) The new hire reports filed with the 1627
department of job and family services pursuant to section 1628
3121.891 of the Revised Code shall not be considered public 1629
records for purposes of section 149.43 of the Revised Code. The 1630
director of job and family services may adopt rules under 1631
section 3125.51 of the Revised Code governing access to, and use 1632
and disclosure of, information contained in the new hire 1633
reports. 1634

(B) The department of job and family services may disclose 1635
information in the new hire reports to all of the following: 1636

(1) Any child support enforcement agency and any agent 1637
under contract with a child support enforcement agency for the 1638
purposes listed in division (A) of section 3121.898 of the 1639
Revised Code; 1640

(2) Any county department of job and family services and 1641
any agent under contract with a county department of job and 1642
family services for the purposes listed in division (B) of 1643
section 3121.898 of the Revised Code; 1644

(3) Employees of the department of job and family services 1645
and any agent under contract with the department of job and 1646
family services for the purposes listed in divisions (B) and (C) 1647
of section 3121.898 of the Revised Code; 1648

(4) The administrator of workers' compensation for the 1649
purpose of administering the workers' compensation system 1650
pursuant to Chapters 4121., 4123., 4127., ~~and~~ 4131., and 4135. 1651
of the Revised Code; 1652

(5) To state agencies operating employment security and 1653
workers compensation programs for the purpose of administering 1654
those programs, pursuant to division (D) of section 3121.898 of 1655
the Revised Code. 1656

Sec. 3701.741. (A) Each health care provider and medical 1657
records company shall provide copies of medical records in 1658
accordance with this section. 1659

(B) Except as provided in divisions (C) and (E) of this 1660
section, a health care provider or medical records company that 1661
receives a request for a copy of a patient's medical record 1662
shall charge not more than the amounts set forth in this 1663
section. 1664

(1) If the request is made by the patient or the patient's 1665
personal representative, total costs for copies and all services 1666
related to those copies shall not exceed the sum of the 1667
following: 1668

(a) Except as provided in division (B)(1)(b) of this 1669
section, with respect to data recorded on paper or 1670
electronically, the following amounts adjusted in accordance 1671
with section 3701.742 of the Revised Code: 1672

(i) Two dollars and seventy-four cents per page for the first ten pages; 1673 1674

(ii) Fifty-seven cents per page for pages eleven through fifty; 1675 1676

(iii) Twenty-three cents per page for pages fifty-one and higher; 1677 1678

(b) With respect to data resulting from an x-ray, magnetic resonance imaging (MRI), or computed axial tomography (CAT) scan and recorded on paper or film, one dollar and eighty-seven cents per page; 1679 1680 1681 1682

(c) The actual cost of any related postage incurred by the health care provider or medical records company. 1683 1684

(2) If the request is made other than by the patient or the patient's personal representative, total costs for copies and all services related to those copies shall not exceed the sum of the following: 1685 1686 1687 1688

(a) An initial fee of sixteen dollars and eighty-four cents adjusted in accordance with section 3701.742 of the Revised Code, which shall compensate for the records search; 1689 1690 1691

(b) Except as provided in division (B)(2)(c) of this section, with respect to data recorded on paper or electronically, the following amounts adjusted in accordance with section 3701.742 of the Revised Code: 1692 1693 1694 1695

(i) One dollar and eleven cents per page for the first ten pages; 1696 1697

(ii) Fifty-seven cents per page for pages eleven through fifty; 1698 1699

(iii) Twenty-three cents per page for pages fifty-one and 1700
higher. 1701

(c) With respect to data resulting from an x-ray, magnetic 1702
resonance imaging (MRI), or computed axial tomography (CAT) scan 1703
and recorded on paper or film, one dollar and eighty-seven cents 1704
per page; 1705

(d) The actual cost of any related postage incurred by the 1706
health care provider or medical records company. 1707

(C)(1) On request, a health care provider or medical 1708
records company shall provide one copy of the patient's medical 1709
record and one copy of any records regarding treatment performed 1710
subsequent to the original request, not including copies of 1711
records already provided, without charge to the following: 1712

(a) The bureau of workers' compensation, in accordance 1713
with Chapters 4121. ~~and~~ , 4123., and 4135. of the Revised Code 1714
and the rules adopted under those chapters; 1715

(b) The industrial commission, in accordance with Chapters 1716
4121. ~~and~~ , 4123., and 4135. of the Revised Code and the rules 1717
adopted under those chapters; 1718

(c) The occupational pneumoconiosis board, in accordance 1719
with Chapter 4135. of the Revised Code; 1720

(d) The department of medicaid or a county department of 1721
job and family services, in accordance with Chapters 5160., 1722
5161., 5162., 5163., 5164., 5165., 5166., and 5167. of the 1723
Revised Code and the rules adopted under those chapters; 1724

~~(d)~~ (e) The attorney general, in accordance with sections 1725
2743.51 to 2743.72 of the Revised Code and any rules that may be 1726
adopted under those sections; 1727

~~(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. 1728 1729 1730 1731 1732 1733

(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. 1734 1735 1736 1737

(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. 1738 1739 1740

(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: 1741 1742 1743 1744

(1) A patient, a patient's personal representative, or an authorized person; 1745 1746

(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. 1747 1748 1749 1750

(F) This section does not apply to medical records the copying of which is covered by section 173.20 of the Revised Code or by 42 C.F.R. 483.10. 1751 1752 1753

Sec. 3923.281. (A) As used in this section: 1754

(1) "Biologically based mental illness" means 1755

schizophrenia, schizoaffective disorder, major depressive 1756
disorder, bipolar disorder, paranoia and other psychotic 1757
disorders, obsessive-compulsive disorder, and panic disorder, as 1758
these terms are defined in the most recent edition of the 1759
diagnostic and statistical manual of mental disorders published 1760
by the American psychiatric association. 1761

(2) "Policy of sickness and accident insurance" has the 1762
same meaning as in section 3923.01 of the Revised Code, but 1763
excludes any hospital indemnity, medicare supplement, long-term 1764
care, disability income, one-time-limited-duration policy that 1765
is less than twelve months, supplemental benefit, or other 1766
policy that provides coverage for specific diseases or accidents 1767
only; any policy that provides coverage for workers' 1768
compensation claims compensable pursuant to Chapters 4121.~~ and ~~, 1769
4123., and 4135. of the Revised Code; and any policy that 1770
provides coverage to medicaid recipients. 1771

(B) Notwithstanding section 3901.71 of the Revised Code, 1772
and subject to division (E) of this section, every policy of 1773
sickness and accident insurance shall provide benefits for the 1774
diagnosis and treatment of biologically based mental illnesses 1775
on the same terms and conditions as, and shall provide benefits 1776
no less extensive than, those provided under the policy of 1777
sickness and accident insurance for the treatment and diagnosis 1778
of all other physical diseases and disorders, if both of the 1779
following apply: 1780

(1) The biologically based mental illness is clinically 1781
diagnosed by a physician authorized under Chapter 4731. of the 1782
Revised Code to practice medicine and surgery or osteopathic 1783
medicine and surgery; a psychologist licensed under Chapter 1784
4732. of the Revised Code; a licensed professional clinical 1785

counselor, licensed professional counselor, independent social worker, or independent marriage and family therapist licensed under Chapter 4757. of the Revised Code; or a clinical nurse specialist or certified nurse practitioner licensed under Chapter 4723. of the Revised Code whose nursing specialty is mental health. 1786 1787 1788 1789 1790 1791

(2) The prescribed treatment is not experimental or investigational, having proven its clinical effectiveness in accordance with generally accepted medical standards. 1792 1793 1794

(C) Division (B) of this section applies to all coverages and terms and conditions of the policy of sickness and accident insurance, including, but not limited to, coverage of inpatient hospital services, outpatient services, and medication; maximum lifetime benefits; copayments; and individual and family deductibles. 1795 1796 1797 1798 1799 1800

(D) Nothing in this section shall be construed as prohibiting a sickness and accident insurance company from taking any of the following actions: 1801 1802 1803

(1) Negotiating separately with mental health care providers with regard to reimbursement rates and the delivery of health care services; 1804 1805 1806

(2) Offering policies that provide benefits solely for the diagnosis and treatment of biologically based mental illnesses; 1807 1808

(3) Managing the provision of benefits for the diagnosis or treatment of biologically based mental illnesses through the use of pre-admission screening, by requiring beneficiaries to obtain authorization prior to treatment, or through the use of any other mechanism designed to limit coverage to that treatment determined to be necessary; 1809 1810 1811 1812 1813 1814

(4) Enforcing the terms and conditions of a policy of sickness and accident insurance. 1815 1816

(E) An insurer that offers any policy of sickness and accident insurance is not required to provide benefits for the diagnosis and treatment of biologically based mental illnesses pursuant to division (B) of this section if all of the following apply: 1817 1818 1819 1820 1821

(1) The insurer submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the insurer's costs for claims and administrative expenses for the coverage of all other physical diseases and disorders to increase by more than one per cent per year. 1822 1823 1824 1825 1826 1827 1828 1829

(2) The insurer submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase described in division (E)(1) of this section could reasonably justify an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders. 1830 1831 1832 1833 1834 1835 1836

(3) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (E)(1) and (2) of this section: 1837 1838 1839

(a) Incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the insurer's costs for claims and administrative expenses for the coverage of all other 1840 1841 1842 1843

physical diseases and disorders to increase by more than one per cent per year.

(b) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders.

Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code.

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

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

(B) A contract for payments made to providers for rendering health care services to claimants pursuant to claims made under Chapter 4121., 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code;

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

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

(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, authorized to enter into a contract for the construction of a public improvement or to construct the same by the direct

employment of labor, or any institution supported in whole or in part by public funds and said sections apply to expenditures of such institutions made in whole or in part from public funds. 1872 1873 1874

(B) "Construction" means any of the following: 1875

(1) Except as provided in division (B)(3) of this section, any new construction of a public improvement, the total overall project cost of which is fairly estimated to be more than the following amounts and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority: 1876 1877 1878 1879 1880 1881

(a) One hundred twenty-five thousand dollars, beginning on September 29, 2011, and continuing for one year thereafter; 1882 1883

(b) Two hundred thousand dollars, beginning when the time period described in division (B)(1)(a) of this section expires and continuing for one year thereafter; 1884 1885 1886

(c) Two hundred fifty thousand dollars, beginning when the time period described in division (B)(1)(b) of this section expires. 1887 1888 1889

(2) Except as provided in division (B)(4) of this section, any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement, the total overall project cost of which is fairly estimated to be more than the following amounts and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority: 1890 1891 1892 1893 1894 1895 1896

(a) Thirty-eight thousand dollars, beginning on September 29, 2011, and continuing for one year thereafter; 1897 1898

(b) Sixty thousand dollars, beginning when the time period 1899

described in division (B)(2)(a) of this section expires and continuing for one year thereafter; 1900 1901

(c) Seventy-five thousand dollars, beginning when the time period described in division (B)(2)(b) of this section expires. 1902 1903

(3) Any new construction of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction, the total overall project cost of which is fairly estimated to be more than seventy-eight thousand two hundred fifty-eight dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority; 1904 1905 1906 1907 1908 1909 1910 1911 1912

(4) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction, the total overall project cost of which is fairly estimated to be more than twenty-three thousand four hundred forty-seven dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority. 1913 1914 1915 1916 1917 1918 1919 1920 1921 1922

(C) "Public improvement" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by a public authority of the state or any political subdivision thereof or by any person who, pursuant to a contract with a public authority, constructs any structure for a public authority of the state or a political subdivision thereof. When a public 1923 1924 1925 1926 1927 1928 1929

authority rents or leases a newly constructed structure within six months after completion of such construction, all work performed on such structure to suit it for occupancy by a public authority is a "public improvement." "Public improvement" does not include an improvement authorized by section 940.06 of the Revised Code that is constructed pursuant to a contract with a soil and water conservation district, as defined in section 940.01 of the Revised Code, or performed as a result of a petition filed pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, wherein no less than seventy-five per cent of the project is located on private land and no less than seventy-five per cent of the cost of the improvement is paid for by private property owners pursuant to Chapter 940., 6131., 6133., or 6135. of the Revised Code. 1930 1931 1932 1933 1934 1935 1936 1937 1938 1939 1940 1941 1942 1943

(D) "Locality" means the county wherein the physical work upon any public improvement is being performed. 1944 1945

(E) "Prevailing wages" means the sum of the following: 1946

(1) The basic hourly rate of pay; 1947

(2) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; 1948 1949 1950

(3) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing the following fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected: 1951 1952 1953 1954 1955 1956

(a) Medical or hospital care or insurance to provide such; 1957

(b) Pensions on retirement or death or insurance to 1958
provide such; 1959

(c) Compensation for injuries or illnesses resulting from 1960
occupational activities if it is in addition to that coverage 1961
required by Chapters 4121. ~~and~~ , 4123., and 4135. of the Revised 1962
Code; 1963

(d) Supplemental unemployment benefits that are in 1964
addition to those required by Chapter 4141. of the Revised Code; 1965

(e) Life insurance; 1966

(f) Disability and sickness insurance; 1967

(g) Accident insurance; 1968

(h) Vacation and holiday pay; 1969

(i) Defraying of costs for apprenticeship or other similar 1970
training programs which are beneficial only to the laborers and 1971
mechanics affected; 1972

(j) Other bona fide fringe benefits. 1973

None of the benefits enumerated in division (E)(3) of this 1974
section may be considered in the determination of prevailing 1975
wages if federal, state, or local law requires contractors or 1976
subcontractors to provide any of such benefits. 1977

(F) "Interested party," with respect to a particular 1978
contract for construction of a public improvement, means: 1979

(1) Any person who submits a bid for the purpose of 1980
securing the award of the contract; 1981

(2) Any person acting as a subcontractor of a person 1982
described in division (F)(1) of this section; 1983

(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; 1984 1985 1986 1987 1988 1989

(4) Any association having as members any of the persons described in division (F)(1) or (2) of this section. 1990 1991

(G) Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an office of trust, command, or authority in a corporation, business trust, partnership, or association. 1992 1993 1994 1995

Sec. 4121.03. (A) The governor shall appoint from among the members of the industrial commission the chairperson of the industrial commission. The chairperson shall serve as chairperson at the pleasure of the governor. The chairperson is the head of the commission and its chief executive officer. 1996 1997 1998 1999 2000

(B) The chairperson shall appoint, after consultation with other commission members and obtaining the approval of at least one other commission member, an executive director of the commission. The executive director shall serve at the pleasure of the chairperson. The executive director, under the direction of the chairperson, shall perform all of the following duties: 2001 2002 2003 2004 2005 2006

(1) Act as chief administrative officer for the commission; 2007 2008

(2) Ensure that all commission personnel follow the rules of the commission; 2009 2010

(3) Ensure that all orders, awards, and determinations are 2011

properly heard and signed, prior to attesting to the documents; 2012

(4) Coordinate, to the fullest extent possible, commission 2013
activities with the bureau of workers' compensation activities; 2014

(5) Do all things necessary for the efficient and 2015
effective implementation of the duties of the commission. 2016

The responsibilities assigned to the executive director of 2017
the commission do not relieve the chairperson from final 2018
responsibility for the proper performance of the acts specified 2019
in this division. 2020

(C) The chairperson shall do all of the following: 2021

(1) Except as otherwise provided in this division, employ, 2022
promote, supervise, remove, and establish the compensation of 2023
all employees as needed in connection with the performance of 2024
the commission's duties under this chapter and Chapters 4123., 2025
4127., ~~and~~ 4131., and 4135. of the Revised Code and may assign 2026
to them their duties to the extent necessary to achieve the most 2027
efficient performance of its functions, and to that end may 2028
establish, change, or abolish positions, and assign and reassign 2029
duties and responsibilities of every employee of the commission. 2030
The civil service status of any person employed by the 2031
commission prior to November 3, 1989, is not affected by this 2032
section. Personnel employed by the bureau or the commission who 2033
are subject to Chapter 4117. of the Revised Code shall retain 2034
all of their rights and benefits conferred pursuant to that 2035
chapter as it presently exists or is hereafter amended and 2036
nothing in this chapter or Chapter 4123. of the Revised Code 2037
shall be construed as eliminating or interfering with Chapter 2038
4117. of the Revised Code or the rights and benefits conferred 2039
under that chapter to public employees or to any bargaining 2040

unit. 2041

(2) Hire district and staff hearing officers after consultation with other commission members and obtaining the approval of at least one other commission member; 2042 2043 2044

(3) Fire staff and district hearing officers when the chairperson finds appropriate after obtaining the approval of at least one other commission member; 2045 2046 2047

(4) Maintain the office for the commission in Columbus; 2048

(5) To the maximum extent possible, use electronic data processing equipment for the issuance of orders immediately following a hearing, scheduling of hearings and medical examinations, tracking of claims, retrieval of information, and any other matter within the commission's jurisdiction, and shall provide and input information into the electronic data processing equipment as necessary to effect the success of the claims tracking system established pursuant to division (B)(14) of section 4121.121 of the Revised Code; 2049 2050 2051 2052 2053 2054 2055 2056 2057

(6) Exercise all administrative and nonadjudicatory powers and duties conferred upon the commission by Chapters 4121., 4123., 4127., ~~and~~ 4131.<u>, and 4135.</u> of the Revised Code; 2058 2059 2060

(7) Approve all contracts for special services. 2061

(D) The chairperson is responsible for all administrative matters and may secure for the commission facilities, equipment, and supplies necessary to house the commission, any employees, and files and records under the commission's control and to discharge any duty imposed upon the commission by law, the expense thereof to be audited and paid in the same manner as other state expenses. For that purpose, the chairperson, 2062 2063 2064 2065 2066 2067 2068

separately from the budget prepared by the administrator of 2069
workers' compensation, shall prepare and submit to the office of 2070
budget and management a budget for each biennium according to 2071
sections 101.532 and 107.03 of the Revised Code. The budget 2072
submitted shall cover the costs of the commission and staff and 2073
district hearing officers in the discharge of any duty imposed 2074
upon the chairperson, the commission, and hearing officers by 2075
law. 2076

(E) A majority of the commission constitutes a quorum to 2077
transact business. No vacancy impairs the rights of the 2078
remaining members to exercise all of the powers of the 2079
commission, so long as a majority remains. Any investigation, 2080
inquiry, or hearing that the commission may hold or undertake 2081
may be held or undertaken by or before any one member of the 2082
commission, or before one of the deputies of the commission, 2083
except as otherwise provided in this chapter and Chapters 4123., 2084
4127., ~~and~~ 4131., and 4135. of the Revised Code. Every order 2085
made by a member, or by a deputy, when approved and confirmed by 2086
a majority of the members, and so shown on its record of 2087
proceedings, is the order of the commission. The commission may 2088
hold sessions at any place within the state. The commission is 2089
responsible for all of the following: 2090

(1) Establishing the overall adjudicatory policy and 2091
management of the commission under this chapter and Chapters 2092
4123., 4127., ~~and~~ 4131., and 4135. of the Revised Code, except 2093
for those administrative matters within the jurisdiction of the 2094
chairperson, bureau of workers' compensation, and the 2095
administrator of workers' compensation under those chapters; 2096

(2) Hearing appeals and reconsiderations under this 2097
chapter and Chapters 4123., 4127., ~~and~~ 4131., and 4135. of the 2098

Revised Code; 2099

(3) Engaging in rulemaking where required by this chapter or Chapter 4123., 4127., ~~or~~ 4131.<u>, or 4135.</u> of the Revised Code. 2100 2101

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; two members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representatives of employee organizations and at least one of these two individuals shall be a member of the executive committee of the largest statewide labor federation; three members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representatives of employers, one of whom represents self-insuring employers, one of whom is a state fund employer who employs one hundred or more employees, and one of whom is a state fund employer who employs less than one hundred employees; two members shall be individuals who, on account of their vocation, employment, or affiliations, can be classed as investment and securities experts who have direct experience in the management, analysis, supervision, or investment of assets and are residents of this state; one member who shall be a certified public accountant; one member who shall be an actuary who is a member in good standing with the American academy of actuaries or who is an associate or fellow with the casualty actuarial society; and one member shall represent the public and also be an individual who, on account of the individual's previous vocation, employment, or affiliations, cannot be 2102 2103 2104 2105 2106 2107 2108 2109 2110 2111 2112 2113 2114 2115 2116 2117 2118 2119 2120 2121 2122 2123 2124 2125 2126 2127 2128 2129

classed as either predominantly representative of employees or of employers. The governor shall select the chairperson of the board who shall serve as chairperson at the pleasure of the governor. 2130 2131 2132 2133

None of the members of the board, within one year immediately preceding the member's appointment, shall have been employed by the bureau of workers' compensation or by any person, partnership, or corporation that has provided to the bureau services of a financial or investment nature, including the management, analysis, supervision, or investment of assets. 2134 2135 2136 2137 2138 2139

(B) Of the initial appointments made to the board, the governor shall appoint the member who represents employees, one member who represents employers, and the member who represents the public to a term ending one year after June 11, 2007; one member who represents employers, one member who represents employee organizations, one member who is an investment and securities expert, and the member who is a certified public accountant to a term ending two years after June 11, 2007; and one member who represents employers, one member who represents employee organizations, one member who is an investment and securities expert, and the member who is an actuary to a term ending three years after June 11, 2007. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. 2140 2141 2142 2143 2144 2145 2146 2147 2148 2149 2150 2151 2152 2153 2154 2155 2156

Members may be reappointed. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office 2157 2158 2159

as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first. 2160 2161 2162 2163

(C) In making appointments to the board, the governor shall select the members from the list of names submitted by the workers' compensation board of directors nominating committee pursuant to this division. The nominating committee shall submit to the governor a list containing four separate names for each of the members on the board. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list. 2164 2165 2166 2167 2168 2169 2170 2171

At least thirty days prior to a vacancy occurring as a result of the expiration of a term and within thirty days after other vacancies occurring on the board, the nominating committee shall submit an initial list containing four names for each vacancy. Within fourteen days after the submission of the initial list, the governor either shall appoint individuals from that list or request the nominating committee to submit another list of four names for each member the governor has not appointed from the initial list, which list the nominating committee shall submit to the governor within fourteen days after the governor's request. The governor then shall appoint, within seven days after the submission of the second list, one of the individuals from either list to fill the vacancy for which the governor has not made an appointment from the initial list. If the governor appoints an individual to fill a vacancy occurring as a result of the expiration of a term, the individual appointed shall begin serving as a member of the board when the term for which the individual's predecessor was appointed expires or immediately upon appointment by the 2172 2173 2174 2175 2176 2177 2178 2179 2180 2181 2182 2183 2184 2185 2186 2187 2188 2189 2190

governor, whichever occurs later. With respect to the filling of vacancies, the nominating committee shall provide the governor with a list of four individuals who are, in the judgment of the nominating committee, the most fully qualified to accede to membership on the board. 2191 2192 2193 2194 2195

In order for the name of an individual to be submitted to the governor under this division, the nominating committee shall approve the individual by an affirmative vote of a majority of its members. 2196 2197 2198 2199

(D) All members of the board shall receive their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members and also shall receive an annual salary not to exceed sixty thousand dollars in total, payable on the following basis: 2200 2201 2202 2203 2204 2205

(1) Except as provided in division (D)(2) of this section, a member shall receive two thousand five hundred dollars during a month in which the member attends one or more meetings of the board and shall receive no payment during a month in which the member attends no meeting of the board. 2206 2207 2208 2209 2210

(2) A member may receive no more than thirty thousand dollars per year to compensate the member for attending meetings of the board, regardless of the number of meetings held by the board during a year or the number of meetings in excess of twelve within a year that the member attends. 2211 2212 2213 2214 2215

(3) Except as provided in division (D)(4) of this section, if a member serves on the workers' compensation audit committee, workers' compensation actuarial committee, or the workers' compensation investment committee, the member shall receive two 2216 2217 2218 2219

thousand five hundred dollars during a month in which the member attends one or more meetings of the committee on which the member serves and shall receive no payment during any month in which the member attends no meeting of that committee. 2220 2221 2222 2223

(4) A member may receive no more than thirty thousand dollars per year to compensate the member for attending meetings of any of the committees specified in division (D)(3) of this section, regardless of the number of meetings held by a committee during a year or the number of committees on which a member serves. 2224 2225 2226 2227 2228 2229

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., 4135., 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. 2230 2231 2232 2233 2234 2235 2236

(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. 2237 2238 2239 2240 2241

(F) The board shall: 2242

(1) Establish the overall administrative policy for the bureau for the purposes of this chapter and Chapters 4123., 4125., 4127., 4131., 4133., 4135., and 4167. of the Revised Code; 2243 2244 2245 2246

(2) Review progress of the bureau in meeting its cost and quality objectives and in complying with this chapter and 2247 2248

Chapters 4123., 4125., 4127., 4131., 4133., 4135., and 4167. of 2249
the Revised Code; 2250

(3) Submit an annual report to the president of the 2251
senate, the speaker of the house of representatives, and the 2252
governor and include all of the following in that report: 2253

(a) An evaluation of the cost and quality objectives of 2254
the bureau; 2255

(b) A statement of the net assets available for the 2256
provision of compensation and benefits under this chapter and 2257
Chapters 4123., 4127., ~~and~~ 4131., and 4135. of the Revised Code 2258
as of the last day of the fiscal year; 2259

(c) A statement of any changes that occurred in the net 2260
assets available, including employer premiums and net investment 2261
income, for the provision of compensation and benefits and 2262
payment of administrative expenses, between the first and last 2263
day of the fiscal year immediately preceding the date of the 2264
report; 2265

(d) The following information for each of the six 2266
consecutive fiscal years occurring previous to the report: 2267

(i) A schedule of the net assets available for 2268
compensation and benefits; 2269

(ii) The annual cost of the payment of compensation and 2270
benefits; 2271

(iii) Annual administrative expenses incurred; 2272

(iv) Annual employer premiums allocated for the provision 2273
of compensation and benefits. 2274

(e) A description of any significant changes that occurred 2275

during the six years for which the board provided the information required under division (F)(3)(d) of this section that affect the ability of the board to compare that information from year to year. 2276 2277 2278 2279

(4) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division. 2280 2281 2282

(5) Study issues as requested by the administrator or the governor; 2283 2284

(6) Contract with all of the following: 2285

(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates; 2286 2287 2288

(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties; 2289 2290

(c) An independent fiduciary counsel to assist the board in the performance of its duties. 2291 2292

(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; 2293 2294 2295 2296

(8) Review and publish the investment policy no less than annually and make copies available to interested parties; 2297 2298

(9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board; 2299 2300 2301

(10) Vote to open each investment class and allow the 2302

administrator to invest in an investment class only if the board, by a majority vote, opens that class; 2303 2304

(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; 2305 2306 2307 2308 2309

(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 leader of the house of representatives; 2310 2311 2312 2313

(13) Advise and consent on all of the following: 2314

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating; 2315 2316 2317 2318 2319 2320

(b) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code; 2321 2322

(c) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code; 2323 2324 2325 2326

(d) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents. 2327 2328 2329 2330

As used in this division, "public health care worker" and 2331
"exposure incident" have the same meanings as in section 4167.25 2332
of the Revised Code. 2333

(14) Perform all duties required under this chapter and 2334
Chapters 4123., 4125., 4127., 4131., 4133., 4135., and 4167. of 2335
the Revised Code; 2336

(15) Meet with the governor on an annual basis to discuss 2337
the administrator's performance of the duties specified in this 2338
chapter and Chapters 4123., 4125., 4127., 4131., 4133., 4135., 2339
and 4167. of the Revised Code; 2340

(16) Develop and participate in a bureau of workers' 2341
compensation board of directors education program that consists 2342
of all of the following: 2343

(a) An orientation component for newly appointed members; 2344

(b) A continuing education component for board members who 2345
have served for at least one year; 2346

(c) A curriculum that includes education about each of the 2347
following topics: 2348

(i) Board member duties and responsibilities; 2349

(ii) Compensation and benefits paid pursuant to this 2350
chapter and Chapters 4123., 4127., ~~and~~ 4131., and 4135. of the 2351
Revised Code; 2352

(iii) Ethics; 2353

(iv) Governance processes and procedures; 2354

(v) Actuarial soundness; 2355

(vi) Investments; 2356

(vii) Any other subject matter the board believes is reasonably related to the duties of a board member. 2357 2358

(17) Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state. 2359 2360 2361

(G) The board may do both of the following: 2362

(1) Vote to close any investment class; 2363

(2) Create any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment committee that the board determines are necessary to assist the board in performing its duties. 2364 2365 2366 2367 2368

(H) The office of a member of the board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. The vacancy shall be filled in the same manner as the original appointment. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible to be a member of the board. A member who receives a bill of indictment for any of the offenses specified in this section shall be automatically suspended from the board pending resolution of the criminal matter. 2369 2370 2371 2372 2373 2374 2375 2376 2377 2378 2379 2380

(I) For the purposes of division (G)(1) of section 121.22 of the Revised Code, the meeting between the governor and the board to review the administrator's performance as required under division (F)(15) of this section shall be considered a meeting regarding the employment of the administrator. 2381 2382 2383 2384 2385

Sec. 4121.121. (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an organization or organizations of substantial size and complexity. A person appointed to the position of administrator also shall possess a minimum of five years of experience in the field of workers' compensation insurance or in another insurance industry, except as otherwise provided when the conditions specified in division (C) of this section are satisfied. The governor shall appoint 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., 4135., 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. 2386 2387 2388 2389 2390 2391 2392 2393 2394 2395 2396 2397 2398 2399 2400 2401 2402 2403 2404 2405 2406 2407 2408

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 2409 2410 2411 2412 2413 2414 2415 2416

of the administrator's duties. 2417

(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., 4135., and 4167. of the Revised Code, and in the discharge thereof shall do all of the following: 2418 2419 2420 2421 2422 2423

(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., 4135., and 4167. of the Revised Code, except the acts and the exercise of authority and power that is required of and vested in the bureau of workers' compensation board of directors or the industrial commission pursuant to those chapters. The treasurer of state shall honor all warrants signed by the administrator, or by one or more of the administrator's employees, authorized by the administrator in writing, or bearing the facsimile signature of the administrator or such employee under sections 4123.42 and 4123.44 of the Revised Code. 2424 2425 2426 2427 2428 2429 2430 2431 2432 2433 2434 2435 2436

(2) Employ, direct, and supervise all employees required in connection with the performance of the duties assigned to the bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 4133., 4135., and 4167. of the Revised Code, including an actuary, and may establish job classification plans and compensation for all employees of the bureau provided that this grant of authority shall not be construed as affecting any employee for whom the state employment relations board has established an appropriate bargaining unit under section 4117.06 of the Revised Code. All positions of employment in the bureau 2437 2438 2439 2440 2441 2442 2443 2444 2445 2446

are in the classified civil service except those employees the 2447
administrator may appoint to serve at the administrator's 2448
pleasure in the unclassified civil service pursuant to section 2449
124.11 of the Revised Code. The administrator shall fix the 2450
salaries of employees the administrator appoints to serve at the 2451
administrator's pleasure, including the chief operating officer, 2452
staff physicians, and other senior management personnel of the 2453
bureau ~~and~~. The administrator shall establish the compensation 2454
of staff attorneys of the bureau's legal section and their 2455
immediate supervisors, and take whatever steps are necessary to 2456
provide adequate compensation for other staff attorneys. The 2457
administrator shall establish the compensation of the members of 2458
the occupational pneumoconiosis board created in section 4135.07 2459
of the Revised Code. 2460

The administrator may appoint a person who holds a 2461
certified position in the classified service within the bureau 2462
to a position in the unclassified service within the bureau. A 2463
person appointed pursuant to this division to a position in the 2464
unclassified service shall retain the right to resume the 2465
position and status held by the person in the classified service 2466
immediately prior to the person's appointment in the 2467
unclassified service, regardless of the number of positions the 2468
person held in the unclassified service. An employee's right to 2469
resume a position in the classified service may only be 2470
exercised when the administrator demotes the employee to a pay 2471
range lower than the employee's current pay range or revokes the 2472
employee's appointment to the unclassified service. An employee 2473
who holds a position in the classified service and who is 2474
appointed to a position in the unclassified service on or after 2475
January 1, 2016, shall have the right to resume a position in 2476
the classified service under this division only within five 2477

years after the effective date of the employee's appointment in 2478
the unclassified service. An employee forfeits the right to 2479
resume a position in the classified service when the employee is 2480
removed from the position in the unclassified service due to 2481
incompetence, inefficiency, dishonesty, drunkenness, immoral 2482
conduct, insubordination, discourteous treatment of the public, 2483
neglect of duty, violation of this chapter or Chapter 124., 2484
4123., 4125., 4127., 4131., 4133., 4135., or 4167. of the 2485
Revised Code, violation of the rules of the director of 2486
administrative services or the administrator, any other failure 2487
of good behavior, any other acts of misfeasance, malfeasance, or 2488
nonfeasance in office, or conviction of a felony while employed 2489
in the civil service. An employee also forfeits the right to 2490
resume a position in the classified service upon transfer to a 2491
different agency. 2492

Reinstatement to a position in the classified service 2493
shall be to a position substantially equal to that position in 2494
the classified service held previously, as certified by the 2495
department of administrative services. If the position the 2496
person previously held in the classified service has been placed 2497
in the unclassified service or is otherwise unavailable, the 2498
person shall be appointed to a position in the classified 2499
service within the bureau that the director of administrative 2500
services certifies is comparable in compensation to the position 2501
the person previously held in the classified service. Service in 2502
the position in the unclassified service shall be counted as 2503
service in the position in the classified service held by the 2504
person immediately prior to the person's appointment in the 2505
unclassified service. When a person is reinstated to a position 2506
in the classified service as provided in this division, the 2507
person is entitled to all rights, status, and benefits accruing 2508

to the position during the person's time of service in the position in the unclassified service. 2509 2510

(3) Reorganize the work of the bureau, its sections, departments, and offices to the extent necessary to achieve the most efficient performance of its functions and to that end may establish, change, or abolish positions and assign and reassign duties and responsibilities of every employee of the bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by the commission is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit. 2511 2512 2513 2514 2515 2516 2517 2518 2519 2520 2521 2522 2523 2524 2525 2526 2527 2528 2529 2530 2531

(4) Provide offices, equipment, supplies, and other facilities for the bureau. 2532 2533

(5) Prepare and submit to the board information the administrator considers pertinent or the board requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the board, for classifications of occupations or industries, for 2534 2535 2536 2537 2538

premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating. The administrator shall obtain, prepare, and submit any other information the board requires for the prompt and efficient discharge of its duties. 2539 2540 2541 2542 2543

(6) Keep the accounts required by division (A) of section 4123.34 of the Revised Code and all other accounts and records necessary to the collection, administration, and distribution of the workers' compensation funds and shall obtain the statistical and other information required by section 4123.19 of the Revised Code. 2544 2545 2546 2547 2548 2549

(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. 2550 2551 2552 2553 2554 2555 2556 2557 2558 2559 2560 2561 2562 2563 2564 2565 2566

(8) In accordance with Chapter 125. of the Revised Code, purchase supplies, materials, equipment, and services. 2567 2568

(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. 2569 2570 2571 2572 2573 2574 2575 2576

(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 may be undertaken at or near the place of injury or the residence of the claimant and for that purpose establish regional offices, in such places as the administrator considers proper, capable of discharging as many of the functions of the bureau as is practicable so as to promote prompt and efficient administration in the processing of claims. All active and inactive lost-time claims files shall be held at the service office responsible for the claim. A claimant, at the claimant's request, shall be provided with information by telephone as to the location of the file pertaining to the claimant's claim. The administrator shall ensure that all service office employees report directly to the director for their service office. 2577 2578 2579 2580 2581 2582 2583 2584 2585 2586 2587 2588 2589 2590 2591 2592

(11) Provide a written binder on new coverage where the administrator considers it to be in the best interest of the risk. The administrator, or any other person authorized by the administrator, shall grant the binder upon submission of a request for coverage by the employer. A binder is effective for a period of thirty days from date of issuance and is nonrenewable. Payroll reports and premium charges shall coincide 2593 2594 2595 2596 2597 2598 2599

with the effective date of the binder. 2600

(12) Set standards for the reasonable and maximum handling 2601
time of claims payment functions, ensure, by rules, the 2602
impartial and prompt treatment of all claims and employer risk 2603
accounts, and establish a secure, accurate method of time 2604
stamping all incoming mail and documents hand delivered to 2605
bureau employees. 2606

(13) Ensure that all employees of the bureau follow the 2607
orders and rules of the commission as such orders and rules 2608
relate to the commission's overall adjudicatory policy-making 2609
and management duties under this chapter and Chapters 4123., 2610
4127., ~~and~~ 4131., and 4135. of the Revised Code. 2611

(14) Manage and operate a data processing system with a 2612
common data base for the use of both the bureau and the 2613
commission and, in consultation with the commission, using 2614
electronic data processing equipment, shall develop a claims 2615
tracking system that is sufficient to monitor the status of a 2616
claim at any time and that lists appeals that have been filed 2617
and orders or determinations that have been issued pursuant to 2618
section 4123.511 or 4123.512 of the Revised Code, including the 2619
dates of such filings and issuances. 2620

(15) Establish and maintain a medical section within the 2621
bureau. The medical section shall do all of the following: 2622

(a) Assist the administrator in establishing standard 2623
medical fees, approving medical procedures, and determining 2624
eligibility and reasonableness of the compensation payments for 2625
medical, hospital, and nursing services, and in establishing 2626
guidelines for payment policies which recognize usual, 2627
customary, and reasonable methods of payment for covered 2628

services; 2629

(b) Provide a resource to respond to questions from claims 2630
examiners for employees of the bureau; 2631

(c) Audit fee bill payments; 2632

(d) Implement a program to utilize, to the maximum extent 2633
possible, electronic data processing equipment for storage of 2634
information to facilitate authorizations of compensation 2635
payments for medical, hospital, drug, and nursing services; 2636

(e) Perform other duties assigned to it by the 2637
administrator. 2638

(16) Appoint, as the administrator determines necessary, 2639
panels to review and advise the administrator on disputes 2640
arising over a determination that a health care service or 2641
supply provided to a claimant is not covered under this chapter 2642
or Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code 2643
or is medically unnecessary. If an individual health care 2644
provider is involved in the dispute, the panel shall consist of 2645
individuals licensed pursuant to the same section of the Revised 2646
Code as such health care provider. 2647

(17) Pursuant to section 4123.65 of the Revised Code, 2648
approve applications for the final settlement of claims for 2649
compensation or benefits under this chapter and Chapters 4123., 2650
4127., ~~and~~ 4131., and 4135. of the Revised Code as the 2651
administrator determines appropriate, except in regard to the 2652
applications of self-insuring employers and their employees. 2653

(18) Comply with section 3517.13 of the Revised Code, and 2654
except in regard to contracts entered into pursuant to the 2655
authority contained in section 4121.44 of the Revised Code, 2656

comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive bidding and further provided that those contracts are not otherwise specifically exempt from the competitive bidding procedures contained in the Revised Code. 2657 2658 2659 2660 2661 2662 2663

(19) Adopt, with the advice and consent of the board, rules for the operation of the bureau. 2664 2665

(20) Prepare and submit to the board information the administrator considers pertinent or the board requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the board, for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code. 2666 2667 2668 2669 2670 2671 2672

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has a minimum of five years of experience in the field of workers' compensation insurance or in another similar insurance industry if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state. 2673 2674 2675 2676 2677 2678 2679 2680 2681

Sec. 4121.125. (A) The bureau of workers' compensation board of directors, based upon recommendations of the workers' compensation actuarial committee, may contract with one or more outside actuarial firms and other professional persons, as the board determines necessary, to assist the board in maintaining 2682 2683 2684 2685 2686

and monitoring the performance of Ohio's workers' compensation system. The board, actuarial firm or firms, and professional persons shall perform analyses using accepted insurance industry standards, including, but not limited to, standards promulgated by the actuarial standards board of the American academy of actuaries or techniques used by the National Council on Compensation Insurance. 2687–2693

(B) The board may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including analyses of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system. 2694–2699

(C) The board shall do all of the following: 2700

(1) Contract to have prepared annually by or under the supervision of an actuary a report that meets the requirements specified under division (E) of this section and that consists of an actuarial estimate of the unpaid liabilities of the state insurance fund and all other funds specified in this chapter and Chapters 4123., 4127., ~~and~~ 4131.<u>, and 4135.</u> of the Revised Code; 2701–2706

(2) Require that the actuary or person supervised by an actuary referred to in division (C)(1) of this section complete the estimate of unpaid liabilities in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries; 2707–2711

(3) Submit the report referred to in division (C)(1) of this section to the standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation on or before the first day of 2712–2715

November following the year for which the estimate of unpaid 2716
liabilities was made; 2717

(4) Have an actuary or a person who provides actuarial 2718
services under the supervision of an actuary, at such time as 2719
the board determines, and at least once during the five-year 2720
period that commences on September 10, 2007, and once within 2721
each five-year period thereafter, conduct an actuarial analysis 2722
of the mortality experience used in estimating the future costs 2723
of awards for survivor benefits and permanent total disability 2724
under sections 4123.56 ~~to~~ , 4123.57, 4123.58, 4135.12, 4135.13, 2725
and 4135.14 of the Revised Code to be used in the experience 2726
rating of an employer for purposes of premium calculation and to 2727
update the claim level reserves used in the report required by 2728
division (C)(1) of this section; 2729

(5) Submit the report required under division (F) of this 2730
section to the standing committees of the house of 2731
representatives and the senate with primary responsibility for 2732
workers' compensation legislation not later than the first day 2733
of November following the fifth year of the period that the 2734
report covers; 2735

(6) Have prepared by or under the supervision of an 2736
actuary an actuarial analysis of any introduced legislation 2737
expected to have a measurable financial impact on the workers' 2738
compensation system; 2739

(7) Submit the report required under division (G) of this 2740
section to the legislative service commission and the standing 2741
committees of the house of representatives and the senate with 2742
primary responsibility for workers' compensation legislation not 2743
later than sixty days after the date of introduction of the 2744
legislation. 2745

(D) The administrator of workers' compensation and the industrial commission shall compile information and provide access to records of the bureau and the industrial commission to the board to the extent necessary for fulfillment of both of the following requirements: 2746 2747 2748 2749 2750

(1) Conduct of the monitoring described in division (A) of this section; 2751 2752

(2) Conduct of the management and financial audits and establishment of the principles and methods described in division (B) of this section. 2753 2754 2755

(E) The firm or person with whom the board contracts pursuant to division (C)(1) of this section shall prepare a report of the analysis of the unpaid liabilities and submit the report to the board. The firm or person shall include all of the following information in the report that is required under division (C)(1) of this section: 2756 2757 2758 2759 2760 2761

(1) A summary of the funds and components evaluated; 2762

(2) A description of the actuarial methods and assumptions used in the analysis of the unpaid liabilities; 2763 2764

(3) A schedule showing the impact of changes in the estimates of the unpaid liabilities since the previous annual actuarial analysis report was submitted to the board. 2765 2766 2767

(F) The actuary or person whom the board designates to conduct an actuarial investigation under division (C)(4) of this section shall prepare a report of the actuarial investigation and shall submit the report to the board. The actuary or person shall prepare the report and make any recommended changes to the actuarial mortality assumptions in accordance with the actuarial 2768 2769 2770 2771 2772 2773

standards of practice promulgated by the actuarial standards board of the American academy of actuaries. 2774 2775

(G) The actuary or person whom the board designates to conduct the actuarial analysis under division (C)(6) of this section shall prepare a report of the actuarial analysis and shall submit that report to the board. The actuary or person shall complete the analysis in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report: 2776 2777 2778 2779 2780 2781 2782 2783 2784

(1) A summary of the statutory changes being evaluated; 2785

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report; 2786 2787

(3) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums and in current estimates of unpaid liabilities. 2788 2789 2790 2791

(H) The board may, at any time, request an actuary to perform actuarial analyses to determine the adequacy of the premium rates established by the administrator in accordance with sections 4123.29 and 4123.34 of the Revised Code, and may adjust those rates as recommended by the actuary. 2792 2793 2794 2795 2796

(I) The board shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies approved by the board and investment procedures of the bureau. The board shall submit a copy of that audit to the auditor of 2797 2798 2799 2800 2801 2802

state. 2803

(J) The administrator, with the advice and consent of the board, shall employ an internal auditor who shall report findings directly to the board, workers' compensation audit committee, and administrator, except that the internal auditor shall not report findings directly to the administrator when those findings involve malfeasance, misfeasance, or nonfeasance on the part of the administrator. The board and the workers' compensation audit committee may request and review internal audits conducted by the internal auditor. 2804 2805 2806 2807 2808 2809 2810 2811 2812

(K) The administrator shall pay the expenses incurred by the board to effectively fulfill its duties and exercise its powers under this section as the administrator pays other operating expenses of the bureau. 2813 2814 2815 2816

Sec. 4121.127. (A) Except as provided in division (B) of this section, a fiduciary shall not cause the bureau of workers' compensation to engage in a transaction, if the fiduciary knows or should know that such transaction constitutes any of the following, whether directly or indirectly: 2817 2818 2819 2820 2821

(1) The sale, exchange, or leasing of any property between the bureau and a party in interest; 2822 2823

(2) Lending of money or other extension of credit between the bureau and a party in interest; 2824 2825

(3) Furnishing of goods, services, or facilities between the bureau and a party in interest; 2826 2827

(4) Transfer to, or use by or for the benefit of a party in interest, of any assets of the bureau; 2828 2829

(5) Acquisition, on behalf of the bureau, of any employer 2830

security or employer real property.

(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:

(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.

(2) The transaction is consistent with fiduciary duties under this chapter and Chapters 4123., 4127., ~~and~~ 4131., and 4135. of the Revised Code.

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

(1) Deal with the assets of the bureau in the fiduciary's own interest or for the fiduciary's own account;

(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;

(3) Receive any consideration for the fiduciary's own personal account from any party dealing with the bureau in connection with a transaction involving the assets of the bureau.

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

(1) If the fiduciary knowingly participates in or

knowingly undertakes to conceal an act or omission of another 2859
fiduciary, knowing such act or omission is a breach; 2860

(2) If, by the fiduciary's failure to comply with this 2861
chapter or Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the 2862
Revised Code, the fiduciary has enabled another fiduciary to 2863
commit a breach; 2864

(3) If the fiduciary has knowledge of a breach by another 2865
fiduciary of that fiduciary's duties under this chapter and 2866
Chapters 4123., 4127., ~~and~~ 4131., and 4135. of the Revised Code, 2867
unless the fiduciary makes reasonable efforts under the 2868
circumstances to remedy the breach. 2869

(E) Every fiduciary of the bureau shall be bonded or 2870
insured for an amount of not less than one million dollars for 2871
loss by reason of acts of fraud or dishonesty. 2872

(F) As used in this section, "fiduciary" means a person 2873
who does any of the following: 2874

(1) Exercises discretionary authority or control with 2875
respect to the management of the bureau or with respect to the 2876
management or disposition of its assets; 2877

(2) Renders investment advice for a fee, directly or 2878
indirectly, with respect to money or property of the bureau; 2879

(3) Has discretionary authority or responsibility in the 2880
administration of the bureau. 2881

Sec. 4121.129. (A) There is hereby created the workers' 2882
compensation audit committee consisting of at least three 2883
members. One member shall be the member of the bureau of 2884
workers' compensation board of directors who is a certified 2885
public accountant. The board, by majority vote, shall appoint 2886

two additional members of the board to serve on the audit committee and may appoint additional members who are not board members, as the board determines necessary. Members of the audit committee serve at the pleasure of the board, and the board, by majority vote, may remove any member except the member of the committee who is the certified public accountant member of the board. The board, by majority vote, shall determine how often the audit committee shall meet and report to the board. If the audit committee meets on the same day as the board holds a meeting, no member shall be compensated for more than one meeting held on that day. The audit committee shall do all of the following: 2887 2888 2889 2890 2891 2892 2893 2894 2895 2896 2897 2898

(1) Recommend to the board an accounting firm to perform the annual audits required under division (B) of section 4123.47 of the Revised Code; 2899 2900 2901

(2) Recommend an auditing firm for the board to use when conducting audits under section 4121.125 of the Revised Code; 2902 2903

(3) Review the results of each annual audit and management review and, if any problems exist, assess the appropriate course of action to correct those problems and develop an action plan to correct those problems; 2904 2905 2906 2907

(4) Monitor the implementation of any action plans created pursuant to division (A)(3) of this section; 2908 2909

(5) Review all internal audit reports on a regular basis. 2910

(B) There is hereby created the workers' compensation actuarial committee consisting of at least three members. One member shall be the member of the board who is an actuary. The board, by majority vote, shall appoint two additional members of the board to serve on the actuarial committee and may appoint 2911 2912 2913 2914 2915

additional members who are not board members, as the board 2916
determines necessary. Members of the actuarial committee serve 2917
at the pleasure of the board and the board, by majority vote, 2918
may remove any member except the member of the committee who is 2919
the actuary member of the board. The board, by majority vote, 2920
shall determine how often the actuarial committee shall meet and 2921
report to the board. If the actuarial committee meets on the 2922
same day as the board holds a meeting, no member shall be 2923
compensated for more than one meeting held on that day. The 2924
actuarial committee shall do both of the following: 2925

(1) Recommend actuarial consultants for the board to use 2926
for the funds specified in this chapter and Chapters 4123., 2927
4127., ~~and~~ 4131., and 4135. of the Revised Code; 2928

(2) Review and approve the various rate schedules prepared 2929
and presented by the actuarial division of the bureau or by 2930
actuarial consultants with whom the board enters into a 2931
contract. 2932

(C)(1) There is hereby created the workers' compensation 2933
investment committee consisting of at least four members. Two of 2934
the members shall be the members of the board who serve as the 2935
investment and securities experts on the board. The board, by 2936
majority vote, shall appoint two additional members of the board 2937
to serve on the investment committee and may appoint additional 2938
members who are not board members. Each additional member the 2939
board appoints shall have at least one of the following 2940
qualifications: 2941

(a) Experience managing another state's pension funds or 2942
workers' compensation funds; 2943

(b) Expertise that the board determines is needed to make 2944

investment decisions. 2945

Members of the investment committee serve at the pleasure 2946
of the board and the board, by majority vote, may remove any 2947
member except the members of the committee who are the 2948
investment and securities expert members of the board. The 2949
board, by majority vote, shall determine how often the 2950
investment committee shall meet and report to the board. If the 2951
investment committee meets on the same day as the board holds a 2952
meeting, no member shall be compensated for more than one 2953
meeting held on that day. 2954

(2) The investment committee shall do all of the 2955
following: 2956

(a) Develop the investment policy for the administration 2957
of the investment program for the funds specified in this 2958
chapter and Chapters 4123., 4127., ~~and~~ 4131., and 4135. of the 2959
Revised Code in accordance with the requirements specified in 2960
section 4123.442 of the Revised Code; 2961

(b) Submit the investment policy developed pursuant to 2962
division (C)(2)(a) of this section to the board for approval; 2963

(c) Monitor implementation by the administrator of 2964
workers' compensation and the bureau of workers' compensation 2965
chief investment officer of the investment policy approved by 2966
the board; 2967

(d) Recommend outside investment counsel with whom the 2968
board may contract to assist the investment committee in 2969
fulfilling its duties; 2970

(e) Review the performance of the bureau of workers' 2971
compensation chief investment officer and any investment 2972

consultants retained by the administrator to assure that the 2973
investments of the assets of the funds specified in this chapter 2974
and Chapters 4123., 4127., ~~and~~ 4131., and 4135. of the Revised 2975
Code are made in accordance with the investment policy approved 2976
by the board and to assure compliance with the investment policy 2977
and effective management of the funds. 2978

Sec. 4121.13. The administrator of workers' compensation 2979
shall: 2980

(A) Investigate, ascertain, and declare and prescribe what 2981
hours of labor, safety devices, safeguards, or other means or 2982
methods of protection are best adapted to render the employees 2983
of every employment and place of employment and frequenters of 2984
every place of employment safe, and to protect their welfare as 2985
required by law or lawful orders, and establish and maintain 2986
museums of safety and hygiene in which shall be exhibited safety 2987
devices, safeguards, and other means and methods for the 2988
protection of life, health, safety, and welfare of employees; 2989

(B) Ascertain and fix reasonable standards and prescribe, 2990
modify, and enforce reasonable orders for the adoption of safety 2991
devices, safeguards, and other means or methods of protection to 2992
be as nearly uniform as possible as may be necessary to carry 2993
out all laws and lawful orders relative to the protection of the 2994
life, health, safety, and welfare of employees in employments 2995
and places of employment or frequenters of places of employment; 2996

(C) Ascertain, fix, and order reasonable standards for the 2997
construction, repair, and maintenance of places of employment as 2998
shall render them safe; 2999

(D) Investigate, ascertain, and determine reasonable 3000
classifications of persons, employments, and places of 3001

employment as are necessary to carry out the applicable sections of sections 4101.01 to 4101.16 and 4121.01 to 4121.29 of the Revised Code;

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

(F) Investigate all cases of fraud or other illegalities pertaining to the operation of the workers' compensation system and its several insurance funds and for that purpose, the administrator has every power of an inquisitorial nature granted to the industrial commission in this chapter and ~~Chapter~~ Chapters 4123. and 4135. of the Revised Code;

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

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

Sec. 4121.30. (A) All rules governing the operating procedure of the bureau of workers' compensation and the industrial commission shall be adopted in accordance with Chapter 119. of the Revised Code, except that determinations of the bureau, district hearing officers, staff hearing officers, the occupational pneumoconiosis board, and the commission, with respect to an individual employee's claim to participate in the

state insurance fund are governed only by ~~Chapter~~ Chapters 4123. 3031
and 4135. of the Revised Code. 3032

The administrator of workers' compensation and commission 3033
shall proceed jointly, in accordance with Chapter 119. of the 3034
Revised Code, including a joint hearing, to adopt joint rules 3035
governing the operating procedures of the bureau and commission. 3036

(B) Upon submission to the bureau or the commission of a 3037
petition containing not less than fifteen hundred signatures of 3038
adult residents of the state, any individual may propose a rule 3039
for adoption, amendment, or rescission by the bureau or the 3040
commission. If, upon investigation, the bureau or commission is 3041
satisfied that the signatures upon the petition are valid, it 3042
shall proceed, in accordance with Chapter 119. of the Revised 3043
Code, to consider adoption, amendment, or rescission of the 3044
rule. 3045

(C) The administrator shall make available electronically 3046
all rules adopted by the bureau and the commission and shall 3047
make available in a timely manner all rules adopted by the 3048
bureau and the commission that are currently in force. 3049

(D) The rule-making authority granted to the administrator 3050
under this section does not limit the commission's rule-making 3051
authority relative to its overall adjudicatory policy-making and 3052
management duties under this chapter and Chapters 4123., 4127., 3053
~~and~~ 4131., and 4135. of the Revised Code. The administrator 3054
shall not disregard any rule adopted by the commission, provided 3055
that the rule is within the commission's rule-making authority. 3056

Sec. 4121.31. (A) The administrator of workers' 3057
compensation and the industrial commission jointly shall adopt 3058
rules covering the following general topics with respect to this 3059

chapter and ~~Chapter~~ Chapters 4123. and 4135. of the Revised 3060
Code: 3061

(1) Rules that set forth any general policy and the 3062
principal operating procedures of the bureau of workers' 3063
compensation or commission, including but not limited to: 3064

(a) Assignment to various operational units of any duties 3065
placed upon the administrator or the commission by statute; 3066

(b) Procedures for decision-making; 3067

(c) Procedures governing the appearances of a claimant, 3068
employer, or their representatives before the agency in a 3069
hearing; 3070

(d) Procedures that inform claimants, on request, of the 3071
status of a claim and any actions necessary to maintain the 3072
claim; 3073

(e) Time goals for activities of the bureau or commission; 3074

(f) Designation of the person or persons authorized to 3075
issue directives with directives numbered and distributed from a 3076
central distribution point to persons on a list maintained for 3077
that purpose. 3078

(2) A rule barring any employee of the bureau or 3079
commission from having a workers' compensation claims file in 3080
the employee's possession unless the file is necessary to the 3081
performance of the employee's duties. 3082

(3) All claims, whether of a state fund or self-insuring 3083
employer, be processed in an orderly, uniform, and timely 3084
fashion. 3085

(4) Rules governing the submission and sending of 3086

applications, notices, evidence, and other documents by 3087
electronic means. The rules shall provide that where this 3088
chapter or Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the 3089
Revised Code requires that a document be in writing or requires 3090
a signature, the administrator and the commission, to the extent 3091
of their respective jurisdictions, may approve of and provide 3092
for the electronic submission and sending of those documents, 3093
and the use of an electronic signature on those documents. 3094

(B) As used in this section: 3095

(1) "Electronic" includes electrical, digital, magnetic, 3096
optical, electromagnetic, facsimile, or any other form of 3097
technology that entails capabilities similar to these 3098
technologies. 3099

(2) "Electronic record" means a record generated, 3100
communicated, received, or stored by electronic means for use in 3101
an information system or for transmission from one information 3102
system to another. 3103

(3) "Electronic signature" means a signature in electronic 3104
form attached to or logically associated with an electronic 3105
record. 3106

Sec. 4121.32. (A) The rules covering operating procedure 3107
and criteria for decision-making that the administrator of 3108
workers' compensation and the industrial commission are required 3109
to adopt pursuant to section 4121.31 of the Revised Code shall 3110
be supplemented with operating manuals setting forth the 3111
procedural steps in detail for performing each of the assigned 3112
tasks of each section of the bureau of workers' compensation and 3113
commission. The administrator and commission jointly shall adopt 3114
such manuals. No employee may deviate from manual procedures 3115

without authorization of the section chief. 3116

(B) Manuals shall set forth the procedure for the assignment and transfer of claims within sections and be designed to provide performance objectives and may require employees to record sufficient data to reasonably measure the efficiency of functions in all sections. The bureau shall perform periodic cost-effectiveness analyses that shall be made available to the general assembly, the governor, and to the public during normal working hours. 3117 3118 3119 3120 3121 3122 3123 3124

(C) The bureau and commission jointly shall develop, adopt, and use a policy manual setting forth the guidelines and bases for decision-making for any decision which is the responsibility of the bureau, district hearing officers, staff hearing officers, or the commission. Guidelines shall be set forth in the policy manual by the bureau and commission to the extent of their respective jurisdictions for deciding at least the following specific matters: 3125 3126 3127 3128 3129 3130 3131 3132

(1) Reasonable ambulance services; 3133

(2) Relationship of drugs to injury; 3134

(3) Awarding lump-sum advances for creditors; 3135

(4) Awarding lump-sum advances for attorney's fees; 3136

(5) Placing a claimant into rehabilitation; 3137

(6) Transferring costs of a claim from employer costs to the statutory surplus fund pursuant to section 4123.343 of the Revised Code; 3138 3139 3140

(7) Utilization of physician specialist reports; 3141

(8) Determining the percentage of permanent partial 3142

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. 3143 3144 3145 3146

(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. 3147 3148 3149 3150 3151 3152 3153 3154 3155 3156

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. 3157 3158 3159 3160

(E) With respect to any determination of disability under Chapter 4123. or 4135. 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. 3161 3162 3163 3164 3165 3166

(F) The administrator shall publish the manuals and make copies of all manuals available to interested parties at cost. 3167 3168

Sec. 4121.34. (A) District hearing officers shall hear the matters listed in division (B) of this section. District hearing officers are in the classified civil service of the state, are 3169 3170 3171

full-time employees of the industrial commission, and shall be persons admitted to the practice of law in this state. District hearing officers shall not engage in any other activity that interferes with their full-time employment by the commission during normal working hours.

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

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

~~(2)~~ (b) All appeals from a decision of the administrator of workers' compensation under division (B) of section 4123.511 and section 4135.06 of the Revised Code;

~~(3)~~ (c) All other contested claims matters under this chapter and Chapters 4123., 4127., ~~and~~ 4131., and 4135. of the Revised Code, except those matters over which staff hearing officers have original jurisdiction.

(2) Division (B)(1) of this section does not apply to a claim that has been referred to the occupational pneumoconiosis board under section 4135.08 of the Revised Code.

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

Sec. 4121.36. (A) The industrial commission shall adopt rules as to the conduct of all hearings before the commission and its staff and district hearing officers and the rendering of

a decision and shall focus such rules on managing, directing, and otherwise ensuring a fair, equitable, and uniform hearing process. These rules shall provide for at least the following steps and procedures: 3200 3201 3202 3203

(1) Adequate notice to all parties and their representatives to ensure that no hearing is conducted unless all parties have the opportunity to be present and to present evidence and arguments in support of their positions or in rebuttal to the evidence or arguments of other parties; 3204 3205 3206 3207 3208

(2) A public hearing; 3209

(3) Written decisions; 3210

(4) Impartial assignment of staff and district hearing officers and assignment of appeals from a decision of the administrator of workers' compensation to a district hearing officer located at the commission service office that is the closest in geographic proximity to the claimant's residence; 3211 3212 3213 3214 3215

(5) Publication of a docket; 3216

(6) The securing of the attendance or testimony of witnesses; 3217 3218

(7) Prehearing rules, including rules relative to discovery, the taking of depositions, and exchange of information relevant to a claim prior to the conduct of a hearing; 3219 3220 3221 3222

(8) The issuance of orders by the district or staff hearing officer who renders the decision. 3223 3224

(B) Every decision by a staff or district hearing officer or the commission shall be in writing and contain all of the following elements: 3225 3226 3227

(1) A concise statement of the order or award; 3228

(2) A notation as to notice provided and as to appearance of parties; 3229 3230

(3) Signatures of each commissioner or appropriate hearing officer on the original copy of the decision only, verifying the commissioner's or hearing officer's vote; 3231 3232 3233

(4) Description of the part of the body and nature of the disability recognized in the claim. 3234 3235

(C) The commission shall adopt rules that require the regular rotation of district hearing officers with respect to the types of matters under consideration and that ensure that no district or staff hearing officer or the commission hears a claim unless all interested and affected parties have the opportunity to be present and to present evidence and arguments in support of their positions or in rebuttal to the evidence or arguments of other parties. 3236 3237 3238 3239 3240 3241 3242 3243

(D) All matters which, at the request of one of the parties or on the initiative of the administrator and any commissioner, are to be expedited, shall require at least forty-eight hours' notice, a public hearing, and a statement in any order of the circumstances that justified such expeditious hearings. 3244 3245 3246 3247 3248 3249

(E) All meetings of the commission and district and staff hearing officers shall be public with adequate notice, including if necessary, to the claimant, the employer, their representatives, and the administrator. Confidentiality of medical evidence presented at a hearing does not constitute a sufficient ground to relieve the requirement of a public hearing, but the presentation of privileged or confidential 3250 3251 3252 3253 3254 3255 3256

evidence shall not create any greater right of public inspection of evidence than presently exists. 3257 3258

(F) The commission shall compile all of its original memorandums, orders, and decisions in a journal and make the journal available to the public with sufficient indexing to allow orderly review of documents. The journal shall indicate the vote of each commissioner. 3259 3260 3261 3262 3263

(G)(1) All original orders, rules, and memoranda, and decisions of the commission shall contain the signatures of two of the three commissioners and state whether adopted at a meeting of the commission or by circulation to individual commissioners. Any facsimile or secretarial signature, initials of commissioners, and delegated employees, and any printed record of the "yes" and "no" vote of a commission member or of a hearing officer on such original is invalid. 3264 3265 3266 3267 3268 3269 3270 3271

(2) Written copies of final decisions of district or staff hearing officers or the commission that are mailed to the administrator, employee, employer, and their respective representatives need not contain the signatures of the hearing officer or commission members if the hearing officer or commission members have complied with divisions (B)(3) and (G)(1) of this section. 3272 3273 3274 3275 3276 3277 3278

(H) The commission shall do both of the following: 3279

(1) Appoint an individual as a hearing officer trainer who is in the unclassified civil service of the state and who serves at the pleasure of the commission. The trainer shall be an attorney registered to practice law in this state and have experience in training or education, and the ability to furnish the necessary training for district and staff hearing officers. 3280 3281 3282 3283 3284 3285

The hearing officer trainer shall develop and periodically update a training manual and such other training materials and courses as will adequately prepare district and staff hearing officers for their duties under this chapter and Chapter 4123. of the Revised Code. All district and staff hearing officers shall undergo the training courses developed by the hearing officer trainer, the cost of which the commission shall pay. The commission shall make the hearing officer manual and all revisions thereto available to the public at cost. 3286 3287 3288 3289 3290 3291 3292 3293 3294

The commission shall have the final right of approval over all training manuals, courses, and other materials the hearing officer trainer develops and updates. 3295 3296 3297

(2) Appoint a hearing administrator, who shall be in the classified civil service of the state, for each bureau service office, and sufficient support personnel for each hearing administrator, which support personnel shall be under the direct supervision of the hearing administrator. The hearing administrator shall do all of the following: 3298 3299 3300 3301 3302 3303

(a) Assist the commission in ensuring that district hearing officers comply with the time limitations for the holding of hearings and issuance of orders under section 4123.511 of the Revised Code. For that purpose, each hearing administrator shall prepare a monthly report identifying the status of all claims in its office and identifying specifically the claims which have not been decided within the time limits set forth in section 4123.511 of the Revised Code. The commission shall submit an annual report of all such reports to the standing committees of the house of representatives and of the state to which matters concerning workers' compensation are normally referred. 3304 3305 3306 3307 3308 3309 3310 3311 3312 3313 3314 3315

(b) Provide information to requesting parties or their representatives on the status of their claim; 3316 3317

(c) Issue compliance letters, upon a finding of good cause and without a formal hearing in all of the following areas: 3318 3319

(i) Divisions (B) and (C) of section 4123.651 of the Revised Code; 3320 3321

(ii) Requests for the taking of depositions of bureau and commission physicians; 3322 3323

(iii) The issuance of subpoenas; 3324

(iv) The granting or denying of requests for continuances; 3325

(v) Matters involving section 4123.522 of the Revised Code; 3326 3327

(vi) Requests for conducting telephone pre-hearing conferences; 3328 3329

(vii) Any other matter that will cause a free exchange of information prior to the formal hearing. 3330 3331

(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; 3332 3333 3334

(e) Ensure that for occupational disease claims under section 4123.68 of the Revised Code and for occupational pneumoconiosis claims under Chapter 4135. of the Revised Code that require a medical examination the medical examination is conducted prior to the hearing; 3335 3336 3337 3338 3339

(f) Take the necessary steps to prepare a claim to proceed to a hearing where the parties agree and advise the hearing administrator that the claim is not ready for a hearing. 3340 3341 3342

(I) The commission shall permit any person direct access 3343
to information contained in electronic data processing equipment 3344
regarding the status of a claim in the hearing process. The 3345
information shall indicate the number of days that the claim has 3346
been in process, the number of days the claim has been in its 3347
current location, and the number of days in the current point of 3348
the process within that location. 3349

(J)(1) The industrial commission may establish an 3350
alternative dispute resolution process for workers' compensation 3351
claims that are within the commission's jurisdiction under 3352
Chapters 4121., 4123., 4127., ~~and~~ 4131., and 4135. of the 3353
Revised Code when the commission determines that such a process 3354
is necessary. Notwithstanding sections 4121.34 and 4121.35 of 3355
the Revised Code, the commission may enter into personal service 3356
contracts with individuals who are qualified because of their 3357
education and experience to act as facilitators in the 3358
commission's alternative dispute resolution process. 3359

(2) The parties' use of the alternative dispute resolution 3360
process is voluntary, and requires the agreement of all 3361
necessary parties. The use of the alternative dispute resolution 3362
process does not alter the rights or obligations of the parties, 3363
nor does it delay the timelines set forth in section 4123.511 of 3364
the Revised Code. 3365

(3) The commission shall prepare monthly reports and 3366
submit those reports to the governor, the president of the 3367
senate, and the speaker of the house of representatives 3368
describing all of the following: 3369

(a) The names of each facilitator employed under a 3370
personal service contract; 3371

(b) The hourly amount of money and the total amount of 3372
money paid to each facilitator; 3373

(c) The number of disputed issues resolved during that 3374
month by each facilitator; 3375

(d) The number of decisions of each facilitator that were 3376
appealed by a party; 3377

(e) A certification by the commission that the alternative 3378
dispute resolution process did not delay any hearing timelines 3379
as set forth in section 4123.511 of the Revised Code for any 3380
disputed issue. 3381

(4) The commission may adopt rules in accordance with 3382
Chapter 119. of the Revised Code for the administration of any 3383
alternative dispute resolution process that the commission 3384
establishes. 3385

Sec. 4121.41. (A) The administrator of workers' 3386
compensation shall operate a program designed to inform 3387
employees and employers of their rights and responsibilities 3388
under ~~Chapter~~ Chapters 4123. and 4135. of the Revised Code and 3389
as part of that program prepare and distribute pamphlets, which 3390
clearly and simply explain at least all of the following: 3391

(1) The rights and responsibilities of claimants and 3392
employers; 3393

(2) The procedures for processing claims; 3394

(3) The procedure for fulfilling employer responsibility; 3395

(4) All applicable statutes of limitation; 3396

(5) The availability of services and benefits; 3397

(6) The claimant's right to representation in the 3398

processing of a claim or to elect no representation. 3399

The administrator shall ensure that the provisions of this section are faithfully and speedily implemented. 3400 3401

(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. 3402 3403 3404 3405 3406 3407 3408

(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. 3409 3410 3411 3412 3413 3414 3415 3416 3417 3418 3419

Sec. 4121.44. (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. 3420 3421 3422 3423

(B) The administrator shall direct the implementation of the health partnership program administered by the bureau as set forth in section 4121.441 of the Revised Code. To implement the health partnership program and to ensure the efficiency and 3424 3425 3426 3427

effectiveness of the public services provided through the program, the bureau: 3428 3429

(1) Shall certify one or more external vendors, which shall be known as "managed care organizations," to provide medical management and cost containment services in the health partnership program for a period of two years beginning on the date of certification, consistent with the standards established under this section; 3430 3431 3432 3433 3434 3435

(2) May recertify managed care organizations for additional periods of two years; and 3436 3437

(3) May integrate the certified managed care organizations with bureau staff and existing bureau services for purposes of operation and training to allow the bureau to assume operation of the health partnership program at the conclusion of the certification periods set forth in division (B)(1) or (2) of this section; 3438 3439 3440 3441 3442 3443

(4) May enter into a contract with any managed care organization that is certified by the bureau, pursuant to division (B)(1) or (2) of this section, to provide medical management and cost containment services in the health partnership program. 3444 3445 3446 3447 3448

(C) A contract entered into pursuant to division (B)(4) of this section shall include both of the following: 3449 3450

(1) Incentives that may be awarded by the administrator, at the administrator's discretion, based on compliance and performance of the managed care organization; 3451 3452 3453

(2) Penalties that may be imposed by the administrator, at the administrator's discretion, based on the failure of the 3454 3455

managed care organization to reasonably comply with or perform terms of the contract, which may include termination of the contract. 3456 3457 3458

(D) Notwithstanding section 119.061 of the Revised Code, a contract entered into pursuant to division (B)(4) of this section may include provisions limiting, restricting, or regulating any marketing or advertising by the managed care organization, or by any individual or entity that is affiliated with or acting on behalf of the managed care organization, under the health partnership program. 3459 3460 3461 3462 3463 3464 3465

(E) No managed care organization shall receive compensation under the health partnership program unless the managed care organization has entered into a contract with the bureau pursuant to division (B)(4) of this section. 3466 3467 3468 3469

(F) Any managed care organization selected shall demonstrate all of the following: 3470 3471

(1) Arrangements and reimbursement agreements with a substantial number of the medical, professional and pharmacy providers currently being utilized by claimants. 3472 3473 3474

(2) Ability to accept a common format of medical bill data in an electronic fashion from any provider who wishes to submit medical bill data in that form. 3475 3476 3477

(3) A computer system able to handle the volume of medical bills and willingness to customize that system to the bureau's needs and to be operated by the managed care organization's staff, bureau staff, or some combination of both staffs. 3478 3479 3480 3481

(4) A prescription drug system where pharmacies on a statewide basis have access to the eligibility and pricing, at a 3482 3483

discounted rate, of all prescription drugs. 3484

(5) A tracking system to record all telephone calls from claimants and providers regarding the status of submitted medical bills so as to be able to track each inquiry. 3485 3486 3487

(6) Data processing capacity to absorb all of the bureau's medical bill processing or at least that part of the processing which the bureau arranges to delegate. 3488 3489 3490

(7) Capacity to store, retrieve, array, simulate, and model in a relational mode all of the detailed medical bill data so that analysis can be performed in a variety of ways and so that the bureau and its governing authority can make informed decisions. 3491 3492 3493 3494 3495

(8) Wide variety of software programs which translate medical terminology into standard codes, and which reveal if a provider is manipulating the procedures codes, commonly called "unbundling." 3496 3497 3498 3499

(9) Necessary professional staff to conduct, at a minimum, authorizations for treatment, medical necessity, utilization review, concurrent review, post-utilization review, and have the attendant computer system which supports such activity and measures the outcomes and the savings. 3500 3501 3502 3503 3504

(10) Management experience and flexibility to be able to react quickly to the needs of the bureau in the case of required change in federal or state requirements. 3505 3506 3507

(G)(1) The administrator may decertify a managed care organization if the managed care organization does any of the following: 3508 3509 3510

(a) Fails to maintain any of the requirements set forth in 3511

division (F) of this section; 3512

(b) Fails to reasonably comply with or to perform in accordance with the terms of a contract entered into under division (B)(4) of this section; 3513 3514 3515

(c) Violates a rule adopted under section 4121.441 of the Revised Code. 3516 3517

(2) The administrator shall provide each managed care organization that is being decertified pursuant to division (G)(1) of this section with written notice of the pending decertification and an opportunity for a hearing pursuant to rules adopted by the administrator. 3518 3519 3520 3521 3522

(H)(1) Information contained in a managed care organization's application for certification in the health partnership program, and other information furnished to the bureau by a managed care organization for purposes of obtaining certification or to comply with performance and financial auditing requirements established by the administrator, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public or be used in any court in any proceeding pending therein, unless the bureau is a party to the action or proceeding, but the information may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No employee of the bureau, except as otherwise authorized by the administrator, shall divulge any information secured by the employee while in the employ of the bureau in respect to a managed care organization's application for certification or in respect to the business or other trade processes of any managed care organization to any person other than the administrator or to the employee's superior. 3523 3524 3525 3526 3527 3528 3529 3530 3531 3532 3533 3534 3535 3536 3537 3538 3539 3540 3541

(2) Notwithstanding the restrictions imposed by division (H)(1) of this section, the governor, members of select or standing committees of the senate or house of representatives, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4123. of the Revised Code, may examine any managed care organization application or other information furnished to the bureau by the managed care organization. None of those individuals shall divulge any information secured in the exercise of that authority in respect to a managed care organization's application for certification or in respect to the business or other trade processes of any managed care organization to any person. 3542 3543 3544 3545 3546 3547 3548 3549 3550 3551 3552 3553 3554

(I) On and after January 1, 2001, a managed care organization shall not be an insurance company holding a certificate of authority issued pursuant to Title XXXIX of the Revised Code or a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code. 3555 3556 3557 3558 3559 3560

(J) The administrator may limit freedom of choice of health care provider or supplier by requiring, beginning with the period set forth in division (B)(1) or (2) of this section, that claimants shall pay an appropriate out-of-plan copayment for selecting a medical provider not within the health partnership program as provided for in this section. 3561 3562 3563 3564 3565 3566

(K) The administrator, six months prior to the expiration of the bureau's certification or recertification of the managed care organizations as set forth in division (B)(1) or (2) of this section, may certify and provide evidence to the governor, the speaker of the house of representatives, and the president 3567 3568 3569 3570 3571

of the senate that the existing bureau staff is able to match or exceed the performance and outcomes of the managed care organizations and that the bureau should be permitted to internally administer the health partnership program upon the expiration of the certification or recertification as set forth in division (B)(1) or (2) of this section. 3572 3573 3574 3575 3576 3577

(L) The administrator shall establish and operate a bureau of workers' compensation health care data program. The administrator shall develop reporting requirements from all employees, employers, medical providers, managed care organizations, and plans that participate in the workers' compensation system. The administrator shall do all of the following: 3578 3579 3580 3581 3582 3583 3584

(1) Utilize the collected data to measure and perform comparison analyses of costs, quality, appropriateness of medical care, and effectiveness of medical care delivered by all components of the workers' compensation system. 3585 3586 3587 3588

(2) Compile data to support activities of the selected managed care organizations and to measure the outcomes and savings of the health partnership program. 3589 3590 3591

(3) Publish and report compiled data on the measures of outcomes and savings of the health partnership program and submit the report to the president of the senate, the speaker of the house of representatives, and the governor with the annual report prepared under division (F)(3) of section 4121.12 of the Revised Code. The administrator shall protect the confidentiality of all proprietary pricing data. 3592 3593 3594 3595 3596 3597 3598

(M) Any rehabilitation facility the bureau operates is eligible for inclusion in the Ohio workers' compensation 3599 3600

qualified health plan system or the health partnership program 3601
under the same terms as other providers within health care plans 3602
or the program. 3603

(N) In areas outside the state or within the state where 3604
no qualified health plan or an inadequate number of providers 3605
within the health partnership program exist, the administrator 3606
shall permit employees to use a nonplan or nonprogram health 3607
care provider and shall pay the provider for the services or 3608
supplies provided to or on behalf of an employee for an injury 3609
or occupational disease that is compensable under this chapter 3610
or Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code 3611
on a fee schedule the administrator adopts. 3612

(O) No health care provider, whether certified or not, 3613
shall charge, assess, or otherwise attempt to collect from an 3614
employee, employer, a managed care organization, or the bureau 3615
any amount for covered services or supplies that is in excess of 3616
the allowed amount paid by a managed care organization, the 3617
bureau, or a qualified health plan. 3618

(P) The administrator shall permit any employer or group 3619
of employers who agree to abide by the rules adopted under this 3620
section and sections 4121.441 and 4121.442 of the Revised Code 3621
to provide services or supplies to or on behalf of an employee 3622
for an injury or occupational disease that is compensable under 3623
this chapter or Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the 3624
Revised Code through qualified health plans of the Ohio workers' 3625
compensation qualified health plan system pursuant to section 3626
4121.442 of the Revised Code or through the health partnership 3627
program pursuant to section 4121.441 of the Revised Code. No 3628
amount paid under the qualified health plan system pursuant to 3629
section 4121.442 of the Revised Code by an employer who is a 3630

state fund employer shall be charged to the employer's 3631
experience or otherwise be used in merit-rating or determining 3632
the risk of that employer for the purpose of the payment of 3633
premiums under this chapter, and if the employer is a self- 3634
insuring employer, the employer shall not include that amount in 3635
the paid compensation the employer reports under section 4123.35 3636
of the Revised Code. 3637

(Q) The administrator, in consultation with the health 3638
care quality assurance advisory committee created by the 3639
administrator or its successor committee, shall develop and 3640
periodically revise standards for maintaining an adequate number 3641
of providers certified by the bureau for each service currently 3642
being used by claimants. The standards shall ensure both of the 3643
following: 3644

(1) That a claimant has access to a choice of providers 3645
for similar services within the geographic area that the 3646
claimant resides; 3647

(2) That the providers within a geographic area are 3648
actively accepting new claimants as required in rules adopted by 3649
the administrator. 3650

Sec. 4121.441. (A) The administrator of workers' 3651
compensation, with the advice and consent of the bureau of 3652
workers' compensation board of directors, shall adopt rules 3653
under Chapter 119. of the Revised Code for the health care 3654
partnership program administered by the bureau of workers' 3655
compensation to provide medical, surgical, nursing, drug, 3656
hospital, and rehabilitation services and supplies to an 3657
employee for an injury or occupational disease that is 3658
compensable under this chapter or Chapter 4123., 4127., ~~or~~ 3659
4131., or 4135. of the Revised Code, and to regulate contracts 3660

with managed care organizations pursuant to this chapter. 3661

(1) The rules shall include, but are not limited to, the following: 3662 3663

(a) Procedures for the resolution of medical disputes between an employer and an employee, an employee and a provider, or an employer and a provider, prior to an appeal under section 4123.511 of the Revised Code. Rules the administrator adopts pursuant to division (A)(1)(a) of this section may specify that the resolution procedures shall not be used to resolve disputes concerning medical services rendered that have been approved through standard treatment guidelines, pathways, or presumptive authorization guidelines. 3664 3665 3666 3667 3668 3669 3670 3671 3672

(b) Prohibitions against discrimination against any category of health care providers; 3673 3674

(c) Procedures for reporting injuries to employers and the bureau by providers; 3675 3676

(d) Appropriate financial incentives to reduce service cost and insure proper system utilization without sacrificing the quality of service; 3677 3678 3679

(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; 3680 3681 3682 3683

(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; 3684 3685 3686 3687

(g) Provisions for necessary emergency medical treatment 3688

for an injury or occupational disease provided by a health care provider who is not part of the program; 3689 3690

(h) Discounted pricing for all in-patient and out-patient medical services, all professional services, and all pharmaceutical services; 3691 3692 3693

(i) Provisions for provider referrals, pre-admission and post-admission approvals, second surgical opinions, and other cost management techniques; 3694 3695 3696

(j) Antifraud mechanisms; 3697

(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; 3698 3699 3700 3701

(l) Standards for the bureau to utilize in penalizing or decertifying a health care provider from participation in the health partnership program. 3702 3703 3704

(2) Notwithstanding section 119.061 of the Revised Code, the rules may include provisions limiting, restricting, or regulating any marketing or advertising by a managed care organization, or by any individual or entity that is affiliated with or acting on behalf of the managed care organization, under the health partnership program. 3705 3706 3707 3708 3709 3710

(B) The administrator shall implement the health partnership program according to the rules the administrator adopts under this section for the provision and payment of medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease that is compensable under this chapter or 3711 3712 3713 3714 3715 3716

Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code." 3717

Sec. 4121.442. (A) The administrator of workers' compensation shall develop standards for qualification of health care plans of the Ohio workers' compensation qualified health plan system to provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code. In adopting the standards, the administrator shall use nationally recognized accreditation standards. The standards the administrator adopts must provide that a qualified plan provides for all of the following: 3718 3719 3720 3721 3722 3723 3724 3725 3726 3727 3728

(1) Criteria for selective contracting of health care providers; 3729 3730

(2) Adequate plan structure and financial stability; 3731

(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; 3732 3733 3734 3735

(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. 3736 3737 3738 3739 3740 3741 3742

(5) Does not discriminate against any category of health care provider; 3743 3744

(6) Provide a procedure for reporting injuries to the bureau of workers' compensation and to employers by providers within the qualified plan; 3745 3746 3747

(7) Provide appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service; 3748 3749 3750

(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; 3751 3752 3753 3754

(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; 3755 3756 3757 3758 3759

(10) Authorize necessary emergency medical treatment for an injury or occupational disease provided by a health care provider who is not a part of the qualified health care plan; 3760 3761 3762

(11) Provide an employee the right to change health care providers within the qualified health care plan; 3763 3764

(12) Provide for standardized data and reporting requirements; 3765 3766

(13) Authorize necessary medical treatment for employees who work in Ohio but reside in another state. 3767 3768

(B) Health care plans that meet the approved qualified health plan standards shall be considered qualified plans and are eligible to become part of the Ohio workers' compensation qualified health plan system. Any employer or group of employers 3769 3770 3771 3772

may provide medical, surgical, nursing, drug, hospital, and 3773
rehabilitation services and supplies to an employee for an 3774
injury or occupational disease that is compensable under this 3775
chapter or Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the 3776
Revised Code through a qualified health plan. 3777

Sec. 4121.444. (A) No person, health care provider, 3778
managed care organization, or owner of a health care provider or 3779
managed care organization shall obtain or attempt to obtain 3780
payments by deception under Chapter 4121., 4123., 4127., ~~or~~ 3781
4131., or 4135. of the Revised Code to which the person, health 3782
care provider, managed care organization, or owner is not 3783
entitled under rules of the bureau of workers' compensation 3784
adopted pursuant to sections 4121.441 and 4121.442 of the 3785
Revised Code. 3786

(B) Any person, health care provider, managed care 3787
organization, or owner that violates division (A) of this 3788
section is liable, in addition to any other penalties provided 3789
by law, for all of the following penalties: 3790

(1) Payment of interest on the amount of the excess 3791
payments at the maximum interest rate allowable for real estate 3792
mortgages under section 1343.01 of the Revised Code. The 3793
interest shall be calculated from the date the payment was made 3794
to the person, owner, health care provider, or managed care 3795
organization through the date upon which repayment is made to 3796
the bureau or the self-insuring employer. 3797

(2) Payment of an amount equal to three times the amount 3798
of any excess payments; 3799

(3) Payment of a sum of not less than five thousand 3800
dollars and not more than ten thousand dollars for each act of 3801

deception; 3802

(4) All reasonable and necessary expenses that the court determines have been incurred by the bureau or the self-insuring employer in the enforcement of this section. 3803 3804 3805

All moneys collected by the bureau pursuant to this section shall be deposited into the state insurance fund created in section 4123.30 of the Revised Code. All moneys collected by a self-insuring employer pursuant to this section shall be awarded to the self-insuring employer. 3806 3807 3808 3809 3810

(C)(1) In addition to the monetary penalties provided in division (B) of this section and except as provided in division (C)(3) of this section, the administrator may terminate any agreement between the bureau and a person or a health care provider or managed care organization or its owner and cease reimbursement to that person, provider, organization, or owner for services rendered if any of the following apply: 3811 3812 3813 3814 3815 3816 3817

(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. 3818 3819 3820 3821 3822 3823 3824

(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 3825 3826 3827 3828 3829 3830

pursuant to this section. 3831

(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. 3832 3833 3834 3835 3836

(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: 3837 3838 3839 3840 3841 3842 3843

(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; 3844 3845 3846

(b) Arrange for, render, or order services for claimants during the period that the agreement of the person, health care provider, managed care organization, or its owner is terminated as described in division (C)(1) of this section; 3847 3848 3849 3850

(3) The administrator shall not terminate the agreement or reimbursement if the person, health care provider, managed care organization, or owner demonstrates that the person, provider, organization, or owner did not directly or indirectly sanction the action of the authorized agent, associate, manager, or employee that resulted in the conviction, plea of guilty, or entry of judgment as described in division (C)(1) of this section. 3851 3852 3853 3854 3855 3856 3857 3858

(4) Nothing in division (C) of this section prohibits an 3859

owner, officer, authorized agent, associate, manager, or employee of a person, health care provider, or managed care organization from entering into an agreement with the bureau if the provider, organization, owner, officer, authorized agent, associate, manager, or employee demonstrates absence of knowledge of the action of the person, health care provider, or managed care organization with which that individual or organization was formerly associated that resulted in a conviction, plea of guilty, or entry of judgment as described in division (C)(1) of this section. 3860 3861 3862 3863 3864 3865 3866 3867 3868 3869

(D) The attorney general may bring an action on behalf of the state and a self-insuring employer may bring an action on its own behalf to enforce this section in any court of competent jurisdiction. The attorney general may settle or compromise any action brought under this section with the approval of the administrator. 3870 3871 3872 3873 3874 3875

Notwithstanding any other law providing a shorter period of limitations, the attorney general or a self-insuring employer may bring an action to enforce this section at any time within six years after the conduct in violation of this section terminates. 3876 3877 3878 3879 3880

(E) The availability of remedies under this section and sections 2913.48 and 2923.31 to 2923.36 of the Revised Code for recovering benefits paid on behalf of claimants for medical assistance does not limit the authority of the bureau or a self-insuring employer to recover excess payments made to an owner, health care provider, managed care organization, or person under state and federal law. 3881 3882 3883 3884 3885 3886 3887

(F) As used in this section: 3888

(1) "Deception" means acting with actual knowledge in order to deceive another or cause another to be deceived by means of any of the following: 3889 3890 3891

(a) A false or misleading representation; 3892

(b) The withholding of information; 3893

(c) The preventing of another from acquiring information; 3894

(d) Any other conduct, act, or omission that creates, confirms, or perpetuates a false impression as to a fact, the law, the value of something, or a person's state of mind. 3895 3896 3897

(2) "Owner" means any person having at least a five per cent ownership interest in a health care provider or managed care organization. 3898 3899 3900

Sec. 4121.45. (A) There is hereby created a workers' compensation ombudsperson system to assist claimants and employers in matters dealing with the bureau of workers' compensation and the industrial commission. The industrial commission nominating council shall appoint a chief ombudsperson. The chief ombudsperson, with the advice and consent of the nominating council, may appoint such assistant ombudspersons as the nominating council deems necessary. The position of chief ombudsperson is for a term of six years. A person appointed to the position of chief ombudsperson shall serve at the pleasure of the nominating council. The chief ombudsperson may not be transferred, demoted, or suspended during the person's tenure and may be removed by the nominating council only upon a vote of not fewer than nine members of the nominating council. The chief ombudsperson shall devote the chief ombudsperson's full time and attention to the duties of the ombudsperson's office. The administrator of workers' 3901 3902 3903 3904 3905 3906 3907 3908 3909 3910 3911 3912 3913 3914 3915 3916 3917

compensation shall furnish the chief ombudsperson with the office space, supplies, and clerical assistance that will enable the chief ombudsperson and the ombudsperson system staff to perform their duties effectively. The ombudsperson program shall be funded out of the budget of the bureau and the chief ombudsperson and the ombudsperson system staff shall be carried on the bureau payroll. The chief ombudsperson and the ombudsperson system shall be under the direction of the nominating council. The administrator and all employees of the bureau and the commission shall give the ~~the~~ ombudsperson system staff full and prompt cooperation in all matters relating to the duties of the chief ombudsperson. 3918–3929

(B) The ombudsperson system staff shall: 3930

(1) Answer inquiries or investigate complaints made by employers or claimants under this chapter and ~~Chapter~~ Chapters 4123. and 4135. of the Revised Code as they relate to the processing of a claim for workers' compensation benefits; 3931–3934

(2) Provide claimants and employers with information regarding problems which arise out of the functions of the bureau, commission hearing officers, and the commission and the procedures employed in the processing of claims; 3935–3938

(3) Answer inquiries or investigate complaints of an employer as they relate to reserves established and premiums charged in connection with the employer's account; 3939–3941

(4) Comply with Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and the nominating council's human resource and ethics policies; 3942–3944

(5) Not express any opinions as to the merit of a claim or the correctness of a decision by the various officers or 3945–3946

agencies as the decision relates to a claim for benefits or compensation. 3947 3948

For the purpose of carrying out the chief ombudsperson's duties, the chief ombudsperson or the ombudsperson system staff, notwithstanding sections 4123.27 and 4123.88 of the Revised Code, has the right at all reasonable times to examine the contents of a claim file and discuss with parties in interest the contents of the file as long as the ombudsperson does not divulge information that would tend to prejudice the case of either party to a claim or that would tend to compromise a privileged attorney-client or doctor-patient relationship. 3949 3950 3951 3952 3953 3954 3955 3956 3957

(C) The chief ombudsperson shall: 3958

(1) Assist any service office in its duties whenever it requires assistance or information that can best be obtained from central office personnel or records; 3959 3960 3961

(2) Annually assemble reports from each assistant ombudsperson as to their activities for the preceding year together with their recommendations as to changes or improvements in the operations of the workers' compensation system. The chief ombudsperson shall prepare a written report summarizing the activities of the ombudsperson system together with a digest of recommendations. The chief ombudsperson shall transmit the report to the nominating council. 3962 3963 3964 3965 3966 3967 3968 3969

(3) Comply with Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and the nominating council's human resource and ethics policies. 3970 3971 3972

(D) No ombudsperson or assistant ombudsperson shall: 3973

(1) Represent a claimant or employer in claims pending 3974

before or to be filed with the administrator, a district or 3975
staff hearing officer, the commission, or the courts of the 3976
state, nor shall an ombudsperson or assistant ombudsperson 3977
undertake any such representation for a period of one year after 3978
the ombudsperson's or assistant ombudsperson's employment 3979
terminates or be eligible for employment by the bureau or the 3980
commission or as a district or staff hearing officer for one 3981
year; 3982

(2) Express any opinions as to the merit of a claim or the 3983
correctness of a decision by the various officers or agencies as 3984
the decision relates to a claim for benefits or compensation. 3985

(E) The chief ombudsperson and assistant ombudspersons 3986
shall receive compensation at a level established by the 3987
nominating council commensurate with the individual's 3988
background, education, and experience in workers' compensation 3989
or related fields. The chief ombudsperson and assistant 3990
ombudspersons are full-time permanent employees in the 3991
unclassified service of the state and are entitled to all 3992
benefits that accrue to such employees, including, without 3993
limitation, sick, vacation, and personal leaves. Assistant 3994
ombudspersons serve at the pleasure of the chief ombudsperson. 3995

(F) In the event of a vacancy in the position of chief 3996
ombudsperson, the nominating council may appoint a person to 3997
serve as acting chief ombudsperson until a chief ombudsperson is 3998
appointed. The acting chief ombudsperson shall be under the 3999
direction and control of the nominating council and may be 4000
removed by the nominating council with or without just cause. 4001

Sec. 4121.50. ~~Not later than July 1, 2012, the~~ The 4002
administrator of workers' compensation shall adopt rules in 4003
accordance with Chapter 119. of the Revised Code to implement a 4004

coordinated services program for claimants under this chapter or Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code who are found to have obtained prescription drugs that were reimbursed pursuant to an order of the administrator or of the industrial commission or by a self-insuring employer but were obtained at a frequency or in an amount that is not medically necessary. The program shall be implemented in a manner that is substantially similar to the coordinated services programs established for the medicaid program under sections 5164.758 and 5167.13 of the Revised Code. 4005 4006 4007 4008 4009 4010 4011 4012 4013 4014

Sec. 4121.61. (A) As used in sections 4121.61 to 4121.69 of the Revised Code, "self-insuring employer" has the same meaning as in section 4123.01 of the Revised Code. 4015 4016 4017

(B) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules, take measures, and make expenditures as it deems necessary to aid claimants who have sustained compensable injuries or incurred compensable occupational diseases pursuant to Chapter 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code to return to work or to assist in lessening or removing any resulting handicap. 4018 4019 4020 4021 4022 4023 4024 4025

Sec. 4123.025. Any person, other than those covered by section 4123.03 of the Revised Code, who is injured, and the dependents of a deceased employee who is killed as the direct result of performing any act at the request or order of a duly authorized public official of the state, or any institution or agency thereof, or any political subdivision thereof, including a county, township, or municipal corporation, in time of emergency shall be entitled to all the benefits of ~~Chapter~~ Chapters 4123. and 4135. of the Revised Code. Any payments made 4026 4027 4028 4029 4030 4031 4032 4033 4034

from the state insurance fund pursuant to this section shall be charged to the surplus fund as created by division (B) of section 4123.34 of the Revised Code, in order to encourage participation of all persons in times of emergency. 4035 4036 4037 4038

Sec. 4123.05. The bureau of workers' compensation shall adopt rules to regulate and provide for the kind and character of notices, and the services thereof, in cases of injury, occupational disease, or death resulting from either, to employees, the nature and extent of the proofs and evidence, and the method of taking and furnishing the same, and to establish the right to benefits or compensation from the state insurance fund, the forms of application of those claiming to be entitled to benefits or compensation, and the method of making investigations, physical examinations, and inspections. Nothing in this section shall be interpreted as affecting or limiting the rule-making authority of the industrial commission under this chapter or Chapter 4121. or 4135. of the Revised Code. 4039 4040 4041 4042 4043 4044 4045 4046 4047 4048 4049 4050 4051

Sec. 4123.15. (A) An employer who is a member of a recognized religious sect or division of a recognized religious sect and who is an adherent of established tenets or teachings of that sect or division by reason of which the employer is conscientiously opposed to benefits to employers and employees from any public or private insurance that makes payment in the event of death, disability, impairment, old age, or retirement or makes payments toward the cost of, or provides services in connection with the payment for, medical services, including the benefits from any insurance system established by the "Social Security Act," 42 U.S.C.A. 301, et seq., may apply to the administrator of workers' compensation to be excepted from payment of premiums and other charges assessed under this chapter and Chapter 4121. of the Revised Code with respect to, 4052 4053 4054 4055 4056 4057 4058 4059 4060 4061 4062 4063 4064 4065

or if the employer is a self-insuring employer, from payment of direct compensation and benefits to and assessments required by this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised Code on account of, an individual employee who meets the requirements of this section. The employer shall make an application on forms provided by the bureau of workers' compensation which forms may be those used by or similar to those used by the United States internal revenue service for the purpose of granting an exemption from payment of social security taxes under 26 U.S.C.A. 1402(g) of the Internal Revenue Code, and shall include a written waiver signed by the individual employee to be excepted from all the benefits and compensation provided in this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised Code. | 4066 4067 4068 4069 4070 4071 4072 4073 4074 4075 4076 4077 4078 4079

The application also shall include affidavits signed by the employer and the individual employee that the employer and the individual employee are members of a recognized religious sect or division of a recognized religious sect and are adherents of established tenets or teaching of that sect or division by reason of which the employer and the individual employee are conscientiously opposed to benefits to employers and employees received from any public or private insurance that makes payments in the event of death, disability, impairment, old age, or retirement or makes payments toward the cost of, or provides services in connection with the payment for, medical services, including the benefits from any insurance system established by the "Social Security Act," 42 U.S.C.A. 301, et seq. If the individual is a minor, the guardian of the minor shall complete the waiver and affidavit required by this division. | 4080 4081 4082 4083 4084 4085 4086 4087 4088 4089 4090 4091 4092 4093 4094 4095

(B) The administrator shall grant the waiver and exception | 4096

to the employer for a particular individual employee if the administrator finds that the employer and the individual employee are members of a sect or division having the established tenets or teachings described in division (A) of this section, that it is the practice, and has been for a substantial number of years, for members of the sect or division of the sect to make provision for their dependent members which, in the administrator's judgment, is reasonable in view of their general level of hiring, and that the sect or division of the sect has been in existence at all times since December 31, 1950. 4097 4098 4099 4100 4101 4102 4103 4104 4105 4106

(C) A waiver and exception under division (B) of this section is effective on the date the administrator grants the waiver and exception. An employer who complies with this chapter and the employer's other employees, with respect to an individual employee for whom the administrator grants the waiver and exception, are entitled, as to that individual employee and as to all injuries and occupational diseases of the individual employee that occurred prior to the effective date of the waiver and exception, to the protections of sections 4123.74 and 4123.741 of the Revised Code. On and after the effective date of the waiver and exception, the employer is not liable for the payment of any premiums or other charges assessed under this chapter or Chapter 4121. of the Revised Code, or if the individual is a self-insuring employer, the employer is not liable for the payment of any compensation or benefits directly or other charges assessed under this chapter or Chapter 4121. or 4135. of the Revised Code in regard to that individual employee, and is considered a complying employer under those chapters, and the employer and the employer's other employees are entitled to the protections of sections 4123.74 and 4123.741 of the Revised Code, as to that individual employee, and as to injuries and 4107 4108 4109 4110 4111 4112 4113 4114 4115 4116 4117 4118 4119 4120 4121 4122 4123 4124 4125 4126 4127

occupational diseases of that individual employee that occur on and after the effective date of the waiver and exception. 4128 4129

(D) A waiver and exception granted in regard to a specific employer and individual employee are valid for all future years unless the administrator determines that the employer, individual employee, or sect or division ceases to meet the requirements of this section. If the administrator makes this determination, the employer is liable for the payment of premiums and other charges assessed under this chapter and Chapter 4121. of the Revised Code, or if the employer is a self-insuring employer, the employer is liable for the payment of compensation and benefits directly and other charges assessed under those chapters and Chapter 4135. of the Revised Code, in regard to the individual employee for all injuries and occupational diseases of that individual that occur on and after the date of the administrator's determination, and the individual employee is entitled to all of the benefits and compensation provided in those chapters for an injury or occupational disease that occurs on or after the date of the administrator's determination. 4130 4131 4132 4133 4134 4135 4136 4137 4138 4139 4140 4141 4142 4143 4144 4145 4146 4147

Sec. 4123.26. (A) Every employer shall keep records of, and furnish to the bureau of workers' compensation upon request, all information required by the administrator of workers' compensation to carry out this chapter and Chapter 4135. of the Revised Code. 4148 4149 4150 4151 4152

(B) Except as otherwise provided in division (C) of this section, every private employer employing one or more employees regularly in the same business, or in or about the same establishment, shall submit a payroll report to the bureau. Until the policy year commencing July 1, 2015, a private 4153 4154 4155 4156 4157

employer shall submit the payroll report in January of each year. For a policy year commencing on or after July 1, 2015, the employer shall submit the payroll report on or before August fifteenth of each year unless otherwise specified by the administrator in rules the administrator adopts. The employer shall include all of the following information in the payroll report, as applicable: 4158 4159 4160 4161 4162 4163 4164

(1) For payroll reports submitted prior to July 1, 2015, the number of employees employed during the preceding year from the first day of January through the thirty-first day of December who are localized in this state; 4165 4166 4167 4168

(2) For payroll reports submitted on or after July 1, 2015, the number of employees localized in this state employed during the preceding policy year from the first day of July through the thirtieth day of June; 4169 4170 4171 4172

(3) The number of such employees localized in this state employed at each kind of employment and the aggregate amount of wages paid to such employees; 4173 4174 4175

(4) If an employer elects to secure other-states' coverage or limited other-states' coverage pursuant to section 4123.292 of the Revised Code through either the administrator, if the administrator elects to offer such coverage, or an other-states' insurer the information required under divisions (B)(1) to (3) of this section and any additional information required by the administrator in rules the administrator adopts, with the advice and consent of the bureau of workers' compensation board of directors, to allow the employer to secure other-states' coverage or limited other-states' coverage. 4176 4177 4178 4179 4180 4181 4182 4183 4184 4185

(5)(a) In accordance with the rules adopted by the 4186

administrator pursuant to division (C) of section 4123.32 of the Revised Code, if the employer employs employees who are covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and under this chapter and Chapter Chapters 4121. and 4135. of the Revised Code, both of the following amounts: 4187 4188 4189 4190 4191 4192

(i) The amount of wages the employer pays to those employees when the employees perform labor and provide services for which the employees are eligible to receive compensation and benefits under the federal "Longshore and Harbor Workers' Compensation Act"; 4193 4194 4195 4196 4197

(ii) The amount of wages the employer pays to those employees when the employees perform labor and provide services for which the employees are eligible to receive compensation and benefits under this chapter and Chapter Chapters 4121. and 4135. of the Revised Code. 4198 4199 4200 4201 4202

(b) The allocation of wages identified by the employer pursuant to divisions (B)(5)(a)(i) and (ii) of this section shall not be presumed to be an indication of the law under which an employee is eligible to receive compensation and benefits. 4203 4204 4205 4206

(C) Each employer that is recognized by the administrator as a professional employer organization or alternate employer organization shall submit a monthly payroll report containing the number of employees employed during the preceding calendar month, the number of those employees employed at each kind of employment, and the aggregate amount of wages paid to those employees. 4207 4208 4209 4210 4211 4212 4213

(D) An employer described in division (B) of this section shall submit the payroll report required under this section to 4214 4215

the bureau on a form prescribed by the bureau. The bureau may require that the information required to be furnished be verified under oath. The bureau or any person employed by the bureau for that purpose, may examine, under oath, any employer, or the officer, agent, or employee thereof, for the purpose of ascertaining any information which the employer is required to furnish to the bureau. 4216 4217 4218 4219 4220 4221 4222

(E) No private employer shall fail to furnish to the bureau the payroll report required by this section, nor shall any employer fail to keep records of or furnish such other information as may be required by the bureau under this section. 4223 4224 4225 4226

(F) The administrator may adopt rules setting forth penalties for failure to submit the payroll report required by this section, including but not limited to exclusion from alternative rating plans and discount programs. 4227 4228 4229 4230

Sec. 4123.27. Information contained in the payroll report provided for in section 4123.26 of the Revised Code, and such other information as may be furnished to the bureau of workers' compensation by employers in pursuance of that section, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the bureau is a party to the action or proceeding. The information contained in the payroll report may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No person in the employ of the bureau, except those who are authorized by the administrator of workers' compensation, shall divulge any information secured by the person while in the employ of the bureau in respect to the transactions, property, claim files, 4231 4232 4233 4234 4235 4236 4237 4238 4239 4240 4241 4242 4243 4244 4245

records, or papers of the bureau or in respect to the business or mechanical, chemical, or other industrial process of any company, firm, corporation, person, association, partnership, or public utility to any person other than the administrator or to the superior of such employee of the bureau. 4246 4247 4248 4249 4250

Notwithstanding the restrictions imposed by this section, the governor, select or standing committees of the general assembly, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised Code, may examine any records, claim files, or papers in possession of the industrial commission or the bureau. They also are bound by the privilege that attaches to these papers. 4251 4252 4253 4254 4255 4256 4257 4258

The administrator shall report to the director of job and family services or to the county director of job and family services the name, address, and social security number or other identification number of any person receiving workers' compensation whose name or social security number or other identification number is the same as that of a person required by a court or child support enforcement agency to provide support payments to a recipient or participant of public assistance, as that term is defined in section 5101.181 of the Revised Code, and whose name is submitted to the administrator by the director under section 5101.36 of the Revised Code. The administrator also shall inform the director of the amount of workers' compensation paid to the person during such period as the director specifies. 4259 4260 4261 4262 4263 4264 4265 4266 4267 4268 4269 4270 4271 4272

Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients or participants of public assistance 4273 4274 4275

pursuant to section 5101.181 of the Revised Code, the administrator shall inform the auditor of state of the name, current or most recent address, and social security number of each person receiving workers' compensation pursuant to this chapter whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The administrator also shall inform the auditor of state of the amount of workers' compensation paid to the person during such period as the director specifies. 4276 4277 4278 4279 4280 4281 4282 4283 4284

The bureau and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients or participants of public assistance in compliance with section 5101.181 of the Revised Code. 4285 4286 4287 4288 4289

Sec. 4123.291. (A) An adjudicating committee appointed by the administrator of workers' compensation to hear any matter specified in divisions (B)(1) to (7) of this section shall hear the matter within sixty days of the date on which an employer files the request, protest, or petition. An employer desiring to file a request, protest, or petition regarding any matter specified in divisions (B)(1) to (7) of this section shall file the request, protest, or petition to the adjudicating committee on or before twenty-four months after the administrator sends notice of the determination about which the employer is filing the request, protest, or petition. 4290 4291 4292 4293 4294 4295 4296 4297 4298 4299 4300

(B) An employer who is adversely affected by a decision of an adjudicating committee appointed by the administrator may appeal the decision of the committee to the administrator or the administrator's designee. The employer shall file the appeal in writing within thirty days after the employer receives the 4301 4302 4303 4304 4305

decision of the adjudicating committee. Except as otherwise 4306
provided in this division, the administrator or the designee 4307
shall hold a hearing and consider and issue a decision on the 4308
appeal if the decision of the adjudicating committee relates to 4309
one of the following: 4310

(1) An employer request for a waiver of a default in the 4311
payment of premiums pursuant to section 4123.37 of the Revised 4312
Code; 4313

(2) An employer request for the settlement of liability as 4314
a noncomplying employer under section 4123.75 of the Revised 4315
Code; 4316

(3) An employer petition objecting to an assessment made 4317
pursuant to section 4123.37 of the Revised Code and the rules 4318
adopted pursuant to that section; 4319

(4) An employer request for the abatement of penalties 4320
assessed pursuant to section 4123.32 of the Revised Code and the 4321
rules adopted pursuant to that section; 4322

(5) An employer protest relating to an audit finding or a 4323
determination of a manual classification, experience rating, or 4324
transfer or combination of risk experience; 4325

(6) Any decision relating to any other risk premium matter 4326
under Chapters 4121., 4123., ~~and~~ 4131., and 4135. of the Revised 4327
Code; 4328

(7) An employer petition objecting to the amount of 4329
security required under division (D) of section 4125.05 of the 4330
Revised Code and the rules adopted pursuant to that section or 4331
under division (D) of section 4133.07 of the Revised Code and 4332
the rules adopted pursuant to that section. 4333

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. 4334 4335 4336 4337

(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. 4338 4339 4340 4341 4342 4343

Sec. 4123.30. Money contributed by public employers constitutes the "public fund" and the money contributed by private employers 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 and dividends, except for the amount thereof which is set aside for the investigation and prevention of industrial accidents and diseases pursuant to Section 35 of Article II, Ohio Constitution, any amounts set aside for actuarial services authorized or required by sections 4123.44 and 4123.47 of the Revised Code, and any amounts set aside to reinsure the liability of the respective insurance funds for the following payments, constitute a trust fund for the benefit of employers and employees mentioned in sections 4123.01, 4123.03, and 4123.73 of the Revised Code for the payment of compensation, medical services, examinations, recommendations and determinations, nursing and hospital services, medicine, rehabilitation, death benefits, funeral expenses, and like 4344 4345 4346 4347 4348 4349 4350 4351 4352 4353 4354 4355 4356 4357 4358 4359 4360 4361 4362 4363 4364

benefits for loss sustained on account of injury, disease, or death provided for by this chapter and Chapter 4135. of the Revised Code, and for no other purpose. This section does not prevent the deposit or investment of all such moneys intermingled for such purpose but such funds shall be separate and distinct for all other purposes, and the rights and duties created in this chapter and Chapter 4135. of the Revised Code shall be construed to have been made with respect to two separate funds and so as to maintain and continue such funds separately except for deposit or investment. Disbursements shall not be made on account of injury, disease, or death of employees of employers who contribute to one of such funds unless the moneys to the credit of such fund are sufficient therefor and no such disbursements shall be made for moneys or credits paid or credited to the other fund. 4365 4366 4367 4368 4369 4370 4371 4372 4373 4374 4375 4376 4377 4378 4379

Sec. 4123.311. (A) The administrator of workers' compensation may do all of the following: 4380 4381

(1) Utilize direct deposit of funds by electronic transfer for all disbursements the administrator is authorized to pay under this chapter and Chapters 4121., 4127., ~~and~~ 4131., and 4135. of the Revised Code; 4382 4383 4384 4385

(2) Require any payee to provide a written authorization designating a financial institution and an account number to which a payment made according to division (A)(1) of this section is to be credited, notwithstanding division (B) of section 9.37 of the Revised Code; 4386 4387 4388 4389 4390

(3) Contract with an agent to do both of the following: 4391

(a) Supply debit cards for claimants to access payments made to them pursuant to this chapter and Chapters 4121., 4127., 4392 4393

~~and~~ 4131.<u>, and 4135.</u> of the Revised Code; 4394

(b) Credit the debit cards described in division (A)(3)(a) 4395
of this section with the amounts specified by the administrator 4396
pursuant to this chapter and Chapters 4121., 4127., ~~and~~ 4131.<u>,</u> 4397
<u>and 4135.</u> of the Revised Code by utilizing direct deposit of 4398
funds by electronic transfer. 4399

(4) Enter into agreements with financial institutions to 4400
credit the debit cards described in division (A)(3)(a) of this 4401
section with the amounts specified by the administrator pursuant 4402
to this chapter and Chapters 4121., 4127., ~~and~~ 4131.<u>, and 4135.</u> 4403
of the Revised Code by utilizing direct deposit of funds by 4404
electronic transfer. 4405

(B) The administrator shall inform claimants about the 4406
administrator's utilization of direct deposit of funds by 4407
electronic transfer under this section and section 9.37 of the 4408
Revised Code, furnish debit cards to claimants as appropriate, 4409
and provide claimants with instructions regarding use of those 4410
debit cards. 4411

(C) The administrator, with the advice and consent of the 4412
bureau of workers' compensation board of directors, shall adopt 4413
rules in accordance with Chapter 119. of the Revised Code 4414
regarding utilization of the direct deposit of funds by 4415
electronic transfer under this section and section 9.37 of the 4416
Revised Code. 4417

Sec. 4123.32. The administrator of workers' compensation, 4418
with the advice and consent of the bureau of workers' 4419
compensation board of directors, shall adopt rules with respect 4420
to the collection, maintenance, and disbursements of the state 4421
insurance fund including all of the following: 4422

(A) A rule providing for ascertaining the correctness of 4423
any employer's report of estimated or actual expenditure of 4424
wages and the determination and adjustment of proper premiums 4425
and the payment of those premiums by the employer; 4426

(B) Such special rules as the administrator considers 4427
necessary to safeguard the fund and that are just in the 4428
circumstances, covering the rates to be applied where one 4429
employer takes over the occupation or industry of another or 4430
where an employer first makes application for state insurance, 4431
and the administrator may require that if any employer transfers 4432
a business in whole or in part or otherwise reorganizes the 4433
business, the successor in interest shall assume, in proportion 4434
to the extent of the transfer, as determined by the 4435
administrator, the employer's account and shall continue the 4436
payment of all contributions due under this chapter; 4437

(C) A rule providing that an employer who employs an 4438
employee covered under the federal "Longshore and Harbor 4439
Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 4440
seq., and this chapter and ~~Chapter~~ Chapters 4121. and 4135. of 4441
the Revised Code shall be assessed a premium in accordance with 4442
the expenditure of wages, payroll, or both attributable to only 4443
labor performed and services provided by such an employee when 4444
the employee performs labor and provides services for which the 4445
employee is not eligible to receive compensation and benefits 4446
under that federal act. 4447

(D) A rule providing for all of the following: 4448

(1) If an employer fails to file a report of the 4449
employer's actual payroll expenditures pursuant to section 4450
4123.26 of the Revised Code for private employers or pursuant to 4451
section 4123.41 of the Revised Code for public employers, the 4452

premium and assessments due from the employer for the period shall be calculated based on the estimated payroll of the employer used in calculating the estimated premium due, increased by ten per cent; 4453 4454 4455 4456

(2)(a) If an employer fails to pay the premium or assessments when due for a policy year commencing prior to July 1, 2015, the administrator may add a late fee penalty of not more than thirty dollars to the premium plus an additional penalty amount as follows: 4457 4458 4459 4460 4461

(i) For a premium from sixty-one to ninety days past due, the prime interest rate, multiplied by the premium due; 4462 4463

(ii) For a premium from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the premium due; 4464 4465 4466

(iii) For a premium from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the premium due; 4467 4468 4469

(iv) For a premium from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the premium due; 4470 4471 4472

(v) For a premium from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the premium due; 4473 4474 4475

(vi) For each additional thirty-day period or portion thereof that a premium remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the premium due. 4476 4477 4478 4479

(b) For purposes of division (D)(2)(a) of this section, 4480

"prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code. 4481 4482 4483 4484

(c) If an employer fails to pay the premium or assessments when due for a policy year commencing on or after July 1, 2015, the administrator may assess a penalty at the interest rate established by the state tax commissioner pursuant to section 5703.47 of the Revised Code. 4485 4486 4487 4488 4489

(3) Notwithstanding the interest rates specified in division (D)(2)(a) or (c) of this section, at no time shall the additional penalty amount assessed under division (D)(2)(a) or (c) of this section exceed fifteen per cent of the premium due. 4490 4491 4492 4493

(4) If an employer recognized by the administrator as a professional employer organization or alternate employer organization fails to make a timely payment of premiums or assessments as required by section 4123.35 of the Revised Code, the administrator shall revoke the organization's registration pursuant to section 4125.06 or 4133.09 of the Revised Code, as applicable. 4494 4495 4496 4497 4498 4499 4500

(5) An employer may appeal a late fee penalty or additional penalty to an adjudicating committee pursuant to section 4123.291 of the Revised Code. 4501 4502 4503

(6) If the employer files an appropriate payroll report within the time provided by law, the employer shall not be in default and division (D)(2) of this section shall not apply if the employer pays the premiums within fifteen days after being first notified by the administrator of the amount due. 4504 4505 4506 4507 4508

(7) Any deficiencies in the amounts of the premium 4509

security deposit paid by an employer prior to July 1, 2015, 4510
shall be subject to an interest charge of six per cent per annum 4511
from the date the premium obligation is incurred. In determining 4512
the interest due on deficiencies in premium security deposit 4513
payments, a charge in each case shall be made against the 4514
employer in an amount equal to interest at the rate of six per 4515
cent per annum on the premium security deposit due but remaining 4516
unpaid sixty days after notice by the administrator. 4517

(8) Any interest charges or penalties provided for in 4518
divisions (D)(2) and (7) of this section shall be credited to 4519
the employer's account for rating purposes in the same manner as 4520
premiums. 4521

(E) A rule providing that each employer, on the occasion 4522
of instituting coverage under this chapter for an effective date 4523
prior to July 1, 2015, shall submit a premium security deposit. 4524
The deposit shall be calculated equivalent to thirty per cent of 4525
the semiannual premium obligation of the employer based upon the 4526
employer's estimated expenditure for wages for the ensuing six- 4527
month period plus thirty per cent of an additional adjustment 4528
period of two months but only up to a maximum of one thousand 4529
dollars and not less than ten dollars. The administrator shall 4530
review the security deposit of every employer who has submitted 4531
a deposit which is less than the one-thousand-dollar maximum. 4532
The administrator may require any such employer to submit 4533
additional money up to the maximum of one thousand dollars that, 4534
in the administrator's opinion, reflects the employer's current 4535
payroll expenditure for an eight-month period. 4536

(F) A rule providing that each employer, on the occasion 4537
of instituting coverage under this chapter, shall submit an 4538
application fee and an application for coverage that completely 4539

provides all of the information required for the administrator to establish coverage for that employer, and that the employer's failure to pay the application fee or to provide all of the information requested on the application may be grounds for the administrator to deny coverage for that employer. 4540 4541 4542 4543 4544

(G) A rule providing that, in addition to any other remedies permitted in this chapter, the administrator may discontinue an employer's coverage if the employer fails to pay the premium due on or before the premium's due date. 4545 4546 4547 4548

(H) A rule providing that if after a final adjudication it is determined that an employer has failed to pay an obligation, billing, account, or assessment that is greater than one thousand dollars on or before its due date, the administrator may discontinue the employer's coverage in addition to any other remedies permitted in this chapter, and that the administrator shall not discontinue an employer's coverage pursuant to this division prior to a final adjudication regarding the employer's failure to pay such obligation, billing, account, or assessment on or before its due date. 4549 4550 4551 4552 4553 4554 4555 4556 4557 4558

(I) As used in divisions (G) and (H) of this section: 4559

(1) "Employer" has the same meaning as in section 4123.01 of the Revised Code except that "employer" does not include the state, a state hospital, or a state university or college. 4560 4561 4562

(2) "State university or college" has the same meaning as in section 3345.12 of the Revised Code and also includes the Ohio agricultural research and development center and OSU extension. 4563 4564 4565 4566

(3) "State hospital" means the Ohio state university hospital and its ancillary facilities and the medical university 4567 4568

of Ohio at Toledo hospital. 4569

Sec. 4123.324. (A) The administrator of workers' 4570
compensation shall adopt rules, for the purpose of encouraging 4571
economic development, that establish conditions under which any 4572
negative experience to be transferred to the account of an 4573
employer who is successor in interest under division (B) of 4574
section 4123.32 of the Revised Code may be reduced or waived. 4575

(B) The administrator, in adopting rules under division 4576
(A) of this section, may not permit a waiver or reduction in 4577
experience transfer if the succession transaction is entered 4578
into for the purpose of escaping obligations under this chapter 4579
or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code. 4580

Sec. 4123.34. It shall be the duty of the bureau of 4581
workers' compensation board of directors and the administrator 4582
of workers' compensation to safeguard and maintain the solvency 4583
of the state insurance fund and all other funds specified in 4584
this chapter and Chapters 4121., 4127., ~~and~~ 4131., and 4135. of 4585
the Revised Code. The administrator, in the exercise of the 4586
powers and discretion conferred upon the administrator in 4587
section 4123.29 of the Revised Code, shall fix and maintain, 4588
with the advice and consent of the board, for each class of 4589
occupation or industry, the lowest possible rates of premium 4590
consistent with the maintenance of a solvent state insurance 4591
fund and the creation and maintenance of a reasonable surplus, 4592
after the payment of legitimate claims for injury, occupational 4593
disease, and death that the administrator authorizes to be paid 4594
from the state insurance fund for the benefit of injured, 4595
diseased, and the dependents of killed employees. In 4596
establishing rates, the administrator shall take into account 4597
the necessity of ensuring sufficient money is set aside in the 4598

premium payment security fund to cover any defaults in premium 4599
obligations. The administrator shall observe all of the 4600
following requirements in fixing the rates of premium for the 4601
risks of occupations or industries: 4602

(A) The administrator shall keep an accurate account of 4603
the money paid in premiums by each of the several classes of 4604
occupations or industries, and the losses on account of 4605
injuries, occupational disease, and death of employees thereof, 4606
and also keep an account of the money received from each 4607
individual employer and the amount of losses incurred against 4608
the state insurance fund on account of injuries, occupational 4609
disease, and death of the employees of the employer. 4610

(B) A portion of the money paid into the state insurance 4611
fund shall be set aside for the creation of a surplus fund 4612
account within the state insurance fund. Any references in this 4613
chapter or in Chapter 4121., 4125., 4127., ~~or~~ 4131., or 4135. of 4614
the Revised Code to the surplus fund, the surplus created in 4615
this division, the statutory surplus fund, or the statutory 4616
surplus of the state insurance fund are hereby deemed to be 4617
references to the surplus fund account. The administrator may 4618
transfer the portion of the state insurance fund to the surplus 4619
fund account as the administrator determines is necessary to 4620
satisfy the needs of the surplus fund account and to guarantee 4621
the solvency of the state insurance fund and the surplus fund 4622
account. In addition to all statutory authority under this 4623
chapter and Chapter 4121. of the Revised Code, the administrator 4624
has discretionary and contingency authority to make charges to 4625
the surplus fund account. The administrator shall account for 4626
all charges, whether statutory, discretionary, or contingency, 4627
that the administrator may make to the surplus fund account. A 4628
revision of basic rates shall be made annually on the first day 4629

of July. 4630

For policy years commencing prior to July 1, 2016, revisions of basic rates for private employers shall be in accordance with the oldest four of the last five calendar years of the combined accident and occupational disease experience of the administrator in the administration of this chapter, as shown by the accounts kept as provided in this section. For a policy year commencing on or after July 1, 2016, revisions of basic rates for private employers shall be in accordance with the oldest four of the last five policy years combined accident and occupational disease experience of the administrator in the administration of this chapter, as shown by the accounts kept as provided in this section. 4631 4632 4633 4634 4635 4636 4637 4638 4639 4640 4641 4642

Revisions of basic rates for public employers shall be in accordance with the oldest four of the last five policy years of the combined accident and occupational disease experience of the administrator in the administration of this chapter, as shown by the accounts kept as provided in this section. 4643 4644 4645 4646 4647

In revising basic rates, the administrator shall exclude the experience of employers that are no longer active if the administrator determines that the inclusion of those employers would have a significant negative impact on the remainder of the employers in a particular manual classification. The administrator shall adopt rules, with the advice and consent of the board, governing rate revisions, the object of which shall be to make an equitable distribution of losses among the several classes of occupation or industry, which rules shall be general in their application. 4648 4649 4650 4651 4652 4653 4654 4655 4656 4657

(C) The administrator may apply that form of rating system that the administrator finds is best calculated to merit rate or 4658 4659

individually rate the risk more equitably, predicated upon the basis of its individual industrial accident and occupational disease experience, and may encourage and stimulate accident prevention. The administrator shall develop fixed and equitable rules controlling the rating system, which rules shall conserve to each risk the basic principles of workers' compensation insurance. 4660 4661 4662 4663 4664 4665 4666

(D) The administrator, from the money paid into the state insurance fund, shall set aside into an account of the state insurance fund titled a premium payment security fund sufficient money to pay for any premiums due from an employer and uncollected. 4667 4668 4669 4670 4671

The use of the moneys held by the premium payment security fund account is restricted to reimbursement to the state insurance fund of premiums due and uncollected. 4672 4673 4674

(E) The administrator may grant discounts on premium rates for employers who meet either of the following requirements: 4675 4676

(1) Have not incurred a compensable injury for one year or more and who maintain an employee safety committee or similar organization or make periodic safety inspections of the workplace. 4677 4678 4679 4680

(2) Successfully complete a loss prevention program prescribed by the superintendent of the division of safety and hygiene and conducted by the division or by any other person approved by the superintendent. 4681 4682 4683 4684

(F)(1) In determining the premium rates for the construction industry the administrator shall calculate the employers' premiums based upon the actual remuneration construction industry employees receive from construction 4685 4686 4687 4688

industry employers, provided that the amount of remuneration the administrator uses in calculating the premiums shall not exceed an average weekly wage equal to one hundred fifty per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code. 4689 4690 4691 4692 4693

(2) Division (F)(1) of this section shall not be construed as affecting the manner in which benefits to a claimant are awarded under this chapter or Chapter 4135. of the Revised Code. 4694 4695 4696

(3) As used in division (F) of this section, "construction industry" includes any activity performed in connection with the erection, alteration, repair, replacement, renovation, installation, or demolition of any building, structure, highway, or bridge. 4697 4698 4699 4700 4701

(G) The administrator shall not place a limit on the length of time that an employer may participate in the bureau of workers' compensation drug free workplace and workplace safety programs. 4702 4703 4704 4705

Sec. 4123.341. The administrative costs of the industrial commission, the bureau of workers' compensation board of directors, the occupational pneumoconiosis board, and the bureau of workers' compensation shall be those costs and expenses that are incident to the discharge of the duties and performance of the activities of the industrial commission, the board, and the bureau under this chapter and Chapters 4121., 4125., 4127., 4131., 4133., 4135., and 4167. of the Revised Code, and all such costs shall be borne by the state and by other employers amenable to this chapter as follows: 4706 4707 4708 4709 4710 4711 4712 4713 4714 4715

(A) In addition to the contribution required of the state under sections 4123.39 and 4123.40 of the Revised Code, the 4716 4717

state shall contribute the sum determined to be necessary under section 4123.342 of the Revised Code. 4718 4719

(B) The director of budget and management may allocate the state's share of contributions in the manner the director finds most equitably apportions the costs. 4720 4721 4722

(C) The counties and taxing districts therein shall contribute such sum as may be required under section 4123.342 of the Revised Code. 4723 4724 4725

(D) The private employers shall contribute the sum required under section 4123.342 of the Revised Code. 4726 4727

Sec. 4123.342. (A) The administrator of workers' compensation shall allocate among counties and taxing districts therein as a class, the state and its instrumentalities as a class, private employers who are insured under the private fund as a class, and self-insuring employers as a class their fair shares of the administrative costs which are to be borne by such employers under division (D) of section 4123.341 of the Revised Code, separately allocating to each class those costs solely attributable to the activities of the industrial commission and those costs solely attributable to the activities of the bureau of workers' compensation board of directors, the occupational pneumoconiosis board, and the bureau of workers' compensation in respect of the class, allocating to any combination of classes those costs attributable to the activities of the industrial commission, bureau of workers' compensation board of directors, occupational pneumoconiosis board, or bureau in respect of the classes, and allocating to all four classes those costs attributable to the activities of the industrial commission, bureau of workers' compensation board of directors, occupational pneumoconiosis board, and bureau in respect of all classes. The 4728 4729 4730 4731 4732 4733 4734 4735 4736 4737 4738 4739 4740 4741 4742 4743 4744 4745 4746 4747

administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the bureau of workers' compensation board of directors, the occupational pneumoconiosis board, and the bureau. The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the industrial commission. The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the bureau of workers' compensation board of directors, the occupational pneumoconiosis board, and the bureau. The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the industrial commission. In a timely manner, the industrial commission shall provide to the administrator, the information necessary for the administrator to allocate and calculate, with the approval of the chairperson of the industrial commission, for each class of employer as described in this division, the costs solely attributable to the activities of the industrial commission. 4748 4749 4750 4751 4752 4753 4754 4755 4756 4757 4758 4759 4760 4761 4762 4763 4764 4765 4766 4767 4768 4769 4770 4771 4772 4773

(B) The administrator shall divide the administrative cost assessments collected by the administrator into two administrative assessment accounts within the state insurance fund. One of the administrative assessment accounts shall consist of the administrative cost assessment collected by the 4774 4775 4776 4777 4778

administrator for the industrial commission. One of the administrative assessment accounts shall consist of the administrative cost assessments collected by the administrator for the bureau, the occupational pneumoconiosis board, and the bureau of workers' compensation board of directors. The administrator may invest the administrative cost assessments in these accounts on behalf of the bureau and the industrial commission as authorized in section 4123.44 of the Revised Code. In a timely manner, the administrator shall provide to the industrial commission the information and reports the commission deems necessary for the commission to monitor the receipts and the disbursements from the administrative assessment account for the industrial commission. 4779 4780 4781 4782 4783 4784 4785 4786 4787 4788 4789 4790 4791

(C) The administrator or the administrator's designee shall transfer moneys as necessary from the administrative assessment account identified for the bureau, the occupational pneumoconiosis board, and the bureau of workers' compensation board of directors to the workers' compensation fund for the use of the bureau, the occupational pneumoconiosis board, and the bureau of workers' compensation board of directors. As necessary and upon the authorization of the industrial commission, the administrator or the administrator's designee shall transfer moneys from the administrative assessment account identified for the industrial commission to the industrial commission operating fund created under section 4121.021 of the Revised Code. To the extent that the moneys collected by the administrator in any fiscal biennium of the state equal the sum appropriated by the general assembly for administrative costs of the industrial commission, bureau of workers' compensation board of directors, occupational pneumoconiosis board, and bureau for the biennium, the moneys shall be paid into the workers' compensation fund and 4792 4793 4794 4795 4796 4797 4798 4799 4800 4801 4802 4803 4804 4805 4806 4807 4808 4809

the industrial commission operating fund of the state, as appropriate, and any remainder shall be retained in those funds and applied to reduce the amount collected during the next biennium. 4810 4811 4812 4813

Sections 4123.41, 4123.35, and 4123.37 of the Revised Code apply to the collection of assessments from public and private employers respectively, except that for boards of county hospital trustees that are self-insuring employers, only those provisions applicable to the collection of assessments for private employers apply. 4814 4815 4816 4817 4818 4819

Sec. 4123.343. This section shall be construed liberally to the end that employers shall be encouraged to employ and retain in their employment handicapped employees as defined in this section. 4820 4821 4822 4823

(A) As used in this section, "handicapped employee" means an employee who is afflicted with or subject to any physical or mental impairment, or both, whether congenital or due to an injury or disease of such character that the impairment constitutes a handicap in obtaining employment or would constitute a handicap in obtaining reemployment if the employee should become unemployed and whose handicap is due to any of the following diseases or conditions: 4824 4825 4826 4827 4828 4829 4830 4831

(1) Epilepsy; 4832

(2) Diabetes; 4833

(3) Cardiac disease; 4834

(4) Arthritis; 4835

(5) Amputated foot, leg, arm, or hand; 4836

(6) Loss of sight of one or both eyes or a partial loss of 4837

uncorrected vision of more than seventy-five per cent bilaterally; 4838 4839

(7) Residual disability from poliomyelitis; 4840

(8) Cerebral palsy; 4841

(9) Multiple sclerosis; 4842

(10) Parkinson's disease; 4843

(11) Cerebral vascular accident; 4844

(12) Tuberculosis; 4845

(13) Silicosis; 4846

(14) Psycho-neurotic disability following treatment in a recognized medical or mental institution; 4847 4848

(15) Hemophilia; 4849

(16) Chronic osteomyelitis; 4850

(17) Ankylosis of joints; 4851

(18) Hyper insulinism; 4852

(19) Muscular dystrophies; 4853

(20) Arterio-sclerosis; 4854

(21) Thrombo-phlebitis; 4855

(22) Varicose veins; 4856

(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; 4857 4858 4859 4860

(24) ~~Coal miners'~~ Occupational pneumoconiosis~~, commonly~~ 4861

~~referred to as "black lung disease"~~ as defined in section 4135.01 of the Revised Code; 4862 4863

(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. 4864 4865 4866

(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 administrator, in those rules, shall require that a settlement agreement approved pursuant to section 4123.65 of the Revised Code or a settlement agreement approved by a court of competent jurisdiction in this state be treated as an award of compensation granted by the administrator for the purpose of making a determination under this section. 4867 4868 4869 4870 4871 4872 4873 4874 4875 4876 4877 4878 4879 4880 4881 4882 4883 4884

(C) Any employer who has in its employ a handicapped employee is entitled, in the event the person is injured, to a determination under this section. 4885 4886 4887

An employer shall file an application under this section for a determination with the bureau or commission in the same manner as other claims. An application only may be made in cases where a handicapped employee or a handicapped employee's 4888 4889 4890 4891

dependents claim or are receiving an award of compensation as a result of an injury or occupational disease occurring or contracted on or after the date on which division (A) of this section first included the handicap of such employee. 4892 4893 4894 4895

(D) The circumstances under and the manner in which an apportionment under this section shall be made are: 4896 4897

(1) Whenever a handicapped employee is injured or disabled or dies as the result of an injury or occupational disease sustained in the course of and arising out of a handicapped employee's employment in this state and the administrator awards compensation therefor and when it appears to the satisfaction of the administrator that the injury or occupational disease or the death resulting therefrom would not have occurred but for the pre-existing physical or mental impairment of the handicapped employee, all compensation and benefits payable on account of the disability or death shall be paid from the surplus fund. 4898 4899 4900 4901 4902 4903 4904 4905 4906 4907

(2) Whenever a handicapped employee is injured or disabled or dies as a result of an injury or occupational disease and the administrator finds that the injury or occupational disease would have been sustained or suffered without regard to the employee's pre-existing impairment but that the resulting disability or death was caused at least in part through aggravation of the employee's pre-existing disability, the administrator shall determine in a manner that is equitable and reasonable and based upon medical evidence the amount of disability or proportion of the cost of the death award that is attributable to the employee's pre-existing disability and the amount found shall be charged to the statutory surplus fund. 4908 4909 4910 4911 4912 4913 4914 4915 4916 4917 4918 4919

(E) The benefits and provisions of this section apply only to employers who have complied with this chapter through 4920 4921

insurance with the state fund. 4922

(F) No employer shall in any year receive credit under this section in an amount greater than the premium the employer paid. 4923 4924 4925

(G) An order issued by the administrator pursuant to this section is appealable under section 4123.511 of the Revised Code but is not appealable to a court under section 4123.512 of the Revised Code. 4926 4927 4928 4929

Sec. 4123.35. (A) Except as provided in this section, and until the policy year commencing July 1, 2015, every private employer and every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator. 4930 4931 4932 4933 4934 4935 4936 4937 4938 4939 4940 4941

Except as otherwise provided in this section, for a policy year commencing on or after July 1, 2015, every private employer and every publicly owned utility shall pay annually in the month of June immediately preceding the policy year into the state insurance fund the amount of estimated annual premium the administrator fixes for the employment or occupation of the employer, the amount of which estimated premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay a further sum of money into the state insurance fund 4942 4943 4944 4945 4946 4947 4948 4949 4950 4951

as may be ascertained to be due from the employer by applying the rules of the administrator. Upon receipt of the payroll report required by division (B) of section 4123.26 of the Revised Code, the administrator shall adjust the premium and assessments charged to each employer for the difference between estimated gross payrolls and actual gross payrolls, and any balance due to the administrator shall be immediately paid by the employer. Any balance due the employer shall be credited to the employer's account. 4952 4953 4954 4955 4956 4957 4958 4959 4960

For a policy year commencing on or after July 1, 2015, each employer that is recognized by the administrator as a professional employer organization or alternate employer organization shall pay monthly into the state insurance fund the amount of premium the administrator fixes for the employer for the prior month based on the actual payroll of the employer reported pursuant to division (C) of section 4123.26 of the Revised Code. 4961 4962 4963 4964 4965 4966 4967 4968

A receipt certifying that payment has been made shall be issued to the employer by the bureau of workers' compensation. The receipt is prima-facie evidence of the payment of the premium. The administrator shall provide each employer written proof of workers' compensation coverage as is required in section 4123.83 of the Revised Code. Proper posting of the notice constitutes the employer's compliance with the notice requirement mandated in section 4123.83 of the Revised Code. 4969 4970 4971 4972 4973 4974 4975 4976

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. 4977 4978 4979 4980 4981

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. 4982 4983 4984 4985

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. 4986 4987 4988 4989 4990 4991 4992 4993 4994 4995 4996 4997 4998 4999

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 payments. An employer who timely pays the amounts due under this division is entitled to all of the benefits and protections of this chapter. Upon receipt of payment, the bureau shall issue a receipt to the employer certifying that payment has been made, which receipt is prima-facie evidence of payment. Workers' 5000 5001 5002 5003 5004 5005 5006 5007 5008 5009 5010 5011 5012

compensation coverage under this chapter continues uninterrupted upon timely receipt of payment under this division. 5013 5014

Every public employer, except public employers that are self-insuring employers under this section, shall comply with sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in regard to the contribution of moneys to the public insurance fund. 5015 5016 5017 5018 5019

(B) Employers who will abide by the rules of the administrator and who may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, ~~and~~ 4123.64 to 4123.67, 4135.12, 4135.13, and 4135.14 of the Revised Code, and who do not desire to insure the payment thereof or indemnify themselves against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge employers who apply for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application. 5020 5021 5022 5023 5024 5025 5026 5027 5028 5029 5030 5031 5032 5033 5034 5035 5036 5037 5038 5039

All employers granted status as self-insuring employers shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are 5040 5041 5042

promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section. 5043 5044 5045 5046

(1) The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the employer by this section: 5047 5048 5049 5050

(a) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased, acquired, or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify; 5051 5052 5053 5054 5055

(b) Where the employer previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules; 5056 5057 5058

(c) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly; 5059 5060 5061

(d) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years. 5062 5063 5064 5065 5066 5067

(e) The employer's organizational plan for the administration of the workers' compensation law; 5068 5069

(f) The employer's proposed plan to inform employees of 5070

the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and 5071 5072 5073 5074

(g) The employer has either an account in a financial institution in this state, or if the employer maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer clearly indicates that payment will be honored by a financial institution in this state. 5075 5076 5077 5078 5079 5080 5081

The administrator may waive the requirements of division (B)(1)(a) of this section and the requirement of division (B)(1)(d) of this section that the financial records, documents, and data be certified by a certified public accountant. The administrator shall adopt rules establishing the criteria that an employer shall meet in order for the administrator to waive the requirements of divisions (B)(1)(a) and (d) of this section. Such rules may require additional security of that employer pursuant to division (E) of section 4123.351 of the Revised Code. 5082 5083 5084 5085 5086 5087 5088 5089 5090 5091

The administrator shall not grant the status of self-insuring employer to the state, except that the administrator may grant the status of self-insuring employer to a state institution of higher education, including its hospitals, that meets the requirements of division (B)(2) of this section. 5092 5093 5094 5095 5096

(2) When considering the application of a public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, the administrator shall 5097 5098 5099 5100

verify that the public employer satisfies all of the following requirements as the requirements apply to that public employer: 5101 5102

(a) For the two-year period preceding application under this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the administrator under this chapter for that public employer for the year immediately preceding the year in which the public employer makes application under this section. 5103 5104 5105 5106 5107 5108 5109

(b) For each of the two fiscal years preceding application under this section, the unreserved and undesignated year-end fund balance in the public employer's general fund is equal to at least five per cent of the public employer's general fund revenues for the fiscal year computed in accordance with generally accepted accounting principles. 5110 5111 5112 5113 5114 5115

(c) For the five-year period preceding application under this section, the public employer, to the extent applicable, has complied fully with the continuing disclosure requirements established in rules adopted by the United States securities and exchange commission under 17 C.F.R. 240.15c 2-12. 5116 5117 5118 5119 5120

(d) For the five-year period preceding application under this section, the public employer has not had its local government fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state. 5121 5122 5123 5124

(e) For the five-year period preceding application under this section, the public employer has not been under a fiscal watch or fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 of the Revised Code. 5125 5126 5127 5128

(f) For the public employer's fiscal year preceding 5129

application under this section, the public employer has obtained an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public employer's fiscal year. 5130 5131 5132 5133 5134

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable rating by an independent rating agency similar to Moody's investors service, inc. 5135 5136 5137 5138

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims under this chapter for the applicable period of time, as determined by the administrator. 5139 5140 5141 5142 5143

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers. 5144 5145 5146 5147 5148 5149

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section. 5150 5151

The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in 5152 5153 5154 5155 5156 5157 5158

divisions (B)(2)(a) to (j) of this section for a public employer 5159
who does not satisfy the criteria established in the rules the 5160
administrator adopts. 5161

(C) A board of county commissioners described in division 5162
(G) of section 4123.01 of the Revised Code, as an employer, that 5163
will abide by the rules of the administrator and that may be of 5164
sufficient financial ability to render certain the payment of 5165
compensation to injured employees or the dependents of killed 5166
employees, and the furnishing of medical, surgical, nursing, and 5167
hospital attention and services and medicines, and funeral 5168
expenses, equal to or greater than is provided for in sections 5169
4123.52, 4123.55 to 4123.62, ~~and~~ 4123.64 to 4123.67, 4135.12, 5170
4135.13, and 4135.14 of the Revised Code, and that does not 5171
desire to insure the payment thereof or indemnify itself against 5172
loss sustained by the direct payment thereof, upon a finding of 5173
such facts by the administrator, may be granted the privilege to 5174
pay individually compensation, and furnish medical, surgical, 5175
nursing, and hospital services and attention and funeral 5176
expenses directly to injured employees or the dependents of 5177
killed employees, thereby being granted status as a self- 5178
insuring employer. The administrator may charge a board of 5179
county commissioners described in division (G) of section 5180
4123.01 of the Revised Code that applies for the status as a 5181
self-insuring employer a reasonable application fee to cover the 5182
bureau's costs in connection with processing and making a 5183
determination with respect to an application. All employers 5184
granted such status shall demonstrate sufficient financial and 5185
administrative ability to assure that all obligations under this 5186
section are promptly met. The administrator shall deny the 5187
privilege where the employer is unable to demonstrate the 5188
employer's ability to promptly meet all the obligations imposed 5189

on the employer by this section. The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the board as an employer by this section: 5190 5191 5192 5193 5194

(1) The board has operated in this state for a minimum of two years; 5195 5196

(2) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules; 5197 5198 5199

(3) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly; 5200 5201 5202

(4) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years. 5203 5204 5205 5206 5207

(5) The board's organizational plan for the administration of the workers' compensation law; 5208 5209

(6) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits; 5210 5211 5212 5213

(7) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as 5214 5215 5216 5217

payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state; 5218 5219

(8) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator. 5220 5221 5222

(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees whose employers contribute to the fund, except when an employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code. 5223 5224 5225 5226 5227 5228 5229 5230 5231 5232 5233 5234 5235 5236 5237 5238 5239

(E) In addition to the requirements of this section, the administrator shall make and publish rules governing the manner of making application and the nature and extent of the proof required to justify a finding of fact by the administrator as to granting the status of a self-insuring employer, which rules shall be general in their application, one of which rules shall provide that all self-insuring employers shall pay into the state insurance fund such amounts as are required to be credited 5240 5241 5242 5243 5244 5245 5246 5247

to the surplus fund in division (B) of section 4123.34 of the Revised Code. The administrator may adopt rules establishing requirements in addition to the requirements described in division (B)(2) of this section that a public employer shall meet in order to qualify for self-insuring status. 5248 5249 5250 5251 5252

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information. 5253 5254 5255 5256 5257 5258 5259 5260 5261 5262 5263 5264 5265 5266 5267 5268 5269

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a statement, containing its findings of fact, that is prepared by the bureau and signed by the administrator. If the bureau determines not to grant the status as a self-insuring employer, the bureau shall notify the employer of the determination and require the employer to continue to pay its full premium into the state insurance fund. The administrator also shall adopt 5270 5271 5272 5273 5274 5275 5276 5277 5278

rules establishing a minimum level of performance as a criterion for granting and maintaining the status as a self-insuring employer and fixing time limits beyond which failure of the self-insuring employer to provide for the necessary medical examinations and evaluations may not delay a decision on a claim. 5279 5280 5281 5282 5283 5284

(G) The administrator shall adopt rules setting forth procedures for auditing the program of self-insuring employers. The bureau shall conduct the audit upon a random basis or whenever the bureau has grounds for believing that a self-insuring employer is not in full compliance with bureau rules or this chapter. 5285 5286 5287 5288 5289 5290

The administrator shall monitor the programs conducted by self-insuring employers, to ensure compliance with bureau requirements and for that purpose, shall develop and issue to self-insuring employers standardized forms for use by the self-insuring employer in all aspects of the self-insuring employers' direct compensation program and for reporting of information to the bureau. 5291 5292 5293 5294 5295 5296 5297

The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a complaint against a self-insuring employer, the administrator shall handle the complaint through the self-insurance division of the bureau. The bureau shall maintain a file by employer of all complaints received that relate to the employer. The bureau shall evaluate each complaint and take appropriate action. 5298 5299 5300 5301 5302 5303 5304 5305

The administrator shall adopt as a rule a prohibition against any self-insuring employer from harassing, dismissing, or otherwise disciplining any employee making a complaint, which 5306 5307 5308

rule shall provide for a financial penalty to be levied by the administrator payable by the offending self-insuring employer. 5309 5310

(H) For the purpose of making determinations as to whether to grant status as a self-insuring employer, the administrator may subscribe to and pay for a credit reporting service that offers financial and other business information about individual employers. The costs in connection with the bureau's subscription or individual reports from the service about an applicant may be included in the application fee charged employers under this section. 5311 5312 5313 5314 5315 5316 5317 5318

(I) A self-insuring employer that returns to the state insurance fund as a state fund employer shall provide the administrator with medical costs and indemnity costs by claim, and payroll by manual classification and year, and such other information the administrator may require. The self-insuring employer shall submit this information by dates and in a format determined by the administrator. The administrator shall develop a state fund experience modification factor for a self-insuring employer that returns to the state insurance fund based in whole or in part on the employer's self-insured experience and the information submitted. 5319 5320 5321 5322 5323 5324 5325 5326 5327 5328 5329

(J) On the first day of July of each year, the administrator shall calculate separately each self-insuring employer's assessments for the safety and hygiene fund, administrative costs pursuant to section 4123.342 of the Revised Code, and for the surplus fund under division (B) of section 4123.34 of the Revised Code, on the basis of the paid compensation attributable to the individual self-insuring employer according to the following calculation: 5330 5331 5332 5333 5334 5335 5336 5337

(1) The total assessment against all self-insuring 5338

employers as a class for each fund and for the administrative costs for the year that the assessment is being made, as determined by the administrator, divided by the total amount of paid compensation for the previous calendar year attributable to all amenable self-insuring employers; 5339 5340 5341 5342 5343

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer for whom the assessment is being determined. Each self-insuring employer shall pay the assessment that results from this calculation, unless the assessment resulting from this calculation falls below a minimum assessment, which minimum assessment the administrator shall determine on the first day of July of each year with the advice and consent of the bureau of workers' compensation board of directors, in which event, the self-insuring employer shall pay the minimum assessment. 5344 5345 5346 5347 5348 5349 5350 5351 5352 5353 5354 5355

In determining the total amount due for the total assessment against all self-insuring employers as a class for each fund and the administrative assessment, the administrator shall reduce proportionately the total for each fund and assessment by the amount of money in the self-insurance assessment fund as of the date of the computation of the assessment. 5356 5357 5358 5359 5360 5361 5362

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for reimbursement to a self-insuring employer under division (H) of section 4123.512 of the Revised Code in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator 5363 5364 5365 5366 5367 5368

shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code. 5369 5370 5371 5372 5373 5374 5375 5376 5377

An employer who no longer is a self-insuring employer in this state or who no longer is operating in this state, shall continue to pay assessments for administrative costs and for the surplus fund under division (B) of section 4123.34 of the Revised Code based upon paid compensation attributable to claims that occurred while the employer was a self-insuring employer within this state. 5378 5379 5380 5381 5382 5383 5384

(K) There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code. 5385 5386 5387 5388 5389 5390

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from the surplus fund pursuant to section 4123.512 of the 5391 5392 5393 5394 5395 5396 5397 5398

Revised Code for any paid compensation. The self-insuring employer also shall exclude from the paid compensation reported any amount recovered under section 4123.931 of the Revised Code and any amount that is determined not to have been payable to or on behalf of a claimant in any final administrative or judicial proceeding. The self-insuring employer shall exclude such amounts from the paid compensation reported in the reporting period subsequent to the date the determination is made. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, that provide for all of the following: 5399 5400 5401 5402 5403 5404 5405 5406 5407 5408

(1) Establishing the date by which self-insuring employers must submit such information and the amount of the assessments provided for in division (J) of this section for employers who have been granted self-insuring status within the last calendar year; 5409 5410 5411 5412 5413

(2) If an employer fails to pay the assessment when due, the administrator may add a late fee penalty of not more than five hundred dollars to the assessment plus an additional penalty amount as follows: 5414 5415 5416 5417

(a) For an assessment from sixty-one to ninety days past due, the prime interest rate, multiplied by the assessment due; 5418 5419

(b) For an assessment from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the assessment due; 5420 5421 5422

(c) For an assessment from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due; 5423 5424 5425

(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six 5426 5427

per cent, multiplied by the assessment due; 5428

(e) For an assessment from one hundred eighty-one to two 5429
hundred ten days past due, the prime interest rate plus eight 5430
per cent, multiplied by the assessment due; 5431

(f) For each additional thirty-day period or portion 5432
thereof that an assessment remains past due after it has 5433
remained past due for more than two hundred ten days, the prime 5434
interest rate plus eight per cent, multiplied by the assessment 5435
due. 5436

(3) An employer may appeal a late fee penalty and penalty 5437
assessment to the administrator. 5438

For purposes of division (L)(2) of this section, "prime 5439
interest rate" means the average bank prime rate, and the 5440
administrator shall determine the prime interest rate in the 5441
same manner as a county auditor determines the average bank 5442
prime rate under section 929.02 of the Revised Code. 5443

The administrator shall include any assessment and 5444
penalties that remain unpaid for previous assessment periods in 5445
the calculation and collection of any assessments due under this 5446
division or division (J) of this section. 5447

(M) As used in this section, "paid compensation" means all 5448
amounts paid by a self-insuring employer for living maintenance 5449
benefits, all amounts for compensation paid pursuant to sections 5450
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, 5451
~~and~~ 4123.64, 4135.12, 4135.13, and 4135.14 of the Revised Code, 5452
all amounts paid as wages in lieu of such compensation, all 5453
amounts paid in lieu of such compensation under a 5454
nonoccupational accident and sickness program fully funded by 5455
the self-insuring employer, and all amounts paid by a self- 5456

insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code. 5457 5458 5459

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll. 5460 5461 5462 5463 5464 5465 5466

(O) The administrator may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the total cost of which is estimated to exceed one hundred million dollars or, for employers described in division (R) of this section, if the construction project is estimated to exceed twenty-five million dollars. The administrator may waive such cost and time criteria and grant a self-insuring employer the privilege to self-insure a construction project regardless of the time needed to complete the construction project and provided that the cost of the construction project is estimated to exceed fifty million dollars. A self-insuring employer who desires to self-insure a construction project shall submit to the administrator an application listing the dates the construction project is scheduled to begin and end, the estimated cost of the construction project, the contractors and subcontractors whose employees are to be self-insured by the self-insuring employer, the provisions of a safety program that is specifically designed for the construction project, and a statement as to whether a collective bargaining agreement 5467 5468 5469 5470 5471 5472 5473 5474 5475 5476 5477 5478 5479 5480 5481 5482 5483 5484 5485 5486 5487

governing the rights, duties, and obligations of each of the parties to the agreement with respect to the construction project exists between the self-insuring employer and a labor organization. 5488 5489 5490 5491

A self-insuring employer may apply to self-insure the employees of either of the following: 5492 5493

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project; 5494 5495

(2) All contractors and, at the administrator's discretion, a substantial number of all the subcontractors who perform labor or work or provide materials for the construction project. 5496 5497 5498 5499

Upon approval of the application, the administrator shall mail a certificate granting the privilege to self-insure the construction project to the self-insuring employer. The certificate shall contain the name of the self-insuring employer and the name, address, and telephone number of the self-insuring employer's representatives who are responsible for administering workers' compensation claims for the construction project. The self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project. 5500 5501 5502 5503 5504 5505 5506 5507 5508

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate. 5509 5510 5511 5512 5513 5514

Upon approval of the application, the self-insuring employer is responsible for the administration and payment of 5515 5516

all claims under this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised Code for the employees of the contractor and subcontractors covered under the certificate who receive injuries or are killed in the course of and arising out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project. For purposes of this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised Code, a claim that is administered and paid in accordance with this division is considered a claim against the self-insuring employer listed in the certificate. A contractor or subcontractor included under the certificate shall report to the self-insuring employer listed in the certificate, all claims that arise under this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised Code in connection with the construction project for which the certificate is issued. 5517 5518 5519 5520 5521 5522 5523 5524 5525 5526 5527 5528 5529 5530 5531 5532

A self-insuring employer who complies with this division is entitled to the protections provided under this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised Code with respect to the employees of the contractors and subcontractors covered under a certificate issued under this division for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project, as if the employees were employees of the self-insuring employer, provided that the self-insuring employer also complies with this section. No employee of the contractors and subcontractors covered under a certificate issued under this division shall be considered the employee of the self-insuring employer listed in that certificate for any purposes other than this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised Code. Nothing in this 5533 5534 5535 5536 5537 5538 5539 5540 5541 5542 5543 5544 5545 5546 5547

division gives a self-insuring employer authority to control the 5548
means, manner, or method of employment of the employees of the 5549
contractors and subcontractors covered under a certificate 5550
issued under this division. 5551

The contractors and subcontractors included under a 5552
certificate issued under this division are entitled to the 5553
protections provided under this chapter and ~~Chapter~~ Chapters 5554
4121. and 4135. of the Revised Code with respect to the 5555
contractor's or subcontractor's employees who are employed on 5556
the construction project which is the subject of the 5557
certificate, for death or injuries that arise out of, or death, 5558
injuries, or occupational diseases that arise in the course of, 5559
those employees' employment on that construction project. 5560

The contractors and subcontractors included under a 5561
certificate issued under this division shall identify in their 5562
payroll records the employees who are considered the employees 5563
of the self-insuring employer listed in that certificate for 5564
purposes of this chapter and ~~Chapter~~ Chapters 4121. and 4135. of 5565
the Revised Code, and the amount that those employees earned for 5566
employment on the construction project that is the subject of 5567
that certificate. Notwithstanding any provision to the contrary 5568
under this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the 5569
Revised Code, the administrator shall exclude the payroll that 5570
is reported for employees who are considered the employees of 5571
the self-insuring employer listed in that certificate, and that 5572
the employees earned for employment on the construction project 5573
that is the subject of that certificate, when determining those 5574
contractors' or subcontractors' premiums or assessments required 5575
under this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the 5576
Revised Code. A self-insuring employer issued a certificate 5577
under this division shall include in the amount of paid 5578

compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year. 5579 5580 5581 5582

Nothing in this division shall be construed as altering the rights of employees under this chapter and Chapter 4121. of the Revised Code as those rights existed prior to September 17, 1996. Nothing in this division shall be construed as altering the rights devolved under sections 2305.31 and 4123.82 of the Revised Code as those rights existed prior to September 17, 1996. 5583 5584 5585 5586 5587 5588 5589

As used in this division, "privilege to self-insure a construction project" means privilege to pay individually compensation, and to furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees. 5590 5591 5592 5593 5594

(P) A self-insuring employer whose application is granted under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application. 5595 5596 5597 5598 5599 5600

A self-insuring employer whose application is granted under division (O) of this section shall employ an ombudsperson for the construction project that is the subject of the application. The ombudsperson shall have experience in workers' compensation or the construction industry, or both. The ombudsperson shall perform all of the following duties: 5601 5602 5603 5604 5605 5606

(1) Communicate with and provide information to employees 5607

who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project; 5608 5609 5610 5611

(2) Investigate the status of a claim upon the request of an employee to do so; 5612 5613

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised Code. 5614 5615 5616 5617

A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project. 5618 5619 5620 5621 5622

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section: 5623 5624 5625 5626

(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law; 5627 5628 5629

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and 5630 5631 5632 5633 5634 5635 5636

Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement; 5637 5638

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project; 5639 5640 5641

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section; 5642 5643

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section. 5644 5645 5646 5647 5648

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section: 5649 5650 5651 5652

(1) A state institution of higher education; 5653

(2) A school district; 5654

(3) A county school financing district; 5655

(4) An educational service center; 5656

(5) A community school established under Chapter 3314. of the Revised Code; 5657 5658

(6) A municipal power agency as defined in section 3734.058 of the Revised Code. 5659 5660

(S) As used in this section: 5661

(1) "Unvoted debt capacity" means the amount of money that 5662

a public employer may borrow without voter approval of a tax levy; 5663 5664

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code. 5665 5666 5667 5668 5669 5670 5671 5672

Sec. 4123.351. (A) The administrator of workers' compensation shall require every self-insuring employer, including any self-insuring employer that is indemnified by a captive insurance company granted a certificate of authority under Chapter 3964. of the Revised Code, to pay a contribution, calculated under this section, to the self-insuring employers' guaranty fund established pursuant to this section. The fund shall provide for payment of compensation and benefits to employees of the self-insuring employer in order to cover any default in payment by that employer. 5673 5674 5675 5676 5677 5678 5679 5680 5681 5682

(B) The bureau of workers' compensation shall operate the self-insuring employers' guaranty fund for self-insuring employers. The administrator annually shall establish the contributions due from self-insuring employers for the fund at rates as low as possible but such as will assure sufficient moneys to guarantee the payment of any claims against the fund. The bureau's operation of the fund is not subject to sections 3929.10 to 3929.18 of the Revised Code or to regulation by the superintendent of insurance. 5683 5684 5685 5686 5687 5688 5689 5690 5691

(C) If a self-insuring employer defaults, the bureau shall 5692

recover the amounts paid as a result of the default from the self-insuring employers' guaranty fund. If a self-insuring employer defaults and is in compliance with this section for the payment of contributions to the fund, such self-insuring employer is entitled to the immunity conferred by section 4123.74 of the Revised Code for any claim arising during any period the employer is in compliance with this section. 5693 5694 5695 5696 5697 5698 5699

(D)(1) There is hereby established a self-insuring employers' guaranty fund, which shall be in the custody of the treasurer of state and which shall be separate from the other funds established and administered pursuant to this chapter. The fund shall consist of contributions and other payments made by self-insuring employers under this section. All investment earnings of the fund shall be credited to the fund. The bureau shall make disbursements from the fund pursuant to this section. 5700 5701 5702 5703 5704 5705 5706 5707

(2) The administrator has the same powers to invest any of the surplus or reserve belonging to the fund as are delegated to the administrator under section 4123.44 of the Revised Code with respect to the state insurance fund. The administrator shall apply interest earned solely to the reduction of assessments for contributions from self-insuring employers and to the payments required due to defaults. 5708 5709 5710 5711 5712 5713 5714

(3) If the bureau of workers' compensation board of directors determines that reinsurance of the risks of the fund is necessary to assure solvency of the fund, the board may: 5715 5716 5717

(a) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue contracts of reinsurance; 5718 5719 5720

(b) Require the administrator to pay the cost of 5721

reinsurance from the fund; 5722

(c) Include the costs of reinsurance as a liability and 5723
estimated liability of the fund. 5724

(E) The administrator, with the advice and consent of the 5725
board, may adopt rules pursuant to Chapter 119. of the Revised 5726
Code for the implementation of this section, including a rule, 5727
notwithstanding division (C) of this section, requiring self- 5728
insuring employers to provide security in addition to the 5729
contribution to the self-insuring employers' guaranty fund 5730
required by this section. The additional security required by 5731
the rule, as the administrator determines appropriate, shall be 5732
sufficient and adequate to provide for financial assurance to 5733
meet the obligations of self-insuring employers under this 5734
chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised 5735
Code. 5736

(F) The purchase of coverage under this section by self- 5737
insuring employers is valid notwithstanding the prohibitions 5738
contained in division (A) of section 4123.82 of the Revised Code 5739
and is in addition to the indemnity contracts that self-insuring 5740
employers may purchase pursuant to division (B) of section 5741
4123.82 of the Revised Code. 5742

(G) The administrator, on behalf of the self-insuring 5743
employers' guaranty fund, has the rights of reimbursement and 5744
subrogation and shall collect from a defaulting self-insuring 5745
employer or other liable person all amounts the administrator 5746
has paid or reasonably expects to pay from the fund on account 5747
of the defaulting self-insuring employer. 5748

(H) The assessments for contributions, the administration 5749
of the self-insuring employers' guaranty fund, the investment of 5750

the money in the fund, and the payment of liabilities incurred 5751
by the fund do not create any liability upon the state. 5752

Except for a gross abuse of discretion, neither the board, 5753
nor the individual members thereof, nor the administrator shall 5754
incur any obligation or liability respecting the assessments for 5755
contributions, the administration of the self-insuring 5756
employers' guaranty fund, the investment of the fund, or the 5757
payment of liabilities therefrom. 5758

Sec. 4123.353. (A) A public employer, except for a board 5759
of county commissioners described in division (G) of section 5760
4123.01 of the Revised Code, a board of a county hospital, or a 5761
publicly owned utility, who is granted the status of self- 5762
insuring employer pursuant to section 4123.35 of the Revised 5763
Code shall do all of the following: 5764

(1) Reserve funds as necessary, in accordance with sound 5765
and prudent actuarial judgment, to cover the costs the public 5766
employer may potentially incur to remain in compliance with this 5767
chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised 5768
Code; 5769

(2) Include all activity under this chapter and ~~Chapter~~ 5770
Chapters 4121. and 4135. of the Revised Code in a single fund on 5771
the public employer's accounting records; 5772

(3) Within ninety days after the last day of each fiscal 5773
year, prepare and maintain a report of the reserved funds 5774
described in division (A)(1) of this section and disbursements 5775
made from those reserved funds. 5776

(B) A public employer who is subject to division (A) of 5777
this section shall make the reports required by that division 5778
available for inspection by the administrator of workers' 5779

compensation and any other person at all reasonable times during 5780
regular business hours. 5781

Sec. 4123.402. The department of administrative services 5782
shall act as employer for workers' compensation claims arising 5783
under this chapter and Chapters 4121., 4127., ~~and~~ 4131., and 5784
4135. of the Revised Code for all state agencies, offices, 5785
institutions, boards, or commissions except for public colleges 5786
and universities. The department shall review, process, certify 5787
or contest, and administer workers' compensation claims for each 5788
state agency, office, institution, board, and commission, except 5789
for a public college or university, unless otherwise agreed to 5790
between the department and a state agency, office, institution, 5791
board, or commission. 5792

The department may enter into a contract with one or more 5793
third party administrators for claims management of a state 5794
agency, office, institution, board, or commission, except for a 5795
public college or university, for workers' compensation claims 5796
and for claims covered by the occupational injury leave program 5797
adopted pursuant to section 124.381 of the Revised Code. 5798

Sec. 4123.441. (A) The administrator of workers' 5799
compensation, with the advice and consent of the bureau of 5800
workers' compensation board of directors shall employ a person 5801
or designate an employee of the bureau of workers' compensation 5802
who is designated as a chartered financial analyst by the CFA 5803
institute and who is licensed by the division of securities in 5804
the department of commerce as a bureau of workers' compensation 5805
chief investment officer to be the chief investment officer for 5806
the bureau of workers' compensation. After ninety days after 5807
September 29, 2005, the bureau of workers' compensation may not 5808
employ a bureau of workers' compensation chief investment 5809

officer, as defined in section 1707.01 of the Revised Code, who 5810
does not hold a valid bureau of workers' compensation chief 5811
investment officer license issued by the division of securities 5812
in the department of commerce. The board shall notify the 5813
division of securities of the department of commerce in writing 5814
of its designation and of any change in its designation within 5815
ten calendar days after the designation or change. 5816

(B) The bureau of workers' compensation chief investment 5817
officer shall reasonably supervise employees of the bureau who 5818
handle investment of assets of funds specified in this chapter 5819
and Chapters 4121., 4127., ~~and~~ 4131., and 4135. of the Revised 5820
Code with a view toward preventing violations of Chapter 1707. 5821
of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 5822
7 U.S.C. 1, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 5823
77a, the "Securities Exchange Act of 1934," 48 Stat. 881, 15 5824
U.S.C. 78a, and the rules and regulations adopted under those 5825
statutes. This duty of reasonable supervision shall include the 5826
adoption, implementation, and enforcement of written policies 5827
and procedures reasonably designed to prevent employees of the 5828
bureau who handle investment of assets of the funds specified in 5829
this chapter and Chapters 4121., 4127., ~~and~~ 4131., and 4135. of 5830
the Revised Code, from misusing material, nonpublic information 5831
in violation of those laws, rules, and regulations. 5832

For purposes of this division, no bureau of workers' 5833
compensation chief investment officer shall be considered to 5834
have failed to satisfy the officer's duty of reasonable 5835
supervision if the officer has done all of the following: 5836

(1) Adopted and implemented written procedures, and a 5837
system for applying the procedures, that would reasonably be 5838
expected to prevent and detect, insofar as practicable, any 5839

violation by employees handling investments of assets of the funds specified in this chapter and Chapters 4121., 4127., ~~and~~ 4131., and 4135. of the Revised Code; 5840–5842

(2) Reasonably discharged the duties and obligations incumbent on the bureau of workers' compensation chief investment officer by reason of the established procedures and the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems; 5843–5848

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation. 5849–5851

(C) The bureau of workers' compensation chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the bureau. 5852–5855

Sec. 4123.442. When developing the investment policy for the investment of the assets of the funds specified in this chapter and Chapters 4121., 4127., ~~and~~ 4131., and 4135. of the Revised Code, the workers' compensation investment committee shall do all of the following: 5856–5860

(A) Specify the asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines; 5861–5863

(B) Prohibit investing the assets of those funds, directly or indirectly, in vehicles that target any of the following: 5864–5865

(1) Coins; 5866

(2) Artwork; 5867

(3) Horses; 5868

(4) Jewelry or gems; 5869

(5) Stamps; 5870

(6) Antiques; 5871

(7) Artifacts; 5872

(8) Collectibles; 5873

(9) Memorabilia; 5874

(10) Similar unregulated investments that are not commonly part of an institutional portfolio, that lack liquidity, and that lack readily determinable valuation. 5875 5876 5877

(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; 5878 5879 5880 5881

(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; 5882 5883 5884 5885

(E) Not specify in the investment policy that the administrator or employees of the bureau of workers' compensation are prohibited from conducting business with an investment management firm, any investment management professional associated with that firm, any third party solicitor associated with that firm, or any political action committee controlled by that firm or controlled by an investment management professional of that firm based on criteria that are more restrictive than the restrictions described in divisions 5886 5887 5888 5889 5890 5891 5892 5893 5894

(Y) and (Z) of section 3517.13 of the Revised Code. 5895

Sec. 4123.444. (A) As used in this section and section 5896
4123.445 of the Revised Code: 5897

(1) "Bureau of workers' compensation funds" means any fund 5898
specified in Chapter 4121., 4123., 4127., ~~or~~ 4131., or 4135. of 5899
the Revised Code that the administrator of workers' compensation 5900
has the authority to invest, in accordance with the 5901
administrator's investment authority under section 4123.44 of 5902
the Revised Code. 5903

(2) "Investment manager" means any person with whom the 5904
administrator of workers' compensation contracts pursuant to 5905
section 4123.44 of the Revised Code to facilitate the investment 5906
of assets of bureau of workers' compensation funds. 5907

(3) "Business entity" means any person with whom an 5908
investment manager contracts for the investment of assets of 5909
bureau of workers' compensation funds. 5910

(4) "Financial or investment crime" means any criminal 5911
offense involving theft, receiving stolen property, 5912
embezzlement, forgery, fraud, passing bad checks, money 5913
laundering, drug trafficking, or any criminal offense involving 5914
money or securities, as set forth in Chapters 2909., 2911., 5915
2913., 2915., 2921., 2923., and 2925. of the Revised Code or 5916
other law of this state, or the laws of any other state or the 5917
United States that are substantially equivalent to those 5918
offenses. 5919

(B)(1) Before entering into a contract with an investment 5920
manager to invest bureau of workers' compensation funds, the 5921
administrator shall do both of the following: 5922

(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. 5923 5924 5925 5926 5927 5928

(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. 5929 5930 5931 5932 5933

(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. 5934 5935 5936 5937 5938 5939 5940 5941 5942 5943 5944 5945 5946 5947 5948 5949 5950 5951

(3) If, after a contract has been entered into between the 5952

administrator and an investment manager or between an investment manager and a business entity for the investment of assets of bureau of workers' compensation funds, the investment manager or business entity wishes to have an employee who was not the subject of a criminal records check under division (B)(1) or (B)(2) of this section invest assets of the bureau of workers' compensation funds, that employee shall be the subject of a criminal records check pursuant to this section and section 109.579 of the Revised Code prior to handling the investment of assets of those funds. The investment manager shall submit to the administrator the name of that employee along with the employee's state of residence for the five years prior to the date in which the administrator requests the criminal records check. The administrator shall request that the superintendent conduct a criminal records check on that employee pursuant to this section and section 109.579 of the Revised Code. 5953 5954 5955 5956 5957 5958 5959 5960 5961 5962 5963 5964 5965 5966 5967 5968

(C)(1) If an employee who is the subject of a criminal records check pursuant to division (B) of this section has not been a resident of this state for the five-year period immediately prior to the time the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the employee from the federal bureau of investigation in a criminal records check, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the employee. If the employee has been a resident of this state for at least that five-year period, the administrator may, but is not required to, request that the superintendent request and include in the criminal records check information about that employee from the federal bureau of investigation. 5969 5970 5971 5972 5973 5974 5975 5976 5977 5978 5979 5980 5981 5982 5983

(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. 5984 5985 5986 5987 5988 5989 5990 5991 5992 5993 5994

(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. 5995 5996 5997 5998 5999 6000 6001

(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. 6002 6003 6004 6005 6006

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- 6007 6008 6009 6010 6011 6012 6013

inflicted, or to the dependents of the employees in case death 6014
has ensued. 6015

(2) As long as injuries have not been purposely self- 6016
inflicted, the bureau shall disburse the surplus fund created 6017
under section 4123.34 of the Revised Code to off-duty peace 6018
officers, firefighters, emergency medical technicians, and first 6019
responders, or to their dependents if death ensues, who are 6020
injured while responding to inherently dangerous situations that 6021
call for an immediate response on the part of the person, 6022
regardless of whether the person was within the limits of the 6023
person's jurisdiction when responding, on the condition that the 6024
person responds to the situation as the person otherwise would 6025
if the person were on duty in the person's jurisdiction. 6026

As used in division (A)(2) of this section, "peace 6027
officer," "firefighter," "emergency medical technician," and 6028
"first responder~~,~~" ~~and "jurisdiction"~~ have the same meanings as 6029
in section 4123.01 of the Revised Code. 6030

(B) All self-insuring employers, in compliance with this 6031
chapter, shall pay the compensation to injured employees, or to 6032
the dependents of employees who have been killed in the course 6033
of their employment, unless the injury or death of the employee 6034
was purposely self-inflicted, and shall furnish the medical, 6035
surgical, nurse, and hospital care and attention or funeral 6036
expenses as would have been paid and furnished by virtue of this 6037
chapter or Chapter 4135. of the Revised Code under a similar 6038
state of facts by the bureau out of the state insurance fund if 6039
the employer had paid the premium into the fund. 6040

If any rule or regulation of a self-insuring employer 6041
provides for or authorizes the payment of greater compensation 6042
or more complete or extended medical care, nursing, surgical, 6043

and hospital attention, or funeral expenses to the injured 6044
employees, or to the dependents of the employees as may be 6045
killed, the employer shall pay to the employees, or to the 6046
dependents of employees killed, the amount of compensation and 6047
furnish the medical care, nursing, surgical, and hospital 6048
attention or funeral expenses provided by the self-insuring 6049
employer's rules and regulations. 6050

(C) Payment to injured employees, or to their dependents 6051
in case death has ensued, is in lieu of any and all rights of 6052
action against the employer of the injured or killed employees. 6053

Sec. 4123.47. (A) The administrator of workers' 6054
compensation shall have an actuarial analysis of the state 6055
insurance fund and all other funds specified in this chapter and 6056
Chapters 4121., 4127., ~~and~~ 4131., and 4135. of the Revised Code 6057
made at least once each year. The analysis shall be made and 6058
certified by recognized, credentialed property or casualty 6059
actuaries who shall be selected by the bureau of workers' 6060
compensation board of directors. The expense of the analysis 6061
shall be paid from the state insurance fund. The administrator 6062
shall make copies of the analysis available to the workers' 6063
compensation audit committee at no charge and to the public at 6064
cost. 6065

(B) The auditor of state annually shall conduct an audit 6066
of the administration of this chapter and Chapter 4135. of the 6067
Revised Code by the industrial commission, the occupational 6068
pneumoconiosis board, and the bureau of workers' compensation 6069
and of the safety and hygiene fund. The cost of the audit shall 6070
be charged to the administrative costs of the bureau as defined 6071
in section 4123.341 of the Revised Code. The audit shall include 6072
audits of all fiscal activities, claims processing and handling, 6073

and employer premium collections. The auditor shall prepare a report of the audit together with recommendations and transmit copies of the report to the industrial commission, the bureau of workers' compensation board of directors, the administrator, the governor, and to the general assembly. The auditor shall make copies of the report available to the public at cost. 6074 6075 6076 6077 6078 6079

(C) The administrator may retain the services of a recognized actuary on a consulting basis for the purpose of evaluating the actuarial soundness of premium rates and classifications and all other matters involving the administration of the state insurance fund. The expense of services provided by the actuary shall be paid from the state insurance fund. 6080 6081 6082 6083 6084 6085 6086

Sec. 4123.51. The administrator of workers' compensation shall by published notices and other appropriate means endeavor to cause claims to be filed in the service office of the bureau of workers' compensation from which the investigation and determination of the claim may be made most expeditiously. A claim or appeal under this chapter or Chapter 4121., 4127., or 4131., or 4135. of the Revised Code may be filed with any office of the bureau of workers' compensation or the industrial commission, within the required statutory period, and is considered received for the purpose of processing the claims or appeals. 6087 6088 6089 6090 6091 6092 6093 6094 6095 6096 6097

The administrator, on the form an employee or an individual acting on behalf of the employee files with the administrator or a self-insuring employer to initiate a claim under this chapter or Chapter 4121., 4127., or 4131., or 4135. of the Revised Code, shall include a statement that is substantially similar to the following statement in bold font 6098 6099 6100 6101 6102 6103

and set apart from all other text in the form: 6104

"By signing this form, I elect to only receive compensation, benefits, or both that are provided for in this claim under Ohio's workers' compensation laws. I understand and I hereby waive and release my right to receive compensation and benefits under the workers' compensation laws of another state for the injury or occupational disease, or the death resulting from an injury or occupational disease, for which I am filing this claim. I have not received compensation and benefits under the workers' compensation laws of another state for this claim, and I will not file and have not filed a claim in another state for the injury or occupational disease or death resulting from an injury or occupational disease for which I am filing this claim." 6105 6106 6107 6108 6109 6110 6111 6112 6113 6114 6115 6116 6117

Sec. 4123.511. (A) Within seven days after receipt of any claim under this chapter or Chapter 4135. of the Revised Code, the bureau of workers' compensation shall notify the claimant and the employer of the claimant of the receipt of the claim and of the facts alleged therein. If the bureau receives from a person other than the claimant written or facsimile information or information communicated verbally over the telephone indicating that an injury or occupational disease has occurred or been contracted which may be compensable under this chapter or Chapter 4135. of the Revised Code, the bureau shall notify the employee and the employer of the information. If the information is provided verbally over the telephone, the person providing the information shall provide written verification of the information to the bureau according to division (E) of section 4123.84 of the Revised Code. The receipt of the information in writing or facsimile, or if initially by telephone, the subsequent written verification, and the notice 6118 6119 6120 6121 6122 6123 6124 6125 6126 6127 6128 6129 6130 6131 6132 6133 6134

by the bureau shall be considered an application for compensation under section 4123.84 or 4123.85 of the Revised Code, provided that the conditions of division (E) of section 4123.84 of the Revised Code apply to information provided verbally over the telephone. Upon receipt of a claim, the bureau shall advise the claimant of the claim number assigned and the claimant's right to representation in the processing of a claim or to elect no representation. If the bureau determines that a claim is determined to be a compensable lost-time claim, the bureau shall notify the claimant and the employer of the availability of rehabilitation services. No bureau or industrial commission employee shall directly or indirectly convey any information in derogation of this right. This section shall in no way abrogate the bureau's responsibility to aid and assist a claimant in the filing of a claim and to advise the claimant of the claimant's rights under the law. 6135 6136 6137 6138 6139 6140 6141 6142 6143 6144 6145 6146 6147 6148 6149 6150

The administrator of workers' compensation shall assign all claims and investigations to the bureau service office from which investigation and determination may be made most expeditiously. 6151 6152 6153 6154

The bureau shall investigate the facts concerning an injury or occupational disease and ascertain such facts in whatever manner is most appropriate and may obtain statements of the employee, employer, attending physician, and witnesses in whatever manner is most appropriate. 6155 6156 6157 6158 6159

The administrator, with the advice and consent of the bureau of workers' compensation board of directors, may adopt rules that identify specified medical conditions that have a historical record of being allowed whenever included in a claim. The administrator may grant immediate allowance of any medical 6160 6161 6162 6163 6164

condition identified in those rules upon the filing of a claim 6165
involving that medical condition and may make immediate payment 6166
of medical bills for any medical condition identified in those 6167
rules that is included in a claim. If an employer contests the 6168
allowance of a claim involving any medical condition identified 6169
in those rules, and the claim is disallowed, payment for the 6170
medical condition included in that claim shall be charged to and 6171
paid from the surplus fund created under section 4123.34 of the 6172
Revised Code. 6173

(B)(1) Except as provided in division (B)(2) of this 6174
section, in claims other than those in which the employer is a 6175
self-insuring employer, if the administrator determines under 6176
division (A) of this section that a claimant is or is not 6177
entitled to an award of compensation or benefits, the 6178
administrator shall issue an order no later than twenty-eight 6179
days after the sending of the notice under division (A) of this 6180
section, granting or denying the payment of the compensation or 6181
benefits, or both as is appropriate to the claimant. 6182
Notwithstanding the time limitation specified in this division 6183
for the issuance of an order, if a medical examination of the 6184
claimant is required by statute, the administrator promptly 6185
shall schedule the claimant for that examination and shall issue 6186
an order no later than twenty-eight days after receipt of the 6187
report of the examination. The administrator shall notify the 6188
claimant and the employer of the claimant and their respective 6189
representatives in writing of the nature of the order and the 6190
amounts of compensation and benefit payments involved. The 6191
employer or claimant may appeal the order pursuant to division 6192
(C) of this section within fourteen days after the date of the 6193
receipt of the order. The employer and claimant may waive, in 6194
writing, their rights to an appeal under this division. 6195

(2) Notwithstanding the time limitation specified in 6196
division (B)(1) of this section for the issuance of an order, if 6197
the employer certifies a claim for payment of compensation or 6198
benefits, or both, to a claimant, and the administrator has 6199
completed the investigation of the claim, the payment of 6200
benefits or compensation, or both, as is appropriate, shall 6201
commence upon the later of the date of the certification or 6202
completion of the investigation and issuance of the order by the 6203
administrator, provided that the administrator shall issue the 6204
order no later than the time limitation specified in division 6205
(B)(1) of this section. 6206

(3) If an appeal is made under division (B)(1) or (2) of 6207
this section, the administrator shall forward the claim file to 6208
the appropriate district hearing officer within seven days of 6209
the appeal. In contested claims other than state fund claims, 6210
the administrator shall forward the claim within seven days of 6211
the administrator's receipt of the claim to the industrial 6212
commission, which shall refer the claim to an appropriate 6213
district hearing officer for a hearing in accordance with 6214
division (C) of this section. 6215

(C) ~~If an employer or claimant timely appeals the order of~~ 6216
~~the administrator issued under division (B) of this section or~~ 6217
~~in the case of other contested claims other than state fund~~ 6218
~~claims,~~ (1) Except as provided in division (C)(2) of this 6219
section, the commission shall refer ~~the~~ a claim to an 6220
appropriate district hearing officer according to rules the 6221
commission adopts under section 4121.36 of the Revised Code if 6222
an employer or claimant timely appeals any of the following: 6223

(a) An order or determination of the administrator issued 6224
under division (B) of this section or section 4135.06 of the 6225

Revised Code; 6226

(b) A determination of the occupational pneumoconiosis board issued under section 4135.09 of the Revised Code; 6227 6228

(c) Other contested claims other than state fund claims. 6229

(2) Division (C)(1) of this section does not apply to a claim that has been referred to the occupational pneumoconiosis board for review under section 4135.08 of the Revised Code. 6230 6231 6232

The district hearing officer shall notify the parties and their respective representatives of the time and place of the hearing. 6233 6234 6235

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. 6236 6237 6238 6239 6240 6241 6242 6243 6244

(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 6245 6246 6247 6248 6249 6250 6251 6252 6253 6254

officer's order. Any party may appeal an order issued under this 6255
division pursuant to division (E) of this section within 6256
fourteen days after receipt of the order under this division. 6257

(E) Upon the filing of a timely appeal of the order of the 6258
staff hearing officer issued under division (D) of this section, 6259
the commission or a designated staff hearing officer, on behalf 6260
of the commission, shall determine whether the commission will 6261
hear the appeal. If the commission or the designated staff 6262
hearing officer decides to hear the appeal, the commission or 6263
the designated staff hearing officer shall notify the parties 6264
and their respective representatives in writing of the time and 6265
place of the hearing. The commission shall hold the hearing 6266
within forty-five days after the filing of the notice of appeal 6267
and, within seven days after the conclusion of the hearing, the 6268
commission shall issue its order affirming, modifying, or 6269
reversing the order issued under division (D) of this section. 6270
The commission shall notify the parties and their respective 6271
representatives in writing of the order. If the commission or 6272
the designated staff hearing officer determines not to hear the 6273
appeal, within fourteen days after the expiration of the period 6274
in which an appeal of the order of the staff hearing officer may 6275
be filed as provided in division (D) of this section, the 6276
commission or the designated staff hearing officer shall issue 6277
an order to that effect and notify the parties and their 6278
respective representatives in writing of that order. 6279

Except as otherwise provided in this chapter and Chapters 6280
4121., 4127., ~~and~~ 4131., and 4135. of the Revised Code, any 6281
party may appeal an order issued under this division to the 6282
court pursuant to section 4123.512 of the Revised Code within 6283
sixty days after receipt of the order, subject to the 6284
limitations contained in that section. 6285

(F) Every notice of an appeal from an order issued under divisions (B), (C), (D), and (E) of this section shall state the names of the claimant and employer, the number of the claim, the date of the decision appealed from, and the fact that the appellant appeals therefrom. 6286 6287 6288 6289 6290

(G) All of the following apply to the proceedings under divisions (C), (D), and (E) of this section: 6291 6292

(1) The parties shall proceed promptly and without continuances except for good cause; 6293 6294

(2) The parties, in good faith, shall engage in the free exchange of information relevant to the claim prior to the conduct of a hearing according to the rules the commission adopts under section 4121.36 of the Revised Code; 6295 6296 6297 6298

(3) The administrator is a party and may appear and participate at all administrative proceedings on behalf of the state insurance fund. However, in cases in which the employer is represented, the administrator shall neither present arguments nor introduce testimony that is cumulative to that presented or introduced by the employer or the employer's representative. The administrator may file an appeal under this section on behalf of the state insurance fund; however, except in cases arising under section 4123.343 of the Revised Code, the administrator only may appeal questions of law or issues of fraud when the employer appears in person or by representative. 6299 6300 6301 6302 6303 6304 6305 6306 6307 6308 6309

(H) Except as provided in section 4121.63 of the Revised Code and division (K) of this section, payments of compensation to a claimant or on behalf of a claimant as a result of any order issued under this chapter or Chapter 4135. of the Revised Code shall commence upon the earlier of the following: 6310 6311 6312 6313 6314

(1) Fourteen days after the date the administrator issues an order under division (B) of this section or section 4135.06 of the Revised Code, unless that order is appealed or the claim has been referred to the occupational pneumoconiosis board, as applicable; 6315 6316 6317 6318 6319

(2) Fourteen days after the date the occupational pneumoconiosis board makes a determination under section 4135.09 of the Revised Code; 6320 6321 6322

(3) The date when the employer has waived the right to appeal a decision issued under division (B) of this section or Chapter 4135. of the Revised Code; 6323 6324 6325

~~(3)~~ (4) If no appeal of an order has been filed under this section or to a court under section 4123.512 of the Revised Code, the expiration of the time limitations for the filing of an appeal of an order; 6326 6327 6328 6329

~~(4)~~ (5) The date of receipt by the employer of an order of a district hearing officer, a staff hearing officer, or the industrial commission issued under division (C), (D), or (E) of this section. 6330 6331 6332 6333

(I) Except as otherwise provided in division (B) of section 4123.66 of the Revised Code, payments of medical benefits payable under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code shall commence upon the earlier of the following: 6334 6335 6336 6337 6338

(1) The date of the issuance of the staff hearing officer's order under division (D) of this section; 6339 6340

(2) The date of the final administrative or judicial determination. 6341 6342

(J) The administrator shall charge the compensation 6343
payments made in accordance with division (H) of this section or 6344
medical benefits payments made in accordance with division (I) 6345
of this section to an employer's experience immediately after 6346
the employer has exhausted the employer's administrative appeals 6347
as provided in this section or section 4135.06 of the Revised 6348
Code or has waived the employer's right to an administrative 6349
appeal under division (B) of this section or Chapter 4135. of 6350
the Revised Code, subject to the adjustment specified in 6351
division (H) of section 4123.512 of the Revised Code. 6352

(K) Upon the final administrative or judicial 6353
determination under this section or section 4123.512 of the 6354
Revised Code of an appeal of an order to pay compensation, if a 6355
claimant is found to have received compensation pursuant to a 6356
prior order which is reversed upon subsequent appeal, the 6357
claimant's employer, if a self-insuring employer, or the bureau, 6358
shall withhold from any amount to which the claimant becomes 6359
entitled pursuant to any claim, past, present, or future, under 6360
Chapter 4121., 4123., 4127., ~~or~~ 4131., or 4135. of the Revised 6361
Code, the amount of previously paid compensation to the claimant 6362
which, due to reversal upon appeal, the claimant is not 6363
entitled, pursuant to the following criteria: 6364

(1) No withholding for the first twelve weeks of temporary 6365
total disability compensation pursuant to ~~section~~ sections 6366
4123.56 and 4135.12 of the Revised Code shall be made; 6367

(2) Forty per cent of all awards of compensation paid 6368
pursuant to sections 4123.56 ~~and~~ , 4123.57, 4135.12, and 4135.13 6369
of the Revised Code, until the amount overpaid is refunded; 6370

(3) Twenty-five per cent of any compensation paid pursuant 6371
to ~~section~~ sections 4123.58 and 4135.14 of the Revised Code 6372

until the amount overpaid is refunded; 6373

(4) If, pursuant to an appeal under section 4123.512 of the Revised Code, the court of appeals or the supreme court reverses the allowance of the claim, then no amount of any compensation will be withheld. 6374 6375 6376 6377

The administrator and self-insuring employers, as appropriate, are subject to the repayment schedule of this division only with respect to an order to pay compensation that was properly paid under a previous order, but which is subsequently reversed upon an administrative or judicial appeal. The administrator and self-insuring employers are not subject to, but may utilize, the repayment schedule of this division, or any other lawful means, to collect payment of compensation made to a person who was not entitled to the compensation due to fraud as determined by the administrator or the industrial commission. 6378 6379 6380 6381 6382 6383 6384 6385 6386 6387 6388

(L) If a staff hearing officer or the commission fails to issue a decision or the commission fails to refuse to hear an appeal within the time periods required by this section, payments to a claimant shall cease until the staff hearing officer or commission issues a decision or hears the appeal, unless the failure was due to the fault or neglect of the employer or the employer agrees that the payments should continue for a longer period of time. 6389 6390 6391 6392 6393 6394 6395 6396

(M) Except as otherwise provided in this section or section 4123.522 of the Revised Code, no appeal is timely filed under this section unless the appeal is filed with the time limits set forth in this section. 6397 6398 6399 6400

(N) No person who is not an employee of the bureau or 6401

commission or who is not by law given access to the contents of a claims file shall have a file in the person's possession. 6402 6403

(O) Upon application of a party who resides in an area in which an emergency or disaster is declared, the industrial commission and hearing officers of the commission may waive the time frame within which claims and appeals of claims set forth in this section must be filed upon a finding that the applicant was unable to comply with a filing deadline due to an emergency or a disaster. 6404 6405 6406 6407 6408 6409 6410

As used in this division: 6411

(1) "Emergency" means any occasion or instance for which the governor of Ohio or the president of the United States publicly declares an emergency and orders state or federal assistance to save lives and protect property, the public health and safety, or to lessen or avert the threat of a catastrophe. 6412 6413 6414 6415 6416

(2) "Disaster" means any natural catastrophe or fire, flood, or explosion, regardless of the cause, that causes damage of sufficient magnitude that the governor of Ohio or the president of the United States, through a public declaration, orders state or federal assistance to alleviate damage, loss, hardship, or suffering that results from the occurrence. 6417 6418 6419 6420 6421 6422

Sec. 4123.512. (A) The claimant or the employer may appeal an order of the industrial commission made under division (E) of section 4123.511 of the Revised Code in any injury or occupational disease case, other than a decision as to the extent of disability to the court of common pleas of the county in which the injury was inflicted or in which the contract of employment was made if the injury occurred outside the state, or in which the contract of employment was made if the exposure 6423 6424 6425 6426 6427 6428 6429 6430

occurred outside the state. If no common pleas court has jurisdiction for the purposes of an appeal by the use of the jurisdictional requirements described in this division, the appellant may use the venue provisions in the Rules of Civil Procedure to vest jurisdiction in a court. If the claim is for an occupational disease, the appeal shall be to the court of common pleas of the county in which the exposure which caused the disease occurred. Like appeal may be taken from an order of a staff hearing officer made under division (D) of section 4123.511 of the Revised Code from which the commission has refused to hear an appeal. Except as otherwise provided in this division, the appellant shall file the notice of appeal with a court of common pleas within sixty days after the date of the receipt of the order appealed from or the date of receipt of the order of the commission refusing to hear an appeal of a staff hearing officer's decision under division (D) of section 4123.511 of the Revised Code. Either the claimant or the employer may file a notice of an intent to settle the claim within thirty days after the date of the receipt of the order appealed from or of the order of the commission refusing to hear an appeal of a staff hearing officer's decision. The claimant or employer shall file notice of intent to settle with the administrator of workers' compensation, and the notice shall be served on the opposing party and the party's representative. The filing of the notice of intent to settle extends the time to file an appeal to one hundred fifty days, unless the opposing party files an objection to the notice of intent to settle within fourteen days after the date of the receipt of the notice of intent to settle. The party shall file the objection with the administrator, and the objection shall be served on the party that filed the notice of intent to settle and the party's

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representative. The filing of the notice of the appeal with the court is the only act required to perfect the appeal. 6462 6463

If an action has been commenced in a court of a county other than a court of a county having jurisdiction over the action, the court, upon notice by any party or upon its own motion, shall transfer the action to a court of a county having jurisdiction. 6464 6465 6466 6467 6468

Notwithstanding anything to the contrary in this section, if the commission determines under section 4123.522 of the Revised Code that an employee, employer, or their respective representatives have not received written notice of an order or decision which is appealable to a court under this section and which grants relief pursuant to section 4123.522 of the Revised Code, the party granted the relief has sixty days from receipt of the order under section 4123.522 of the Revised Code to file a notice of appeal under this section. 6469 6470 6471 6472 6473 6474 6475 6476 6477

(B) The notice of appeal shall state the names of the administrator of workers' compensation, the claimant, and the employer; the number of the claim; the date of the order appealed from; and the fact that the appellant appeals therefrom. 6478 6479 6480 6481 6482

The administrator, the claimant, and the employer shall be parties to the appeal and the court, upon the application of the commission, shall make the commission a party. The party filing the appeal shall serve a copy of the notice of appeal on the administrator at the central office of the bureau of workers' compensation in Columbus. The administrator shall notify the employer that if the employer fails to become an active party to the appeal, then the administrator may act on behalf of the employer and the results of the appeal could have an adverse 6483 6484 6485 6486 6487 6488 6489 6490 6491

effect upon the employer's premium rates or may result in a recovery from the employer if the employer is determined to be a noncomplying employer under section 4123.75 of the Revised Code. 6492 6493 6494

(C) The attorney general or one or more of the attorney general's assistants or special counsel designated by the attorney general shall represent the administrator and the commission. In the event the attorney general or the attorney general's designated assistants or special counsel are absent, the administrator or the commission shall select one or more of the attorneys in the employ of the administrator or the commission as the administrator's attorney or the commission's attorney in the appeal. Any attorney so employed shall continue the representation during the entire period of the appeal and in all hearings thereof except where the continued representation becomes impractical. 6495 6496 6497 6498 6499 6500 6501 6502 6503 6504 6505 6506

(D) Upon receipt of notice of appeal, the clerk of courts shall provide notice to all parties who are appellees and to the commission. 6507 6508 6509

The claimant shall, within thirty days after the filing of the notice of appeal, file a petition containing a statement of facts in ordinary and concise language showing a cause of action to participate or to continue to participate in the fund and setting forth the basis for the jurisdiction of the court over the action. Further pleadings shall be had in accordance with the Rules of Civil Procedure, provided that service of summons on such petition shall not be required and provided that the claimant may not dismiss the complaint without the employer's consent if the employer is the party that filed the notice of appeal to court pursuant to this section. The clerk of the court shall, upon receipt thereof, transmit by certified mail a copy 6510 6511 6512 6513 6514 6515 6516 6517 6518 6519 6520 6521

thereof to each party named in the notice of appeal other than the claimant. Any party may file with the clerk prior to the trial of the action a deposition of any physician taken in accordance with the provisions of the Revised Code, which deposition may be read in the trial of the action even though the physician is a resident of or subject to service in the county in which the trial is had. The bureau of workers' compensation shall pay the cost of the stenographic deposition filed in court and of copies of the stenographic deposition for each party from the surplus fund and charge the costs thereof against the unsuccessful party if the claimant's right to participate or continue to participate is finally sustained or established in the appeal. In the event the deposition is taken and filed, the physician whose deposition is taken is not required to respond to any subpoena issued in the trial of the action. The court, or the jury under the instructions of the 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. 6522 6523 6524 6525 6526 6527 6528 6529 6530 6531 6532 6533 6534 6535 6536 6537 6538 6539 6540

(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. 6541 6542 6543 6544

(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 6545 6546 6547 6548 6549 6550 6551 6552

participate in the fund. The attorney's fee shall not exceed five thousand dollars. 6553 6554

(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. 6555 6556 6557 6558 6559 6560

(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 compensation or benefits, or both, made to or on behalf of a claimant should not have been made, the amount thereof shall be charged to the surplus fund account under division (B) of section 4123.34 of the Revised Code. In the event the employer is a state risk, the amount shall not be charged to the employer's experience, and the administrator shall adjust the employer's account accordingly. In the event the employer is a self-insuring employer, the self-insuring employer shall deduct the amount from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code. If an employer is a state risk and has paid an assessment for a violation of a specific safety requirement, and, in a final administrative or judicial action, it is determined that the employer did not violate the specific safety requirement, the administrator shall reimburse the 6561 6562 6563 6564 6565 6566 6567 6568 6569 6570 6571 6572 6573 6574 6575 6576 6577 6578 6579 6580 6581 6582 6583

employer from the surplus fund account under division (B) of section 4123.34 of the Revised Code for the amount of the assessment the employer paid for the violation. 6584 6585 6586

(2)(a) Notwithstanding a final determination that payments of benefits made to or on behalf of a claimant should not have been made, the administrator or self-insuring employer shall award payment of medical or vocational rehabilitation services submitted for payment after the date of the final determination if all of the following apply: 6587 6588 6589 6590 6591 6592

(i) The services were approved and were rendered by the provider in good faith prior to the date of the final determination. 6593 6594 6595

(ii) The services were payable under division (I) of section 4123.511 of the Revised Code prior to the date of the final determination. 6596 6597 6598

(iii) The request for payment is submitted within the time limit set forth in section 4123.52 of the Revised Code. 6599 6600

(b) Payments made under division (H)(1) of this section shall be charged to the surplus fund account under division (B) of section 4123.34 of the Revised Code. If the employer of the employee who is the subject of a claim described in division (H)(2)(a) of this section is a state fund employer, the payments made under that division shall not be charged to the employer's experience. If that employer is a self-insuring employer, the self-insuring employer shall deduct the amount from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code. 6601 6602 6603 6604 6605 6606 6607 6608 6609 6610 6611

(c) Division (H)(2) of this section shall apply only to a 6612

claim under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code arising on or after July 29, 2011, and in the case of Chapter 4135. of the Revised Code, a claim arising on or after the effective date of this amendment. 6613 6614 6615 6616

(3) A self-insuring employer may elect to pay compensation and benefits under this section directly to an employee or an employee's dependents by filing an application with the bureau of workers' compensation not more than one hundred eighty days and not less than ninety days before the first day of the employer's next six-month coverage period. If the self-insuring employer timely files the application, the application is effective on the first day of the employer's next six-month coverage period, provided that the administrator shall compute the employer's assessment for the surplus fund account due with respect to the period during which that application was filed without regard to the filing of the application. On and after the effective date of the employer's election, the self-insuring employer shall pay directly to an employee or to an employee's dependents compensation and benefits under this section regardless of the date of the injury or occupational disease, and the employer shall receive no money or credits from the surplus fund account on account of those payments and shall not be required to pay any amounts into the surplus fund account on account of this section. The election made under this division is irrevocable. 6617 6618 6619 6620 6621 6622 6623 6624 6625 6626 6627 6628 6629 6630 6631 6632 6633 6634 6635 6636 6637

(I) All actions and proceedings under this section which are the subject of an appeal to the court of common pleas or the court of appeals shall be preferred over all other civil actions except election causes, irrespective of position on the calendar. 6638 6639 6640 6641 6642

This section applies to all decisions of the commission or the administrator on November 2, 1959, and all claims filed thereafter are governed by sections 4123.511 and 4123.512 of the Revised Code.

Any action pending in common pleas court or any other court on January 1, 1986, under this section is governed by former sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 4123.522 of the Revised Code.

Sec. 4123.522. The employee, employer, and their respective representatives are entitled to written notice of any hearing, determination, order, award, or decision under this chapter and Chapter 4135. of the Revised Code and the administrator of workers' compensation and ~~his~~ the administrator's representative are entitled to like notice for orders issued under divisions (C) and (D) of section 4123.511 and section 4123.512 of the Revised Code. An employee, employer, or the administrator is deemed not to have received notice until the notice is received from the industrial commission or its district or staff hearing officers, the administrator, or the bureau of workers' compensation by both the employee and ~~his~~ the employee's representative of record, both the employer and ~~his~~ the employer's representative of record, and by both the administrator and ~~his~~ the administrator's representative.

If any person to whom a notice is mailed fails to receive the notice and the commission, upon hearing, determines that the failure was due to cause beyond the control and without the fault or neglect of such person or ~~his~~ the person's representative and that such person or ~~his~~ the person's representative did not have actual knowledge of the import of the information contained in the notice, such person may take

the action afforded to such person within twenty-one days after 6673
the receipt of the notice of such determination of the 6674
commission. Delivery of the notice to the address of the person 6675
or ~~his~~ the person's representative is prima-facie evidence of 6676
receipt of the notice by the person. 6677

Sec. 4123.53. (A) The administrator of workers' 6678
compensation or the industrial commission may require any 6679
employee claiming the right to receive compensation to submit to 6680
a medical examination, vocational evaluation, or vocational 6681
questionnaire at any time, and from time to time, at a place 6682
reasonably convenient for the employee, and as provided by the 6683
rules of the commission or the administrator of workers' 6684
compensation. A claimant required by the commission or 6685
administrator to submit to a medical examination or vocational 6686
evaluation, at a point outside of the place of permanent or 6687
temporary residence of the claimant, as provided in this 6688
section, is entitled to have paid to the claimant by the bureau 6689
of workers' compensation the necessary and actual expenses on 6690
account of the attendance for the medical examination or 6691
vocational evaluation after approval of the expense statement by 6692
the bureau. Under extraordinary circumstances and with the 6693
unanimous approval of the commission, if the commission requires 6694
the medical examination or vocational evaluation, or with the 6695
approval of the administrator, if the administrator requires the 6696
medical examination or vocational evaluation, the bureau shall 6697
pay an injured or diseased employee the necessary, actual, and 6698
authorized expenses of treatment at a point outside the place of 6699
permanent or temporary residence of the claimant. 6700

(B)(1) Except as provided in divisions (B)(2) and (3) of 6701
this section, when an employee initially receives temporary 6702
total disability compensation pursuant to section 4123.56 of the 6703

Revised Code for a consecutive ninety-day period, the administrator shall refer the employee to the bureau medical section to schedule a medical examination to determine the employee's continued entitlement to such compensation, the employee's rehabilitation potential, and the appropriateness of the medical treatment the employee is receiving. The bureau medical section shall schedule the examination for a date not later than thirty days following the end of the initial ninety-day period. If the medical examiner, upon an initial or any subsequent examination recommended by the medical examiner under this division, determines that the employee is temporarily and totally impaired, the medical examiner shall recommend a date when the employee should be reexamined. Upon the issuance of the medical examination report containing a recommendation for reexamination, the administrator shall schedule an examination and, if at the date of reexamination the employee is receiving temporary total disability compensation, the employee shall be examined. 6704 6705 6706 6707 6708 6709 6710 6711 6712 6713 6714 6715 6716 6717 6718 6719 6720 6721

(2) The administrator, for good cause, may waive the scheduling of a medical examination under division (B)(1) of this section. If the employee's employer objects to the administrator's waiver, the administrator shall refer the employee to the bureau medical section to schedule the examination or the administrator shall schedule the examination. 6722 6723 6724 6725 6726 6727

(3) The administrator shall adopt a rule, pursuant to Chapter 119. of the Revised Code, permitting employers to waive the administrator's scheduling of any such examinations. 6728 6729 6730

(C) If an employee refuses to submit to any medical examination or vocational evaluation scheduled pursuant to this section or obstructs the same, or refuses to complete and submit 6731 6732 6733

to the bureau or commission a vocational questionnaire within 6734
thirty days after the bureau or commission mails the request to 6735
complete and submit the questionnaire the employee's right to 6736
have the employee's claim for compensation considered, if the 6737
claim is pending before the bureau or commission, or to receive 6738
any payment for compensation theretofore granted, is suspended 6739
during the period of the refusal or obstruction. Notwithstanding 6740
this section, an employee's failure to submit to a medical 6741
examination or vocational evaluation, or to complete and submit 6742
a vocational questionnaire, shall not result in the dismissal of 6743
the employee's claim. 6744

(D) Medical examinations scheduled under this section do 6745
not limit medical examinations provided for in other provisions 6746
of this chapter or Chapter 4121. or 4135. of the Revised Code. 6747

Sec. 4123.54. (A) Except as otherwise provided in this 6748
division or divisions (I) and (K) of this section, every 6749
employee, who is injured or who contracts an occupational 6750
disease, and the dependents of each employee who is killed, or 6751
dies as the result of an occupational disease contracted in the 6752
course of employment, wherever the injury has occurred or 6753
occupational disease has been contracted, is entitled to receive 6754
the compensation for loss sustained on account of the injury, 6755
occupational disease, or death, and the medical, nurse, and 6756
hospital services and medicines, and the amount of funeral 6757
expenses in case of death, as are provided by this chapter and 6758
Chapter 4135. of the Revised Code. The compensation and benefits 6759
shall be provided, as applicable, directly from the employee's 6760
self-insuring employer as provided in section 4123.35 of the 6761
Revised Code or from the state insurance fund. An employee or 6762
dependent is not entitled to receive compensation or benefits 6763
under this division if the employee's injury or occupational 6764

disease is either of the following: 6765

(1) Purposely self-inflicted; 6766

(2) Caused by the employee being intoxicated, under the 6767
influence of a controlled substance not prescribed by a 6768
physician, or under the influence of marihuana if being 6769
intoxicated, under the influence of a controlled substance not 6770
prescribed by a physician, or under the influence of marihuana 6771
was the proximate cause of the injury. 6772

(B) For the purpose of this section, provided that an 6773
employer has posted written notice to employees that the results 6774
of, or the employee's refusal to submit to, any chemical test 6775
described under this division may affect the employee's 6776
eligibility for compensation and benefits pursuant to this 6777
chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised 6778
Code, there is a rebuttable presumption that an employee is 6779
intoxicated, under the influence of a controlled substance not 6780
prescribed by the employee's physician, or under the influence 6781
of marihuana and that being intoxicated, under the influence of 6782
a controlled substance not prescribed by the employee's 6783
physician, or under the influence of marihuana is the proximate 6784
cause of an injury under either of the following conditions: 6785

(1) When any one or more of the following is true: 6786

(a) The employee, through a qualifying chemical test 6787
administered within eight hours of an injury, is determined to 6788
have an alcohol concentration level equal to or in excess of the 6789
levels established in divisions (A)(1)(b) to (i) of section 6790
4511.19 of the Revised Code; 6791

(b) The employee, through a qualifying chemical test 6792
administered within thirty-two hours of an injury, is determined 6793

to have one of the following controlled substances not prescribed by the employee's physician or marihuana in the employee's system that tests above the following levels in an enzyme multiplied immunoassay technique screening test and above the levels established in division (B)(1)(c) of this section in a gas chromatography mass spectrometry test: 6794 6795 6796 6797 6798 6799

(i) For amphetamines, one thousand nanograms per milliliter of urine; 6800 6801

(ii) For cannabinoids, fifty nanograms per milliliter of urine; 6802 6803

(iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine; 6804 6805

(iv) For opiates, two thousand nanograms per milliliter of urine; 6806 6807

(v) For phencyclidine, twenty-five nanograms per milliliter of urine. 6808 6809

(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician or marihuana in the employee's system that tests above the following levels by a gas chromatography mass spectrometry test: 6810 6811 6812 6813 6814 6815

(i) For amphetamines, five hundred nanograms per milliliter of urine; 6816 6817

(ii) For cannabinoids, fifteen nanograms per milliliter of urine; 6818 6819

(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine; 6820 6821

(iv) For opiates, two thousand nanograms per milliliter of 6822
urine; 6823

(v) For phencyclidine, twenty-five nanograms per 6824
milliliter of urine. 6825

(d) The employee, through a qualifying chemical test 6826
administered within thirty-two hours of an injury, is determined 6827
to have barbiturates, benzodiazepines, methadone, or 6828
propoxyphene in the employee's system that tests above levels 6829
established by laboratories certified by the United States 6830
department of health and human services. 6831

(2) When the employee refuses to submit to a requested 6832
chemical test, on the condition that that employee is or was 6833
given notice that the refusal to submit to any chemical test 6834
described in division (B)(1) of this section may affect the 6835
employee's eligibility for compensation and benefits under this 6836
chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised 6837
Code. 6838

(C)(1) For purposes of division (B) of this section, a 6839
chemical test is a qualifying chemical test if it is 6840
administered to an employee after an injury under at least one 6841
of the following conditions: 6842

(a) When the employee's employer had reasonable cause to 6843
suspect that the employee may be intoxicated, under the 6844
influence of a controlled substance not prescribed by the 6845
employee's physician, or under the influence of marihuana; 6846

(b) At the request of a police officer pursuant to section 6847
4511.191 of the Revised Code, and not at the request of the 6848
employee's employer; 6849

(c) At the request of a licensed physician who is not employed by the employee's employer, and not at the request of the employee's employer. 6850 6851 6852

(2) As used in division (C)(1)(a) of this section, "reasonable cause" means, but is not limited to, evidence that an employee is or was using alcohol, a controlled substance, or marihuana drawn from specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. These facts and inferences may be based on, but are not limited to, any of the following: 6853 6854 6855 6856 6857 6858 6859

(a) Observable phenomena, such as direct observation of use, possession, or distribution of alcohol, a controlled substance, or marihuana, or of the physical symptoms of being under the influence of alcohol, a controlled substance, or marihuana, such as but not limited to slurred speech; dilated pupils; odor of alcohol, a controlled substance, or marihuana; changes in affect; or dynamic mood swings; 6860 6861 6862 6863 6864 6865 6866

(b) A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance such as frequent absenteeism, excessive tardiness, or recurrent accidents, that appears to be related to the use of alcohol, a controlled substance, or marihuana, and does not appear to be attributable to other factors; 6867 6868 6869 6870 6871 6872

(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; 6873 6874 6875

(d) A report of use of alcohol, a controlled substance, or marihuana provided by a reliable and credible source; 6876 6877

(e) Repeated or flagrant violations of the safety or work 6878

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. 6879 6880 6881 6882 6883

(D) Nothing in this section shall be construed to affect the rights of an employer to test employees for alcohol or controlled substance abuse. 6884 6885 6886

(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. 6887 6888 6889 6890 6891

(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. 6892 6893 6894 6895 6896 6897

(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 condition once that condition has returned to a level that would have existed without the injury. 6898 6899 6900 6901 6902 6903 6904

(H)(1) Whenever, with respect to an employee of an employer who is subject to and has complied with this chapter and Chapter 4135. of the Revised Code, there is possibility of 6905 6906 6907

conflict with respect to the application of workers' compensation laws because the contract of employment is entered into and all or some portion of the work is or is to be performed in a state or states other than Ohio, the employer and the employee may agree to be bound by the laws of this state or by the laws of some other state in which all or some portion of the work of the employee is to be performed. The agreement shall be in writing and shall be filed with the bureau of workers' compensation within ten days after it is executed and shall remain in force until terminated or modified by agreement of the parties similarly filed. If the agreement is to be bound by the laws of this state and the employer has complied with this chapter and Chapter 4135. of the Revised Code, then the employee is entitled to compensation and benefits regardless of where the injury occurs or the disease is contracted and the rights of the employee and the employee's dependents under the laws of this state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment. If the agreement is to be bound by the laws of another state and the employer has complied with the laws of that state, the rights of the employee and the employee's dependents under the laws of that state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment without regard to the place where the injury was sustained or the disease contracted. If an employer and an employee enter into an agreement under this division, the fact that the employer and the employee entered into that agreement shall not be construed to change the status of an employee whose continued employment is subject to the will of the employer or the employee, unless the agreement contains a

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provision that expressly changes that status. 6939

(2) If an employee or the employee's dependents receive an 6940
award of compensation or benefits under this chapter or Chapter 6941
4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code for the 6942
same injury, occupational disease, or death for which the 6943
employee or the employee's dependents previously pursued or 6944
otherwise elected to accept workers' compensation benefits and 6945
received a decision on the merits as defined in section 4123.542 6946
of the Revised Code under the laws of another state or recovered 6947
damages under the laws of another state, the claim shall be 6948
disallowed and the administrator or any self-insuring employer, 6949
by any lawful means, may collect from the employee or the 6950
employee's dependents any of the following: 6951

(a) The amount of compensation or benefits paid to or on 6952
behalf of the employee or the employee's dependents by the 6953
administrator or a self-insuring employer pursuant to this 6954
chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the 6955
Revised Code for that award; 6956

(b) Any interest, attorney's fees, and costs the 6957
administrator or the self-insuring employer incurs in collecting 6958
that payment. 6959

(3) If an employee or the employee's dependents receive an 6960
award of compensation or benefits under this chapter or Chapter 6961
4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code and 6962
subsequently pursue or otherwise elect to accept workers' 6963
compensation benefits or damages under the laws of another state 6964
for the same injury, occupational disease, or death the claim 6965
under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. 6966
of the Revised Code shall be disallowed. The administrator or a 6967
self-insuring employer, by any lawful means, may collect from 6968

the employee or the employee's dependents or other-states' insurer any of the following: 6969–6970

(a) The amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or the self-insuring employer pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code for that award; 6971–6975

(b) Any interest, costs, and attorney's fees the administrator or the self-insuring employer incurs in collecting that payment; 6976–6978

(c) Any costs incurred by an employer in contesting or responding to any claim filed by the employee or the employee's dependents for the same injury, occupational disease, or death that was filed after the original claim for which the employee or the employee's dependents received a decision on the merits as described in section 4123.542 of the Revised Code. 6979–6984

(4) If the employee's employer pays premiums into the state insurance fund, the administrator shall not charge the amount of compensation or benefits the administrator collects pursuant to division (H)(2) or (3) of this section to the employer's experience. If the administrator collects any costs incurred by an employer in contesting or responding to any claim pursuant to division (H)(2) or (3) of this section, the administrator shall forward the amount collected to that employer. If the employee's employer is a self-insuring employer, the self-insuring employer shall deduct the amount of compensation or benefits the self-insuring employer collects pursuant to this division from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code. 6985–6998

(5) If an employee is a resident of a state other than this state and is insured under the workers' compensation law or similar laws of a state other than this state, the employee and the employee's dependents are not entitled to receive compensation or benefits under this chapter or Chapter 4135. of the Revised Code, on account of injury, disease, or death arising out of or in the course of employment while temporarily within this state, and the rights of the employee and the employee's dependents under the laws of the other state are the exclusive remedy against the employer on account of the injury, disease, or death. 6999 7000 7001 7002 7003 7004 7005 7006 7007 7008 7009

(6) An employee, or the dependent of an employee, who elects to receive compensation and benefits under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code for a claim may not receive compensation and benefits under the workers' compensation laws of any state other than this state for that same claim. For each claim submitted by or on behalf of an employee, the administrator or, if the employee is employed by a self-insuring employer, the self-insuring employer, shall request the employee or the employee's dependent to sign an election that affirms the employee's or employee's dependent's acceptance of electing to receive compensation and benefits under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code for that claim that also affirmatively waives and releases the employee's or the employee's dependent's right to file for and receive compensation and benefits under the laws of any state other than this state for that claim. The employee or employee's dependent shall sign the election form within twenty-eight days after the administrator or self-insuring employer submits the request or the administrator or self-insuring employer shall dismiss that claim. 7010 7011 7012 7013 7014 7015 7016 7017 7018 7019 7020 7021 7022 7023 7024 7025 7026 7027 7028 7029

In the event a workers' compensation claim has been filed in another jurisdiction on behalf of an employee or the dependents of an employee, and the employee or dependents subsequently elect to receive compensation, benefits, or both under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code, the employee or dependent shall withdraw or refuse acceptance of the workers' compensation claim filed in the other jurisdiction in order to pursue compensation or benefits under the laws of this state. If the employee or dependents were awarded workers' compensation benefits or had recovered damages under the laws of the other state, any compensation and benefits awarded under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code shall be paid only to the extent to which those payments exceed the amounts paid under the laws of the other state. If the employee or dependent fails to withdraw or to refuse acceptance of the workers' compensation claim in the other jurisdiction within twenty-eight days after a request made by the administrator or a self-insuring employer, the administrator or self-insuring employer shall dismiss the employee's or employee's dependents' claim made in this state.

(I) If an employee who is covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., is injured or contracts an occupational disease or dies as a result of an injury or occupational disease, and if that employee's or that employee's dependents' claim for compensation or benefits for that injury, occupational disease, or death is subject to the jurisdiction of that act, the employee or the employee's dependents are not entitled to apply for and shall not receive compensation or benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised

Code. The rights of such an employee and the employee's dependents under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy against the employer for that injury, occupational disease, or death. 7061 7062 7063 7064 7065

(J) Compensation or benefits are not payable to a claimant during the period of confinement of the claimant in any state or federal correctional institution, or in any county jail in lieu of incarceration in a state or federal correctional institution, whether in this or any other state for conviction of violation of any state or federal criminal law. 7066 7067 7068 7069 7070 7071

(K) An employer, upon the approval of the administrator, may provide for workers' compensation coverage for the employer's employees who are professional athletes and coaches by submitting to the administrator proof of coverage under a league policy issued under the laws of another state under either of the following circumstances: 7072 7073 7074 7075 7076 7077

(1) The employer administers the payroll and workers' compensation insurance for a professional sports team subject to a collective bargaining agreement, and the collective bargaining agreement provides for the uniform administration of workers' compensation benefits and compensation for professional athletes. 7078 7079 7080 7081 7082 7083

(2) The employer is a professional sports league, or is a member team of a professional sports league, and all of the following apply: 7084 7085 7086

(a) The professional sports league operates as a single entity, whereby all of the players and coaches of the sports league are employees of the sports league and not of the 7087 7088 7089

individual member teams. 7090

(b) The professional sports league at all times maintains workers' compensation insurance that provides coverage for the players and coaches of the sports league. 7091 7092 7093

(c) Each individual member team of the professional sports league, pursuant to the organizational or operating documents of the sports league, is obligated to the sports league to pay to the sports league any workers' compensation claims that are not covered by the workers' compensation insurance maintained by the sports league. 7094 7095 7096 7097 7098 7099

If the administrator approves the employer's proof of coverage submitted under division (K) of this section, a professional athlete or coach who is an employee of the employer and the dependents of the professional athlete or coach are not entitled to apply for and shall not receive compensation or benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4135. of the Revised Code. The rights of such an athlete or coach and the dependents of such an athlete or coach under the laws of the state where the policy was issued are the exclusive remedy against the employer for the athlete or coach if the athlete or coach suffers an injury or contracts an occupational disease in the course of employment, or for the dependents of the athlete or the coach if the athlete or coach is killed as a result of an injury or dies as a result of an occupational disease, regardless of the location where the injury was suffered or the occupational disease was contracted. 7100 7101 7102 7103 7104 7105 7106 7107 7108 7109 7110 7111 7112 7113 7114 7115

Sec. 4123.542. An employee or the dependents of an employee who receive a decision on the merits of a claim for compensation or benefits under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code shall not file a 7116 7117 7118 7119

claim for the same injury, occupational disease, or death in another state under the workers' compensation laws of that state. Except as otherwise provided in division (H) of section 4123.54 of the Revised Code, an employee or the employee's dependents who receive a decision on the merits of a claim for compensation or benefits under the workers' compensation laws of another state shall not file a claim for compensation and benefits under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code for the same injury, occupational disease, or death. 7120 7121 7122 7123 7124 7125 7126 7127 7128 7129

As used in this section, "a decision on the merits" means a decision determined or adjudicated for compensability of a claim and not on jurisdictional grounds. 7130 7131 7132

Sec. 4123.57. Partial disability compensation shall be paid as follows. 7133 7134

Except as provided in this section, not earlier than twenty-six weeks after the date of termination of the latest period of payments under section 4123.56 of the Revised Code, or not earlier than twenty-six weeks after the date of the injury or contraction of an occupational disease in the absence of payments under section 4123.56 of the Revised Code, the employee may file an application with the bureau of workers' compensation for the determination of the percentage of the employee's permanent partial disability resulting from an injury or occupational disease. 7135 7136 7137 7138 7139 7140 7141 7142 7143 7144

Whenever the application is filed, the bureau shall send a copy of the application to the employee's employer or the employer's representative and shall schedule the employee for a medical examination by the bureau medical section. The bureau shall send a copy of the report of the medical examination to 7145 7146 7147 7148 7149

the employee, the employer, and their representatives. 7150
Thereafter, the administrator of workers' compensation shall 7151
review the employee's claim file and make a tentative order as 7152
the evidence before the administrator at the time of the making 7153
of the order warrants. If the administrator determines that 7154
there is a conflict of evidence, the administrator shall send 7155
the application, along with the claimant's file, to the district 7156
hearing officer who shall set the application for a hearing. 7157

The administrator shall notify the employee, the employer, 7158
and their representatives, in writing, of the tentative order 7159
and of the parties' right to request a hearing. Unless the 7160
employee, the employer, or their representative notifies the 7161
administrator, in writing, of an objection to the tentative 7162
order within twenty days after receipt of the notice thereof, 7163
the tentative order shall go into effect and the employee shall 7164
receive the compensation provided in the order. In no event 7165
shall there be a reconsideration of a tentative order issued 7166
under this division. 7167

If the employee, the employer, or their representatives 7168
timely notify the administrator of an objection to the tentative 7169
order, the matter shall be referred to a district hearing 7170
officer who shall set the application for hearing with written 7171
notices to all interested persons. Upon referral to a district 7172
hearing officer, the employer may obtain a medical examination 7173
of the employee, pursuant to rules of the industrial commission. 7174

(A) The district hearing officer, upon the application, 7175
shall determine the percentage of the employee's permanent 7176
disability, except as is subject to division (B) of this 7177
section, based upon that condition of the employee resulting 7178
from the injury or occupational disease and causing permanent 7179

impairment evidenced by medical or clinical findings reasonably demonstrable. The employee shall receive sixty-six and two-thirds per cent of the employee's average weekly wage, but not more than a maximum of thirty-three and one-third per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, per week regardless of the average weekly wage, for the number of weeks which equals the percentage of two hundred weeks. Except on application for reconsideration, review, or modification, which is filed within ten days after the date of receipt of the decision of the district hearing officer, in no instance shall the former award be modified unless it is found from medical or clinical findings that the condition of the claimant resulting from the injury has so progressed as to have increased the percentage of permanent partial disability. A staff hearing officer shall hear an application for reconsideration filed and the staff hearing officer's decision is final. An employee may file an application for a subsequent determination of the percentage of the employee's permanent disability. If such an application is filed, the bureau shall send a copy of the application to the employer or the employer's representative. No sooner than sixty days from the date of the mailing of the application to the employer or the employer's representative, the administrator shall review the application. The administrator may require a medical examination or medical review of the employee. The administrator shall issue a tentative order based upon the evidence before the administrator, provided that if the administrator requires a medical examination or medical review, the administrator shall not issue the tentative order until the completion of the examination or review. 7180 7181 7182 7183 7184 7185 7186 7187 7188 7189 7190 7191 7192 7193 7194 7195 7196 7197 7198 7199 7200 7201 7202 7203 7204 7205 7206 7207 7208 7209

The employer may obtain a medical examination of the 7210

employee and may submit medical evidence at any stage of the process up to a hearing before the district hearing officer, pursuant to rules of the commission. The administrator shall notify the employee, the employer, and their representatives, in writing, of the nature and amount of any tentative order issued on an application requesting a subsequent determination of the percentage of an employee's permanent disability. An employee, employer, or their representatives may object to the tentative order within twenty days after the receipt of the notice thereof. If no timely objection is made, the tentative order shall go into effect. In no event shall there be a reconsideration of a tentative order issued under this division. If an objection is timely made, the application for a subsequent determination shall be referred to a district hearing officer who shall set the application for a hearing with written notice to all interested persons. No application for subsequent percentage determinations on the same claim for injury or occupational disease shall be accepted for review by the district hearing officer unless supported by substantial evidence of new and changed circumstances developing since the time of the hearing on the original or last determination. 7211 7212 7213 7214 7215 7216 7217 7218 7219 7220 7221 7222 7223 7224 7225 7226 7227 7228 7229 7230 7231

No award shall be made under this division based upon a percentage of disability which, when taken with all other percentages of permanent disability, exceeds one hundred per cent. If the percentage of the permanent disability of the employee equals or exceeds ninety per cent, compensation for permanent partial disability shall be paid for two hundred weeks. 7232 7233 7234 7235 7236 7237 7238

Compensation payable under this division accrues and is payable to the employee from the date of last payment of compensation, or, in cases where no previous compensation has 7239 7240 7241

been paid, from the date of the injury or the date of the diagnosis of the occupational disease. 7242 7243

When an award under this division has been made prior to the death of an employee, all unpaid installments accrued or to accrue under the provisions of the award are payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee, and if there are no children surviving, then to other dependents as the administrator determines. 7244 7245 7246 7247 7248 7249 7250

(B) For purposes of this division, "payable per week" means the seven-consecutive-day period in which compensation is paid in installments according to the schedule associated with the applicable injury as set forth in this division. 7251 7252 7253 7254

Compensation paid in weekly installments according to the schedule described in this division may only be commuted to one or more lump sum payments pursuant to the procedure set forth in section 4123.64 of the Revised Code. 7255 7256 7257 7258

In cases included in the following schedule the compensation payable per week to the employee is the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code per week and shall be paid in installments according to the following schedule: 7259 7260 7261 7262 7263

For the loss of a first finger, commonly known as a thumb, sixty weeks. 7264 7265

For the loss of a second finger, commonly called index finger, thirty-five weeks. 7266 7267

For the loss of a third finger, thirty weeks. 7268

For the loss of a fourth finger, twenty weeks. 7269

For the loss of a fifth finger, commonly known as the little finger, fifteen weeks. 7270 7271

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. 7272 7273 7274 7275

The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger. 7276 7277

The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger. 7278 7279

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. 7280 7281 7282 7283 7284

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. 7285 7286 7287

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. 7288 7289 7290 7291

If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss of use of fingers, exceeds the normal handicap 7292 7293 7294 7295 7296 7297

or disability resulting from the loss of fingers, or loss of use of fingers, the administrator may take that fact into consideration and increase the award of compensation accordingly, but the award made shall not exceed the amount of compensation for loss of a hand. 7298 7299 7300 7301 7302

For the loss of a hand, one hundred seventy-five weeks. 7303

For the loss of an arm, two hundred twenty-five weeks. 7304

For the loss of a great toe, thirty weeks. 7305

For the loss of one of the toes other than the great toe, ten weeks. 7306 7307

The loss of more than two-thirds of any toe is considered equal to the loss of the whole toe. 7308 7309

The loss of less than two-thirds of any toe is considered no loss, except as to the great toe; the loss of the great toe up to the interphalangeal joint is co-equal to the loss of one-half of the great toe; the loss of the great toe beyond the interphalangeal joint is considered equal to the loss of the whole great toe. 7310 7311 7312 7313 7314 7315

For the loss of a foot, one hundred fifty weeks. 7316

For the loss of a leg, two hundred weeks. 7317

For the loss of the sight of an eye, one hundred twenty-five weeks. 7318 7319

For the permanent partial loss of sight of an eye, the portion of one hundred twenty-five weeks as the administrator in each case determines, based upon the percentage of vision actually lost as a result of the injury or occupational disease, but, in no case shall an award of compensation be made for less 7320 7321 7322 7323 7324

than twenty-five per cent loss of uncorrected vision. "Loss of uncorrected vision" means the percentage of vision actually lost as the result of the injury or occupational disease. 7325 7326 7327

For the permanent and total loss of hearing of one ear, twenty-five weeks; but in no case shall an award of compensation be made for less than permanent and total loss of hearing of one ear. 7328 7329 7330 7331

For the permanent and total loss of hearing, one hundred twenty-five weeks; but, except pursuant to the next preceding paragraph, in no case shall an award of compensation be made for less than permanent and total loss of hearing. 7332 7333 7334 7335

In case an injury or occupational disease results in serious facial or head disfigurement which either impairs or may in the future impair the opportunities to secure or retain employment, the administrator shall make an award of compensation as it deems proper and equitable, in view of the nature of the disfigurement, and not to exceed the sum of ten thousand dollars. For the purpose of making the award, it is not material whether the employee is gainfully employed in any occupation or trade at the time of the administrator's determination. 7336 7337 7338 7339 7340 7341 7342 7343 7344 7345

When an award under this division has been made prior to the death of an employee all unpaid installments accrued or to accrue under the provisions of the award shall be payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee and if there are no such children, then to such dependents as the administrator determines. 7346 7347 7348 7349 7350 7351 7352

When an employee has sustained the loss of a member by 7353

severance, but no award has been made on account thereof prior to the employee's death, the administrator shall make an award in accordance with this division for the loss which shall be payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee and if there are no such children, then to such dependents as the administrator determines. 7354 7355 7356 7357 7358 7359 7360

(C) Compensation for partial impairment under divisions (A) and (B) of this section is in addition to the compensation paid the employee pursuant to section 4123.56 of the Revised Code. A claimant may receive compensation under divisions (A) and (B) of this section. 7361 7362 7363 7364 7365

In all cases arising under division (B) of this section, if it is determined by any one of the following: (1) the amputee clinic at University hospital, Ohio state university; (2) the opportunities for Ohioans with disabilities agency; (3) an amputee clinic or prescribing physician approved by the administrator or the administrator's designee, that an injured or disabled employee is in need of an artificial appliance, or in need of a repair thereof, regardless of whether the appliance or its repair will be serviceable in the vocational rehabilitation of the injured employee, and regardless of whether the employee has returned to or can ever again return to any gainful employment, the bureau shall pay the cost of the artificial appliance or its repair out of the surplus created by division (B) of section 4123.34 of the Revised Code. 7366 7367 7368 7369 7370 7371 7372 7373 7374 7375 7376 7377 7378 7379

In those cases where an opportunities for Ohioans with disabilities agency's recommendation that an injured or disabled employee is in need of an artificial appliance would conflict with their state plan, adopted pursuant to the "Rehabilitation 7380 7381 7382 7383

Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator 7384
or the administrator's designee or the bureau may obtain a 7385
recommendation from an amputee clinic or prescribing physician 7386
that they determine appropriate. 7387

(D) ~~If an employee of a state fund employer makes~~ 7388
~~application for a finding and the administrator finds that the~~ 7389
~~employee has contracted silicosis as defined in division (Y), or~~ 7390
~~coal miners' pneumoconiosis as defined in division (Z), or~~ 7391
~~asbestosis as defined in division (BB) of section 4123.68 of the~~ 7392
~~Revised Code, and that a change of such employee's occupation is~~ 7393
~~medically advisable in order to decrease substantially further~~ 7394
~~exposure to silica dust, asbestos, or coal dust and if the~~ 7395
~~employee, after the finding, has changed or shall change the~~ 7396
~~employee's occupation to an occupation in which the exposure to~~ 7397
~~silica dust, asbestos, or coal dust is substantially decreased,~~ 7398
~~the administrator shall allow to the employee an amount equal to~~ 7399
~~fifty per cent of the statewide average weekly wage per week for~~ 7400
~~a period of thirty weeks, commencing as of the date of the~~ 7401
~~discontinuance or change, and for a period of one hundred weeks~~ 7402
~~immediately following the expiration of the period of thirty~~ 7403
~~weeks, the employee shall receive sixty-six and two-thirds per~~ 7404
~~cent of the loss of wages resulting directly and solely from the~~ 7405
~~change of occupation but not to exceed a maximum of an amount~~ 7406
~~equal to fifty per cent of the statewide average weekly wage per~~ 7407
~~week. No such employee is entitled to receive more than one~~ 7408
~~allowance on account of discontinuance of employment or change~~ 7409
~~of occupation and benefits shall cease for any period during~~ 7410
~~which the employee is employed in an occupation in which the~~ 7411
~~exposure to silica dust, asbestos, or coal dust is not~~ 7412
~~substantially less than the exposure in the occupation in which~~ 7413
~~the employee was formerly employed or for any period during~~ 7414

~~which the employee may be entitled to receive compensation or~~ 7415
~~benefits under section 4123.68 of the Revised Code on account of~~ 7416
~~disability from silicosis, asbestosis, or coal miners'~~ 7417
~~pneumoconiosis. An award for change of occupation for a coal~~ 7418
~~miner who has contracted coal miners' pneumoconiosis may be~~ 7419
~~granted under this division even though the coal miner continues~~ 7420
~~employment with the same employer, so long as the coal miner's~~ 7421
~~employment subsequent to the change is such that the coal~~ 7422
~~miner's exposure to coal dust is substantially decreased and a~~ 7423
~~change of occupation is certified by the claimant as permanent.~~ 7424
~~The administrator may accord to the employee medical and other~~ 7425
~~benefits in accordance with section 4123.66 of the Revised Code.~~ 7426

~~(E)~~ If a firefighter or police officer makes application 7427
for a finding and the administrator finds that the firefighter 7428
or police officer has contracted a cardiovascular and pulmonary 7429
disease as defined in division (W) of section 4123.68 of the 7430
Revised Code, and that a change of the firefighter's or police 7431
officer's occupation is medically advisable in order to decrease 7432
substantially further exposure to smoke, toxic gases, chemical 7433
fumes, and other toxic vapors, and if the firefighter, or police 7434
officer, after the finding, has changed or changes occupation to 7435
an occupation in which the exposure to smoke, toxic gases, 7436
chemical fumes, and other toxic vapors is substantially 7437
decreased, the administrator shall allow to the firefighter or 7438
police officer an amount equal to fifty per cent of the 7439
statewide average weekly wage per week for a period of thirty 7440
weeks, commencing as of the date of the discontinuance or 7441
change, and for a period of seventy-five weeks immediately 7442
following the expiration of the period of thirty weeks the 7443
administrator shall allow the firefighter or police officer 7444
sixty-six and two-thirds per cent of the loss of wages resulting 7445

directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such firefighter or police officer is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the firefighter or police officer is employed in an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is not substantially less than the exposure in the occupation in which the firefighter or police officer was formerly employed or for any period during which the firefighter or police officer may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from a cardiovascular and pulmonary disease. The administrator may accord to the firefighter or police officer medical and other benefits in accordance with section 4123.66 of the Revised Code. 7446–7462

~~(F)~~ (E) An order issued under this section is appealable pursuant to section 4123.511 of the Revised Code but is not appealable to court under section 4123.512 of the Revised Code. 7463–7465

Sec. 4123.571. In connection with the procedural and remedial rights of employees, all claims which have accrued prior to ~~the effective date of this act~~ November 2, 1959, whether or not an application for claim has been filed, or whether or not jurisdiction has been established or whether or not an application for an award under divisions (A), (B), or (C)~~, or (D)~~ of section 4123.57 of the Revised Code has been filed shall be governed by the provisions of section 4123.57 of the Revised Code, as amended by this act. 7466–7474

Sec. 4123.65. (A) A state fund employer or the employee of 7475

such an employer may file an application with the administrator 7476
of workers' compensation for approval of a final settlement of a 7477
claim under this chapter or Chapter 4135. of the Revised Code. 7478
The application shall include the settlement agreement, and 7479
except as otherwise specified in this division, be signed by the 7480
claimant and employer, and clearly set forth the circumstances 7481
by reason of which the proposed settlement is deemed desirable 7482
and that the parties agree to the terms of the settlement 7483
agreement. A claimant may file an application without an 7484
employer's signature in the following situations: 7485

(1) The employer is no longer doing business in Ohio; 7486

(2) The claim no longer is in the employer's industrial 7487
accident or occupational disease experience as provided in 7488
division (B) of section 4123.34 of the Revised Code and the 7489
claimant no longer is employed with that employer; 7490

(3) The employer has failed to comply with section 4123.35 7491
of the Revised Code. 7492

If a claimant files an application without an employer's 7493
signature, and the employer still is doing business in this 7494
state, the administrator shall send written notice of the 7495
application to the employer immediately upon receipt of the 7496
application. If the employer fails to respond to the notice 7497
within thirty days after the notice is sent, the application 7498
need not contain the employer's signature. 7499

If a state fund employer or an employee of such an 7500
employer has not filed an application for a final settlement 7501
under this division, the administrator may file an application 7502
on behalf of the employer or the employee, provided that the 7503
administrator gives notice of the filing to the employer and the 7504

employee and to the representative of record of the employer and of the employee immediately upon the filing. An application filed by the administrator shall contain all of the information and signatures required of an employer or an employee who files an application under this division. Every self-insuring employer that enters into a final settlement agreement with an employee shall mail, within seven days of executing the agreement, a copy of the agreement to the administrator and the employee's representative. The administrator shall place the agreement into the claimant's file. 7505 7506 7507 7508 7509 7510 7511 7512 7513 7514

(B) Except as provided in divisions (C) and (D) of this section, a settlement agreed to under this section is binding upon all parties thereto and as to items, injuries, and occupational diseases to which the settlement applies. 7515 7516 7517 7518

(C) No settlement agreed to under division (A) of this section or agreed to by a self-insuring employer and the self-insuring employer's employee shall take effect until thirty days after the administrator approves the settlement for state fund employees and employers, or after the self-insuring employer and employee sign the final settlement agreement. Except as provided in division (G) of this section, during the thirty-day period, the employer, employee, or administrator, for state fund settlements, and the employer or employee, for self-insuring settlements, may withdraw consent to the settlement by an employer providing written notice to the employer's employee and the administrator or by an employee providing written notice to the employee's employer and the administrator, or by the administrator providing written notice to the state fund employer and employee. If an employee dies during the thirty-day waiting period following the approval of a settlement, the settlement can be voided by any party for good cause shown. 7519 7520 7521 7522 7523 7524 7525 7526 7527 7528 7529 7530 7531 7532 7533 7534 7535

(D) At the time of agreement to any final settlement agreement under division (A) of this section or agreement between a self-insuring employer and the self-insuring employer's employee, the administrator, for state fund settlements, and the self-insuring employer, for self-insuring settlements, immediately shall send a copy of the agreement to the industrial commission who shall assign the matter to a staff hearing officer. The staff hearing officer shall determine, within the time limitations specified in division (C) of this section, whether the settlement agreement is or is not a gross miscarriage of justice. If the staff hearing officer determines within that time period that the settlement agreement is clearly unfair, the staff hearing officer shall issue an order disapproving the settlement agreement. If the staff hearing officer determines that the settlement agreement is not clearly unfair or fails to act within those time limits, the settlement agreement is approved.

7536–7552

(E) A settlement entered into under this section may pertain to one or more claims of a claimant, or one or more parts of a claim, or the compensation or benefits pertaining to either, or any combination thereof, provided that nothing in this section shall be interpreted to require a claimant to enter into a settlement agreement for every claim that has been filed with the bureau of workers' compensation by that claimant under Chapter 4121., 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code.

7553–7561

(F) A settlement entered into under this section is not appealable under section 4123.511 or 4123.512 of the Revised Code.

7562–7564

(G) Notwithstanding any provision of the Revised Code to

7565

the contrary, an employer shall not deny or withdraw consent to a settlement application filed under this section if both of the following apply to the claim that is the subject of the application: 7566 7567 7568 7569

(1) The claim is no longer within the date of impact pursuant to the employer's industrial accident or occupational disease experience as provided in division (B) of section 4123.34 of the Revised Code; 7570 7571 7572 7573

(2) The employee named in the claim is no longer employed by the employer. 7574 7575

Sec. 4123.651. (A) The employer of a claimant who is injured or disabled in the course of ~~his~~ the claimant's employment may require, without the approval of the administrator or the industrial commission, that the claimant be examined by a physician of the employer's choice one time upon any issue asserted by the employee or a physician of the employee's choice or which is to be considered by the commission. Any further requests for medical examinations shall be made to the commission which shall consider and rule on the request. The employer shall pay the cost of any examinations initiated by the employer. 7576 7577 7578 7579 7580 7581 7582 7583 7584 7585 7586

(B) The bureau of workers' compensation shall prepare a form for the release of medical information, records, and reports relative to the issues necessary for the administration of a claim under this chapter or Chapter 4135. of the Revised Code. The claimant promptly shall provide a current signed release of the information, records, and reports when requested by the employer. The employer promptly shall provide copies of all medical information, records, and reports to the bureau and to the claimant or ~~his~~ the claimant's representative upon 7587 7588 7589 7590 7591 7592 7593 7594 7595

request. 7596

(C) If, without good cause, an employee refuses to submit 7597
to any examination scheduled under this section or refuses to 7598
release or execute a release for any medical information, 7599
record, or report that is required to be released under this 7600
section and involves an issue pertinent to the condition alleged 7601
in the claim, ~~his~~ the employee's right to have ~~his~~ the 7602
employee's claim for compensation or benefits considered, if ~~his~~ 7603
the employee's claim is pending before the administrator, 7604
commission, occupational pneumoconiosis board, or a district or 7605
staff hearing officer, or to receive any payment for 7606
compensation or benefits previously granted, is suspended during 7607
the period of refusal. 7608

(D) No bureau or commission employee shall alter any 7609
medical report obtained from a health care provider the bureau 7610
or commission has selected or cause or request the health care 7611
provider to alter or change a report. The bureau and commission 7612
shall make any request for clarification of a health care 7613
provider's report in writing and shall provide a copy of the 7614
request to the affected parties and their representatives at the 7615
time of making the request. 7616

Sec. 4123.66. (A) In addition to the compensation provided 7617
for in this chapter and Chapter 4135. of the Revised Code, the 7618
administrator of workers' compensation shall disburse and pay 7619
from the state insurance fund the amounts for medical, nurse, 7620
and hospital services and medicine as the administrator deems 7621
proper and, in case death ensues from the injury or occupational 7622
disease, the administrator shall disburse and pay from the fund 7623
reasonable funeral expenses in an amount not to exceed seven 7624
thousand five hundred dollars. The bureau of workers' 7625

compensation shall reimburse anyone, whether dependent, volunteer, or otherwise, who pays the funeral expenses of any employee whose death ensues from any injury or occupational disease as provided in this section. The administrator may adopt rules, with the advice and consent of the bureau of workers' compensation board of directors, with respect to furnishing medical, nurse, and hospital service and medicine to injured or disabled employees entitled thereto, and for the payment therefor. In case an injury or industrial accident that injures an employee also causes damage to the employee's eyeglasses, artificial teeth or other denture, or hearing aid, or in the event an injury or occupational disease makes it necessary or advisable to replace, repair, or adjust the same, the bureau shall disburse and pay a reasonable amount to repair or replace the same. 7626 7627 7628 7629 7630 7631 7632 7633 7634 7635 7636 7637 7638 7639 7640

(B) The administrator, in the rules the administrator adopts pursuant to division (A) of this section, may adopt rules specifying the circumstances under which the bureau may make immediate payment for the first fill of prescription drugs for medical conditions identified in an application for compensation or benefits under section 4123.84 or 4123.85 of the Revised Code that occurs prior to the date the administrator issues an initial determination order under division (B) of section 4123.511 of the Revised Code. If the claim is ultimately disallowed in a final administrative or judicial order, and if the employer is a state fund employer who pays assessments into the surplus fund account created under section 4123.34 of the Revised Code, the payments for medical services made pursuant to this division for the first fill of prescription drugs shall be charged to and paid from the surplus fund account and not charged through the state insurance fund to the employer against 7641 7642 7643 7644 7645 7646 7647 7648 7649 7650 7651 7652 7653 7654 7655 7656

whom the claim was filed. 7657

(C)(1) If an employer or a welfare plan has provided to or on behalf of an employee any benefits or compensation for an injury or occupational disease and that injury or occupational disease is determined compensable under this chapter or Chapter 4135. of the Revised Code, the employer or a welfare plan may request that the administrator reimburse the employer or welfare plan for the amount the employer or welfare plan paid to or on behalf of the employee in compensation or benefits. The administrator shall reimburse the employer or welfare plan for the compensation and benefits paid if, at the time the employer or welfare plan provides the benefits or compensation to or on behalf of employee, the injury or occupational disease had not been determined to be compensable under this chapter or Chapter 4135. of the Revised Code and if the employee was not receiving compensation or benefits under this chapter or Chapter 4135. of the Revised Code for that injury or occupational disease. The administrator shall reimburse the employer or welfare plan in the amount that the administrator would have paid to or on behalf of the employee under this chapter or Chapter 4135. of the Revised Code if the injury or occupational disease originally would have been determined compensable under this chapter or Chapter 4135. of the Revised Code. If the employer is a merit-rated employer, the administrator shall adjust the amount of premium next due from the employer according to the amount the administrator pays the employer. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, to implement this division. 7658–7684

(2) As used in this division, "welfare plan" has the same meaning as in division (1) of 29 U.S.C.A. 1002. 7685–7686

(D)(1) Subject to the requirements of division (D)(2) of this section, the administrator may make a payment of up to five hundred dollars to either of the following: 7687 7688 7689

(a) The centers of medicare and medicaid services, for reimbursement of conditional payments made pursuant to the "Medicare Secondary Payer Act," 42 U.S.C. 1395y; 7690 7691 7692

(b) The Ohio department of medicaid, or a medical assistance provider to whom the department has assigned a right of recovery for a claim for which the department has notified the provider that the department intends to recoup the department's prior payment for the claim, for reimbursement under sections 5160.35 to 5160.43 of the Revised Code for the cost of medical assistance paid on behalf of a medical assistance recipient. 7693 7694 7695 7696 7697 7698 7699 7700

(2) The administrator may make a payment under division (D)(1) of this section if the administrator makes a reasonable determination that both of the following apply: 7701 7702 7703

(a) The payment is for reimbursement of benefits for an injury or occupational disease. 7704 7705

(b) The injury or occupational disease is compensable, or is likely to be compensable, under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code. 7706 7707 7708

(3) Any payment made pursuant to this division shall be charged to and paid from the surplus fund account created under section 4123.34 of the Revised Code. 7709 7710 7711

(4) Nothing in this division shall be construed as limiting the centers of medicare and medicaid services, the department, or any other entity with a lawful right to 7712 7713 7714

reimbursement from recovering sums greater than five hundred dollars. 7715 7716

(5) The administrator may adopt rules, with the advice and consent of the bureau of workers' compensation board of directors, to implement this division. 7717 7718 7719

Sec. 4123.67. Except as otherwise provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, compensation before payment shall be exempt from all claims of creditors and from any attachment or execution, and shall be paid only to the employees or their dependents. In all cases where property of an employer is placed in the hands of an assignee, receiver, or trustee, claims arising under any award or finding of the industrial commission or bureau of workers' compensation, pursuant to this chapter or Chapter 4135. of the Revised Code, including claims for premiums, and any judgment recovered thereon shall first be paid out of the trust fund in preference to all other claims, except claims for taxes and the cost of administration, and with the same preference given to claims for taxes. 7720 7721 7722 7723 7724 7725 7726 7727 7728 7729 7730 7731 7732 7733

Sec. 4123.68. Every employee who is disabled because of the contraction of an occupational disease or the dependent of an employee whose death is caused by an occupational disease, is entitled to the compensation provided by sections 4123.55 to 4123.59 and 4123.66 of the Revised Code subject to the modifications relating to occupational diseases contained in this chapter. An order of the administrator issued under this section is appealable pursuant to sections 4123.511 and 4123.512 of the Revised Code. 7734 7735 7736 7737 7738 7739 7740 7741 7742

The following diseases are occupational diseases and compensable as such when contracted by an employee in the course 7743 7744

of the employment in which such employee was engaged and due to the nature of any process described in this section. A disease which meets the definition of an occupational disease is compensable pursuant to this chapter though it is not specifically listed in this section. 7745 7746 7747 7748 7749

A disease that is occupational pneumoconiosis as defined in section 4135.01 of the Revised Code is subject to the requirements and procedures specified in Chapter 4135. of the Revised Code. 7750 7751 7752 7753

SCHEDULE 7754

Description of disease or injury and description of process: 7755 7756

(A) Anthrax: Handling of wool, hair, bristles, hides, and skins. 7757 7758

(B) Glanders: Care of any equine animal suffering from glanders; handling carcass of such animal. 7759 7760

(C) Lead poisoning: Any industrial process involving the use of lead or its preparations or compounds. 7761 7762

(D) Mercury poisoning: Any industrial process involving the use of mercury or its preparations or compounds. 7763 7764

(E) Phosphorous poisoning: Any industrial process involving the use of phosphorous or its preparations or compounds. 7765 7766 7767

(F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds. 7768 7769

(G) Poisoning by benzol or by nitro-derivatives and amido-derivatives of benzol (dinitro-benzol, anilin, and others): Any 7770 7771

industrial process involving the use of benzol or nitro-derivatives or amido-derivatives of benzol or its preparations or compounds. 7772 7773 7774

(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. 7775 7776 7777 7778

(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds. 7779 7780 7781

(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations. 7782 7783

(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. 7784 7785 7786 7787 7788 7789

(L) Epithelion cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry compounds: Handling or industrial use of carbon, pitch, or tarry compounds. 7790 7791 7792 7793

(M) Compressed air illness: Any industrial process carried on in compressed air. 7794 7795

(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide. 7796 7797

(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or 7798 7799

smelting of zinc. 7800

(P) Manganese dioxide poisoning: Any process involving the 7801
grinding or milling of manganese dioxide or the escape of 7802
manganese dioxide dust. 7803

(Q) Radium poisoning: Any industrial process involving the 7804
use of radium and other radioactive substances in luminous 7805
paint. 7806

(R) Tenosynovitis and prepatellar bursitis: Primary 7807
tenosynovitis characterized by a passive effusion or crepitus 7808
into the tendon sheath of the flexor or extensor muscles of the 7809
hand, due to frequently repetitive motions or vibrations, or 7810
prepatellar bursitis due to continued pressure. 7811

(S) Chrome ulceration of the skin or nasal passages: Any 7812
industrial process involving the use of or direct contact with 7813
chromic acid or bichromates of ammonium, potassium, or sodium or 7814
their preparations. 7815

(T) Potassium cyanide poisoning: Any industrial process 7816
involving the use of or direct contact with potassium cyanide. 7817

(U) Sulphur dioxide poisoning: Any industrial process in 7818
which sulphur dioxide gas is evolved by the expansion of liquid 7819
sulphur dioxide. 7820

(V) Berylliosis: Berylliosis means a disease of the lungs 7821
caused by breathing beryllium in the form of dust or fumes, 7822
producing characteristic changes in the lungs and<u>, if caused by</u> 7823
<u>breathing beryllium in the form of fumes,</u> demonstrated by x-ray 7824
examination, by biopsy or by autopsy. 7825

This chapter does not entitle an employee or the 7826
employee's dependents to ~~compensation,~~ medical treatment~~,~~ or 7827

payment of funeral expenses for disability or death from 7828
berylliosis unless the employee has been subjected to injurious 7829
exposure to beryllium dust or fumes in the employee's employment 7830
in this state preceding the employee's disablement and only in 7831
the event of such disability or death resulting within eight 7832
years after the last injurious exposure; provided that such 7833
eight-year limitation does not apply to ~~disability or~~ death from 7834
exposure occurring after January 1, 1976. In the event of death 7835
following continuous total disability commencing within eight 7836
years after the last injurious exposure, the requirement of 7837
death within eight years after the last injurious exposure does 7838
not apply. 7839

Before awarding compensation for partial or total 7840
disability or death due to berylliosis, the administrator of 7841
workers' compensation shall refer the claim to a qualified 7842
medical specialist for examination and recommendation with 7843
regard to the diagnosis, the extent of the disability, the 7844
nature of the disability, whether permanent or temporary, the 7845
cause of death, and other medical questions connected with the 7846
claim. An employee shall submit to such examinations, including 7847
clinical and x-ray examinations, as the administrator requires. 7848
In the event that an employee refuses to submit to examinations, 7849
including clinical and x-ray examinations, after notice from the 7850
administrator, or in the event that a claimant for compensation 7851
for death due to berylliosis fails to produce necessary consents 7852
and permits, after notice from the administrator, so that such 7853
autopsy examination and tests may be performed, then all rights 7854
for compensation are forfeited. The reasonable compensation of 7855
such specialist and the expenses of examinations and tests shall 7856
be paid, if the claim is allowed, as part of the expenses of the 7857
claim, otherwise they shall be paid from the surplus fund. 7858

(W) Cardiovascular, pulmonary, or respiratory diseases 7859
incurred by firefighters or police officers following exposure 7860
to heat, smoke, toxic gases, chemical fumes and other toxic 7861
substances: Any cardiovascular, pulmonary, or respiratory 7862
disease of a firefighter or police officer caused or induced by 7863
the cumulative effect of exposure to heat, the inhalation of 7864
smoke, toxic gases, chemical fumes and other toxic substances in 7865
the performance of the firefighter's or police officer's duty 7866
constitutes a presumption, which may be refuted by affirmative 7867
evidence, that such occurred in the course of and arising out of 7868
the firefighter's or police officer's employment. For the 7869
purpose of this section, "firefighter" means any regular member 7870
of a lawfully constituted fire department of a municipal 7871
corporation or township, whether paid or volunteer, and "police 7872
officer" means any regular member of a lawfully constituted 7873
police department of a municipal corporation, township or 7874
county, whether paid or volunteer. 7875

This chapter does not entitle a firefighter, or police 7876
officer, or the firefighter's or police officer's dependents to 7877
compensation, medical treatment, or payment of funeral expenses 7878
for disability or death from a cardiovascular, pulmonary, or 7879
respiratory disease, unless the firefighter or police officer 7880
has been subject to injurious exposure to heat, smoke, toxic 7881
gases, chemical fumes, and other toxic substances in the 7882
firefighter's or police officer's employment in this state 7883
preceding the firefighter's or police officer's disablement, 7884
some portion of which has been after January 1, 1967, except as 7885
provided in division ~~(E)~~ (D) of section 4123.57 of the Revised 7886
Code. 7887

Compensation on account of cardiovascular, pulmonary, or 7888
respiratory diseases of firefighters and police officers is 7889

payable only in the event of temporary total disability, 7890
permanent total disability, or death, in accordance with section 7891
4123.56, 4123.58, or 4123.59 of the Revised Code. Medical, 7892
hospital, and nursing expenses are payable in accordance with 7893
this chapter. Compensation, medical, hospital, and nursing 7894
expenses are payable only in the event of such disability or 7895
death resulting within eight years after the last injurious 7896
exposure; provided that such eight-year limitation does not 7897
apply to disability or death from exposure occurring after 7898
January 1, 1976. In the event of death following continuous 7899
total disability commencing within eight years after the last 7900
injurious exposure, the requirement of death within eight years 7901
after the last injurious exposure does not apply. 7902

This chapter does not entitle a firefighter or police 7903
officer, or the firefighter's or police officer's dependents, to 7904
compensation, medical, hospital, and nursing expenses, or 7905
payment of funeral expenses for disability or death due to a 7906
cardiovascular, pulmonary, or respiratory disease in the event 7907
of failure or omission on the part of the firefighter or police 7908
officer truthfully to state, when seeking employment, the place, 7909
duration, and nature of previous employment in answer to an 7910
inquiry made by the employer. 7911

Before awarding compensation for disability or death under 7912
this division, the administrator shall refer the claim to a 7913
qualified medical specialist for examination and recommendation 7914
with regard to the diagnosis, the extent of disability, the 7915
cause of death, and other medical questions connected with the 7916
claim. A firefighter or police officer shall submit to such 7917
examinations, including clinical and x-ray examinations, as the 7918
administrator requires. In the event that a firefighter or 7919
police officer refuses to submit to examinations, including 7920

clinical and x-ray examinations, after notice from the administrator, or in the event that a claimant for compensation for death under this division fails to produce necessary consents and permits, after notice from the administrator, so that such autopsy examination and tests may be performed, then all rights for compensation are forfeited. The reasonable compensation of such specialists and the expenses of examination and tests shall be paid, if the claim is allowed, as part of the expenses of the claim, otherwise they shall be paid from the surplus fund. 7921 7922 7923 7924 7925 7926 7927 7928 7929 7930

(X)(1) Cancer contracted by a firefighter: Cancer contracted by a firefighter who has been assigned to at least six years of hazardous duty as a firefighter constitutes a presumption that the cancer was contracted in the course of and arising out of the firefighter's employment if the firefighter was exposed to an agent classified by the international agency for research on cancer or its successor organization as a group 1 or 2A carcinogen. 7931 7932 7933 7934 7935 7936 7937 7938

(2) The presumption described in division (X)(1) of this section is rebuttable in any of the following situations: 7939 7940

(a) There is evidence that the firefighter's exposure, outside the scope of the firefighter's official duties, to cigarettes, tobacco products, or other conditions presenting an extremely high risk for the development of the cancer alleged, was probably a significant factor in the cause or progression of the cancer. 7941 7942 7943 7944 7945 7946

(b) There is evidence that the firefighter was not exposed to an agent classified by the international agency for research on cancer as a group 1 or 2A carcinogen. 7947 7948 7949

(c) There is evidence that the firefighter incurred the type of cancer alleged before becoming a member of the fire department. 7950 7951 7952

(d) The firefighter is seventy years of age or older. 7953

(3) The presumption described in division (X)(1) of this section does not apply if it has been more than twenty years since the firefighter was last assigned to hazardous duty as a firefighter. 7954 7955 7956 7957

(4) Compensation for cancer contracted by a firefighter in the course of hazardous duty under division (X) of this section is payable only in the event of temporary total disability, permanent total disability, or death, in accordance with sections 4123.56, 4123.58, and 4123.59 of the Revised Code. 7958 7959 7960 7961 7962

(5) As used in division (X) of this section, "hazardous duty" has the same meaning as in 5 C.F.R. 550.902, as amended. 7963 7964

(Y) Silicosis: Silicosis means a disease of the lungs caused by breathing silica dust (silicon dioxide) producing fibrous nodules distributed through the lungs ~~and demonstrated by x-ray examination, by biopsy or by autopsy~~. 7965 7966 7967 7968

(Z) Coal miners' pneumoconiosis: Coal miners' pneumoconiosis, commonly referred to as "black lung disease," resulting from working in the coal mine industry and due to exposure to the breathing of coal dust~~, and demonstrated by x-ray examination, biopsy, autopsy or other medical or clinical tests~~. 7969 7970 7971 7972 7973 7974

This chapter does not entitle an employee or the employee's dependents to compensation, medical treatment, or payment of funeral expenses for disability or death from 7975 7976 7977

silicosis, asbestosis, or coal miners' pneumoconiosis unless the employee has been subject to injurious exposure to silica dust (silicon dioxide), asbestos, or coal dust in the employee's employment in this state preceding the employee's disablement, some portion of which has been after October 12, 1945, except as provided in division ~~(E)~~ (D) of section 4123.57 of the Revised Code.

Compensation on account of silicosis, asbestosis, or coal miners' pneumoconiosis are payable only in the event of temporary total disability, permanent partial disability, permanent total disability, or death, in accordance with ~~sections 4123.56, 4123.58, and~~ section 4123.59 and Chapter 4135. of the Revised Code. Medical, hospital, and nursing expenses are payable in accordance with this chapter. ~~Compensation, medical~~ Medical, hospital, and nursing expenses are payable only in the event of such disability or death resulting within eight years after the last injurious exposure; provided that such eight-year limitation does not apply to ~~disability or~~ death occurring after January 1, 1976, and further provided that such eight-year limitation does not apply to any asbestosis cases. In the event of death following continuous total disability commencing within eight years after the last injurious exposure, the requirement of death within eight years after the last injurious exposure does not apply.

~~This chapter does not entitle an employee or the employee's dependents to compensation, medical, hospital and nursing expenses, or payment of funeral expenses for disability or death due to silicosis, asbestosis, or coal miners' pneumoconiosis in the event of the failure or omission on the part of the employee truthfully to state, when seeking employment, the place, duration, and nature of previous~~

~~employment in answer to an inquiry made by the employer.~~ 8009

~~Before awarding compensation for disability or death due to silicosis, asbestosis, or coal miners' pneumoconiosis, the administrator shall refer the claim to a qualified medical specialist for examination and recommendation with regard to the diagnosis, the extent of disability, the cause of death, and other medical questions connected with the claim. An employee shall submit to such examinations, including clinical and x-ray examinations, as the administrator requires. In the event that an employee refuses to submit to examinations, including clinical and x-ray examinations, after notice from the administrator, or in the event that a claimant for compensation for death due to silicosis, asbestosis, or coal miners' pneumoconiosis fails to produce necessary consents and permits, after notice from the commission, so that such autopsy examination and tests may be performed, then all rights for compensation are forfeited. The reasonable compensation of such specialist and the expenses of examinations and tests shall be paid, if the claim is allowed, as a part of the expenses of the claim, otherwise they shall be paid from the surplus fund.~~ 8010–8028

(AA) Radiation illness: Any industrial process involving the use of radioactive materials. 8029–8030

Claims for compensation and benefits due to radiation illness are payable only in the event death or disability occurred within eight years after the last injurious exposure provided that such eight-year limitation does not apply to disability or death from exposure occurring after January 1, 1976. In the event of death following continuous disability which commenced within eight years of the last injurious exposure the requirement of death within eight years after the 8031–8038

last injurious exposure does not apply.

(BB) Asbestosis: Asbestosis means a disease caused by inhalation or ingestion of asbestos~~, demonstrated by x-ray examination, biopsy, autopsy, or other objective medical or clinical tests~~.

All conditions, restrictions, limitations, and other provisions of this section, with reference to the payment of compensation or benefits on account of silicosis or coal miners' pneumoconiosis apply to the payment of compensation or benefits on account of any other occupational disease of the respiratory tract resulting from injurious exposures to dust.

The refusal to produce the necessary consents and permits for autopsy examination and testing shall not result in forfeiture of compensation provided the administrator finds that such refusal was the result of bona fide religious convictions or teachings to which the claimant for compensation adhered prior to the death of the decedent.

Sec. 4123.69. Every employee mentioned in section 4123.68 of the Revised Code and the dependents and the employer or employers of such employee shall be entitled to all the rights, benefits, and immunities and shall be subject to all the liabilities, penalties, and regulations provided for injured employees and their employers by this chapter and Chapter 4135. of the Revised Code.

~~The administrator of workers' compensation shall have all of the powers, authority, and duties with respect to the collection, administration, and disbursement of the state occupational disease fund as are provided for in this chapter, providing for the collection, administration, and disbursement~~

~~of the state insurance fund for the compensation of injured employees.~~

Sec. 4123.74. Employers who comply with section 4123.35 of the Revised Code shall not be liable to respond in damages at common law or by statute for any injury, or occupational disease, or bodily condition, received or contracted by any employee in the course of or arising out of ~~his~~ employment, or for any death resulting from such injury, occupational disease, or bodily condition occurring during the period covered by such premium so paid into the state insurance fund, or during the interval the employer is a self-insuring employer, whether or not such injury, occupational disease, bodily condition, or death is compensable under this chapter or Chapter 4135. of the Revised Code.

Sec. 4123.741. No employee of any employer, as defined in division (B) of section 4123.01 of the Revised Code, shall be liable to respond in damages at common law or by statute for any injury or occupational disease, received or contracted by any other employee of such employer in the course of and arising out of the latter employee's employment, or for any death resulting from such injury or occupational disease, on the condition that such injury, occupational disease, or death is found to be compensable under sections 4123.01 to 4123.94~~, inclusive,~~ or Chapter 4135. of the Revised Code.

Sec. 4123.85. ~~In~~ Except as provided in Chapter 4135. of the Revised Code, in all cases of occupational disease, or death resulting from occupational disease, claims for compensation or benefits are forever barred unless, within two years after the disability due to the disease began, or within such longer period as does not exceed six months after diagnosis of the

occupational disease by a licensed physician or within two years after death occurs, application is made to the industrial commission or the bureau of workers' compensation or to the employer if ~~he~~ the employer is a self-insuring employer.

Sec. 4123.89. For the purpose of this chapter and Chapter 4135. of the Revised Code, a minor is sui juris, and no other person shall have any cause of action or right to compensation for an injury to the minor employee, but in the event of the award of a lump sum of compensation to the minor employee, the sum shall be paid to the legally appointed guardian of the minor or in accordance with section 2111.05 of the Revised Code.

When it is found upon hearing by the industrial commission that an injury, occupational disease, or death of a minor working in employment which is prohibited by any law enacted by the general assembly was directly caused by a hazard of such prohibited employment, the commission shall assess an additional award of one hundred per cent of the maximum award established by law, to the amount of the compensation that may be awarded on account of such injury, occupational disease, or death, and paid in like manner as other awards. If the compensation is paid from the state fund, the premium of the employer shall be increased in such amount, covering such period of time as may be fixed, as will recoup the state fund in the amount of the additional award.

Sec. 4123.93. As used in sections 4123.93 to 4123.932 of the Revised Code:

(A) "Claimant" means a person who is eligible to receive compensation, medical benefits, or death benefits under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code.

(B) "Statutory subrogee" means the administrator of workers' compensation, a self-insuring employer, or an employer that contracts for the direct payment of medical services pursuant to division (P) of section 4121.44 of the Revised Code.

(C) "Third party" means an individual, private insurer, public or private entity, or public or private program that is or may be liable to make payments to a person without regard to any statutory duty contained in this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code.

(D) "Subrogation interest" includes past, present, and estimated future payments of compensation, medical benefits, rehabilitation costs, or death benefits, and any other costs or expenses paid to or on behalf of the claimant by the statutory subrogee pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code.

(E) "Net amount recovered" means the amount of any award, settlement, compromise, or recovery by a claimant against a third party, minus the attorney's fees, costs, or other expenses incurred by the claimant in securing the award, settlement, compromise, or recovery. "Net amount recovered" does not include any punitive damages that may be awarded by a judge or jury.

(F) "Uncompensated damages" means the claimant's demonstrated or proven damages minus the statutory subrogee's subrogation interest.

Sec. 4123.931. (A) The payment of compensation or benefits pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4135. of the Revised Code creates a right of recovery in favor of a statutory subrogee against a third party, and the statutory subrogee is subrogated to the rights of a claimant against that

third party. The net amount recovered is subject to a statutory subrogee's right of recovery. 8157 8158

(B) If a claimant, statutory subrogee, and third party settle or attempt to settle a claimant's claim against a third party, the claimant shall receive an amount equal to the uncompensated damages divided by the sum of the subrogation interest plus the uncompensated damages, multiplied by the net amount recovered, and the statutory subrogee shall receive an amount equal to the subrogation interest divided by the sum of the subrogation interest plus the uncompensated damages, multiplied by the net amount recovered, except that the net amount recovered may instead be divided and paid on a more fair and reasonable basis that is agreed to by the claimant and statutory subrogee. If while attempting to settle, the claimant and statutory subrogee cannot agree to the allocation of the net amount recovered, the claimant and statutory subrogee may file a request with the administrator of workers' compensation for a conference to be conducted by a designee appointed by the administrator, or the claimant and statutory subrogee may agree to utilize any other binding or non-binding alternative dispute resolution process. 8159 8160 8161 8162 8163 8164 8165 8166 8167 8168 8169 8170 8171 8172 8173 8174 8175 8176 8177

The claimant and statutory subrogee shall pay equal shares of the fees and expenses of utilizing an alternative dispute resolution process, unless they agree to pay those fees and expenses in another manner. The administrator shall not assess any fees to a claimant or statutory subrogee for a conference conducted by the administrator's designee. 8178 8179 8180 8181 8182 8183

(C) If a claimant and statutory subrogee request that a conference be conducted by the administrator's designee pursuant to division (B) of this section, both of the following apply: 8184 8185 8186

(1) The administrator's designee shall schedule a conference on or before sixty days after the date that the claimant and statutory subrogee filed a request for the conference. 8187 8188 8189 8190

(2) The determination made by the administrator's designee is not subject to Chapter 119. of the Revised Code. 8191 8192

(D) When a claimant's action against a third party proceeds to trial and damages are awarded, both of the following apply: 8193 8194 8195

(1) The claimant shall receive an amount equal to the uncompensated damages divided by the sum of the subrogation interest plus the uncompensated damages, multiplied by the net amount recovered, and the statutory subrogee shall receive an amount equal to the subrogation interest divided by the sum of the subrogation interest plus the uncompensated damages, multiplied by the net amount recovered. 8196 8197 8198 8199 8200 8201 8202

(2) The court in a nonjury action shall make findings of fact, and the jury in a jury action shall return a general verdict accompanied by answers to interrogatories that specify the following: 8203 8204 8205 8206

(a) The total amount of the compensatory damages; 8207

(b) The portion of the compensatory damages specified pursuant to division (D)(2)(a) of this section that represents economic loss; 8208 8209 8210

(c) The portion of the compensatory damages specified pursuant to division (D)(2)(a) of this section that represents noneconomic loss. 8211 8212 8213

(E)(1) After a claimant and statutory subrogee know the 8214

net amount recovered, and after the means for dividing it has been determined under division (B) or (D) of this section, a claimant may establish an interest-bearing trust account for the full amount of the subrogation interest that represents estimated future payments of compensation, medical benefits, rehabilitation costs, or death benefits, reduced to present value, from which the claimant shall make reimbursement payments to the statutory subrogee for the future payments of compensation, medical benefits, rehabilitation costs, or death benefits. If the workers' compensation claim associated with the subrogation interest is settled, or if the claimant dies, or if any other circumstance occurs that would preclude any future payments of compensation, medical benefits, rehabilitation costs, and death benefits by the statutory subrogee, any amount remaining in the trust account after final reimbursement is paid to the statutory subrogee for all payments made by the statutory subrogee before the ending of future payments shall be paid to the claimant or the claimant's estate. 8215 8216 8217 8218 8219 8220 8221 8222 8223 8224 8225 8226 8227 8228 8229 8230 8231 8232

(2) A claimant may use interest that accrues on the trust account to pay the expenses of establishing and maintaining the trust account, and all remaining interest shall be credited to the trust account. 8233 8234 8235 8236

(3) If a claimant establishes a trust account, the statutory subrogee shall provide payment notices to the claimant on or before the thirtieth day of June and the thirty-first day of December every year listing the total amount that the statutory subrogee has paid for compensation, medical benefits, rehabilitation costs, or death benefits during the half of the year preceding the notice. The claimant shall make reimbursement payments to the statutory subrogee from the trust account on or before the thirty-first day of July every year for a notice 8237 8238 8239 8240 8241 8242 8243 8244 8245

provided by the thirtieth day of June, and on or before the thirty-first day of January every year for a notice provided by the thirty-first day of December. The claimant's reimbursement payment shall be in an amount that equals the total amount listed on the notice the claimant receives from the statutory subrogee. 8246 8247 8248 8249 8250 8251

(F) If a claimant does not establish a trust account as described in division (E)(1) of this section, the claimant shall pay to the statutory subrogee, on or before thirty days after receipt of funds from the third party, the full amount of the subrogation interest that represents estimated future payments of compensation, medical benefits, rehabilitation costs, or death benefits. 8252 8253 8254 8255 8256 8257 8258

(G) A claimant shall notify a statutory subrogee and the attorney general of the identity of all third parties against whom the claimant has or may have a right of recovery, except that when the statutory subrogee is a self-insuring employer, the claimant need not notify the attorney general. No settlement, compromise, judgment, award, or other recovery in any action or claim by a claimant shall be final unless the claimant provides the statutory subrogee and, when required, the attorney general, with prior notice and a reasonable opportunity to assert its subrogation rights. If a statutory subrogee and, when required, the attorney general are not given that notice, or if a settlement or compromise excludes any amount paid by the statutory subrogee, the third party and the claimant shall be jointly and severally liable to pay the statutory subrogee the full amount of the subrogation interest. 8259 8260 8261 8262 8263 8264 8265 8266 8267 8268 8269 8270 8271 8272 8273

(H) The right of subrogation under this chapter is automatic, regardless of whether a statutory subrogee is joined 8274 8275

as a party in an action by a claimant against a third party. A statutory subrogee may assert its subrogation rights through correspondence with the claimant and the third party or their legal representatives. A statutory subrogee may institute and pursue legal proceedings against a third party either by itself or in conjunction with a claimant. If a statutory subrogee institutes legal proceedings against a third party, the statutory subrogee shall provide notice of that fact to the claimant. If the statutory subrogee joins the claimant as a necessary party, or if the claimant elects to participate in the proceedings as a party, the claimant may present the claimant's case first if the matter proceeds to trial. If a claimant disputes the validity or amount of an asserted subrogation interest, the claimant shall join the statutory subrogee as a necessary party to the action against the third party. 8276 8277 8278 8279 8280 8281 8282 8283 8284 8285 8286 8287 8288 8289 8290

(I) The statutory subrogation right of recovery applies to, but is not limited to, all of the following: 8291 8292

(1) Amounts recoverable from a claimant's insurer in connection with underinsured or uninsured motorist coverage, notwithstanding any limitation contained in Chapter 3937. of the Revised Code; 8293 8294 8295 8296

(2) Amounts that a claimant would be entitled to recover from a political subdivision, notwithstanding any limitations contained in Chapter 2744. of the Revised Code; 8297 8298 8299

(3) Amounts recoverable from an intentional tort action. 8300

(J) If a claimant's claim against a third party is for wrongful death or the claim involves any minor beneficiaries, amounts allocated under this section are subject to the approval of probate court. 8301 8302 8303 8304

(K) Except as otherwise provided in this division, the 8305
administrator shall deposit any money collected under this 8306
section into the public fund or the private fund of the state 8307
insurance fund, as appropriate. Any money collected under this 8308
section for compensation or benefits that were charged pursuant 8309
to section 4123.932 of the Revised Code to the surplus fund 8310
account created in division (B) of section 4123.34 of the 8311
Revised Code and not charged to an employer's experience shall 8312
be deposited in the surplus fund account and not applied to an 8313
individual employer's account. If a self-insuring employer 8314
collects money under this section of the Revised Code, the self- 8315
insuring employer shall deduct the amount collected, in the year 8316
collected, from the amount of paid compensation the self-insured 8317
employer is required to report under section 4123.35 of the 8318
Revised Code. 8319

Sec. 4123.932. (A) As used in this section: 8320

(1) "Motor vehicle" has the same meaning as in section 8321
4501.01 of the Revised Code. 8322

(2) "Primarily liable" means more than fifty per cent 8323
liable for purposes of section 2315.33 of the Revised Code. 8324

(B) Any compensation and benefits related to a claim that 8325
is compensable under this chapter or Chapter 4121., 4127., ~~or~~ 8326
4131., or 4135. of the Revised Code shall be charged to the 8327
surplus fund account created under division (B) of section 8328
4123.34 of the Revised Code and not charged to an individual 8329
employer's experience if, upon the administrator's 8330
determination, all of the following apply to that claim: 8331

(1) The employer of the employee who is the subject of the 8332
claim pays premiums into the state insurance fund. 8333

(2) The claim is based on a motor vehicle accident involving a third party. 8334 8335

(3) Either of the following circumstances apply to the claim: 8336 8337

(a) The third party is issued a citation for violation of any law or ordinance regulating the operation of a motor vehicle arising from the accident on which the claim is based and the claim is covered by any form of insurance maintained by the third party or by uninsured or underinsured motorist coverage as described in section 3937.18 of the Revised Code. 8338 8339 8340 8341 8342 8343

(b) The third party is primarily liable for the motor vehicle accident on which the claim is based and the claim is covered by any form of insurance maintained by the third party or by uninsured or underinsured motorist coverage as described in section 3937.18 of the Revised Code. 8344 8345 8346 8347 8348

(C) If an employer believes division (B) of this section applies to a claim about which an employee of the employer is the subject, the employer may file a request with the administrator for a determination by the administrator as to whether the claim is to be charged to the surplus fund account pursuant to this section. 8349 8350 8351 8352 8353 8354

(D)(1) Within one hundred eighty days after the administrator receives a request made under division (C) of this section, the administrator shall determine whether the claim for which the request is made shall be charged to the surplus fund account pursuant to this section. 8355 8356 8357 8358 8359

(2) If the administrator fails to make a determination under division (D)(1) of this section within the time required, the administrator shall charge the claim for which the request 8360 8361 8362

was made to the surplus fund account pursuant to this section. 8363

(E) This section does not apply if the employer of the 8364
employee who is the subject of the claim is the state or a state 8365
institution of higher education, including its hospitals. 8366

Sec. 4125.03. (A) The professional employer organization 8367
with whom a shared employee is coemployed shall do all of the 8368
following: 8369

(1) Pay wages associated with a shared employee pursuant 8370
to the terms and conditions of compensation in the professional 8371
employer organization agreement between the professional 8372
employer organization and the client employer; 8373

(2) Pay all related payroll taxes associated with a shared 8374
employee independent of the terms and conditions contained in 8375
the professional employer organization agreement between the 8376
professional employer organization and the client employer; 8377

(3) Maintain workers' compensation coverage, pay all 8378
workers' compensation premiums and manage all workers' 8379
compensation claims, filings, and related procedures associated 8380
with a shared employee in compliance with Chapters 4121.~~ and ~~, 8381
4123., and 4135. of the Revised Code, except that when shared 8382
employees include family farm officers, ordained ministers, or 8383
corporate officers of the client employer, payroll reports shall 8384
include the entire amount of payroll associated with those 8385
persons; 8386

(4) Provide written notice to each shared employee it 8387
assigns to perform services to a client employer of the 8388
relationship between and the responsibilities of the 8389
professional employer organization and the client employer; 8390

(5) Maintain complete records separately listing the manual classifications of each client employer and the payroll reported to each manual classification for each client employer for each payroll reporting period during the time period covered in the professional employer organization agreement; 8391 8392 8393 8394 8395

(6) Maintain a record of workers' compensation claims for each client employer; 8396 8397

(7) Make periodic reports, as determined by the administrator of workers' compensation, of client employers and total workforce to the administrator; 8398 8399 8400

(8) Report individual client employer payroll, claims, and classification data under a separate and unique subaccount to the administrator; 8401 8402 8403

(9) Within fourteen days after receiving notice from the bureau of workers' compensation that a refund or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant. 8404 8405 8406 8407 8408

(B) The professional employer organization with whom a shared employee is coemployed shall provide a list of all of the following information to the client employer upon the written request of the client employer: 8409 8410 8411 8412

(1) All workers' compensation claims, premiums, and payroll associated with that client employer; 8413 8414

(2) Compensation and benefits paid and reserves established for each claim listed under division (B)(1) of this section; 8415 8416 8417

(3) Any other information available to the professional 8418

employer organization from the bureau of workers' compensation regarding that client employer. 8419 8420

(C)(1) A professional employer organization shall provide the information required under division (B) of this section in writing to the requesting client employer within forty-five days after receiving a written request from the client employer. 8421 8422 8423 8424

(2) For purposes of division (C) of this section, a professional employer organization has provided the required information to the client employer when the information is received by the United States postal service or when the information is personally delivered, in writing, directly to the client employer. 8425 8426 8427 8428 8429 8430

(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: 8431 8432 8433 8434 8435 8436 8437 8438

(1) Conduct the client employer's business, including training and supervising shared employees; 8439 8440

(2) Ensure the quality, adequacy, and safety of the goods or services produced or sold in the client employer's business; 8441 8442

(3) Discharge any fiduciary responsibility that the client employer may have; 8443 8444

(4) Comply with any applicable licensure, regulatory, or statutory requirement of the client employer. 8445 8446

(E) Unless otherwise agreed to in the professional 8447
employer organization agreement, liability for acts, errors, and 8448
omissions shall be determined as follows: 8449

(1) A professional employer organization shall not be 8450
liable for the acts, errors, and omissions of a client employer 8451
or a shared employee when those acts, errors, and omissions 8452
occur under the direction and control of the client employer. 8453

(2) A client employer shall not be liable for the acts, 8454
errors, and omissions of a professional employer organization or 8455
a shared employee when those acts, errors, and omissions occur 8456
under the direction and control of the professional employer 8457
organization. 8458

(F) Nothing in divisions (D) and (E) of this section shall 8459
be construed to limit any liability or obligation specifically 8460
agreed to in the professional employer organization agreement. 8461

Sec. 4125.04. (A) When a client employer enters into a 8462
professional employer organization agreement with a professional 8463
employer organization, the professional employer organization is 8464
the employer of record and the succeeding employer for the 8465
purposes of determining a workers' compensation experience 8466
rating pursuant to Chapter 4123. of the Revised Code. 8467

(B) Pursuant to Section 35 of Article II, Ohio 8468
Constitution, and section 4123.74 of the Revised Code, the 8469
exclusive remedy for a shared employee to recover for injuries, 8470
diseases, or death incurred in the course of and arising out of 8471
the employment relationship against either the professional 8472
employer organization or the client employer are those benefits 8473
provided under Chapters 4121.~~ and ~~, 4123., and 4135. of the 8474
Revised Code. 8475

Sec. 4125.041. A shared employee under a professional 8476
employer organization agreement shall not, solely as a result of 8477
being a shared employee, be considered an employee of the 8478
professional employer organization for purposes of general 8479
liability insurance, fidelity bonds, surety bonds, employer 8480
liability not otherwise covered by Chapters 4121.~~ and ~~, 4123., 8481
and 4135. of the Revised Code, or liquor liability insurance 8482
carried by the professional employer organization, unless the 8483
professional employer organization agreement and applicable 8484
prearranged employment contract, insurance contract, or bond 8485
specifically states otherwise. 8486

Sec. 4125.05. (A) Not later than thirty days after the 8487
formation of a professional employer organization, a 8488
professional employer organization operating in this state shall 8489
register with the administrator of workers' compensation on 8490
forms provided by the administrator. Following initial 8491
registration, each professional employer organization shall 8492
register with the administrator annually on or before the 8493
thirty-first day of December. Commonly owned or controlled 8494
applicants may register as a professional employer organization 8495
reporting entity or register individually. Registration as a 8496
part of a professional employer organization reporting entity 8497
shall not disqualify an individual professional employer 8498
organization from participating in a group-rated plan under 8499
division (A)(4) of section 4123.29 of the Revised Code. 8500

(B) Initial registration and each annual registration 8501
renewal shall include all of the following: 8502

(1) A list of each of the professional employer 8503
organization's client employers current as of the date of 8504
registration for purposes of initial registration or current as 8505

of the date of annual registration renewal, or within fourteen days of adding or releasing a client, that includes the client employer's name, address, federal tax identification number, and bureau of workers' compensation risk number; 8506 8507 8508 8509

(2) A fee as determined by the administrator; 8510

(3) The name or names under which the professional employer organization conducts business; 8511 8512

(4) The address of the professional employer organization's principal place of business and the address of each office it maintains in this state; 8513 8514 8515

(5) The professional employer organization's taxpayer or employer identification number; 8516 8517

(6) A list of each state in which the professional employer organization has operated in the preceding five years, and the name, corresponding with each state, under which the professional employer organization operated in each state, including any alternative names, names of predecessors, and if known, successor business entities; 8518 8519 8520 8521 8522 8523

(7) The most recent financial statement prepared and audited pursuant to division (B) of section 4125.051 of the Revised Code; 8524 8525 8526

(8) If there is any deficit in the working capital required under division (A) of section 4125.051 of the Revised Code, a bond, irrevocable letter of credit, or securities with a minimum market value in an amount sufficient to cover the deficit in accordance with the requirements of that section; 8527 8528 8529 8530 8531

(9) An attestation of the accuracy of the data submissions from the chief executive officer, president, or other individual 8532 8533

who serves as the controlling person of the professional employer organization. 8534 8535

(C) Upon terms and for periods that the administrator considers appropriate, the administrator may issue a limited registration to a professional employer organization or professional employer organization reporting entity that provides all of the following items: 8536 8537 8538 8539 8540

(1) A properly executed request for limited registration on a form provided by the administrator; 8541 8542

(2) All information and materials required for registration in divisions (B)(1) to (6) of this section; 8543 8544

(3) Information and documentation necessary to show that the professional employer organization or professional employer organization reporting entity satisfies all of the following criteria: 8545 8546 8547 8548

(a) It is domiciled outside of this state. 8549

(b) It is licensed or registered as a professional employer organization in another state. 8550 8551

(c) It does not maintain an office in this state. 8552

(d) It does not participate in direct solicitations for client employers located or domiciled in this state. 8553 8554

(e) It has fifty or fewer shared employees employed or domiciled in this state on any given day. 8555 8556

(D)(1) The administrator, with the advice and consent of the bureau of workers' compensation board of directors, may adopt rules in accordance with Chapter 119. of the Revised Code to require, in addition to the requirement under division (B)(8) 8557 8558 8559 8560

of this section, a professional employer organization to provide 8561
security in the form of a bond or letter of credit assignable to 8562
the Ohio bureau of workers' compensation not to exceed an amount 8563
equal to the premiums and assessments incurred for the most 8564
recent policy year, prior to any discounts or dividends, to meet 8565
the financial obligations of the professional employer 8566
organization pursuant to this chapter and Chapters 4121.~~ and ~~, 8567
4123., and 4135. of the Revised Code. 8568

(2) A professional employer organization may appeal the 8569
amount of the security required pursuant to rules adopted under 8570
division (D)(1) of this section in accordance with section 8571
4123.291 of the Revised Code. 8572

(3) A professional employer organization shall pay 8573
premiums and assessments for purposes of Chapters 4121.~~ and ~~, 8574
4123., and 4135. of the Revised Code on a monthly basis pursuant 8575
to division (A) of section 4123.35 of the Revised Code. 8576

(E) Notwithstanding division (D) of this section, a 8577
professional employer organization that qualifies for self- 8578
insurance or retrospective rating under section 4123.29 or 8579
4123.35 of the Revised Code shall abide by the financial 8580
disclosure and security requirements pursuant to those sections 8581
and the rules adopted under those sections in place of the 8582
requirements specified in division (D) of this section or 8583
specified in rules adopted pursuant to that division. 8584

(F) Except to the extent necessary for the administrator 8585
to administer the statutory duties of the administrator and for 8586
employees of the state to perform their official duties, all 8587
records, reports, client lists, and other information obtained 8588
from a professional employer organization and professional 8589
employer organization reporting entity under divisions (A), (B), 8590

and (C) of this section are confidential and shall be considered trade secrets and shall not be published or open to public inspection. 8591 8592 8593

(G) The list described in division (B)(1) of this section shall be considered a trade secret. 8594 8595

(H) The administrator shall establish the fee described in division (B)(2) of this section in an amount that does not exceed the cost of the administration of the initial and renewal registration process. 8596 8597 8598 8599

(I) A financial statement required under division (B)(7) of this section for initial registration shall be the most recent financial statement of the professional employer organization or professional employer organization reporting entity of which the professional employer organization is a member and shall not be older than thirteen months. For each registration renewal, the professional employer organization shall file the required financial statement within one hundred eighty days after the end of the professional employer organization's or professional employer organization reporting entity's fiscal year. A professional employer organization may apply to the administrator for an extension beyond that time if the professional employer organization provides the administrator with a letter from the professional employer organization's auditor stating the reason for delay and the anticipated completion date. 8600 8601 8602 8603 8604 8605 8606 8607 8608 8609 8610 8611 8612 8613 8614 8615

(J) Multiple, unrelated professional employer organizations shall not combine together for purposes of obtaining workers' compensation coverage or for forming any type of self-insurance arrangement available under this chapter. Multiple, unrelated professional employer organization reporting 8616 8617 8618 8619 8620

entities shall not combine together for purposes of obtaining 8621
workers' compensation coverage or for forming any type of self- 8622
insurance arrangement available under this chapter. 8623

(K) The administrator shall maintain a list of 8624
professional employer organizations and professional employer 8625
organization reporting entities registered under this section 8626
that is readily available to the public by electronic or other 8627
means. 8628

Sec. 4131.01. As used in sections 4131.01 to 4131.06 of 8629
the Revised Code: 8630

(A) "Federal act" means Title IV of the "Federal Coal Mine 8631
Health and Safety Act of 1969," 83 Stat. 742, 30 U.S.C.A. 801, 8632
as now or hereafter amended. 8633

(B) "Coal-workers pneumoconiosis fund" means the fund 8634
created and administered pursuant to sections 4131.01 to 4131.06 8635
of the Revised Code and does not refer, directly or indirectly, 8636
to any fund created and administered pursuant to Chapter 4123. 8637
or 4135. of the Revised Code. 8638

(C) "Premium" means payment by or on behalf of an operator 8639
of a coal mine in Ohio who is required by the federal act to 8640
secure the payment of benefits for which ~~he~~ the operator is 8641
liable under that act, which payments are to be credited to the 8642
coal-workers pneumoconiosis fund and does not refer, directly or 8643
indirectly, to premiums or contributions paid or required to be 8644
paid pursuant to Chapter 4123. of the Revised Code. 8645

(D) "Subscriber" means an operator who has elected to 8646
subscribe to the coal-workers pneumoconiosis fund and whose 8647
election has been approved by the bureau of workers' 8648
compensation. 8649

Sec. 4133.03. (A) The alternate employer organization with whom a worksite employee is employed shall do all of the following:

(1) Process and pay all wages and applicable state and federal payroll taxes associated with the worksite employee, irrespective of payments made by the client employer, pursuant to the terms and conditions of compensation in the alternate employer organization agreement between the alternate employer organization and the client employer;

(2) Pay all related payroll taxes associated with a worksite employee independent of the terms and conditions contained in the alternate employer organization agreement between the alternate employer organization and the client employer;

(3) Maintain workers' compensation coverage, pay all workers' compensation premiums, and manage all workers' compensation claims, filings, and related procedures associated with a worksite employee in compliance with Chapters 4121.~~ and ~~, 4123., and 4135. of the Revised Code, except that when worksite employees include family farm officers, ordained ministers, or corporate officers of the client employer, payroll reports shall include the entire amount of payroll associated with those persons;

(4) Annually provide written notice to each worksite employee it assigns to perform services to a client employer of the relationship between and the responsibilities of the alternate employer organization and the client employer;

(5) Maintain complete records separately listing the manual classifications of each client employer and the payroll

reported to each manual classification for each client employer for each payroll reporting period during the time period covered in the alternate employer organization agreement; 8679 8680 8681

(6) Maintain a record of workers' compensation claims for each client employer; 8682 8683

(7) Make periodic reports, as determined by the administrator of workers' compensation, of client employers and total workforce to the administrator; 8684 8685 8686

(8) Report individual client employer payroll, claims, and classification data under a separate and unique subaccount to the administrator; 8687 8688 8689

(9) Within fourteen days after receiving notice from the bureau of workers' compensation that a refund or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant; 8690 8691 8692 8693 8694

(10) Annually certify to the administrator that all client employer federal payroll taxes have been timely and appropriately paid, and on request of the administrator, provide proof of payment. 8695 8696 8697 8698

(B) In any alternate employer organization agreement between an alternate employer organization and a client employer, the client employer shall be listed as the employer on the W-2 forms of the worksite employees, but the alternate employer organization remains jointly and severally liable for all applicable local, state, and federal withholding and employer-paid taxes with respect to the worksite employees. 8699 8700 8701 8702 8703 8704 8705

(C) An alternate employer organization shall file federal 8706

payroll taxes entirely under the tax identification number of the client employer, but shall remain jointly and severally liable for all wages and payroll taxes associated with worksite employees. In addition, if any of the alternate employer organization's clients fail to transmit payment to the alternate employer organization sufficient to cover payment of all wages and employer-paid taxes, the alternate employer organization shall keep a record of the nonpayment or underpayment and a record that the alternate employer organization nonetheless paid the wages and taxes owed. 8707 8708 8709 8710 8711 8712 8713 8714 8715 8716

(D) An alternate employer organization may not provide partial or split workers' compensation coverage for worksite employees in which the client employer provides that coverage for some, but not all, of the client employer's worksite employees. On entering into an alternate employer organization agreement, all worksite employees shall be covered under the workers' compensation policy of the alternate employer organization. 8717 8718 8719 8720 8721 8722 8723 8724

(E) The alternate employer organization with whom a worksite employee is employed shall provide a list of all of the following information to the client employer on the written request of the client employer: 8725 8726 8727 8728

(1) All workers' compensation claims, premiums, and payroll associated with that client employer; 8729 8730

(2) Compensation and benefits paid and reserves established for each claim listed under division (E)(1) of this section; 8731 8732 8733

(3) Any other information available to the alternate employer organization from the bureau of workers' compensation 8734 8735

regarding that client employer. 8736

(F)(1) An alternate employer organization shall provide the information required under division (E) of this section in writing to the requesting client employer within forty-five days after receiving a written request from the client employer. 8737 8738 8739 8740

(2) For purposes of division (F) of this section, an alternate employer organization has provided the required information to the client employer when the information is received by the United States postal service or when the information is personally delivered, in writing, directly to the client employer. 8741 8742 8743 8744 8745 8746

(G) Except as provided in section 4133.11 of the Revised Code and unless otherwise agreed to in the alternate employer organization agreement, the alternate employer organization with whom a worksite employee is employed has a right of direction and control over each worksite employee assigned to a client employer's location. However, a client employer shall retain sufficient direction and control over a worksite employee as is necessary to do any of the following: 8747 8748 8749 8750 8751 8752 8753 8754

(1) Conduct the client employer's business, including training and supervising worksite employees; 8755 8756

(2) Ensure the quality, adequacy, and safety of the goods or services produced or sold in the client employer's business; 8757 8758

(3) Discharge any fiduciary responsibility that the client employer may have; 8759 8760

(4) Comply with any applicable licensure, regulatory, or statutory requirement of the client employer. 8761 8762

(H) Unless otherwise agreed to in the alternate employer 8763

organization agreement, liability for acts, errors, and omissions shall be determined as follows: 8764 8765

(1) An alternate employer organization shall not be liable for the acts, errors, and omissions of a client employer or a worksite employee when those acts, errors, and omissions occur under the direction and control of the client employer. 8766 8767 8768 8769

(2) A client employer shall not be liable for the acts, errors, and omissions of an alternate employer organization or a worksite employee when those acts, errors, and omissions occur under the direction and control of the alternate employer organization. 8770 8771 8772 8773 8774

(I) Nothing in divisions (G) and (H) of this section shall be construed to limit any liability or obligation specifically agreed to in the alternate employer organization agreement. 8775 8776 8777

(J) An alternate employer organization is not, and shall not be considered, a professional employer organization, as defined in section 4125.01 of the Revised Code. An alternate employer organization may not hold itself out, advertise, or otherwise identify itself in any way as a professional employer organization. 8778 8779 8780 8781 8782 8783

(K) In an alternate employer organization agreement, both the client employer and alternate employer organization are jointly and severally liable for the payment of employee wages and taxes. The alternate employer organization and client employer share in the employer responsibilities and liabilities with respect to a worksite employee, pursuant to the alternate employer organization agreement. 8784 8785 8786 8787 8788 8789 8790

(L) The use of a client employer's tax identification number for federal payroll tax purposes as required under 8791 8792

division (C) of this section shall not be construed to absolve the alternate employer organization of any responsibilities or liabilities applicable to an ~~alternative~~ alternate employer organization, including those under federal law. 8793–8796

Sec. 4133.04. (A) When a client employer enters into an alternate employer organization agreement with an alternate employer organization, the alternate employer organization is the employer of record and the succeeding employer for the purposes of determining a workers' compensation experience rating pursuant to Chapter 4123. of the Revised Code. 8797–8802

(B) Pursuant to Section 35 of Article II, Ohio Constitution, and section 4123.74 of the Revised Code, the exclusive remedy for a worksite employee to recover for injuries, diseases, or death incurred in the course of and arising out of the employment relationship against either the alternate employer organization or the client employer are those benefits provided under Chapters 4121. ~~and~~, 4123., and 4135. of the Revised Code. 8803–8810

Sec. 4133.05. A worksite employee under an alternate employer organization agreement shall not, solely as a result of being a worksite employee, be considered an employee of the alternate employer organization for purposes of general liability insurance, fidelity bonds, surety bonds, employer liability not otherwise covered by Chapters 4121. ~~and~~, 4123., and 4135. of the Revised Code, or liquor liability insurance carried by the alternate employer organization, unless the alternate employer organization agreement and applicable prearranged employment contract, insurance contract, or bond specifically states otherwise. 8811–8821

Sec. 4133.07. (A) Not later than thirty days after its 8822

formation, an alternate employer organization operating in this state shall register with the administrator of workers' compensation on forms provided by the administrator. Following initial registration, each alternate employer organization shall register with the administrator annually on or before the thirty-first day of December. 8823 8824 8825 8826 8827 8828

(B) Initial registration and each annual registration renewal shall include all of the following: 8829 8830

(1) A list of each of the alternate employer organization's client employers current as of the date of registration for purposes of initial registration or current as of the date of annual registration renewal, or within fourteen days of adding or releasing a client, that includes the client employer's name, address, federal tax identification number, and bureau of workers' compensation risk number; 8831 8832 8833 8834 8835 8836 8837

(2) A fee as determined by the administrator; 8838

(3) The name or names under which the alternate employer organization conducts business; 8839 8840

(4) The address of the alternate employer organization's principal place of business and the address of each office it maintains in this state; 8841 8842 8843

(5) The alternate employer organization's taxpayer or employer identification number; 8844 8845

(6) A list of each state in which the alternate employer organization has operated in the preceding five years, and the name, corresponding with each state, under which the alternate employer organization operated in each state, including any alternative names, names of predecessors, and if known, 8846 8847 8848 8849 8850

successor business entities; 8851

(7) The most recent financial statement prepared and audited pursuant to division (B) of section 4133.08 of the Revised Code; 8852 8853 8854

(8) A bond or letter of credit in accordance with division (D)(1) of this section; 8855 8856

(9) An attestation of the accuracy of the data submissions from the chief executive officer, president, or other individual who serves as the controlling person of the alternate employer organization. 8857 8858 8859 8860

(C) Upon terms and for periods that the administrator considers appropriate, the administrator may issue a limited registration to an alternate employer organization that provides all of the following items: 8861 8862 8863 8864

(1) A properly executed request for limited registration on a form provided by the administrator; 8865 8866

(2) All information and materials required for registration in divisions (B)(1) to (6) of this section; 8867 8868

(3) Information and documentation necessary to show that the alternate employer organization satisfies all of the following criteria: 8869 8870 8871

(a) It is domiciled outside of this state. 8872

(b) It is licensed or registered as an alternate employer organization in another state. 8873 8874

(c) It does not maintain an office in this state. 8875

(d) It does not participate in direct solicitations for client employers located or domiciled in this state. 8876 8877

(e) It has fifty or fewer worksite employees employed or 8878
domiciled in this state on any given day. 8879

(D)(1) An alternate employer organization shall provide 8880
security in the form of a bond or letter of credit assignable to 8881
the Ohio bureau of workers' compensation in an amount necessary 8882
to meet the financial obligations of the alternate employer 8883
organization pursuant to this chapter and Chapters 4121. ~~and~~, 8884
4123., and 4135. of the Revised Code. The administrator shall 8885
determine the amount of the bond required under this division 8886
for each registrant, which shall be at least one million 8887
dollars. 8888

(2) An alternate employer organization may appeal the 8889
amount of the security required pursuant to rules adopted under 8890
division (D)(1) of this section in accordance with section 8891
4123.291 of the Revised Code. 8892

(3) An alternate employer organization shall pay premiums 8893
and assessments for purposes of Chapters 4121. ~~and~~, 4123., and 8894
4135. of the Revised Code on a monthly basis pursuant to 8895
division (A) of section 4123.35 of the Revised Code. 8896

(E) Notwithstanding division (D) of this section, an 8897
alternate employer organization that qualifies for self- 8898
insurance or retrospective rating under section 4123.29 or 8899
4123.35 of the Revised Code shall abide by the financial 8900
disclosure and security requirements pursuant to those sections 8901
and the rules adopted under those sections in place of the 8902
requirements specified in division (D) of this section or 8903
specified in rules adopted pursuant to that division. 8904

(F) Except to the extent necessary for the administrator 8905
to administer the statutory duties of the administrator and for 8906

employees of the state to perform their official duties, all records, reports, client lists, and other information obtained from an alternate employer organization under divisions (A), (B), and (C) of this section are confidential and shall be considered trade secrets and shall not be published or open to public inspection. 8907 8908 8909 8910 8911 8912

(G) The list described in division (B)(1) of this section shall be considered a trade secret. 8913 8914

(H) The administrator shall establish the fee described in division (B)(2) of this section in an amount that does not exceed the cost of the administration of the initial and renewal registration process. 8915 8916 8917 8918

(I) A financial statement required under division (B)(7) of this section for initial registration shall be the most recent financial statement of the alternate employer organization and shall not be older than thirteen months. For each registration renewal, the alternate employer organization shall file the required financial statement within one hundred eighty days after the end of the alternate employer organization's entity's fiscal year. An alternate employer organization may apply to the administrator for an extension beyond that time if the alternate employer organization provides the administrator with a letter from the alternate employer organization's auditor stating the reason for delay and the anticipated completion date. 8919 8920 8921 8922 8923 8924 8925 8926 8927 8928 8929 8930 8931

(J) Multiple, unrelated alternate employer organizations shall not combine together for purposes of obtaining workers' compensation coverage or for forming any type of self-insurance arrangement available under this chapter. 8932 8933 8934 8935

(K) An alternate employer organization may not own or co-own an affiliated professional employer organization or alternate employer organization. 8936 8937 8938

(L) The administrator shall maintain a list of alternate employer organizations registered under this section that is readily available to the public by electronic or other means. 8939 8940 8941

(M)(1) An alternate employer organization may assist a client employer in procuring a health benefit plan as a broker or otherwise, but shall not act as the employer or sponsor of a health benefit plan. 8942 8943 8944 8945

(2) As used in this division: 8946

(a) "Health benefit plan" means a policy, contract, certificate, agreement, or other program offered to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including benefit plans marketed in the individual or group market by all associations, whether bona fide or non-bona fide. "Health benefit plan" also means a limited benefit plan. 8947 8948 8949 8950 8951 8952 8953

(b) "Health care services" has the same meaning as in section 3922.01 of the Revised Code. 8954 8955

Sec. 4135.01. As used in this chapter: 8956

(A) "Board-certified internist," "board-certified pathologist," and "board-certified pulmonary specialist" have the same meanings as in section 2307.84 of the Revised Code. 8957 8958 8959

(B) "Occupational pneumoconiosis" means a disease of the lungs caused by the inhalation of minute particles of dust over a period of time due to causes and conditions arising out of and in the course of employment. "Occupational pneumoconiosis" 8960 8961 8962 8963

includes all of the following diseases: 8964

(1) Silicosis; 8965

(2) Anthracosilicosis; 8966

(3) Coal worker's pneumoconiosis, commonly known as black lung or miner's asthma; 8967 8968

(4) Silico-tuberculosis (silicosis accompanied by active tuberculosis of the lungs); 8969 8970

(5) Coal worker's pneumoconiosis accompanied by active tuberculosis of the lungs; 8971 8972

(6) Asbestosis; 8973

(7) Siderosis; 8974

(8) Anthrax; 8975

(9) Any other dust diseases of the lungs and conditions and diseases caused by occupational pneumoconiosis not specifically designated in division (B) of this section. 8976 8977 8978

(C) "Statewide average weekly wage" has the same meaning as in section 4123.62 of the Revised Code. 8979 8980

Sec. 4135.02. Except as otherwise provided in this chapter, Chapters 4121. and 4123. of the Revised Code apply to all claims arising under this chapter. 8981 8982 8983

Sec. 4135.03. Except as provided in section 4135.05 of the Revised Code, all claims for compensation and benefits for disability or death due to occupational pneumoconiosis are forever barred unless an employee or an individual on behalf of an employee applies to the industrial commission or the bureau of workers' compensation or to the employer if the employer is a 8984 8985 8986 8987 8988 8989

self-insuring employer not later than the following dates, as applicable: 8990 8991

(A) In the case of disability, not later than three years after the occurrence of either of the following, whichever is later: 8992 8993 8994

(1) The last day of the last continuous period of sixty days or more during which the employee was exposed to the hazards of occupational pneumoconiosis; 8995 8996 8997

(2) A diagnosed impairment due to occupational pneumoconiosis was made known to the employee by a physician. 8998 8999

(B) In the case of death, not later than two years after the date of the employee's death. 9000 9001

Sec. 4135.04. (A) When filing a claim for compensation and benefits for occupational pneumoconiosis, an employee or, if the employee is deceased, a dependent of the employee, shall submit to the administrator of workers' compensation or a self-insuring employer a written certification by a board-certified pulmonary specialist stating both of the following: 9002 9003 9004 9005 9006 9007

(1) That the employee is or was suffering from complicated pneumoconiosis or pulmonary massive fibrosis; 9008 9009

(2) That the occupational pneumoconiosis has or had resulted in pulmonary impairment as measured by the standards or methods used by the occupational pneumoconiosis board of at least fifteen per cent, as confirmed by valid and reproducible ventilatory testing. 9010 9011 9012 9013 9014

(B) The pulmonary specialist shall disclose all evidence on which the written certification is based, including all radiographic, pathologic, or other diagnostic test results the 9015 9016 9017

pulmonary specialist reviewed. 9018

Sec. 4135.05. (A)(1) For a claim filed not later than three years after the last date of exposure to the hazards of occupational pneumoconiosis, the administrator of workers' compensation or a self-insuring employer shall determine all of the following: 9019 9020 9021 9022 9023

(a) Whether the employee who is the subject of the claim was exposed to the hazards of occupational pneumoconiosis for a continuous period of not less than sixty days in the course of the employee's employment not later than three years before filing the claim; 9024 9025 9026 9027 9028

(b) Whether the employee was exposed to the hazard in this state over a continuous period of not less than two years during the ten years immediately preceding the date of last exposure to the hazard; 9029 9030 9031 9032

(c) Whether the employee was exposed to the hazard over a period of not less than ten years during the fifteen years immediately preceding the date of last exposure to the hazard. 9033 9034 9035

(2) For a claim filed not later than three years after the date of diagnosis of occupational pneumoconiosis, the administrator or self-insuring employer shall determine whether the employee satisfies the requirements of divisions (A)(1)(b) and (c) of this section. 9036 9037 9038 9039 9040

(B) For a claim filed by a dependent of an employee whose death is caused by occupational pneumoconiosis, the administrator or self-insuring employer shall determine all of the following: 9041 9042 9043 9044

(1) Whether the deceased employee was exposed to the 9045

hazards of occupational pneumoconiosis for a continuous period of not less than sixty days in the course of the employee's employment within ten years before filing the claim; 9046 9047 9048

(2) Whether the deceased employee was exposed to the hazard in this state over a continuous period of not less than two years during the ten years immediately preceding the date of last exposure to the hazard; 9049 9050 9051 9052

(3) Whether the deceased employee was exposed to the hazard over a period of not less than ten years during the fifteen years immediately preceding the date of last exposure to the hazard. 9053 9054 9055 9056

(C) The administrator or self-insuring employer shall determine other nonmedical facts that, in the opinion of the administrator or self-insuring employer, are pertinent to a decision on the validity of a claim. 9057 9058 9059 9060

(D) The administrator may allocate to and divide any charges resulting from an occupational pneumoconiosis claim among the employers for whom the employee who is the subject of the claim was employed up to sixty days during the period of three years immediately preceding the date of last exposure to the hazards of occupational pneumoconiosis. The administrator shall base the allocation on the time and degree of exposure the employee had with each employer. 9061 9062 9063 9064 9065 9066 9067 9068

Sec. 4135.06. (A) The administrator of workers' compensation or a self-insuring employer shall determine the nonmedical findings for an occupational pneumoconiosis claim filed under section 4135.05 of the Revised Code not later than ninety days after the administrator or self-insuring employer receives the claimant's application and the pulmonary 9069 9070 9071 9072 9073 9074

specialist's written certification specified in section 4135.04 of the Revised Code. The administrator or self-insuring employer shall provide each interested party written notice of the determination. 9075 9076 9077 9078

(B) The administrator's or self-insuring employer's determination under this chapter is final unless the employer or claimant objects to the determination not later than sixty days after receipt of the notice described in division (A) of this section. 9079 9080 9081 9082 9083

(C) If a claimant objects to the administrator's determination regarding the occupational pneumoconiosis claim for compensation and benefits, the claimant may appeal the claim in accordance with section 4123.511 or 4123.512 of the Revised Code. If an employer objects to the determination under this section, the administrator shall refer the claim to the occupational pneumoconiosis board as if the objection had not been filed. 9084 9085 9086 9087 9088 9089 9090 9091

Sec. 4135.07. There is hereby created the occupational pneumoconiosis board within the bureau of workers' compensation to determine, under the direction and supervision of the administrator of workers' compensation, all medical questions relating to claims for compensation and benefits for occupational pneumoconiosis. 9092 9093 9094 9095 9096 9097

The board consists of five physicians in good professional standing holding a certificate issued under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. Members shall be board-certified internists or board-certified pulmonary specialists. The administrator shall appoint the members to the board. 9098 9099 9100 9101 9102 9103

Not later than ninety days after the effective date of this section, the administrator shall appoint the initial members to the board. The administrator shall appoint three members to terms ending one year after the effective date of this section, two members to terms ending two years after that date, and one member to a term ending three years after that date. Thereafter, terms of office for all members are six years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. 9104 9105 9106 9107 9108 9109 9110 9111 9112 9113 9114

Vacancies shall be filled in the same manner as original appointments. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. 9115 9116 9117 9118 9119 9120 9121 9122

The administrator annually shall select from among the board members a chairperson. A majority of board members constitutes a quorum. 9123 9124 9125

Members of the occupational pneumoconiosis board shall receive compensation for their service on the board and be reimbursed for travel and actual and necessary expenses incurred in the conduct of their official duties. The administrator shall establish the compensation of members in accordance with section 4121.121 of the Revised Code. 9126 9127 9128 9129 9130 9131

Sections 101.82 to 101.87 of the Revised Code do not apply to the occupational pneumoconiosis board. 9132 9133

Sec. 4135.08. (A) On referral to the occupational pneumoconiosis board, the board shall notify the claimant and administrator or self-insuring employer, as applicable, to appear before the board at a time and place stated in the notice. If the claimant is living, the claimant shall appear before the board at the specified time and place and submit to any examination, including clinical and x-ray examinations, required by the board. 9134 9135 9136 9137 9138 9139 9140 9141

If a licensed physician files an affidavit with the board that the claimant is physically unable to appear at the specified time and place, the board shall, on notice to the proper parties, change the time and place as may reasonably facilitate the hearing or examination of the claimant or may appoint a qualified specialist in the field of respiratory disease to examine the claimant on the board's behalf. 9142 9143 9144 9145 9146 9147 9148

(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. 9149 9150 9151 9152

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 9153 9154 9155 9156 9157 9158 9159 9160 9161 9162 9163

to the board. Notwithstanding section 4123.88 of the Revised Code, the findings are public records under section 149.43 of the Revised Code. 9164 9165 9166

(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. 9167 9168 9169 9170

(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. 9171 9172 9173 9174 9175 9176

(E) The claimant and employer are entitled to be present at all examinations conducted by the board and to be represented by attorneys and physicians. 9177 9178 9179

Sec. 4135.09. (A) The occupational pneumoconiosis board, as soon as practicable after completing its investigation under section 4135.08 of the Revised Code, shall issue a written report on its determination of every medical question in controversy to the administrator of workers' compensation or self-insuring employer. The board shall send one copy of the report to the claimant and one copy to the claimant's employer if the employer is not a self-insuring employer. 9180 9181 9182 9183 9184 9185 9186 9187

(B) The board shall return to and file with the administrator or self-insuring employer all evidence and medical reports and x-ray examinations produced by or on behalf of the claimant or employer. 9188 9189 9190 9191

(C) The board shall include all of the following in its 9192

determination: 9193

(1) Whether the employee contracted occupational pneumoconiosis and, if so, the percentage of permanent disability resulting from the occupational pneumoconiosis; 9194 9195 9196

(2) Whether the exposure in the employment was sufficient to have caused the employee's occupational pneumoconiosis or to have perceptibly aggravated an existing occupational pneumoconiosis or other occupational disease; 9197 9198 9199 9200

(3) What, if any, physician appeared before the board on the claimant's or employer's behalf and what, if any, medical evidence was produced by or on the claimant's or employer's behalf. 9201 9202 9203 9204

(D)(1) It shall be presumed that the employee is suffering or if the employee is deceased, the deceased employee was suffering at the time of the employee's death, from occupational pneumoconiosis that arose out of and in the course of employment if both of the following are shown: 9205 9206 9207 9208 9209

(a) The employee has or had been exposed to the hazard of inhaling minute particles of dust in the course of and arising from the employee's employment for a period of ten years during the fifteen years immediately preceding the date of the employee's last exposure to the hazard; 9210 9211 9212 9213 9214

(b) The employee has or had sustained a chronic respiratory disability. 9215 9216

(2) The presumption described in division (D)(1) of this section is not conclusive. 9217 9218

(E) If either party contests the board's determination in division (C) of this section, the party shall file an appeal 9219 9220

with the industrial commission in accordance with section 4123.511 of the Revised Code. 9221 9222

(F)(1) Except as provided in division (F)(2) of this section, a claimant who receives a final determination from the board that the employee who is the subject of the claim has or had no evidence of occupational pneumoconiosis is barred for a period of three years from filing a new claim or pursuing a previously filed, but unruled on, claim for occupational pneumoconiosis or requesting a modification of any prior ruling finding the employee not to be suffering from occupational pneumoconiosis. 9223 9224 9225 9226 9227 9228 9229 9230 9231

The three-year period described in this division begins on the date of the board's decision or the date on which the employee's employment with the employer who employed the employee at the time designated as the employee's last date of exposure in the denied claim terminates, whichever is sooner. For purposes of this division, an employee's employment is considered terminated if the employee has not worked for that employer for a period of more than ninety days. 9232 9233 9234 9235 9236 9237 9238 9239

The administrator or a self-insuring employer shall consolidate any previously filed but unruled on claim with the claim in which the board's decision is made and must be denied together with the decided claim. The administrator or self-insuring employer shall not apply these limitations to a claim if doing so would later cause a claimant's claim to be forever barred for failing to file within the applicable time limitation. 9240 9241 9242 9243 9244 9245 9246 9247

(2) This division does not apply if the claimant demonstrates that the occupational pneumoconiosis has deteriorated. 9248 9249 9250

Sec. 4135.10. The administrator of workers' compensation or a self-insuring employer may require a claimant to appear for examination before the occupational pneumoconiosis board. If the claimant is required to appear for a board examination, the party that referred the claimant to the board shall reimburse the claimant for loss of wages and reasonable traveling expenses and other expenses in connection with the examination. 9251 9252 9253 9254 9255 9256 9257

Sec. 4135.11. An employee filing a claim for compensation and benefits for occupational pneumoconiosis shall receive medical, nurse, and hospital services in accordance with section 4123.66 of the Revised Code. 9258 9259 9260 9261

Sec. 4135.12. (A) Except as provided in this division, an employee who is awarded compensation for temporary total disability for occupational pneumoconiosis shall receive sixty-six and two-thirds per cent of the employee's average weekly wage so long as such disability is total. The maximum weekly compensation an employee may receive under this section is the statewide average weekly wage. The minimum weekly compensation that an employee may receive under this section is the lower of the following amounts: 9262 9263 9264 9265 9266 9267 9268 9269 9270

(1) An amount that is equal to thirty-three and one-third per cent of the statewide average weekly wage; 9271 9272

(2) An amount that is equal to the federal minimum hourly wage multiplied by forty. 9273 9274

(B) The number of weeks of temporary total disability compensation an employee may receive for a single occupational pneumoconiosis claim shall not exceed one hundred four weeks. 9275 9276 9277

Sec. 4135.13. (A) Except as provided in this division, an employee who is awarded compensation for permanent partial 9278 9279

disability for occupational pneumoconiosis shall receive sixty-six and two-thirds per cent of the employee's average weekly wage. The maximum weekly compensation an employee may receive under this section is seventy per cent of the statewide average weekly wage. The minimum weekly compensation that an employee may receive under this section is the lower of the following amounts: 9280 9281 9282 9283 9284 9285 9286

(1) An amount that is equal to thirty-three and one-third per cent of the statewide average weekly wage; 9287 9288

(2) An amount that is equal to the federal minimum hourly wage multiplied by forty. 9289 9290

(B)(1) Except as provided in division (B)(2) of this section, an employee shall receive four weeks of compensation for each percentage of disability that the administrator of workers' compensation determines to be permanent. 9291 9292 9293 9294

(2) If an employee is released by the employee's treating physician to return to work at the position the employee held before the occupational pneumoconiosis occurred and the employee's preinjury employer does not offer the preinjury position or a comparable position to the employee when a position is available, the award for the percentage of partial disability shall be computed on the basis of six weeks of compensation for each percentage of disability. 9295 9296 9297 9298 9299 9300 9301 9302

(C) The degree of permanent partial disability shall be determined by the degree of whole body medical impairment that an employee has suffered. Once the degree of an employee's medical impairment has been determined, that degree of impairment is the percentage of permanent partial disability that shall be awarded to the employee. The occupational 9303 9304 9305 9306 9307 9308

pneumoconiosis board shall premise its decision on the degree of pulmonary function impairment that an employee suffers solely on whole body medical impairment. 9309 9310 9311

(D) The administrator shall adopt standards for determining an employee's degree of whole body medical impairment. 9312 9313 9314

Sec. 4135.14. (A) Except as provided in this division, an employee who is awarded compensation for permanent total disability for occupational pneumoconiosis shall receive sixty-six and two-thirds per cent of the employee's average weekly wage. The maximum weekly compensation an employee may receive under this section is one hundred per cent of the statewide average weekly wage. The minimum weekly compensation that an employee may receive under this section is the lower of the following amounts: 9315 9316 9317 9318 9319 9320 9321 9322 9323

(1) An amount that is equal to thirty-three and one-third per cent of the statewide average weekly wage; 9324 9325

(2) An amount that is equal to the federal minimum hourly wage multiplied by forty. 9326 9327

(B) Permanent total disability compensation for occupational pneumoconiosis shall cease on the employee reaching seventy years of age. 9328 9329 9330

If an employee is determined to be permanently disabled due to occupational pneumoconiosis, the percentage of permanent disability shall be determined by the degree of medical impairment found by the occupational pneumoconiosis board. 9331 9332 9333 9334

In cases of permanent disability or death due to occupational pneumoconiosis accompanied by active tuberculosis 9335 9336

of the lungs, compensation is payable for disability or death due to occupational pneumoconiosis alone. 9337 9338

Sec. 4135.15. Benefits in case of death due to occupational pneumoconiosis shall be paid in accordance with section 4123.60 of the Revised Code. 9339 9340 9341

Sec. 4135.16. In computing compensation for occupational pneumoconiosis claims, the administrator of workers' compensation or a self-insuring employer shall deduct the amount of all prior compensation or benefits paid to the same claimant due to silicosis under this chapter or Chapter 4123. of the Revised Code, but a prior silicosis award shall not, in any event, preclude an award for occupational pneumoconiosis otherwise payable under this chapter. 9342 9343 9344 9345 9346 9347 9348 9349

Sec. 4729.80. (A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board is authorized or required to provide information from the database only as follows: 9350 9351 9352 9353

(1) On receipt of a request from a designated representative of a government entity responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs, the board may provide to the representative information from the database relating to the professional who is the subject of an active investigation being conducted by the government entity or relating to a professional who is acting as an expert witness for the government entity in such an investigation. 9354 9355 9356 9357 9358 9359 9360 9361 9362 9363

(2) On receipt of a request from a federal officer, or a state or local officer of this or any other state, whose duties 9364 9365

include enforcing laws relating to drugs, the board shall provide to the officer information from the database relating to the person who is the subject of an active investigation of a drug abuse offense, as defined in section 2925.01 of the Revised Code, being conducted by the officer's employing government entity. 9366 9367 9368 9369 9370 9371

(3) Pursuant to a subpoena issued by a grand jury, the board shall provide to the grand jury information from the database relating to the person who is the subject of an investigation being conducted by the grand jury. 9372 9373 9374 9375

(4) Pursuant to a subpoena, search warrant, or court order in connection with the investigation or prosecution of a possible or alleged criminal offense, the board shall provide information from the database as necessary to comply with the subpoena, search warrant, or court order. 9376 9377 9378 9379 9380

(5) On receipt of a request from a prescriber or the prescriber's delegate approved by the board, the board shall provide to the prescriber a report of information from the database relating to a patient who is either a current patient of the prescriber or a potential patient of the prescriber based on a referral of the patient to the prescriber, if all of the following conditions are met: 9381 9382 9383 9384 9385 9386 9387

(a) The prescriber certifies in a form specified by the board that it is for the purpose of providing medical treatment to the patient who is the subject of the request; 9388 9389 9390

(b) The prescriber has not been denied access to the database by the board. 9391 9392

(6) On receipt of a request from a pharmacist or the pharmacist's delegate approved by the board, the board shall 9393 9394

provide to the pharmacist information from the database relating to a current patient of the pharmacist, if the pharmacist certifies in a form specified by the board that it is for the purpose of the pharmacist's practice of pharmacy involving the patient who is the subject of the request and the pharmacist has not been denied access to the database by the board. 9395 9396 9397 9398 9399 9400

(7) On receipt of a request from an individual seeking the individual's own database information in accordance with the procedure established in rules adopted under section 4729.84 of the Revised Code, the board may provide to the individual the individual's own prescription history. 9401 9402 9403 9404 9405

(8) On receipt of a request from a medical director or a pharmacy director of a managed care organization that has entered into a contract with the department of medicaid under section 5167.10 of the Revised Code and a data security agreement with the board required by section 5167.14 of the Revised Code, the board shall provide to the medical director or the pharmacy director information from the database relating to a medicaid recipient enrolled in the managed care organization, including information in the database related to prescriptions for the recipient that were not covered or reimbursed under a program administered by the department of medicaid. 9406 9407 9408 9409 9410 9411 9412 9413 9414 9415 9416

(9) On receipt of a request from the medicaid director, the board shall provide to the director information from the database relating to a recipient of a program administered by the department of medicaid, including information in the database related to prescriptions for the recipient that were not covered or paid by a program administered by the department. 9417 9418 9419 9420 9421 9422

(10) On receipt of a request from a medical director of a managed care organization that has entered into a contract with 9423 9424

the administrator of workers' compensation under division (B)(4) 9425
of section 4121.44 of the Revised Code and a data security 9426
agreement with the board required by section 4121.447 of the 9427
Revised Code, the board shall provide to the medical director 9428
information from the database relating to a claimant under 9429
Chapter 4121., 4123., 4127., ~~or~~ 4131., or 4135. of the Revised 9430
Code assigned to the managed care organization, including 9431
information in the database related to prescriptions for the 9432
claimant that were not covered or reimbursed under Chapter 9433
4121., 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code, if 9434
the administrator of workers' compensation confirms, upon 9435
request from the board, that the claimant is assigned to the 9436
managed care organization. 9437

(11) On receipt of a request from the administrator of 9438
workers' compensation, the board shall provide to the 9439
administrator information from the database relating to a 9440
claimant under Chapter 4121., 4123., 4127., ~~or~~ 4131., or 4135. 9441
of the Revised Code, including information in the database 9442
related to prescriptions for the claimant that were not covered 9443
or reimbursed under Chapter 4121., 4123., 4127., ~~or~~ 4131., or 9444
4135. of the Revised Code. 9445

(12) On receipt of a request from a prescriber or the 9446
prescriber's delegate approved by the board, the board shall 9447
provide to the prescriber information from the database relating 9448
to a patient's mother, if the prescriber certifies in a form 9449
specified by the board that it is for the purpose of providing 9450
medical treatment to a newborn or infant patient diagnosed as 9451
opioid dependent and the prescriber has not been denied access 9452
to the database by the board. 9453

(13) On receipt of a request from the director of health, 9454

the board shall provide to the director information from the database relating to the duties of the director or the department of health in implementing the Ohio violent death reporting system established under section 3701.93 of the Revised Code. 9455 9456 9457 9458 9459

(14) On receipt of a request from a requestor described in division (A)(1), (2), (5), or (6) of this section who is from or participating with another state's prescription monitoring program, the board may provide to the requestor information from the database, but only if there is a written agreement under which the information is to be used and disseminated according to the laws of this state. 9460 9461 9462 9463 9464 9465 9466

(15) On receipt of a request from a delegate of a retail dispensary licensed under Chapter 3796. of the Revised Code who is approved by the board to serve as the dispensary's delegate, the board shall provide to the delegate a report of information from the database pertaining only to a patient's use of medical marijuana, if both of the following conditions are met: 9467 9468 9469 9470 9471 9472

(a) The delegate certifies in a form specified by the board that it is for the purpose of dispensing medical marijuana for use in accordance with Chapter 3796. of the Revised Code. 9473 9474 9475

(b) The retail dispensary or delegate has not been denied access to the database by the board. 9476 9477

(16) On receipt of a request from a judge of a program certified by the Ohio supreme court as a specialized docket program for drugs, the board shall provide to the judge, or an employee of the program who is designated by the judge to receive the information, information from the database that relates specifically to a current or prospective program 9478 9479 9480 9481 9482 9483

participant. 9484

(17) On receipt of a request from a coroner, deputy coroner, or coroner's delegate approved by the board, the board shall provide to the requestor information from the database relating to a deceased person about whom the coroner is conducting or has conducted an autopsy or investigation. 9485 9486 9487 9488 9489

(18) On receipt of a request from a prescriber, the board may provide to the prescriber a summary of the prescriber's prescribing record if such a record is created by the board. Information in the summary is subject to the confidentiality requirements of this chapter. 9490 9491 9492 9493 9494

(19)(a) On receipt of a request from a pharmacy's responsible person, the board may provide to the responsible person a summary of the pharmacy's dispensing record if such a record is created by the board. Information in the summary is subject to the confidentiality requirements of this chapter. 9495 9496 9497 9498 9499

(b) As used in division (A)(19)(a) of this section, "responsible person" has the same meaning as in rules adopted by the board under section 4729.26 of the Revised Code. 9500 9501 9502

(20) The board may provide information from the database without request to a prescriber or pharmacist who is authorized to use the database pursuant to this chapter. 9503 9504 9505

(21)(a) On receipt of a request from a prescriber or pharmacist, or the prescriber's or pharmacist's delegate, who is a designated representative of a peer review committee, the board shall provide to the committee information from the database relating to a prescriber who is subject to the committee's evaluation, supervision, or discipline if the information is to be used for one of those purposes. The board 9506 9507 9508 9509 9510 9511 9512

shall provide only information that it determines, in accordance with rules adopted under section 4729.84 of the Revised Code, is appropriate to be provided to the committee. 9513 9514 9515

(b) As used in division (A)(21)(a) of this section, "peer review committee" has the same meaning as in section 2305.25 of the Revised Code, except that it includes only a peer review committee of a hospital or a peer review committee of a nonprofit health care corporation that is a member of the hospital or of which the hospital is a member. 9516 9517 9518 9519 9520 9521

(22) On receipt of a request from a requestor described in division (A)(5) or (6) of this section who is from or participating with a prescription monitoring program that is operated by a federal agency and approved by the board, the board may provide to the requestor information from the database, but only if there is a written agreement under which the information is to be used and disseminated according to the laws of this state. 9522 9523 9524 9525 9526 9527 9528 9529

(23) Any personal health information submitted to the board pursuant to section 4729.772 of the Revised Code may be provided by the board only as authorized by the submitter of the information and in accordance with rules adopted under section 4729.84 of the Revised Code. 9530 9531 9532 9533 9534

(B) The state board of pharmacy shall maintain a record of each individual or entity that requests information from the database pursuant to this section. In accordance with rules adopted under section 4729.84 of the Revised Code, the board may use the records to document and report statistics and law enforcement outcomes. 9535 9536 9537 9538 9539 9540

The board may provide records of an individual's requests 9541

for database information only to the following: 9542

(1) A designated representative of a government entity 9543
that is responsible for the licensure, regulation, or discipline 9544
of health care professionals with authority to prescribe, 9545
administer, or dispense drugs who is involved in an active 9546
criminal or disciplinary investigation being conducted by the 9547
government entity of the individual who submitted the requests 9548
for database information; 9549

(2) A federal officer, or a state or local officer of this 9550
or any other state, whose duties include enforcing laws relating 9551
to drugs and who is involved in an active investigation being 9552
conducted by the officer's employing government entity of the 9553
individual who submitted the requests for database information; 9554

(3) A designated representative of the department of 9555
medicaid regarding a prescriber who is treating or has treated a 9556
recipient of a program administered by the department and who 9557
submitted the requests for database information. 9558

(C) Information contained in the database and any 9559
information obtained from it is confidential and is not a public 9560
record. Information contained in the records of requests for 9561
information from the database is confidential and is not a 9562
public record. Information contained in the database that does 9563
not identify a person, including any licensee or registrant of 9564
the board or other entity, may be released in summary, 9565
statistical, or aggregate form. 9566

(D) A pharmacist or prescriber shall not be held liable in 9567
damages to any person in any civil action for injury, death, or 9568
loss to person or property on the basis that the pharmacist or 9569
prescriber did or did not seek or obtain information from the 9570

database. 9571

Sec. 5145.163. (A) As used in this section: 9572

(1) "Customer model enterprise" means an enterprise conducted under a federal prison industries enhancement certification program in which a private party participates in the enterprise only as a purchaser of goods and services. 9573 9574 9575 9576

(2) "Employer model enterprise" means an enterprise conducted under a federal prison industries enhancement certification program in which a private party participates in the enterprise as an operator of the enterprise. 9577 9578 9579 9580

(3) "Injury" means a diagnosable injury to an inmate supported by medical findings that it was sustained in the course of and arose out of authorized work activity that was an integral part of the inmate's participation in the Ohio penal industries program. 9581 9582 9583 9584 9585

(4) "Inmate" means any person who is committed to the custody of the department of rehabilitation and correction and who is participating in an Ohio penal industries program that is under the federal prison industries enhancement certification program. 9586 9587 9588 9589 9590

(5) "Federal prison industries enhancement certification program" means the program authorized pursuant to 18 U.S.C. 1761. 9591 9592 9593

(6) "Loss of earning capacity" means an impairment of the body of an inmate to a degree that makes the inmate unable to return to work activity under the Ohio penal industries program and results in a reduction of compensation earned by the inmate at the time the injury occurred. 9594 9595 9596 9597 9598

(B) Every inmate shall be covered by a policy of disability insurance to provide benefits for loss of earning capacity due to an injury and for medical treatment of the injury following the inmate's release from prison. If the enterprise for which the inmate works is a customer model enterprise, Ohio penal industries shall purchase the policy. If the enterprise for which the inmate works is an employer model enterprise, the private participant shall purchase the policy. The person required to purchase the policy shall submit proof of coverage to the prison labor advisory board before the enterprise begins operation. 9599 9600 9601 9602 9603 9604 9605 9606 9607 9608 9609

(C) Within ninety days after an inmate sustains an injury, the inmate may file a disability claim with the person required to purchase the policy of disability insurance. Upon the request of the insurer, the inmate shall be medically examined, and the insurer shall determine the inmate's entitlement to disability benefits based on the medical examination. The inmate shall accept or reject an award within thirty days after a determination of the inmate's entitlement to the award. If the inmate accepts the award, the benefits shall be paid upon the inmate's release from prison. The amount of disability benefits payable to the inmate shall be reduced by sick leave benefits or other compensation for lost pay made by Ohio penal industries to the inmate due to an injury that rendered the inmate unable to work. An inmate shall not receive disability benefits for injuries occurring as the result of a fight, assault, horseplay, purposely self-inflicted injury, use of alcohol or controlled substances, misuse of prescription drugs, or other activity that is prohibited by the department's or institution's inmate conduct rules or the work rules of the private participant in the enterprise. 9610 9611 9612 9613 9614 9615 9616 9617 9618 9619 9620 9621 9622 9623 9624 9625 9626 9627 9628 9629

(D) Inmates are not employees of the department of rehabilitation and correction or the private participant in an enterprise. 9630 9631 9632

(E) An inmate is ineligible to receive compensation or benefits under Chapter 4121., 4123., 4127., ~~or~~ 4131., or 4135. of the Revised Code for any injury, death, or occupational disease received in the course of, and arising out of, participation in the Ohio penal industries program. Any claim for an injury arising from an inmate's participation in the program is specifically excluded from the jurisdiction of the Ohio bureau of workers' compensation and the industrial commission of Ohio. 9633 9634 9635 9636 9637 9638 9639 9640 9641

(F) Any disability benefit award accepted by an inmate under this section shall be the inmate's exclusive remedy against the insurer, the private participant in an enterprise, and the state. If an inmate rejects an award or a disability claim is denied, the inmate may bring an action in the court of claims within the appropriate period of limitations. 9642 9643 9644 9645 9646 9647

(G) If any inmate who is paid disability benefits under this section is reincarcerated, the benefits shall immediately cease but shall resume upon the inmate's subsequent release from incarceration. 9648 9649 9650 9651

Sec. 5502.41. (A) As used in this section: 9652

(1) "Chief executive of a participating political subdivision" means the elected chief executive of a participating political subdivision or, if the political subdivision does not have an elected chief executive, a member of the political subdivision's governing body or an employee of the political subdivision appointed by the governing body's 9653 9654 9655 9656 9657 9658

members to be its representative for purposes of the intrastate mutual aid program created pursuant to this section. 9659 9660

(2) "Countywide emergency management agency" means a countywide emergency management agency established under section 5502.26 of the Revised Code. 9661 9662 9663

(3) "Emergency" means any period during which the congress of the United States, a chief executive as defined in section 5502.21 of the Revised Code, or a chief executive of a participating political subdivision has declared or proclaimed that an emergency exists. 9664 9665 9666 9667 9668

(4) "Participating political subdivision" means each political subdivision in this state except a political subdivision that enacts or adopts, by appropriate legislation, ordinance, resolution, rule, bylaw, or regulation signed by its chief executive, a decision not to participate in the intrastate mutual aid program created by this section and that provides a copy of the legislation, ordinance, resolution, rule, bylaw, or regulation to the state emergency management agency and to the countywide emergency management agency, regional authority for emergency management, or program for emergency management within the political subdivision. 9669 9670 9671 9672 9673 9674 9675 9676 9677 9678 9679

(5) "Planned event" means a scheduled nonemergency activity as defined by the national incident management system adopted under section 5502.28 of the Revised Code as the state's standard procedure for incident management. "Planned event" includes, but is not limited to, a sporting event, concert, or parade. 9680 9681 9682 9683 9684 9685

(6) "Political subdivision" or "subdivision" has the same meaning as in section 2744.01 of the Revised Code and also 9686 9687

includes a health district established under Chapter 3709. of the Revised Code. 9688 9689

(7) "Program for emergency management within a political subdivision" means a program for emergency management created by a political subdivision under section 5502.271 of the Revised Code. 9690 9691 9692 9693

(8) "Regional authority for emergency management" means a regional authority for emergency management established under section 5502.27 of the Revised Code. 9694 9695 9696

(9) "Regional response team" means a group of persons from participating political subdivisions who provide mutual assistance or aid in preparation for, response to, or recovery from an incident, disaster, exercise, training activity, planned event, or emergency, any of which requires additional resources. "Regional response team" includes, but is not limited to, an incident management team, hazardous materials response team, water rescue team, bomb team, or search and rescue team. 9697 9698 9699 9700 9701 9702 9703 9704

(B) There is hereby created the intrastate mutual aid program to be known as "the intrastate mutual aid compact" to complement existing mutual aid agreements. The program shall have two purposes: 9705 9706 9707 9708

(1) Provide for mutual assistance or aid among the participating political subdivisions for purposes of preparing for, responding to, and recovering from an incident, disaster, exercise, training activity, planned event, or emergency, any of which requires additional resources; 9709 9710 9711 9712 9713

(2) Establish a method by which a participating political subdivision may seek assistance or aid that resolves many of the common issues facing political subdivisions before, during, and 9714 9715 9716

after an incident, disaster, exercise, training activity, planned event, or emergency, any of which requires additional resources, and that ensures, to the extent possible, eligibility for available state and federal disaster assistance or other funding. 9717 9718 9719 9720 9721

(C) Each countywide emergency management agency, regional authority for emergency management, and program for emergency management within a political subdivision, in coordination with all departments, divisions, boards, commissions, agencies, and other instrumentalities within that political subdivision, shall establish procedures or plans that, to the extent possible, accomplish both of the following: 9722 9723 9724 9725 9726 9727 9728

(1) Identify hazards that potentially could affect the participating political subdivisions served by that agency, authority, or program; 9729 9730 9731

(2) Identify and inventory the current services, equipment, supplies, personnel, and other resources related to the preparedness, response, and recovery activities of the participating political subdivisions served by that agency, authority, or program. 9732 9733 9734 9735 9736

(D)(1) The executive director of the state emergency management agency shall coordinate with the countywide emergency management agencies, regional authorities for emergency management, and programs for emergency management within a political subdivision in identifying and formulating appropriate procedures or plans to resolve resource shortfalls. 9737 9738 9739 9740 9741 9742

(2) During and after the formulation of the procedures or plans to resolve resource shortfalls, there shall be ongoing consultation and coordination among the executive director of 9743 9744 9745

the state emergency management agency; the countywide emergency management agencies, regional authorities for emergency management, and programs for emergency management within a political subdivision; and all departments, divisions, boards, commissions, agencies, and other instrumentalities of, and having emergency response functions within, each participating political subdivision, regarding this section, local procedures and plans, and the resolution of the resource shortfalls. 9746 9747 9748 9749 9750 9751 9752 9753

(E)(1) A participating political subdivision that is impacted by an incident, disaster, exercise, training activity, planned event, or emergency, any of which requires additional resources, may request mutual assistance or aid by doing either of the following: 9754 9755 9756 9757 9758

(a) Declaring a state of emergency and issuing a request for assistance or aid from any other participating political subdivision; 9759 9760 9761

(b) Issuing to another participating political subdivision a verbal or written request for assistance or aid. If the request is made verbally, a written confirmation of the request shall be made not later than seventy-two hours after the verbal request is made. 9762 9763 9764 9765 9766

(2) Requests for assistance or aid made under division (E)(1) of this section shall be made through the emergency management agency of a participating political subdivision or an official designated by the chief executive of the participating political subdivision from which the assistance or aid is requested and shall provide the following information: 9767 9768 9769 9770 9771 9772

(a) A description of the incident, disaster, exercise, training activity, planned event, or emergency; 9773 9774

(b) A description of the assistance or aid needed; 9775

(c) An estimate of the length of time the assistance or aid will be needed; 9776 9777

(d) The specific place and time for staging of the assistance or aid and a point of contact at that location. 9778 9779

(F) A participating political subdivision shall provide assistance or aid to another participating political subdivision that is impacted by an incident, disaster, exercise, training activity, planned event, or emergency, any of which requires additional resources. The provision of the assistance or aid is subject to the following conditions: 9780 9781 9782 9783 9784 9785

(1) The responding political subdivision may withhold resources necessary to provide for its own protection. 9786 9787

(2) Personnel of the responding political subdivision shall continue under their local command and control structure, but shall be under the operational control of the appropriate officials within the incident management system of the participating political subdivision receiving assistance or aid. 9788 9789 9790 9791 9792

(3) Responding law enforcement officers acting pursuant to this section have the same authority to enforce the law as when acting within the territory of their regular employment. 9793 9794 9795

(G)(1) Nothing in this section shall do any of the following: 9796 9797

(a) Alter the duties and responsibilities of emergency response personnel; 9798 9799

(b) Prohibit a private company from participating in the provision of mutual assistance or aid pursuant to the compact created pursuant to this section if the participating political 9800 9801 9802

subdivision approves the participation and the contract with the private company allows for the participation; 9803 9804

(c) Prohibit employees of participating political subdivisions from responding to a request for mutual assistance or aid precipitated by an incident, disaster, exercise, training activity, planned event, or emergency, any of which requires additional resources, when the employees are responding as part of a regional response team that is under the operational control of the incident command structure; 9805 9806 9807 9808 9809 9810 9811

(d) Authorize employees of participating political subdivisions to respond to an incident, disaster, exercise, training activity, planned event, or emergency, any of which requires additional resources, without a request from a participating political subdivision. 9812 9813 9814 9815 9816

(2) This section does not preclude a participating political subdivision from entering into a mutual aid or other agreement with another political subdivision, and does not affect any other agreement to which a participating political subdivision may be a party, or any request for assistance or aid that may be made, under any other section of the Revised Code, including, but not limited to, any mutual aid arrangement under this chapter, any fire protection or emergency medical services contract under section 9.60 of the Revised Code, sheriffs' requests for assistance to preserve the public peace and protect persons and property under section 311.07 of the Revised Code, any agreement for mutual assistance or aid in police protection under section 737.04 of the Revised Code, any agreement for law enforcement services between universities and colleges and political subdivisions under section 3345.041 or 3345.21 of the Revised Code, and mutual aid agreements among emergency planning 9817 9818 9819 9820 9821 9822 9823 9824 9825 9826 9827 9828 9829 9830 9831 9832

districts for hazardous substances or chemicals response under 9833
sections 3750.02 and 3750.03 of the Revised Code. 9834

(H)(1) Personnel of a responding participating political 9835
subdivision who suffer injury or death in the course of, and 9836
arising out of, their employment while rendering assistance or 9837
aid under this section to another participating political 9838
subdivision are entitled to all applicable benefits under 9839
Chapters 4121.~~ and ~~, 4123., and 4135. of the Revised Code. 9840

(2) Personnel of a responding participating political 9841
subdivision shall be considered, while rendering assistance or 9842
aid under this section in another participating political 9843
subdivision, to be agents of the responding political 9844
subdivision for purposes of tort liability and immunity from 9845
tort liability under the law of this state. 9846

(3)(a) A responding participating political subdivision 9847
and the personnel of that political subdivision, while rendering 9848
assistance or aid under this section, or while in route to or 9849
from rendering assistance or aid under this section, in another 9850
participating political subdivision, shall be deemed to be 9851
exercising governmental functions as defined in section 2744.01 9852
of the Revised Code, shall have the defenses to and immunities 9853
from civil liability provided in sections 2744.02 and 2744.03 of 9854
the Revised Code, and shall be entitled to all applicable 9855
limitations on recoverable damages under section 2744.05 of the 9856
Revised Code. 9857

(b) A participating political subdivision requesting 9858
assistance or aid and the personnel of that political 9859
subdivision, while requesting or receiving assistance or aid 9860
under this section from any other participating political 9861
subdivision, shall be deemed to be exercising governmental 9862

functions as defined in section 2744.01 of the Revised Code, shall have the defenses to and immunities from civil liability provided in sections 2744.02 and 2744.03 of the Revised Code, and shall be entitled to all applicable limitations on recoverable damages under section 2744.05 of the Revised Code. 9863 9864 9865 9866 9867

(I) If a person holds a license, certificate, or other permit issued by a participating political subdivision evidencing qualification in a professional, mechanical, or other skill, and if the assistance or aid of that person is asked for under this section by a participating political subdivision, the person shall be deemed to be licensed or certified in or permitted by the participating political subdivision receiving the assistance or aid to render the assistance or aid, subject to any limitations and conditions the chief executive of the participating political subdivision receiving the assistance or aid may prescribe by executive order or otherwise. 9868 9869 9870 9871 9872 9873 9874 9875 9876 9877 9878

(J)(1) Subject to division (K) of this section and except as provided in division (J)(2) of this section, any participating political subdivision rendering assistance or aid under this section in another participating political subdivision shall be reimbursed by the participating political subdivision receiving the assistance or aid for any loss or damage to, or expense incurred in the operation of, any equipment used in rendering the assistance or aid, for any expense incurred in the provision of any service used in rendering the assistance or aid, and for all other costs incurred in responding to the request for assistance or aid. To avoid duplication of payments, insurance proceeds available to cover any loss or damage to equipment of a participating political subdivision rendering assistance or aid shall be considered in the reimbursement by the participating political 9879 9880 9881 9882 9883 9884 9885 9886 9887 9888 9889 9890 9891 9892 9893

subdivision receiving the assistance or aid. 9894

(2) A participating political subdivision rendering assistance or aid under this section to another participating political subdivision shall not be reimbursed for either of the following: 9895 9896 9897 9898

(a) The first eight hours of mutual assistance or aid it provides to the political subdivision receiving the assistance or aid; 9899 9900 9901

(b) Expenses the participating political subdivision incurs under division (H)(1) of this section. 9902 9903

(K) A participating political subdivision rendering assistance or aid under this section may do any of the following: 9904 9905 9906

(1) Assume, in whole or in part, any loss, damage, expense, or cost the political subdivision incurs in rendering the assistance or aid; 9907 9908 9909

(2) Loan, without charge, any equipment, or donate any service, to the political subdivision receiving the assistance or aid; 9910 9911 9912

(3) Enter into agreements with one or more other participating political subdivisions to establish different allocations of losses, damages, expenses, or costs among such political subdivisions. 9913 9914 9915 9916

Sec. 5503.08. Each state highway patrol officer shall, in addition to the sick leave benefits provided in section 124.38 of the Revised Code, be entitled to occupational injury leave. Occupational injury leave of one thousand five hundred hours with pay may, with the approval of the superintendent of the 9917 9918 9919 9920 9921

state highway patrol, be used for absence resulting from each independent injury incurred in the line of duty, except that occupational injury leave is not available for injuries incurred during those times when the patrol officer is actually engaged in administrative or clerical duties at a patrol facility, when a patrol officer is on a meal or rest period, or when the patrol officer is engaged in any personal business. The superintendent of the state highway patrol shall, by rule, define those administrative and clerical duties and those situations where the occurrence of an injury does not entitle the patrol officer to occupational injury leave. Each injury incurred in the line of duty which aggravates a previously existing injury, whether the previously existing injury was so incurred or not, shall be considered an independent injury. When its use is authorized under this section, all occupational injury leave shall be exhausted before any credit is deducted from unused sick leave accumulated under section 124.38 of the Revised Code, except that, unless otherwise provided by the superintendent of the state highway patrol, occupational injury leave shall not be used for absence occurring within seven calendar days of the injury. During that seven calendar day period, unused sick leave may be used for such an absence. 9922 9923 9924 9925 9926 9927 9928 9929 9930 9931 9932 9933 9934 9935 9936 9937 9938 9939 9940 9941 9942 9943

When occupational injury leave is used, it shall be deducted from the unused balance of the patrol officer's occupational injury leave for that injury on the basis of one hour for every one hour of absence from previously scheduled work. 9944 9945 9946 9947 9948

Before a patrol officer may use occupational injury leave, the patrol officer shall: 9949 9950

(A) Apply to the superintendent for permission to use 9951

occupational injury leave on a form that requires the patrol officer to explain the nature of the patrol officer's independent injury and the circumstances under which it occurred; and 9952 9953 9954 9955

(B) Submit to a medical examination. The individual who conducts the examination shall report to the superintendent the results of the examination and whether or not the independent injury prevents the patrol officer from attending work. 9956 9957 9958 9959

The superintendent shall, by rule, provide for periodic medical examinations of patrol officers who are using occupational injury leave. The individual selected to conduct the medical examinations shall report to the superintendent the results of each such examination, including a description of the progress made by the patrol officer in recovering from the independent injury, and whether or not the independent injury continues to prevent the patrol officer from attending work. 9960 9961 9962 9963 9964 9965 9966 9967

The superintendent shall appoint to conduct medical examinations under this division individuals authorized by the Revised Code to do so, including any physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife. 9968 9969 9970 9971 9972

A patrol officer is not entitled to use or continue to use occupational injury leave after refusing to submit to a medical examination or if the individual examining the patrol officer reports that the independent injury does not prevent the patrol officer from attending work. 9973 9974 9975 9976 9977

A patrol officer who falsifies an application for permission to use occupational injury leave or a medical examination report is subject to disciplinary action, including 9978 9979 9980

dismissal. 9981

The superintendent shall, by rule, prescribe forms for the 9982
application and medical examination report. 9983

Occupational injury leave pay made according to this 9984
section is in lieu of such workers' compensation benefits as 9985
would have been payable directly to a patrol officer pursuant to 9986
sections 4123.56~~ and ~~, 4123.58, 4135.12, and 4135.14 of the 9987
Revised Code, but all other compensation and benefits pursuant 9988
to ~~Chapter ~~Chapters 4123. and 4135. of the Revised Code are 9989
payable as in any other case. If at the close of the period, the 9990
patrol officer remains disabled, the patrol officer is entitled 9991
to all compensation and benefits, without a waiting period 9992
pursuant to section 4123.55 of the Revised Code based upon the 9993
injury received, for which the patrol officer qualifies pursuant 9994
to ~~Chapter ~~Chapters 4123. and 4135. of the Revised Code. 9995
Compensation shall be paid from the date that the patrol officer 9996
ceases to receive the patrol officer's regular rate of pay 9997
pursuant to this section. 9998

Occupational injury leave shall not be credited to or, 9999
upon use, deducted from, a patrol officer's sick leave. 10000

Sec. 5505.01. As used in this chapter: 10001

(A) "Employee" means any qualified employee in the uniform 10002
division of the state highway patrol, any qualified employee in 10003
the radio division hired prior to November 2, 1989, and any 10004
state highway patrol cadet attending training school pursuant to 10005
section 5503.05 of the Revised Code whose attendance at the 10006
school begins on or after June 30, 1991. "Employee" includes the 10007
superintendent of the state highway patrol. In all cases of 10008
doubt, the state highway patrol retirement board shall determine 10009

whether any person is an employee as defined in this division, 10010
and the decision of the board is final. 10011

(B) "Prior service" means all service rendered as an 10012
employee of the state highway patrol prior to September 5, 1941, 10013
to the extent credited by the board, provided that in no case 10014
shall prior service include service rendered prior to November 10015
15, 1933. 10016

(C) "Total service" means all service rendered by an 10017
employee to the extent credited by the board. Total service 10018
includes all of the following: 10019

(1) Contributing service rendered by the employee since 10020
last becoming a member of the state highway patrol retirement 10021
system; 10022

(2) All prior service credit; 10023

(3) Restored service credit as provided in this chapter; 10024

(4) Military service credit purchased under division (D) 10025
of section 5505.16 or section 5505.25 of the Revised Code; 10026

(5) Credit granted under division (C) of section 5505.17 10027
or section 5505.201, 5505.40, or 5505.402 of the Revised Code; 10028

(6) Credit for any period, not to exceed three years, 10029
during which the member was out of service and receiving 10030
benefits under Chapters 4121.~~ and~~ , 4123., and 4135. of the 10031
Revised Code. 10032

(D) "Regular interest" means interest compounded at rates 10033
designated from time to time by the retirement board. 10034

(E) "Plan" means the provisions of this chapter. 10035

(F) "Retirement system" or "system" means the state 10036

highway patrol retirement system created and established in the plan. 10037 10038

(G) "Contributing service" means all service rendered by a member since September 4, 1941, for which deductions were made from the member's salary under the plan. 10039 10040 10041

(H) "Retirement board" or "board" means the state highway patrol retirement board provided for in the plan. 10042 10043

(I) Except as provided in sections 5505.16, 5505.162, and 5505.18 of the Revised Code, "member" means any employee included in the membership of the retirement system, whether or not rendering contributing service. 10044 10045 10046 10047

(J) "Retirant" means any member who has retired under section 5505.16 or 5505.18 of the Revised Code. 10048 10049

(K) "Accumulated contributions" means the sum of the following credited to a member's individual account in the employees' savings fund: 10050 10051 10052

(1) All amounts deducted from the salary of the member; 10053

(2) All amounts paid by the member to purchase state highway patrol retirement system service credit pursuant to this chapter or other state law. 10054 10055 10056

(L)(1) Except as provided in division (L)(2) of this section, "final average salary" means the average of the highest salary paid a member during any five consecutive or nonconsecutive years. 10057 10058 10059 10060

If a member has less than five years of contributing service, the member's final average salary shall be the average of the annual rates of salary paid to the member during the member's total years of contributing service. 10061 10062 10063 10064

(2) If a member is credited with service under division (C)(6) of this section or division (D) of section 5505.16 of the Revised Code, the member's final average salary shall be the average of the highest salary that was paid to the member or would have been paid to the member, had the member been rendering contributing service, during any five consecutive or nonconsecutive years. If that member has less than five years of total service, the member's final average salary shall be the average of the annual rates of salary that were paid to the member or would have been paid to the member during the member's years of total service. 10065 10066 10067 10068 10069 10070 10071 10072 10073 10074 10075

(M) "Pension" means an annual amount payable by the retirement system throughout the life of a person or as otherwise provided in the plan. 10076 10077 10078

(N) "Pension reserve" means the present value of any pension, or benefit in lieu of any pension, computed upon the basis of mortality and other tables of experience and interest the board shall from time to time adopt. 10079 10080 10081 10082

(O) "Deferred pension" means a pension for which an eligible member of the system has made application and which is payable as provided in division (A) or (B) of section 5505.16 of the Revised Code. 10083 10084 10085 10086

(P) "Retirement" means retirement as provided in sections 5505.16 and 5505.18 of the Revised Code. 10087 10088

(Q) "Fiduciary" means any of the following: 10089

(1) A person who exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets; 10090 10091 10092

(2) A person who renders investment advice for a fee, direct or indirect, with respect to money or property of the system; 10093 10094 10095

(3) A person who has any discretionary authority or responsibility in the administration of the system. 10096 10097

(R)(1) Except as otherwise provided in this division, "salary" means all compensation, wages, and other earnings paid to a member by reason of employment but without regard to whether any of the compensation, wages, or other earnings are treated as deferred income for federal income tax purposes. Salary includes all of the following: 10098 10099 10100 10101 10102 10103

(a) Payments for shift differential, hazard duty, professional achievement, and longevity; 10104 10105

(b) Payments for occupational injury leave, personal leave, sick leave, bereavement leave, administrative leave, and vacation leave used by the member; 10106 10107 10108

(c) Payments made under a disability leave program sponsored by the state for which the state is required by section 5505.151 of the Revised Code to make periodic employer and employee contributions to the retirement system. 10109 10110 10111 10112

(2) "Salary" does not include any of the following: 10113

(a) Payments resulting from the conversion of accrued but unused sick leave, personal leave, compensatory time, and vacation leave; 10114 10115 10116

(b) Payments made by the state to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the member or the member's family, or amounts paid by the state to the 10117 10118 10119 10120

member in lieu of providing that insurance; 10121

(c) Payments for overtime work; 10122

(d) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the state, use of property or equipment of the state, and reimbursement for job-related expenses authorized by the state including moving and travel expenses and expenses related to professional development; 10123 10124 10125 10126 10127

(e) Payments made to or on behalf of a member that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401 (a)(17), as amended; 10128 10129 10130 10131 10132

(f) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly. 10133 10134 10135 10136 10137 10138

(3) The retirement board shall determine by rule whether any compensation, wages, or earnings not enumerated in this division are salary, and its decision shall be final. 10139 10140 10141

(S) "Actuary" means an individual who satisfies all of the following requirements: 10142 10143

(1) Is a member of the American academy of actuaries; 10144

(2) Is an associate or fellow of the society of actuaries; 10145

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans. 10146 10147

Section 10. That existing sections 109.84, 126.30, 145.2915, 715.27, 2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 3701.741, 3923.281, 3963.10, 4115.03, 4121.03, 4121.12, 4121.121, 4121.125, 4121.127, 4121.129, 4121.13, 4121.30, 4121.31, 4121.32, 4121.34, 4121.36, 4121.41, 4121.44, 4121.441, 4121.442, 4121.444, 4121.45, 4121.50, 4121.61, 4123.025, 4123.05, 4123.15, 4123.26, 4123.27, 4123.291, 4123.30, 4123.311, 4123.32, 4123.324, 4123.34, 4123.341, 4123.342, 4123.343, 4123.35, 4123.351, 4123.353, 4123.402, 4123.441, 4123.442, 4123.444, 4123.46, 4123.47, 4123.51, 4123.511, 4123.512, 4123.522, 4123.53, 4123.54, 4123.542, 4123.57, 4123.571, 4123.65, 4123.651, 4123.66, 4123.67, 4123.68, 4123.69, 4123.74, 4123.741, 4123.85, 4123.89, 4123.93, 4123.931, 4123.932, 4125.03, 4125.04, 4125.041, 4125.05, 4131.01, 4133.03, 4133.04, 4133.05, 4133.07, 4729.80, 5145.163, 5502.41, 5503.08, and 5505.01 of the Revised Code are hereby repealed. 10148 10149 10150 10151 10152 10153 10154 10155 10156 10157 10158 10159 10160 10161 10162 10163

Section 11. Sections 9 and 10 of this act apply to claims for compensation and benefits for disability or death due to occupational pneumoconiosis arising on or after the effective date of this section." 10164 10165 10166 10167

The motion was __________ agreed to.

SYNOPSIS 10168

Occupational pneumoconiosis board 10169

R.C. 4135.07 10170

Creates the Occupational Pneumoconiosis Board to determine all medical questions relating to workers' compensation claims 10171 10172

for compensation and benefits for occupational pneumoconiosis. 10173

Requires the Board to consist of five physicians who are board-certified internists or board-certified pulmonary specialists appointed by the Administrator of Workers' Compensation. 10174 10175 10176 10177

Occupational pneumoconiosis claims process and appeals 10178

R.C. 4135.01 through 4135.06, 4135.08 through 4135.10, and 4121.34, 4123.68, and 4123.85 10179 10180

Requires an occupational pneumoconiosis claim to be filed within three years, extended from two years as under current law and one year under the bill, after the later of two specified events and, in the case of death, two years after the date of death (similar to current law; extended from one year as proposed under the bill). 10181 10182 10183 10184 10185 10186

Requires an employee or employee's dependent to submit a written certification by a board-certified pulmonary specialist stating that the employee is or was suffering from pneumoconiosis or pulmonary massive fibrosis and the occupational pneumoconiosis has or had resulted in the employee's pulmonary impairment of at least 15%. 10187 10188 10189 10190 10191 10192

Requires the Administrator or a self-insuring employer, within 90 days after receiving the claimant's application and written certification, to determine all nonmedical findings, including whether the employee was exposed to occupational pneumoconiosis over specified time periods. 10193 10194 10195 10196 10197

Requires the Administrator or a self-insuring employer to provide interested parties written notice of the determination and makes that determination final unless the claimant or 10198 10199 10200

employer objects to the determination within 60 days after receiving it. 10201 10202

Permits a claimant who objects to the Administrator's determination, to appeal the claim in accordance with continuing law's procedures governing workers' compensation appeals. 10203 10204 10205

Requires, if an employer objects to a determination, that the Administrator refer the claim to the Board. 10206 10207

Establishes procedures for claimants and employers appearing before the Board, producing evidence, and submitting to examination. 10208 10209 10210

Permits the Board to consider x-ray evidence in determining the presence of occupational pneumoconiosis, but prohibits the Board from giving x-ray evidence greater weight than other evidence demonstrating occupational pneumoconiosis. 10211 10212 10213 10214

Requires the Board, after completing its investigation, to issue to the Administrator or self-insuring employer a written report on its determination of every medical question in controversy and requires the determination to include specified findings. 10215 10216 10217 10218 10219

Creates a presumption, which is not conclusive, that the employee is or was suffering from occupational pneumoconiosis if the Board makes certain findings. 10220 10221 10222

Requires any party contesting the Board's determination to file an appeal with the Industrial Commission in accordance with continuing law's procedures for workers' compensation appeals. 10223 10224 10225

Generally prohibits a claimant who receives a Board determination that the claimant has no evidence of occupational pneumoconiosis from filing a new claim or pursuing an existing 10226 10227 10228

but unruled on claim for occupational pneumoconiosis for three years. 10229 10230

Occupational pneumoconiosis compensation and benefits 10231

R.C. 4135.02, 4135.11 through 4135.16, and 4123.57 (conforming change) 10232 10233

Provides for an employee or claimant filing an occupational pneumoconiosis claim to receive medical and death benefits under continuing law's provisions for those benefits under the Workers' Compensation Law. 10234 10235 10236 10237

Provides for temporary total disability, permanent partial disability, or permanent total disability compensation for occupational pneumoconiosis claims that are generally greater than those provided under current law for similar claims. 10238 10239 10240 10241

Specifies that the percentage of permanent disability is determined by the degree of an employee's whole body medical impairment, as determined by the Board. 10242 10243 10244

Other provisions 10245

R.C. 109.84, 126.30, 145.2915, 715.27, 2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 3701.741, 3923.281, 3963.10, 4115.03, 4125.03, 4125.04, 4125.041, 4125.05, 4131.01, 4133.03, 4133.04, 4133.05, 4133.07, 4729.80, 5145.163, 5502.41, 5503.08, and 5505.01, with additional changes in R.C. Chapters 4121 and 4123; Section 8 10246 10247 10248 10249 10250 10251

Applies certain current law workers' compensation provisions to occupational pneumoconiosis claims, treating them the same as other workers' compensation claims. 10252 10253 10254

Specifies that the amendment applies to occupational pneumoconiosis claims arising on or after the amendment's 10255 10256

effective date. 10257