

As Passed by the House

135th General Assembly

Regular Session

2023-2024

Am. Sub. S. B. No. 196

Senator Roegner

**Cosponsors: Senators Antonio, Cirino, Craig, DeMora, Hackett, Kunze, Lang,
Reineke, Reynolds, Romanchuk, Wilson**

**Representatives Gross, Liston, Abrams, Baker, Barhorst, Brennan, Cross,
Dell'Aquila, Dobos, Fischer, Forhan, Grim, Isaacsohn, Jarrells, Jones, Lampton,
Lipps, Mathews, Miller, J., Piccolantonio, Roemer, Rogers, Russo, Schmidt, Seitz,
Somani, Swearingen, Thomas, C., Troy, Upchurch, Weinstein, Whitted, Williams,
Willis**

A BILL

To amend sections 109.921, 124.38, 124.82, 173.521, 1
173.542, 305.03, 313.12, 503.241, 940.09, 2
1347.08, 1561.12, 1571.012, 1751.84, 1753.21, 3
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3701.5010, 3701.59, 3701.74, 3701.76, 3705.30, 12
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4723.431, 4729.284, 4729.41, 4729.45, 4729.47, 24
5120.17, 5120.21, 5145.22, 5502.522, and 5739.01 25
and to enact sections 2135.15, 4723.437, 26
4723.438, and 4723.4812 of the Revised Code 27
regarding the authority of advanced practice 28
registered nurses. 29

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

Section 1. That sections 109.921, 124.38, 124.82, 173.521, 30
173.542, 305.03, 313.12, 503.241, 940.09, 1347.08, 1561.12, 31
1571.012, 1751.84, 1753.21, 2108.16, 2111.031, 2111.49, 2133.25, 32
2135.01, 2151.33, 2151.3515, 2151.421, 2305.235, 2313.14, 33
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4123.85, 4506.07, 4507.06, 4507.08, 4507.081, 4507.141, 4507.30, 46
4511.81, 4723.36, 4723.431, 4729.284, 4729.41, 4729.45, 4729.47, 47
5120.17, 5120.21, 5145.22, 5502.522, and 5739.01 be amended and 48
sections 2135.15, 4723.437, 4723.438, and 4723.4812 of the 49
Revised Code be enacted to read as follows: 50

Sec. 109.921. (A) As used in this section: 51

(1) "Rape crisis program" means any of the following: 52

(a) The nonprofit state sexual assault coalition 53
designated by the center for injury prevention and control of 54
the federal centers for disease control and prevention; 55

(b) A victim witness assistance program operated by a 56
prosecuting attorney; 57

(c) A program operated by a government-based or nonprofit 58
entity that provides a full continuum of services to victims of 59
sexual assault, including hotlines, victim advocacy, and support 60
services from the onset of the need for services through the 61
completion of healing, that does not provide medical services, 62
and that may refer victims to physicians, certified nurse- 63
midwives, clinical nurse specialists, or certified nurse 64
practitioners for medical care but does not engage in or refer 65
for services for which the use of genetic services funds is 66
prohibited by section 3701.511 of the Revised Code. 67

(2) "Sexual assault" means any of the following: 68

(a) A violation of section 2907.02, 2907.03, 2907.04, 69
2907.05, or former section 2907.12 of the Revised Code; 70

(b) A violation of an existing or former municipal 71
ordinance or law of this or any other state or the United States 72
that is or was substantially equivalent to any section listed in 73

division (A) (2) (a) of this section. 74

(B) There is hereby created in the state treasury the rape 75
crisis program trust fund, consisting of money paid into the 76
fund pursuant to sections 307.515 and 311.172 of the Revised 77
Code and any money appropriated to the fund by the general 78
assembly or donated to the fund. The attorney general shall 79
administer the fund. The attorney general may use not more than 80
five per cent of the money deposited or appropriated into the 81
fund to pay costs associated with administering this section and 82
shall use at least ninety-five per cent of the money deposited 83
or appropriated into the fund for the purpose of providing 84
funding to rape crisis programs under this section. 85

(C) (1) The attorney general shall adopt rules under 86
Chapter 119. of the Revised Code that establish procedures for 87
rape crisis programs to apply to the attorney general for 88
funding out of the rape crisis program trust fund and procedures 89
for the attorney general to distribute money out of the fund to 90
rape crisis programs. 91

(2) The attorney general may decide upon an application 92
for funding out of the rape crisis program trust fund without a 93
hearing. A decision of the attorney general to grant or deny 94
funding is final and not appealable under Chapter 119. or any 95
other provision of the Revised Code. 96

(D) A rape crisis program that receives funding out of the 97
rape crisis program trust fund shall use the money received only 98
for the following purposes: 99

(1) If the program is the nonprofit state sexual assault 100
coalition, to provide training and technical assistance to 101
service providers; 102

(2) If the program is a victim witness assistance program, 103
to provide victims of sexual assault with hotlines, victim 104
advocacy, or support services; 105

(3) If the program is a government-based or nonprofit 106
entity that provides a full continuum of services to victims of 107
sexual assault, to provide those services and education to 108
prevent sexual assault. 109

Sec. 124.38. Each of the following shall be entitled for 110
each completed eighty hours of service to sick leave of four and 111
six-tenths hours with pay: 112

(A) Employees in the various offices of the county, 113
municipal, and civil service township service, other than 114
superintendents and management employees, as defined in section 115
5126.20 of the Revised Code, of county boards of developmental 116
disabilities; 117

(B) Employees of any state college or university; 118

(C) Any employee of any board of education for whom sick 119
leave is not provided by section 3319.141 of the Revised Code, 120
provided that the employee is not a substitute, adult education 121
instructor who is scheduled to work the full-time equivalent of 122
less than one hundred twenty days per school year, or a person 123
who is employed on an as-needed, seasonal, or intermittent 124
basis. 125

Employees may use sick leave, upon approval of the 126
responsible administrative officer of the employing unit, for 127
absence due to personal illness, pregnancy, injury, exposure to 128
contagious disease that could be communicated to other 129
employees, and illness, injury, or death in the employee's 130
immediate family. Unused sick leave shall be cumulative without 131

limit. When sick leave is used, it shall be deducted from the 132
employee's credit on the basis of one hour for every one hour of 133
absence from previously scheduled work. 134

The previously accumulated sick leave of an employee who 135
has been separated from the public service shall be placed to 136
the employee's credit upon the employee's re-employment in the 137
public service, provided that the re-employment takes place 138
within ten years of the date on which the employee was last 139
terminated from public service. This ten-year period shall be 140
tolled for any period during which the employee holds elective 141
public office, whether by election or by appointment. 142

An employee who transfers from one public agency to 143
another shall be credited with the unused balance of the 144
employee's accumulated sick leave up to the maximum of the sick 145
leave accumulation permitted in the public agency to which the 146
employee transfers. 147

The appointing authorities of the various offices of the 148
county service may permit all or any part of a person's accrued 149
but unused sick leave acquired during service with any regional 150
council of government established in accordance with Chapter 151
167. of the Revised Code to be credited to the employee upon a 152
transfer as if the employee were transferring from one public 153
agency to another under this section. 154

The appointing authority of each employing unit shall 155
require an employee to furnish a satisfactory written, signed 156
statement to justify the use of sick leave. If medical attention 157
is required, a certificate stating the nature of the illness 158
from a licensed physician, certified nurse-midwife, clinical 159
nurse specialist, or certified nurse practitioner shall be 160
required to justify the use of sick leave. Falsification of 161

either ~~a written, signed the~~ statement or ~~a physician's the~~ 162
certificate shall be grounds for disciplinary action, including 163
dismissal. 164

This section does not interfere with existing unused sick 165
leave credit in any agency of government where attendance 166
records are maintained and credit has been given employees for 167
unused sick leave. 168

Notwithstanding this section or any other section of the 169
Revised Code, any appointing authority of a county office, 170
department, commission, board, or body may, upon notification to 171
the board of county commissioners, establish alternative 172
schedules of sick leave for employees of the appointing 173
authority for whom the state employment relations board has not 174
established an appropriate bargaining unit pursuant to section 175
4117.06 of the Revised Code, as long as the alternative 176
schedules are not inconsistent with the provisions of at least 177
one collective bargaining agreement covering other employees of 178
that appointing authority, if such a collective bargaining 179
agreement exists. If no such collective bargaining agreement 180
exists, an appointing authority may, upon notification to the 181
board of county commissioners, establish an alternative schedule 182
of sick leave for its employees that does not diminish the sick 183
leave benefits granted by this section. 184

Sec. 124.82. (A) Except as provided in division (D) of 185
this section, the department of administrative services, in 186
consultation with the superintendent of insurance, shall, in 187
accordance with competitive selection procedures of Chapter 125. 188
of the Revised Code, contract with an insurance company or a 189
health plan in combination with an insurance company, authorized 190
to do business in this state, for the issuance of a policy or 191

contract of health, medical, hospital, dental, vision, or 192
surgical benefits, or any combination of those benefits, 193
covering state employees who are paid directly by warrant of the 194
director of budget and management, including elected state 195
officials. The department may fulfill its obligation under this 196
division by exercising its authority under division (A) (2) of 197
section 124.81 of the Revised Code. 198

(B) Except as provided in division (D) of this section, 199
the department may, in addition, in consultation with the 200
superintendent of insurance, negotiate and contract with health 201
insuring corporations holding a certificate of authority under 202
Chapter 1751. of the Revised Code, in their approved service 203
areas only, for issuance of a contract or contracts of health 204
care services, covering state employees who are paid directly by 205
warrant of the director of budget and management, including 206
elected state officials. The department may enter into contracts 207
with one or more insurance carriers or health plans to provide 208
the same plan of benefits, provided that: 209

(1) The employee be permitted to exercise the option as to 210
which plan the employee will select under division (A) or (B) of 211
this section, at a time that shall be determined by the 212
department; 213

(2) The health insuring corporations do not refuse to 214
accept the employee, or the employee and the employee's family, 215
if the employee exercises the option to select care provided by 216
the corporations; 217

(3) The employee may choose participation in only one of 218
the plans sponsored by the department; 219

(4) The director of health examines and certifies to the 220

department that the quality and adequacy of care rendered by the 221
health insuring corporations meet at least the standards of care 222
provided by hospitals ~~and~~, physicians, and advanced practice 223
registered nurses in that employee's community, who would be 224
providing such care as would be covered by a contract awarded 225
under division (A) of this section. 226

(C) All or any portion of the cost, premium, or charge for 227
the coverage in divisions (A) and (B) of this section may be 228
paid in such manner or combination of manners as the department 229
determines and may include the proration of health care costs, 230
premiums, or charges for part-time employees. 231

(D) Notwithstanding divisions (A) and (B) of this section, 232
the department may provide benefits equivalent to those that may 233
be paid under a policy or contract issued by an insurance 234
company or a health plan pursuant to division (A) or (B) of this 235
section. 236

(E) This section does not prohibit the state office of 237
collective bargaining from entering into an agreement with an 238
employee representative for the purposes of providing fringe 239
benefits, including, but not limited to, hospitalization, 240
surgical care, major medical care, disability, dental care, 241
vision care, medical care, hearing aids, prescription drugs, 242
group life insurance, sickness and accident insurance, group 243
legal services or other benefits, or any combination of those 244
benefits, to employees paid directly by warrant of the director 245
of budget and management through a jointly administered trust 246
fund. The employer's contribution for the cost of the benefit 247
care shall be mutually agreed to in the collectively bargained 248
agreement. The amount, type, and structure of fringe benefits 249
provided under this division is subject to the determination of 250

the board of trustees of the jointly administered trust fund. 251
Notwithstanding any other provision of the Revised Code, 252
competitive bidding does not apply to the purchase of fringe 253
benefits for employees under this division when those benefits 254
are provided through a jointly administered trust fund. 255

(F) Members of state boards or commissions may be covered 256
by any policy, contract, or plan of benefits or services 257
described in division (A) or (B) of this section. Board or 258
commission members who are appointed for a fixed term and who 259
are compensated on a per meeting basis, or paid only for 260
expenses, or receive a combination of per diem payments and 261
expenses shall pay the entire amount of the premiums, costs, or 262
charges for that coverage. 263

Sec. 173.521. (A) The department of aging shall establish 264
a home first component of the PASSPORT program under which 265
eligible individuals may be enrolled in the medicaid-funded 266
component of the PASSPORT program in accordance with this 267
section. An individual is eligible for the PASSPORT program's 268
home first component if both of the following apply: 269

(1) The individual has been determined to be eligible for 270
the medicaid-funded component of the PASSPORT program. 271

(2) At least one of the following applies: 272

(a) The individual has been admitted to a nursing 273
facility. 274

(b) A physician, certified nurse-midwife if authorized as 275
described in section 4723.438 of the Revised Code, clinical 276
nurse specialist, or certified nurse practitioner has determined 277
and documented in writing that the individual has a medical 278
condition that, unless the individual is enrolled in home and 279

community-based services such as the PASSPORT program, will 280
require the individual to be admitted to a nursing facility 281
within thirty days of the physician's or nurse's determination. 282

(c) The individual has been hospitalized and a physician, 283
certified nurse-midwife if authorized as described in section 284
4723.438 of the Revised Code, clinical nurse specialist, or 285
certified nurse practitioner has determined and documented in 286
writing that, unless the individual is enrolled in home and 287
community-based services such as the PASSPORT program, the 288
individual is to be transported directly from the hospital to a 289
nursing facility and admitted. 290

(d) Both of the following apply: 291

(i) The individual is the subject of a report made under 292
section 5101.63 of the Revised Code regarding abuse, neglect, or 293
exploitation or such a report referred to a county department of 294
job and family services under section 5126.31 of the Revised 295
Code or has made a request to a county department for protective 296
services as defined in section 5101.60 of the Revised Code. 297

(ii) A county department of job and family services and an 298
area agency on aging have jointly documented in writing that, 299
unless the individual is enrolled in home and community-based 300
services such as the PASSPORT program, the individual should be 301
admitted to a nursing facility. 302

(B) Each month, each area agency on aging shall identify 303
individuals residing in the area that the agency serves who are 304
eligible for the home first component of the PASSPORT program. 305
When an area agency on aging identifies such an individual, the 306
agency shall notify the long-term care consultation program 307
administrator serving the area in which the individual resides. 308

The administrator shall determine whether the PASSPORT program 309
is appropriate for the individual and whether the individual 310
would rather participate in the PASSPORT program than continue 311
or begin to reside in a nursing facility. If the administrator 312
determines that the PASSPORT program is appropriate for the 313
individual and the individual would rather participate in the 314
PASSPORT program than continue or begin to reside in a nursing 315
facility, the administrator shall so notify the department of 316
aging. On receipt of the notice from the administrator, the 317
department shall approve the individual's enrollment in the 318
medicaid-funded component of the PASSPORT program regardless of 319
the unified waiting list established under section 173.55 of the 320
Revised Code, unless the enrollment would cause the component to 321
exceed any limit on the number of individuals who may be 322
enrolled in the component as set by the United States secretary 323
of health and human services in the PASSPORT waiver. 324

Sec. 173.542. (A) The department of aging shall establish 325
a home first component of the assisted living program under 326
which eligible individuals may be enrolled in the medicaid- 327
funded component of the assisted living program in accordance 328
with this section. An individual is eligible for the assisted 329
living program's home first component if both of the following 330
apply: 331

(1) The individual has been determined to be eligible for 332
the medicaid-funded component of the assisted living program. 333

(2) At least one of the following applies: 334

(a) The individual has been admitted to a nursing 335
facility. 336

(b) A physician, certified nurse-midwife if authorized as 337

described in section 4723.438 of the Revised Code, clinical 338
nurse specialist, or certified nurse practitioner has determined 339
and documented in writing that the individual has a medical 340
condition that, unless the individual is enrolled in home and 341
community-based services such as the assisted living program, 342
will require the individual to be admitted to a nursing facility 343
within thirty days of the physician's or nurse's determination. 344

(c) The individual has been hospitalized and a physician, _____ 345
certified nurse-midwife if authorized as described in section 346
4723.438 of the Revised Code, clinical nurse specialist, or 347
certified nurse practitioner has determined and documented in 348
writing that, unless the individual is enrolled in home and 349
community-based services such as the assisted living program, 350
the individual is to be transported directly from the hospital 351
to a nursing facility and admitted. 352

(d) Both of the following apply: 353

(i) The individual is the subject of a report made under 354
section 5101.63 of the Revised Code regarding abuse, neglect, or 355
exploitation or such a report referred to a county department of 356
job and family services under section 5126.31 of the Revised 357
Code or has made a request to a county department for protective 358
services as defined in section 5101.60 of the Revised Code. 359

(ii) A county department of job and family services and an 360
area agency on aging have jointly documented in writing that, 361
unless the individual is enrolled in home and community-based 362
services such as the assisted living program, the individual 363
should be admitted to a nursing facility. 364

(B) Each month, each area agency on aging shall identify 365
individuals residing in the area that the area agency on aging 366

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serves who are eligible for the home first component of the
assisted living program. When an area agency on aging identifies
such an individual and determines that there is a vacancy in a
residential care facility participating in the medicaid-funded
component of the assisted living program that is acceptable to
the individual, the agency shall notify the long-term care
consultation program administrator serving the area in which the
individual resides. The administrator shall determine whether
the assisted living program is appropriate for the individual
and whether the individual would rather participate in the
assisted living program than continue or begin to reside in a
nursing facility. If the administrator determines that the
assisted living program is appropriate for the individual and
the individual would rather participate in the assisted living
program than continue or begin to reside in a nursing facility,
the administrator shall so notify the department of aging. On
receipt of the notice from the administrator, the department
shall approve the individual's enrollment in the medicaid-funded
component of the assisted living program regardless of the
unified waiting list established under section 173.55 of the
Revised Code, unless the enrollment would cause the component to
exceed any limit on the number of individuals who may
participate in the component as set by the United States
secretary of health and human services in the assisted living
waiver.

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Sec. 305.03. (A) (1) Whenever any county officer, except
the county auditor or county treasurer, fails to perform the
duties of office for ninety consecutive days, except in case of
sickness or injury as provided in divisions (B) and (C) of this
section, the office shall be deemed vacant.

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(2) Whenever any county auditor or county treasurer fails

to perform the duties of office for thirty consecutive days, 398
except in case of sickness or injury as provided in divisions 399
(B) and (C) of this section, the office shall be deemed vacant. 400

(B) Whenever any county officer is absent because of 401
sickness or injury, the officer shall cause to be filed with the 402
board of county commissioners a ~~physician's~~ certificate from a 403
physician, certified nurse-midwife, clinical nurse specialist, 404
or certified nurse practitioner of the officer's sickness or 405
injury. If the certificate is not filed with the board within 406
ten days after the expiration of thirty consecutive days, in the 407
case of a county auditor or county treasurer, or within ten days 408
after the expiration of ninety consecutive days of absence, in 409
the case of all other county officers, the office shall be 410
deemed vacant. 411

(C) Whenever a county officer files a ~~physician's~~ 412
certificate under division (B) of this section, but continues to 413
be absent for an additional thirty days commencing immediately 414
after the last day on which this certificate may be filed under 415
division (B) of this section, the office shall be deemed vacant. 416

(D) If at any time two county commissioners in a county 417
are absent and have filed a ~~physician's~~ certificate under 418
division (B) of this section, the county coroner, in addition to 419
performing the duties of coroner, shall serve as county 420
commissioner until at least one of the absent commissioners 421
returns to office or until the office of at least one of the 422
absent commissioners is deemed vacant under this section and the 423
vacancy is filled. If the coroner so requests, the coroner shall 424
be paid a per diem rate for the coroner's service as a 425
commissioner. That per diem rate shall be the annual salary 426
specified by law for a county commissioner of that county whose 427

term of office began in the same year as the coroner's term of 428
office began, divided by the number of days in the year. 429

While the coroner is serving as a county commissioner, the 430
coroner shall be considered an acting county commissioner and 431
shall perform the duties of the office of county commissioner 432
until at least one of the absent commissioners returns to office 433
or until the office of at least one of the absent commissioners 434
is deemed vacant. Before assuming the office of acting county 435
commissioner, the coroner shall take an oath of office as 436
provided in sections 3.22 and 3.23 of the Revised Code. The 437
coroner's service as an acting county commissioner does not 438
constitute the holding of an incompatible public office or 439
employment in violation of any statutory or common law 440
prohibition against the simultaneous holding of more than one 441
public office or employment. 442

The coroner shall give a new bond in the same amount and 443
signed and approved as provided in section 305.04 of the Revised 444
Code. The bond shall be conditioned for the faithful discharge 445
of the coroner's duties as acting county commissioner and for 446
the payment of any loss or damage that the county may sustain by 447
reason of the coroner's failure in those duties. The bond, along 448
with the oath of office and approval of the probate judge 449
indorsed on it, shall be deposited and paid for as provided for 450
the bonds in section 305.04 of the Revised Code. 451

(E) Any vacancy declared under this section shall be 452
filled in the manner provided by section 305.02 of the Revised 453
Code. 454

(F) This section shall not apply to a county officer while 455
in the active military service of the United States. 456

Sec. 313.12. (A) When any person dies as a result of 457
criminal or other violent means, by casualty, by suicide, or in 458
any suspicious or unusual manner, when any person, including a 459
child under two years of age, dies suddenly when in apparent 460
good health, or when any person with a developmental disability 461
dies regardless of the circumstances, the physician, certified 462
nurse-midwife, clinical nurse specialist, or certified nurse 463
practitioner called in attendance, or any member of an ambulance 464
service, emergency squad, or law enforcement agency who obtains 465
knowledge thereof arising from the person's duties, shall 466
immediately notify the office of the coroner of the known facts 467
concerning the time, place, manner, and circumstances of the 468
death, and any other information that is required pursuant to 469
sections 313.01 to 313.22 of the Revised Code. In such cases, if 470
a request is made for cremation, the funeral director called in 471
attendance shall immediately notify the coroner. 472

(B) As used in this section, "developmental disability" 473
has the same meaning as in section 5123.01 of the Revised Code. 474

Sec. 503.241. Whenever any township officer ceases to 475
reside in the township, or is absent from the township for 476
ninety consecutive days, except in case of sickness or injury as 477
provided in this section, ~~his~~ the officer's office shall be 478
deemed vacant and the board of township trustees shall declare a 479
vacancy to exist in such office. 480

Such vacancy shall be filled in the manner provided by 481
section 503.24 of the Revised Code. Whenever any township 482
officer is absent from the township because of sickness or 483
injury, ~~he~~ the officer shall cause to be filed with the board of 484
township trustees a ~~physician's~~ certificate from a physician, 485
certified nurse-midwife, clinical nurse specialist, or certified 486

nurse practitioner of his the officer's sickness or injury. If 487
such certificate is not filed with the board within ten days 488
after the expiration of the ninety consecutive days of absence 489
from the township, ~~his~~ the officer's office shall be deemed 490
vacant and the board of township trustees shall declare a 491
vacancy to exist in such office. 492

This section shall not apply to a township officer while 493
in the active military service of the United States. 494

Sec. 940.09. ~~(A)As~~ (A) As used in this section: 495

(1) "Receiving employee" means an employee of a soil and 496
water conservation district who receives donated sick leave as 497
authorized by this section. 498

(2) "Donating employee" means an employee of a soil and 499
water conservation district who donates sick leave as authorized 500
by this section. 501

(3) "Paid leave" has the same meaning as in section 502
124.391 of the Revised Code. 503

(4) "Full-time employee" means an employee of a soil and 504
water conservation district whose regular hours of service for 505
the district total forty hours per week or who renders any other 506
standard of service accepted as full-time by the district. 507

(5) "Full-time limited hours employee" means an employee 508
of a soil and water conservation district whose regular hours of 509
service for the district total twenty-five to thirty-nine hours 510
per week or who renders any other standard of service accepted 511
as full-time limited hours by the district. 512

(B) (1) An employee of a soil and water conservation 513
district is eligible to become a receiving employee if the 514

employee is a full-time employee, or a full-time limited hours 515
employee, who has completed the prescribed probationary period, 516
has used up all accrued paid leave, and has been placed on an 517
approved, unpaid, medical-related leave of absence for a period 518
of at least thirty consecutive working days because of the 519
employee's own serious illness or because of a serious illness 520
of a member of the employee's immediate family. 521

(2) An employee who desires to become a receiving employee 522
shall submit to the board of supervisors of the employing soil 523
and water conservation district, along with a satisfactory 524
~~physician's certification by a physician, certified nurse-~~ 525
midwife, clinical nurse specialist, or certified nurse 526
practitioner, a written request for donated sick leave. The 527
board of supervisors shall determine whether the employee is 528
eligible to become a receiving employee and shall approve the 529
request if it determines the employee is eligible. 530

(C) (1) A board of supervisors that approves a request for 531
an employee to become a receiving employee shall forward the 532
approved application to a committee that the Ohio association of 533
soil and water conservation district employees shall appoint to 534
act as a clearinghouse for the donation of sick leave under this 535
section. The committee shall post notice for not less than ten 536
days informing all employees of soil and water conservation 537
districts throughout the state that it has received an approved 538
application to become a receiving employee. 539

(2) A soil and water conservation district employee 540
desiring to become a donating employee shall complete and submit 541
a sick leave donation form to the employee's immediate 542
supervisor within twenty days after the date of the initial 543
posting of the notice described in division (C) (1) of this 544

section. If the board of supervisors of the employing district 545
of an employee desiring to become a donating employee approves 546
the sick leave donation, the board shall forward to the 547
committee, together with a check equal to the total value of the 548
sick leave donation, a copy of the sick leave donation form, and 549
the board shall notify the receiving employee regarding the 550
donation. 551

(D) If the committee described in division (C) (1) of this 552
section receives a sick leave donation form and a check from a 553
board of supervisors, the committee shall deposit the check into 554
an account that it shall establish to be used to dispense funds 555
to the employing district of a receiving employee. The committee 556
shall notify the board of supervisors of the employing district 557
of a receiving employee of the amount of sick leave donated. The 558
board of supervisors shall bill the committee during each pay 559
period for the receiving employee's gross hourly wages in an 560
amount that does not exceed the amount donated to the receiving 561
employee. The board of supervisors, with the approval of the 562
county auditor, shall provide for the deposit into its 563
appropriate payroll account of any payments it receives for the 564
benefit of a receiving employee. 565

(E) The donation and receipt of sick leave under this 566
section is subject to all of the following: 567

(1) All donations of sick leave shall be voluntary. 568

(2) A donating employee is eligible to donate not less 569
than eight hours and not more than eighty hours of sick leave 570
during the same calendar year. 571

(3) The value of an hour of sick leave donated is the 572
value of the donating employee's gross hourly wage. The number 573

of hours received by a receiving employee from a donating 574
employee shall be a number that, when multiplied by the 575
receiving employee's gross hourly wage, equals the amount 576
resulting when the donating employee's gross hourly wage is 577
multiplied by the number of hours of sick leave donated. 578

(4) No paid leave shall accrue to a receiving employee for 579
any compensation received through donated sick leave, and the 580
receipt of donated sick leave does not affect the date on which 581
a receiving employee first qualifies for continuation of health 582
insurance coverage. 583

(5) If a receiving employee does not use all donated sick 584
leave during the period of the employee's leave of absence, the 585
unused balance shall remain in the account that the committee 586
described in division (C) (1) of this section established under 587
division (D) of this section and shall be used to dispense funds 588
in the future to the employing district of a receiving employee. 589

Sec. 1347.08. (A) Every state or local agency that 590
maintains a personal information system, upon the request and 591
the proper identification of any person who is the subject of 592
personal information in the system, shall: 593

(1) Inform the person of the existence of any personal 594
information in the system of which the person is the subject; 595

(2) Except as provided in divisions (C) and (E) (2) of this 596
section, permit the person, the person's legal guardian, or an 597
attorney who presents a signed written authorization made by the 598
person, to inspect all personal information in the system of 599
which the person is the subject; 600

(3) Inform the person about the types of uses made of the 601
personal information, including the identity of any users 602

usually granted access to the system. 603

(B) Any person who wishes to exercise a right provided by 604
this section may be accompanied by another individual of the 605
person's choice. 606

(C) (1) A state or local agency, upon request, shall 607
disclose medical, psychiatric, or psychological information to a 608
person who is the subject of the information or to the person's 609
legal guardian, unless ~~a physician, psychiatrist, or~~ 610
~~psychologist~~ one of the following determines for the agency that 611
the disclosure of the information is likely to have an adverse 612
effect on the person, ~~in which case: a physician, including such~~ 613
a person who specializes as a psychiatrist; an advanced practice 614
registered nurse, including such a person who specializes as a 615
psychiatric-mental health nurse practitioner or psychiatric 616
clinical nurse specialist; or a psychologist. If such a 617
determination is made, the information shall be released to a 618
~~physician, psychiatrist, or psychologist~~ one of the following 619
who is designated by the person or by the person's legal 620
guardian: a physician, including such a person who specializes 621
as a psychiatrist; an advanced practice registered nurse, 622
including such a person who specializes as a psychiatric-mental 623
health nurse practitioner or psychiatric clinical nurse 624
specialist; or a psychologist. 625

(2) Upon the signed written request of ~~either~~ a licensed 626
attorney at law ~~or~~, a licensed physician, or an advanced 627
practice registered nurse designated by the inmate, together 628
with the signed written request of an inmate of a correctional 629
institution under the administration of the department of 630
rehabilitation and correction, the department shall disclose 631
medical information to the designated attorney ~~or~~, physician, or 632

advanced practice registered nurse as provided in division (C) 633
of section 5120.21 of the Revised Code. 634

(D) If an individual who is authorized to inspect personal 635
information that is maintained in a personal information system 636
requests the state or local agency that maintains the system to 637
provide a copy of any personal information that the individual 638
is authorized to inspect, the agency shall provide a copy of the 639
personal information to the individual. Each state and local 640
agency may establish reasonable fees for the service of copying, 641
upon request, personal information that is maintained by the 642
agency. 643

(E) (1) This section regulates access to personal 644
information that is maintained in a personal information system 645
by persons who are the subject of the information, but does not 646
limit the authority of any person, including a person who is the 647
subject of personal information maintained in a personal 648
information system, to inspect or have copied, pursuant to 649
section 149.43 of the Revised Code, a public record as defined 650
in that section. 651

(2) This section does not provide a person who is the 652
subject of personal information maintained in a personal 653
information system, the person's legal guardian, or an attorney 654
authorized by the person, with a right to inspect or have 655
copied, or require an agency that maintains a personal 656
information system to permit the inspection of or to copy, a 657
confidential law enforcement investigatory record or trial 658
preparation record, as defined in divisions (A) (2) and (4) of 659
section 149.43 of the Revised Code. 660

(F) This section does not apply to any of the following: 661

(1) The contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;	662 663 664
(2) Information contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	665 666 667 668 669 670
(3) Papers, records, and books that pertain to an adoption and that are subject to inspection in accordance with section 3107.17 of the Revised Code;	671 672 673
(4) Records specified in division (A) of section 3107.52 of the Revised Code;	674 675
(5) Records that identify an individual described in division (A)(1) of section 3721.031 of the Revised Code, or that would tend to identify such an individual;	676 677 678
(6) Files and records that have been expunged under division (D)(1) or (2) of section 3721.23 of the Revised Code;	679 680
(7) Records that identify an individual described in division (A)(1) of section 3721.25 of the Revised Code, or that would tend to identify such an individual;	681 682 683
(8) Records that identify an individual described in division (A)(1) of section 5165.88 of the Revised Code, or that would tend to identify such an individual;	684 685 686
(9) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports	687 688 689

administers under section 4751.15 of the Revised Code or 690
contracts under that section with a private or government entity 691
to administer; 692

(10) Information contained in a database established and 693
maintained pursuant to section 5101.13 of the Revised Code; 694

(11) Information contained in a database established and 695
maintained pursuant to section 5101.631 of the Revised Code. 696

Sec. 1561.12. An applicant for any examination or 697
certificate under this section shall, before being examined, 698
register the applicant's name with the chief of the division of 699
mineral resources management and file with the chief an 700
affidavit as to all matters of fact establishing the applicant's 701
right to receive the examination and a certificate from a 702
reputable and disinterested physician, clinical nurse 703
specialist, or certified nurse practitioner as to the physical 704
condition of the applicant showing that the applicant is 705
physically capable of performing the duties of the office or 706
position. 707

Each applicant for examination for any of the following 708
positions shall present evidence satisfactory to the chief that 709
the applicant has been a resident and citizen of this state for 710
two years next preceding the date of application: 711

(A) An applicant for the position of deputy mine inspector 712
of underground mines shall have had actual practical experience 713
of not less than six years in underground mines. In lieu of two 714
of the six years of actual practical experience required in 715
underground mines, the chief may accept as the equivalent 716
thereof a certificate evidencing graduation from an accredited 717
school of mines or mining, after a four-year course of study. 718

The applicant shall pass an examination as to the 719
applicant's practical and technological knowledge of mine 720
surveying, mining machinery, and appliances; the proper 721
development and operation of mines; the best methods of working 722
and ventilating mines; the nature, properties, and powers of 723
noxious, poisonous, and explosive gases, particularly methane; 724
the best means and methods of detecting, preventing, and 725
removing the accumulation of such gases; the use and operation 726
of gas detecting devices and appliances; first aid to the 727
injured; and the uses and dangers of electricity as applied and 728
used in, at, and around mines. The applicant shall also hold a 729
certificate for foreperson of gaseous mines issued by the chief. 730

(B) An applicant for the position of deputy mine inspector 731
of surface mines shall have had actual practical mining 732
experience of not less than six years in surface mines. In lieu 733
of two of the six years of actual practical experience required, 734
the chief may accept as the equivalent thereof a certificate 735
evidencing graduation from an accredited school of mines or 736
mining, after a four-year course of study. The applicant shall 737
pass an examination as to the applicant's practical and 738
technological knowledge of surface mine surveying, machinery, 739
and appliances; the proper development and operations of surface 740
mines; first aid to the injured; and the use and dangers of 741
explosives and electricity as applied and used in, at, and 742
around surface mines. The applicant shall also hold a surface 743
mine foreperson certificate issued by the chief. 744

(C) An applicant for the position of electrical inspector 745
shall have had at least five years' practical experience in the 746
installation and maintenance of electrical circuits and 747
equipment in mines, and the applicant shall be thoroughly 748
familiar with the principles underlying the safety features of 749

permissible and approved equipment as authorized and used in 750
mines. 751

The applicant shall be required to pass the examination 752
required for deputy mine inspectors and an examination testing 753
and determining the applicant's qualification and ability to 754
competently inspect and administer the mining law that relates 755
to electricity used in and around mines and mining in this 756
state. 757

(D) An applicant for the position of superintendent or 758
assistant superintendent of rescue stations shall possess the 759
same qualifications as those required for a deputy mine 760
inspector. In addition, the applicant shall present evidence 761
satisfactory to the chief that the applicant is sufficiently 762
qualified and trained to organize, supervise, and conduct group 763
training classes in first aid, safety, and rescue work. 764

The applicant shall pass the examination required for 765
deputy mine inspectors and shall be tested as to the applicant's 766
practical and technological experience and training in first 767
aid, safety, and mine rescue work. 768

(E) An applicant for the position of mine chemist shall 769
have such educational training as is represented by the degree 770
MS in chemistry from a university of recognized standing, and at 771
least five years of actual practical experience in research work 772
in chemistry or as an assistant chemist. The chief may provide 773
that an equivalent combination of education and experience 774
together with a wide knowledge of the methods of and skill in 775
chemical analysis and research may be accepted in lieu of the 776
above qualifications. It is preferred that the chemist shall 777
have had actual experience in mineralogy and metallurgy. 778

Sec. 1571.012. An applicant for the position of gas 779
storage well inspector shall register the applicant's name with 780
the chief of the division of oil and gas resources management 781
and file with the chief an affidavit as to all matters of fact 782
establishing the applicant's right to take the examination for 783
that position and a certificate from a reputable and 784
disinterested physician, clinical nurse specialist, or certified 785
nurse practitioner as to the physical condition of the applicant 786
showing that the applicant is physically capable of performing 787
the duties of the position. The applicant also shall present 788
evidence satisfactory to the chief that the applicant has been a 789
resident and citizen of this state for at least two years next 790
preceding the date of application. 791

An applicant shall possess the same qualifications as an 792
applicant for the position of deputy mine inspector established 793
in section 1561.12 of the Revised Code. In addition, the 794
applicant shall have practical knowledge and experience of and 795
in the operation, location, drilling, maintenance, and 796
abandonment of oil and gas wells, especially in coal or mineral 797
bearing townships, and shall have a thorough knowledge of the 798
latest and best method of plugging and sealing abandoned oil and 799
gas wells. 800

An applicant for gas storage well inspector shall pass an 801
examination conducted by the chief to determine the applicant's 802
fitness to act as gas storage well inspector before being 803
eligible for appointment. 804

Sec. 1751.84. (A) Notwithstanding section 3901.71 of the 805
Revised Code, each individual and group health insuring 806
corporation policy, contract, or agreement providing basic 807
health care services that is delivered, issued for delivery, or 808

renewed in this state shall provide coverage for the screening, 809
diagnosis, and treatment of autism spectrum disorder. A health 810
insuring corporation shall not terminate an individual's 811
coverage, or refuse to deliver, execute, issue, amend, adjust, 812
or renew coverage to an individual solely because the individual 813
is diagnosed with or has received treatment for an autism 814
spectrum disorder. Nothing in this section shall be applied to 815
nongrandfathered plans in the individual and small group markets 816
or to medicare supplement, accident-only, specified disease, 817
hospital indemnity, disability income, long-term care, or other 818
limited benefit hospital insurance policies. Except as otherwise 819
provided in division (B) of this section, coverage under this 820
section shall not be subject to dollar limits, deductibles, or 821
coinsurance provisions that are less favorable to an enrollee 822
than the dollar limits, deductibles, or coinsurance provisions 823
that apply to substantially all medical and surgical benefits 824
under the policy, contract, or agreement. 825

(B) Benefits provided under this section shall cover, at 826
minimum, all of the following: 827

(1) For speech and language therapy or occupational 828
therapy for an enrollee under the age of fourteen that is 829
performed by a licensed therapist, twenty visits per year for 830
each service; 831

(2) For clinical therapeutic intervention for an enrollee 832
under the age of fourteen that is provided by or under the 833
supervision of a professional who is licensed, certified, or 834
registered by an appropriate agency of this state to perform 835
such services in accordance with a health treatment plan, twenty 836
hours per week; 837

(3) For mental or behavioral health outpatient services 838

for an enrollee under the age of fourteen that are performed by 839
~~a licensed psychologist, psychiatrist, or physician~~ any of the 840
following providing consultation, assessment, development, or 841
oversight of treatment plans, thirty visits per year: 842

(a) A licensed psychologist; 843

(b) A licensed physician, including a psychiatrist; 844

(c) A clinical nurse specialist or certified nurse 845
practitioner, including a psychiatric-mental health advanced 846
practice registered nurse or a clinical nurse specialist or 847
certified nurse practitioner specializing in pediatric or family 848
health. 849

(C) (1) Except as provided in division (C) (2) of this 850
section, this section shall not be construed as limiting 851
benefits that are otherwise available to an individual under a 852
policy, contract, or agreement. 853

(2) A policy, contract, or agreement shall stipulate that 854
coverage provided under this section be contingent upon both of 855
the following: 856

(a) The covered individual receiving prior authorization 857
for the services in question; 858

(b) The services in question being prescribed or ordered 859
by ~~either a developmental pediatrician or a psychologist trained~~ 860
in autism, a developmental pediatrician, or a clinical nurse 861
specialist or certified nurse practitioner specializing in 862
pediatric health. 863

(D) (1) Except for inpatient services, if an enrollee is 864
receiving treatment for an autism spectrum disorder, a health 865
insuring corporation may review the treatment plan annually, 866

unless the health insuring corporation and the enrollee's 867
treating physician, clinical nurse specialist, certified nurse 868
practitioner, or psychologist agree that a more frequent review 869
is necessary. 870

(2) Any such agreement as described in division (D) (1) of 871
this section shall apply only to a particular enrollee being 872
treated for an autism spectrum disorder and shall not apply to 873
all individuals being treated for autism spectrum disorder by a 874
physician, clinical nurse specialist, certified nurse 875
practitioner, or psychologist. 876

(3) The health insuring corporation shall cover the cost 877
of obtaining any review or treatment plan. 878

(E) This section shall not be construed as affecting any 879
obligation to provide services to an enrollee under an 880
individualized family service plan, an individualized education 881
program, or an individualized service plan. 882

(F) As used in this section: 883

(1) "Applied behavior analysis" means the design, 884
implementation, and evaluation of environmental modifications, 885
using behavioral stimuli and consequences, to produce socially 886
significant improvement in human behavior, including the use of 887
direct observation, measurement, and functional analysis of the 888
relationship between environment and behavior. 889

(2) "Autism spectrum disorder" means any of the pervasive 890
developmental disorders or autism spectrum disorder as defined 891
by the most recent edition of the diagnostic and statistical 892
manual of mental disorders published by the American psychiatric 893
association available at the time an individual is first 894
evaluated for suspected developmental delay. 895

(3) "Clinical therapeutic intervention" means therapies 896
supported by empirical evidence, which include, but are not 897
limited to, applied behavioral analysis, that satisfy both of 898
the following: 899

(a) Are necessary to develop, maintain, or restore, to the 900
maximum extent practicable, the function of an individual; 901

(b) Are provided by or under the supervision of any of the 902
following: 903

(i) A certified Ohio behavior analyst as defined in 904
section 4783.01 of the Revised Code; 905

(ii) An individual licensed under Chapter 4732. of the 906
Revised Code to practice psychology; 907

(iii) An individual licensed under Chapter 4757. of the 908
Revised Code to practice professional counseling, social work, 909
or marriage and family therapy. 910

(4) "Diagnosis of autism spectrum disorder" means 911
medically necessary assessments, evaluations, or tests to 912
diagnose whether an individual has an autism spectrum disorder. 913

(5) "Pharmacy care" means prescribed medications 914
~~prescribed by a licensed physician~~ and any health-related 915
services considered medically necessary to determine the need or 916
effectiveness of the medications. 917

(6) "Psychiatric care" means direct or consultative 918
services provided by a psychiatrist or psychiatric-mental health 919
advanced practice registered nurse who is licensed in the state 920
in which the psychiatrist or nurse practices. 921

(7) "Psychiatric-mental health advanced practice 922
registered nurse" means an advanced practice registered nurse 923

<u>who is either of the following:</u>	924
<u>(a) A clinical nurse specialist who is certified as a</u>	925
<u>psychiatric-mental health CNS, or the equivalent of such title,</u>	926
<u>by the American nurses credentialing center;</u>	927
<u>(b) A certified nurse practitioner who is certified as a</u>	928
<u>psychiatric-mental health NP, or the equivalent of such title,</u>	929
<u>by the American nurses credentialing center or American academy</u>	930
<u>of nurse practitioners certification board.</u>	931
<u>(8) "Psychological care" means direct or consultative</u>	932
services provided by a psychologist licensed in the state in	933
which the psychologist practices.	934
(8) <u>(9) "Therapeutic care" means services provided by a</u>	935
speech therapist, occupational therapist, or physical therapist	936
licensed or certified in the state in which the person	937
practices.	938
(9) <u>(10) "Treatment for autism spectrum disorder" means</u>	939
evidence-based care and related equipment prescribed or ordered	940
for an individual diagnosed with an autism spectrum disorder, <u>by</u>	941
a licensed physician who is a developmental pediatrician or a <u>,</u>	942
licensed psychologist trained in autism, <u>clinical nurse</u>	943
<u>specialist or certified nurse practitioner specializing in</u>	944
<u>pediatric health, or clinical nurse specialist or certified</u>	945
<u>nurse practitioner trained in autism</u> who determines the care <u>and</u>	946
<u>related equipment</u> to be medically necessary, including any of	947
the following:	948
(a) Clinical therapeutic intervention;	949
(b) Pharmacy care;	950
(c) Psychiatric care;	951

(d) Psychological care;	952
(e) Therapeutic care.	953
(G) If any provision of this section or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the section and the application of such remainder to other persons or circumstances shall not be affected thereby.	954 955 956 957 958
Sec. 1753.21. (A) If a policy, contract, or agreement of a health insuring corporation uses a restricted formulary of prescription drugs, the health insuring corporation shall do both of the following:	959 960 961 962
(1) Develop such a formulary in consultation with and with the approval of a pharmacy and therapeutics committee, a majority of the members of which are physicians <u>or advanced practice registered nurses</u> affiliated with the health insuring corporation who may prescribe prescription drugs and pharmacists affiliated with the health insuring corporation; or in consultation with and with the approval of a pharmacy and therapeutics committee that is independent of the health insuring corporation consisting of physicians <u>or advanced practice registered nurses</u> who may prescribe prescription drugs in their state of licensure and pharmacists who are authorized to practice in their state of licensure;	963 964 965 966 967 968 969 970 971 972 973 974
(2) Establish a procedure by which an enrollee may obtain, without penalty or additional cost sharing beyond that provided for formulary drugs under the enrollee's contract with the health insuring corporation, coverage of a specific nonformulary drug when the prescriber documents in the enrollee's medical record and certifies that the formulary alternative has been	975 976 977 978 979 980

ineffective in the treatment of the enrollee's disease or 981
condition, or that the formulary alternative causes or is 982
reasonably expected by the prescriber to cause a harmful or 983
adverse reaction in the enrollee. 984

(B) Nothing in this section shall be construed to require 985
a health insuring corporation to place any particular 986
pharmaceutical product or therapeutic class of product on any 987
formulary, or to prohibit a health insuring corporation from 988
restricting payments for any specific pharmaceutical product or 989
therapeutic class of product, including, but not limited to, a 990
requirement that the product be prescribed only by a defined 991
specialist or subspecialist. 992

Sec. 2108.16. (A) Except as provided in division (B) of 993
this section, a physician or technician may remove a donated 994
part from the body of a donor that the physician or technician 995
is qualified to remove. 996

(B) Neither the physician, certified nurse-midwife, 997
clinical nurse specialist, or certified nurse practitioner who 998
attends the decedent at death nor the physician, certified 999
nurse-midwife, clinical nurse specialist, or certified nurse 1000
practitioner who determines the time of the decedent's death 1001
shall participate in the procedures for removing or 1002
transplanting a part from the decedent. 1003

Sec. 2111.031. In connection with an application for the 1004
appointment of a guardian for an alleged incompetent, the court 1005
may appoint physicians, clinical nurse specialists, certified 1006
nurse practitioners, and other qualified persons to examine, 1007
investigate, or represent the alleged incompetent, to assist the 1008
court in deciding whether a guardianship is necessary. If the 1009
person is determined to be an incompetent and a guardian is 1010

appointed for the person, the costs, fees, or expenses incurred 1011
to so assist the court shall be charged either against the 1012
estate of the person or against the applicant, unless the court 1013
determines, for good cause shown, that the costs, fees, or 1014
expenses are to be recovered from the county, in which case they 1015
shall be charged against the county. If the person is not 1016
determined to be an incompetent or a guardian is not appointed 1017
for the person, the costs, fees, or expenses incurred to so 1018
assist the court shall be charged against the applicant, unless 1019
the court determines, for good cause shown, that the costs, 1020
fees, or expenses are to be recovered from the county, in which 1021
case they shall be charged against the county. 1022

A court may require the applicant to make an advance 1023
deposit of an amount that the court determines is necessary to 1024
defray the anticipated costs of examinations of an alleged 1025
incompetent and to cover fees or expenses to be incurred to 1026
assist it in deciding whether a guardianship is necessary. 1027

This section does not affect or apply to the duties of a 1028
probate court investigator under sections 2111.04 and 2111.041 1029
of the Revised Code. 1030

Sec. 2111.49. (A) (1) Subject to division (A) (3) of this 1031
section, the guardian of an incompetent person shall file a 1032
guardian's report with the court two years after the date of the 1033
issuance of the guardian's letters of appointment and biennially 1034
after that time, or at any other time upon the motion or a rule 1035
of the probate court. The report shall be in a form prescribed 1036
by the court and shall include all of the following. 1037

(a) The present address of the place of residence of the 1038
ward; 1039

(b) The present address of the guardian;	1040
(c) If the place of residence of the ward is not the ward's personal home, the name of the facility at which the ward resides and the name of the person responsible for the ward's care;	1041 1042 1043 1044
(d) The approximate number of times during the period covered by the report that the guardian has had contact with the ward, the nature of those contacts, and the date that the ward was last seen by the guardian;	1045 1046 1047 1048
(e) Any major changes in the physical or mental condition of the ward observed by the guardian;	1049 1050
(f) The opinion of the guardian as to the necessity for the continuation of the guardianship;	1051 1052
(g) The opinion of the guardian as to the adequacy of the present care of the ward;	1053 1054
(h) The date that the ward was last examined or otherwise seen by a physician, <u>clinical nurse specialist, or certified nurse practitioner</u> and the purpose of that visit;	1055 1056 1057
(i) A statement by a licensed physician, <u>licensed clinical nurse specialist, licensed certified nurse practitioner,</u> licensed clinical psychologist, licensed independent social worker, licensed professional clinical counselor, or developmental disability team that has evaluated or examined the ward within three months prior to the date of the report as to the need for continuing the guardianship.	1058 1059 1060 1061 1062 1063 1064
(2) The court shall review a report filed pursuant to division (A)(1) of this section to determine if a continued necessity for the guardianship exists. The court may direct a	1065 1066 1067

probate court investigator to verify aspects of the report. 1068

(3) Division (A) (1) of this section applies to guardians 1069
appointed prior to, as well as on or after, the effective date 1070
of this section. A guardian appointed prior to that date shall 1071
file the first report in accordance with any applicable court 1072
rule or motion, or, in the absence of such a rule or motion, 1073
upon the next occurring date on which a report would have been 1074
due if division (A) (1) of this section had been in effect on the 1075
date of appointment as guardian, and shall file all subsequently 1076
due reports biennially after that time. 1077

(B) If, upon review of any report required by division (A) 1078
(1) of this section, the court finds that it is necessary to 1079
intervene in a guardianship, the court shall take any action 1080
that it determines is necessary, including, but not limited to, 1081
terminating or modifying the guardianship. 1082

(C) Except as provided in this division, for any 1083
guardianship, upon written request by the ward, the ward's 1084
attorney, or any other interested party made at any time after 1085
the expiration of one hundred twenty days from the date of the 1086
original appointment of the guardian, a hearing shall be held in 1087
accordance with section 2111.02 of the Revised Code to evaluate 1088
the continued necessity of the guardianship. Upon written 1089
request, the court shall conduct a minimum of one hearing under 1090
this division in the calendar year in which the guardian was 1091
appointed, and upon written request, shall conduct a minimum of 1092
one hearing in each of the following calendar years. Upon its 1093
own motion or upon written request, the court may, in its 1094
discretion, conduct a hearing within the first one hundred 1095
twenty days after appointment of the guardian or conduct more 1096
than one hearing in a calendar year. If the ward alleges 1097

competence, the burden of proving incompetence shall be upon the 1098
applicant for guardianship or the guardian, by clear and 1099
convincing evidence. 1100

Sec. 2133.25. (A) The department of health, by rule 1101
adopted pursuant to Chapter 119. of the Revised Code, shall 1102
adopt a standardized method of procedure for the withholding of 1103
CPR by physicians, certified nurse-midwives, clinical nurse 1104
specialists, certified nurse practitioners, emergency medical 1105
services personnel, and health care facilities in accordance 1106
with sections 2133.21 to 2133.26 of the Revised Code. The 1107
standardized method shall specify criteria for determining when 1108
a do-not-resuscitate order ~~issued by a physician~~ is current. The 1109
standardized method so adopted shall be the "do-not-resuscitate 1110
protocol" for purposes of sections 2133.21 to 2133.26 of the 1111
Revised Code. The department also shall approve one or more 1112
standard forms of DNR identification to be used throughout this 1113
state. 1114

(B) The department of health shall adopt rules in 1115
accordance with Chapter 119. of the Revised Code for the 1116
administration of sections 2133.21 to 2133.26 of the Revised 1117
Code. 1118

(C) The department of health shall appoint an advisory 1119
committee to advise the department in the development of rules 1120
under this section. The advisory committee shall include, but 1121
shall not be limited to, representatives of each of the 1122
following organizations: 1123

(1) ~~The association for hospitals and health systems~~ 1124
~~(OHA)~~ Ohio hospital association; 1125

(2) The Ohio state medical association; 1126

(3) The Ohio chapter of the American college of emergency physicians;	1127 1128
(4) The Ohio hospice organization;	1129
(5) The Ohio council for home care <u>and hospice</u> ;	1130
(6) The Ohio health care association;	1131
(7) The Ohio ambulance association;	1132
(8) The Ohio medical directors association;	1133
(9) The Ohio association of emergency medical services;	1134
(10) The bioethics network of Ohio;	1135
(11) The Ohio nurses association;	1136
(12) The Ohio academy of nursing homes;	1137
(13) The Ohio association of professional firefighters;	1138
(14) The department of developmental disabilities;	1139
(15) The Ohio osteopathic association;	1140
(16) The association of Ohio philanthropic homes, <u>and</u> housing and services for the aging;	1141 1142
(17) The catholic conference of Ohio;	1143
(18) The department of aging;	1144
(19) The department of mental health and addiction services;	1145 1146
(20) The Ohio private residential association;	1147
(21) The northern Ohio fire fighters association;	1148
<u>(22) The Ohio association of advanced practice nurses.</u>	1149

Sec. 2135.01. As used in sections 2135.01 to 2135.14	1150
<u>2135.15</u> of the Revised Code:	1151
(A) "Adult" means a person who is eighteen years of age or older.	1152 1153
(B) "Capacity to consent to mental health treatment decisions" means the functional ability to understand information about the risks of, benefits of, and alternatives to the proposed mental health treatment, to rationally use that information, to appreciate how that information applies to the declarant, and to express a choice about the proposed treatment.	1154 1155 1156 1157 1158 1159
(C) "Declarant" means an adult who has executed a declaration for mental health treatment in accordance with this chapter.	1160 1161 1162
(D) "Declaration for mental health treatment" or "declaration" means a written document declaring preferences or instructions regarding mental health treatment executed in accordance with this chapter.	1163 1164 1165 1166
(E) "Designated physician" means the physician the declarant has named in a declaration for mental health treatment and has assigned the primary responsibility for the declarant's mental health treatment or, if the declarant has not so named a physician, the physician who has accepted that responsibility.	1167 1168 1169 1170 1171
(F) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.	1172 1173 1174
(G) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition or physical or mental health.	1175 1176 1177

(H) "Health care facility" has the same meaning as in	1178
section 1337.11 of the Revised Code.	1179
(I) "Incompetent" has the same meaning as in section	1180
2111.01 of the Revised Code.	1181
(J) "Informed consent" means consent voluntarily given by	1182
a person after a sufficient explanation and disclosure of the	1183
subject matter involved to enable that person to have a general	1184
understanding of the nature, purpose, and goal of the treatment	1185
or procedures, including the substantial risks and hazards	1186
inherent in the proposed treatment or procedures and any	1187
alternative treatment or procedures, and to make a knowing	1188
health care decision without coercion or undue influence.	1189
(K) "Medical record" means any document or combination of	1190
documents that pertains to a declarant's medical history,	1191
diagnosis, prognosis, or medical condition and that is generated	1192
and maintained in the process of the declarant's health care.	1193
(L) "Mental health treatment" means any care, treatment,	1194
service, or procedure to maintain, diagnose, or treat an	1195
individual's mental condition or mental health, including, but	1196
not limited to, electroconvulsive or other convulsive treatment,	1197
treatment of mental illness with medication, and admission to	1198
and retention in a health care facility.	1199
(M) "Mental health treatment decision" means informed	1200
consent, refusal to give informed consent, or withdrawal of	1201
informed consent to mental health treatment.	1202
(N) "Mental health treatment provider" means physicians,	1203
physician assistants, psychologists, licensed independent social	1204
workers, licensed professional clinical counselors, and	1205
psychiatric nurses.	1206

(O) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(P) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including, but not limited to, the state medical board, the state board of psychology, and the state board of nursing.

(Q) "Proxy" means an adult designated to make mental health treatment decisions for a declarant under a valid declaration for mental health treatment.

(R) "Psychiatric nurse" means a registered nurse who holds a master's degree or doctorate in nursing with a specialization in psychiatric nursing.

(S) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.

(T) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(U) "Registered nurse" has the same meaning as in section 4723.01 of the Revised Code.

(V) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons.

Sec. 2135.15. A person who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice as an advanced practice registered nurse and also is a psychiatric nurse may take any action that may be taken by a designated

physician or psychiatrist under sections 2135.01 to 2135.14 of 1235
the Revised Code. 1236

Sec. 2151.33. (A) Pending hearing of a complaint filed 1237
under section 2151.27 of the Revised Code or a motion filed or 1238
made under division (B) of this section and the service of 1239
citations, the juvenile court may make any temporary disposition 1240
of any child that it considers necessary to protect the best 1241
interest of the child and that can be made pursuant to division 1242
(B) of this section. Upon the certificate of one or more 1243
reputable practicing physicians, certified nurse-midwives, 1244
clinical nurse specialists, or certified nurse practitioners, 1245
the court may summarily provide for emergency medical and 1246
surgical treatment that appears to be immediately necessary to 1247
preserve the health and well-being of any child concerning whom 1248
a complaint or an application for care has been filed, pending 1249
the service of a citation upon the child's parents, guardian, or 1250
custodian. The court may order the parents, guardian, or 1251
custodian, if the court finds the parents, guardian, or 1252
custodian able to do so, to reimburse the court for the expense 1253
involved in providing the emergency medical or surgical 1254
treatment. Any person who disobeys the order for reimbursement 1255
may be adjudged in contempt of court and punished accordingly. 1256

If the emergency medical or surgical treatment is 1257
furnished to a child who is found at the hearing to be a 1258
nonresident of the county in which the court is located and if 1259
the expense of the medical or surgical treatment cannot be 1260
recovered from the parents, legal guardian, or custodian of the 1261
child, the board of county commissioners of the county in which 1262
the child has a legal settlement shall reimburse the court for 1263
the reasonable cost of the emergency medical or surgical 1264
treatment out of its general fund. 1265

(B) (1) After a complaint, petition, writ, or other document initiating a case dealing with an alleged or adjudicated abused, neglected, or dependent child is filed and upon the filing or making of a motion pursuant to division (C) of this section, the court, prior to the final disposition of the case, may issue any of the following temporary orders to protect the best interest of the child:

(a) An order granting temporary custody of the child to a particular party;

(b) An order for the taking of the child into custody pursuant to section 2151.31 of the Revised Code pending the outcome of the adjudicatory and dispositional hearings;

(c) An order granting, limiting, or eliminating parenting time or visitation rights with respect to the child;

(d) An order requiring a party to vacate a residence that will be lawfully occupied by the child;

(e) An order requiring a party to attend an appropriate counseling program that is reasonably available to that party;

(f) Any other order that restrains or otherwise controls the conduct of any party which conduct would not be in the best interest of the child.

(2) Prior to the final disposition of a case subject to division (B) (1) of this section, the court shall do both of the following:

(a) Issue an order pursuant to Chapters 3119. to 3125. of the Revised Code requiring the parents, guardian, or person charged with the child's support to pay support for the child.

(b) Issue an order requiring the parents, guardian, or

person charged with the child's support to continue to maintain 1294
any health insurance coverage for the child that existed at the 1295
time of the filing of the complaint, petition, writ, or other 1296
document, or to obtain health insurance coverage in accordance 1297
with sections 3119.29 to 3119.56 of the Revised Code. 1298

(C) (1) A court may issue an order pursuant to division (B) 1299
of this section upon its own motion or if a party files a 1300
written motion or makes an oral motion requesting the issuance 1301
of the order and stating the reasons for it. Any notice sent by 1302
the court as a result of a motion pursuant to this division 1303
shall contain a notice that any party to a juvenile proceeding 1304
has the right to be represented by counsel and to have appointed 1305
counsel if the person is indigent. 1306

(2) If a child is taken into custody pursuant to section 1307
2151.31 of the Revised Code and placed in shelter care, the 1308
public children services agency or private child placing agency 1309
with which the child is placed in shelter care shall file or 1310
make a motion as described in division (C) (1) of this section 1311
before the end of the next day immediately after the date on 1312
which the child was taken into custody and, at a minimum, shall 1313
request an order for temporary custody under division (B) (1) (a) 1314
of this section. 1315

(3) A court that issues an order pursuant to division (B) 1316
(1) (b) of this section shall comply with section 2151.419 of the 1317
Revised Code. 1318

(D) The court may grant an ex parte order upon its own 1319
motion or a motion filed or made pursuant to division (C) of 1320
this section requesting such an order if it appears to the court 1321
that the best interest and the welfare of the child require that 1322
the court issue the order immediately. The court, if acting on 1323

its own motion, or the person requesting the granting of an ex parte order, to the extent possible, shall give notice of its intent or of the request to the parents, guardian, or custodian of the child who is the subject of the request. If the court issues an ex parte order, the court shall hold a hearing to review the order within seventy-two hours after it is issued or before the end of the next day after the day on which it is issued, whichever occurs first. The court shall give written notice of the hearing to all parties to the action and shall appoint a guardian ad litem for the child prior to the hearing.

The written notice shall be given by all means that are reasonably likely to result in the party receiving actual notice and shall include all of the following:

- (1) The date, time, and location of the hearing;
- (2) The issues to be addressed at the hearing;
- (3) A statement that every party to the hearing has a right to counsel and to court-appointed counsel, if the party is indigent;
- (4) The name, telephone number, and address of the person requesting the order;
- (5) A copy of the order, except when it is not possible to obtain it because of the exigent circumstances in the case.

If the court does not grant an ex parte order pursuant to a motion filed or made pursuant to division (C) of this section or its own motion, the court shall hold a shelter care hearing on the motion within ten days after the motion is filed. The court shall give notice of the hearing to all affected parties in the same manner as set forth in the Juvenile Rules.

(E) The court, pending the outcome of the adjudicatory and
dispositional hearings, shall not issue an order granting
temporary custody of a child to a public children services
agency or private child placing agency pursuant to this section,
unless the court determines and specifically states in the order
that the continued residence of the child in the child's current
home will be contrary to the child's best interest and welfare
and the court complies with section 2151.419 of the Revised
Code.

(F) Each public children services agency and private child
placing agency that receives temporary custody of a child
pursuant to this section shall exercise due diligence to
identify and provide notice to all adult grandparents and other
adult relatives of the child, including any adult relatives
suggested by the parents, within thirty days of the child's
removal from the custody of the child's parents, in accordance
with 42 U.S.C. 671(a)(29). The agency shall also maintain in the
child's case record written documentation that it has placed the
child, to the extent that it is consistent with the best
interest, welfare, and special needs of the child, in the most
family-like setting available and in close proximity to the home
of the parents, custodian, or guardian of the child.

(G) For good cause shown, any court order that is issued
pursuant to this section may be reviewed by the court at any
time upon motion of any party to the action or upon the motion
of the court.

(H) (1) Pending the hearing of a complaint filed under
section 2151.27 of the Revised Code or a motion filed or made
under division (B) of this section and the service of citations,
a public children services agency may request that the

superintendent of the bureau of criminal identification and 1382
investigation conduct a criminal records check with respect to 1383
each parent, guardian, custodian, prospective custodian, or 1384
prospective placement whose actions resulted in a temporary 1385
disposition under division (A) of this section. The public 1386
children services agency may request that the superintendent 1387
obtain information from the federal bureau of investigation as 1388
part of the criminal records check of each parent, guardian, 1389
custodian, prospective custodian, or prospective placement. 1390

(2) Each public children services agency authorized by 1391
division (H) of this section to request a criminal records check 1392
shall do both of the following: 1393

(a) Provide to each parent, guardian, custodian, 1394
prospective custodian, or prospective placement for whom a 1395
criminal records check is requested a copy of the form 1396
prescribed pursuant to division (C) (1) of section 109.572 of the 1397
Revised Code and a standard fingerprint impression sheet 1398
prescribed pursuant to division (C) (2) of that section and 1399
obtain the completed form and impression sheet from the parent, 1400
guardian, custodian, prospective custodian, or prospective 1401
placement; 1402

(b) Forward the completed form and impression sheet to the 1403
superintendent of the bureau of criminal identification and 1404
investigation. 1405

(3) A parent, guardian, custodian, prospective custodian, 1406
or prospective placement who is given a form and fingerprint 1407
impression sheet under division (H) (2) (a) of this section and 1408
who fails to complete the form or provide fingerprint 1409
impressions may be held in contempt of court. 1410

Sec. 2151.3515. As used in sections 2151.3515 to 2151.3533	1411
of the Revised Code:	1412
(A) "Emergency medical service organization," "emergency	1413
medical technician-basic," "emergency medical technician-	1414
intermediate," "first responder," and "paramedic" have the same	1415
meanings as in section 4765.01 of the Revised Code.	1416
(B) "Emergency medical service worker" means a first	1417
responder, emergency medical technician-basic, emergency medical	1418
technician-intermediate, or paramedic.	1419
(C) "Hospital" has the same meaning as in section 3727.01	1420
of the Revised Code.	1421
(D) "Hospital employee" means any of the following	1422
persons:	1423
(1) A physician <u>or advanced practice registered nurse</u> who	1424
has been granted privileges to practice at the hospital;	1425
(2) A nurse, physician assistant, or nursing assistant	1426
employed by the hospital;	1427
(3) An authorized person employed by the hospital who is	1428
acting under the direction of a physician <u>or nurse</u> described in	1429
division (D) (1) of this section.	1430
(E) "Law enforcement agency" means an organization or	1431
entity made up of peace officers.	1432
(F) "Nurse" means a person who is licensed under Chapter	1433
4723. of the Revised Code to practice as a registered nurse or	1434
licensed practical nurse.	1435
(G) "Nursing assistant" means a person designated by a	1436
hospital as a nurse aide or nursing assistant whose job is to	1437

aid nurses, physicians, and physician assistants in the 1438
performance of their duties. 1439

(H) "Peace officer" means a sheriff, deputy sheriff, 1440
constable, police officer of a township or joint police 1441
district, marshal, deputy marshal, municipal police officer, or 1442
a state highway patrol trooper. 1443

(I) "Peace officer support employee" means an authorized 1444
person employed by a law enforcement agency who is acting under 1445
the direction of a peace officer. 1446

(J) "Physician" means an individual authorized under 1447
Chapter 4731. of the Revised Code to practice medicine and 1448
surgery, osteopathic medicine and surgery, or podiatric medicine 1449
and surgery. 1450

(K) "Physician assistant" means an individual who holds a 1451
current, valid license to practice as a physician assistant 1452
issued under Chapter 4730. of the Revised Code. 1453

(L) "Advanced practice registered nurse" has the same 1454
meaning as in section 4723.01 of the Revised Code. 1455

Sec. 2151.421. (A) (1) (a) No person described in division 1456
(A) (1) (b) of this section who is acting in an official or 1457
professional capacity and knows, or has reasonable cause to 1458
suspect based on facts that would cause a reasonable person in a 1459
similar position to suspect, that a child under eighteen years 1460
of age, or a person under twenty-one years of age with a 1461
developmental disability or physical impairment, has suffered or 1462
faces a threat of suffering any physical or mental wound, 1463
injury, disability, or condition of a nature that reasonably 1464
indicates abuse or neglect of the child shall fail to 1465
immediately report that knowledge or reasonable cause to suspect 1466

to the entity or persons specified in this division. Except as 1467
otherwise provided in this division or section 5120.173 of the 1468
Revised Code, the person making the report shall make it to the 1469
public children services agency or a peace officer in the county 1470
in which the child resides or in which the abuse or neglect is 1471
occurring or has occurred. If the person making the report is a 1472
peace officer, the officer shall make it to the public children 1473
services agency in the county in which the child resides or in 1474
which the abuse or neglect is occurring or has occurred. In the 1475
circumstances described in section 5120.173 of the Revised Code, 1476
the person making the report shall make it to the entity 1477
specified in that section. 1478

(b) Division (A)(1)(a) of this section applies to any 1479
person who is an attorney; health care professional; 1480
practitioner of a limited branch of medicine as specified in 1481
section 4731.15 of the Revised Code; licensed school 1482
psychologist; independent marriage and family therapist or 1483
marriage and family therapist; coroner; administrator or 1484
employee of a child care center; administrator or employee of a 1485
residential camp, child day camp, or private, nonprofit 1486
therapeutic wilderness camp; administrator or employee of a 1487
certified child care agency or other public or private children 1488
services agency; school teacher; school employee; school 1489
authority; peace officer; humane society agent; dog warden, 1490
deputy dog warden, or other person appointed to act as an animal 1491
control officer for a municipal corporation or township in 1492
accordance with state law, an ordinance, or a resolution; 1493
person, other than a cleric, rendering spiritual treatment 1494
through prayer in accordance with the tenets of a well- 1495
recognized religion; employee of a county department of job and 1496
family services who is a professional and who works with 1497

children and families; superintendent or regional administrator 1498
employed by the department of youth services; superintendent, 1499
board member, or employee of a county board of developmental 1500
disabilities; investigative agent contracted with by a county 1501
board of developmental disabilities; employee of the department 1502
of developmental disabilities; employee of a facility or home 1503
that provides respite care in accordance with section 5123.171 1504
of the Revised Code; employee of an entity that provides 1505
homemaker services; employee of a qualified organization as 1506
defined in section 2151.90 of the Revised Code; a host family as 1507
defined in section 2151.90 of the Revised Code; foster 1508
caregiver; a person performing the duties of an assessor 1509
pursuant to Chapter 3107. or 5103. of the Revised Code; third 1510
party employed by a public children services agency to assist in 1511
providing child or family related services; court appointed 1512
special advocate; or guardian ad litem. 1513

(c) If two or more health care professionals, after 1514
providing health care services to a child, determine or suspect 1515
that the child has been or is being abused or neglected, the 1516
health care professionals may designate one of the health care 1517
professionals to report the abuse or neglect. A single report 1518
made under this division shall meet the reporting requirements 1519
of division (A) (1) of this section. 1520

(2) Except as provided in division (A) (3) of this section, 1521
an attorney ~~or a~~, physician, or advanced practice registered 1522
nurse is not required to make a report pursuant to division (A) 1523
(1) of this section concerning any communication the attorney 1524
~~or~~, physician, or advanced practice registered nurse receives 1525
from a client or patient in an attorney-client ~~or~~, physician- 1526
patient, or advanced practice registered nurse-patient 1527
relationship, if, in accordance with division (A) or (B) of 1528

section 2317.02 of the Revised Code, the attorney ~~or,~~ physician, or advanced practice registered nurse could not testify with respect to that communication in a civil or criminal proceeding.

(3) The client or patient in an attorney-client ~~or,~~ physician-patient, or advanced practice registered nurse-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney ~~or,~~ physician, or advanced practice registered nurse receives from the client or patient in that ~~attorney-client or physician-patient~~ relationship, and the attorney ~~or,~~ physician, or advanced practice registered nurse shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is a child under eighteen years of age or is a person under twenty-one years of age with a developmental disability or physical impairment.

(b) The attorney ~~or,~~ physician, or advanced practice registered nurse knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c) The abuse or neglect does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(4) (a) No cleric and no person, other than a volunteer, 1559
designated by any church, religious society, or faith acting as 1560
a leader, official, or delegate on behalf of the church, 1561
religious society, or faith who is acting in an official or 1562
professional capacity, who knows, or has reasonable cause to 1563
believe based on facts that would cause a reasonable person in a 1564
similar position to believe, that a child under eighteen years 1565
of age, or a person under twenty-one years of age with a 1566
developmental disability or physical impairment, has suffered or 1567
faces a threat of suffering any physical or mental wound, 1568
injury, disability, or condition of a nature that reasonably 1569
indicates abuse or neglect of the child, and who knows, or has 1570
reasonable cause to believe based on facts that would cause a 1571
reasonable person in a similar position to believe, that another 1572
cleric or another person, other than a volunteer, designated by 1573
a church, religious society, or faith acting as a leader, 1574
official, or delegate on behalf of the church, religious 1575
society, or faith caused, or poses the threat of causing, the 1576
wound, injury, disability, or condition that reasonably 1577
indicates abuse or neglect shall fail to immediately report that 1578
knowledge or reasonable cause to believe to the entity or 1579
persons specified in this division. Except as provided in 1580
section 5120.173 of the Revised Code, the person making the 1581
report shall make it to the public children services agency or a 1582
peace officer in the county in which the child resides or in 1583
which the abuse or neglect is occurring or has occurred. In the 1584
circumstances described in section 5120.173 of the Revised Code, 1585
the person making the report shall make it to the entity 1586
specified in that section. 1587

(b) Except as provided in division (A) (4) (c) of this 1588
section, a cleric is not required to make a report pursuant to 1589

division (A) (4) (a) of this section concerning any communication 1590
the cleric receives from a penitent in a cleric-penitent 1591
relationship, if, in accordance with division (C) of section 1592
2317.02 of the Revised Code, the cleric could not testify with 1593
respect to that communication in a civil or criminal proceeding. 1594

(c) The penitent in a cleric-penitent relationship 1595
described in division (A) (4) (b) of this section is deemed to 1596
have waived any testimonial privilege under division (C) of 1597
section 2317.02 of the Revised Code with respect to any 1598
communication the cleric receives from the penitent in that 1599
cleric-penitent relationship, and the cleric shall make a report 1600
pursuant to division (A) (4) (a) of this section with respect to 1601
that communication, if all of the following apply: 1602

(i) The penitent, at the time of the communication, is a 1603
child under eighteen years of age or is a person under twenty- 1604
one years of age with a developmental disability or physical 1605
impairment. 1606

(ii) The cleric knows, or has reasonable cause to believe 1607
based on facts that would cause a reasonable person in a similar 1608
position to believe, as a result of the communication or any 1609
observations made during that communication, the penitent has 1610
suffered or faces a threat of suffering any physical or mental 1611
wound, injury, disability, or condition of a nature that 1612
reasonably indicates abuse or neglect of the penitent. 1613

(iii) The abuse or neglect does not arise out of the 1614
penitent's attempt to have an abortion performed upon a child 1615
under eighteen years of age or upon a person under twenty-one 1616
years of age with a developmental disability or physical 1617
impairment without the notification of her parents, guardian, or 1618
custodian in accordance with section 2151.85 of the Revised 1619

Code. 1620

(d) Divisions (A) (4) (a) and (c) of this section do not 1621
apply in a cleric-penitent relationship when the disclosure of 1622
any communication the cleric receives from the penitent is in 1623
violation of the sacred trust. 1624

(e) As used in divisions (A) (1) and (4) of this section, 1625
"cleric" and "sacred trust" have the same meanings as in section 1626
2317.02 of the Revised Code. 1627

(B) Anyone who knows, or has reasonable cause to suspect 1628
based on facts that would cause a reasonable person in similar 1629
circumstances to suspect, that a child under eighteen years of 1630
age, or a person under twenty-one years of age with a 1631
developmental disability or physical impairment, has suffered or 1632
faces a threat of suffering any physical or mental wound, 1633
injury, disability, or other condition of a nature that 1634
reasonably indicates abuse or neglect of the child may report or 1635
cause reports to be made of that knowledge or reasonable cause 1636
to suspect to the entity or persons specified in this division. 1637
Except as provided in section 5120.173 of the Revised Code, a 1638
person making a report or causing a report to be made under this 1639
division shall make it or cause it to be made to the public 1640
children services agency or to a peace officer. In the 1641
circumstances described in section 5120.173 of the Revised Code, 1642
a person making a report or causing a report to be made under 1643
this division shall make it or cause it to be made to the entity 1644
specified in that section. 1645

(C) Any report made pursuant to division (A) or (B) of 1646
this section shall be made forthwith either by telephone, in 1647
person, or electronically and shall be followed by a written 1648
report, if requested by the receiving agency or officer. The 1649

written report shall contain: 1650

(1) The names and addresses of the child and the child's 1651
parents or the person or persons having custody of the child, if 1652
known; 1653

(2) The child's age and the nature and extent of the 1654
child's injuries, abuse, or neglect that is known or reasonably 1655
suspected or believed, as applicable, to have occurred or of the 1656
threat of injury, abuse, or neglect that is known or reasonably 1657
suspected or believed, as applicable, to exist, including any 1658
evidence of previous injuries, abuse, or neglect; 1659

(3) Any other information, including, but not limited to, 1660
results and reports of any medical examinations, tests, or 1661
procedures performed under division (D) of this section, that 1662
might be helpful in establishing the cause of the injury, abuse, 1663
or neglect that is known or reasonably suspected or believed, as 1664
applicable, to have occurred or of the threat of injury, abuse, 1665
or neglect that is known or reasonably suspected or believed, as 1666
applicable, to exist. 1667

(D) (1) Any person, who is required by division (A) of this 1668
section to report child abuse or child neglect that is known or 1669
reasonably suspected or believed to have occurred, may take or 1670
cause to be taken color photographs of areas of trauma visible 1671
on a child and, if medically necessary for the purpose of 1672
diagnosing or treating injuries that are suspected to have 1673
occurred as a result of child abuse or child neglect, perform or 1674
cause to be performed radiological examinations and any other 1675
medical examinations of, and tests or procedures on, the child. 1676

(2) The results and any available reports of examinations, 1677
tests, or procedures made under division (D) (1) of this section 1678

shall be included in a report made pursuant to division (A) of 1679
this section. Any additional reports of examinations, tests, or 1680
procedures that become available shall be provided to the public 1681
children services agency, upon request. 1682

(3) If a health care professional provides health care 1683
services in a hospital, children's advocacy center, or emergency 1684
medical facility to a child about whom a report has been made 1685
under division (A) of this section, the health care professional 1686
may take any steps that are reasonably necessary for the release 1687
or discharge of the child to an appropriate environment. Before 1688
the child's release or discharge, the health care professional 1689
may obtain information, or consider information obtained, from 1690
other entities or individuals that have knowledge about the 1691
child. Nothing in division (D) (3) of this section shall be 1692
construed to alter the responsibilities of any person under 1693
sections 2151.27 and 2151.31 of the Revised Code. 1694

(4) A health care professional may conduct medical 1695
examinations, tests, or procedures on the siblings of a child 1696
about whom a report has been made under division (A) of this 1697
section and on other children who reside in the same home as the 1698
child, if the professional determines that the examinations, 1699
tests, or procedures are medically necessary to diagnose or 1700
treat the siblings or other children in order to determine 1701
whether reports under division (A) of this section are warranted 1702
with respect to such siblings or other children. The results of 1703
the examinations, tests, or procedures on the siblings and other 1704
children may be included in a report made pursuant to division 1705
(A) of this section. 1706

(5) Medical examinations, tests, or procedures conducted 1707
under divisions (D) (1) and (4) of this section and decisions 1708

regarding the release or discharge of a child under division (D) 1709
(3) of this section do not constitute a law enforcement 1710
investigation or activity. 1711

(E) (1) When a peace officer receives a report made 1712
pursuant to division (A) or (B) of this section, upon receipt of 1713
the report, the peace officer who receives the report shall 1714
refer the report to the appropriate public children services 1715
agency, in accordance with requirements specified under division 1716
(B) (6) of section 2151.4221 of the Revised Code, unless an 1717
arrest is made at the time of the report that results in the 1718
appropriate public children services agency being contacted 1719
concerning the possible abuse or neglect of a child or the 1720
possible threat of abuse or neglect of a child. 1721

(2) When a public children services agency receives a 1722
report pursuant to this division or division (A) or (B) of this 1723
section, upon receipt of the report, the public children 1724
services agency shall do all of the following: 1725

(a) Comply with section 2151.422 of the Revised Code; 1726

(b) If the county served by the agency is also served by a 1727
children's advocacy center and the report alleges sexual abuse 1728
of a child or another type of abuse of a child that is specified 1729
in the memorandum of understanding that creates the center as 1730
being within the center's jurisdiction, comply regarding the 1731
report with the protocol and procedures for referrals and 1732
investigations, with the coordinating activities, and with the 1733
authority or responsibility for performing or providing 1734
functions, activities, and services stipulated in the 1735
interagency agreement entered into under section 2151.428 of the 1736
Revised Code relative to that center; 1737

(c) Unless an arrest is made at the time of the report 1738
that results in the appropriate law enforcement agency being 1739
contacted concerning the possible abuse or neglect of a child or 1740
the possible threat of abuse or neglect of a child, and in 1741
accordance with requirements specified under division (B) (6) of 1742
section 2151.4221 of the Revised Code, notify the appropriate 1743
law enforcement agency of the report, if the public children 1744
services agency received either of the following: 1745

(i) A report of abuse of a child; 1746

(ii) A report of neglect of a child that alleges a type of 1747
neglect identified by the department of children and youth in 1748
rules adopted under division (L) (2) of this section. 1749

(F) No peace officer shall remove a child about whom a 1750
report is made pursuant to this section from the child's 1751
parents, stepparents, or guardian or any other persons having 1752
custody of the child without consultation with the public 1753
children services agency, unless, in the judgment of the 1754
officer, and, if the report was made by a physician or advanced 1755
practice registered nurse, the physician or nurse, immediate 1756
removal is considered essential to protect the child from 1757
further abuse or neglect. The agency that must be consulted 1758
shall be the agency conducting the investigation of the report 1759
as determined pursuant to section 2151.422 of the Revised Code. 1760

(G) (1) Except as provided in section 2151.422 of the 1761
Revised Code or in an interagency agreement entered into under 1762
section 2151.428 of the Revised Code that applies to the 1763
particular report, the public children services agency shall 1764
investigate, within twenty-four hours, each report of child 1765
abuse or child neglect that is known or reasonably suspected or 1766
believed to have occurred and of a threat of child abuse or 1767

child neglect that is known or reasonably suspected or believed 1768
to exist that is referred to it under this section to determine 1769
the circumstances surrounding the injuries, abuse, or neglect or 1770
the threat of injury, abuse, or neglect, the cause of the 1771
injuries, abuse, neglect, or threat, and the person or persons 1772
responsible. The investigation shall be made in cooperation with 1773
the law enforcement agency and in accordance with the memorandum 1774
of understanding prepared under sections 2151.4220 to 2151.4234 1775
of the Revised Code. A representative of the public children 1776
services agency shall, at the time of initial contact with the 1777
person subject to the investigation, inform the person of the 1778
specific complaints or allegations made against the person. The 1779
information shall be given in a manner that is consistent with 1780
division (I)(1) ~~and rules adopted under division (L)(3)~~ of this 1781
section and protects the rights of the person making the report 1782
under this section. 1783

A failure to make the investigation in accordance with the 1784
memorandum is not grounds for, and shall not result in, the 1785
dismissal of any charges or complaint arising from the report or 1786
the suppression of any evidence obtained as a result of the 1787
report and does not give, and shall not be construed as giving, 1788
any rights or any grounds for appeal or post-conviction relief 1789
to any person. The public children services agency shall report 1790
each case to the uniform statewide automated child welfare 1791
information system that the department of children and youth 1792
shall maintain in accordance with section 5101.13 of the Revised 1793
Code. The public children services agency shall submit a report 1794
of its investigation, in writing, to the law enforcement agency. 1795

(2) The public children services agency shall make any 1796
recommendations to the county prosecuting attorney or city 1797
director of law that it considers necessary to protect any 1798

children that are brought to its attention. 1799

(H) (1) (a) Except as provided in divisions (H) (1) (b) and 1800
(I) (3) of this section, any person, health care professional, 1801
hospital, institution, school, health department, or agency 1802
shall be immune from any civil or criminal liability for injury, 1803
death, or loss to person or property that otherwise might be 1804
incurred or imposed as a result of any of the following: 1805

(i) Participating in the making of reports pursuant to 1806
division (A) of this section or in the making of reports in good 1807
faith, pursuant to division (B) of this section; 1808

(ii) Participating in medical examinations, tests, or 1809
procedures under division (D) of this section; 1810

(iii) Providing information used in a report made pursuant 1811
to division (A) of this section or providing information in good 1812
faith used in a report made pursuant to division (B) of this 1813
section; 1814

(iv) Participating in a judicial proceeding resulting from 1815
a report made pursuant to division (A) of this section or 1816
participating in good faith in a proceeding resulting from a 1817
report made pursuant to division (B) of this section. 1818

(b) Immunity under division (H) (1) (a) (ii) of this section 1819
shall not apply when a health care provider has deviated from 1820
the standard of care applicable to the provider's profession. 1821

(c) Notwithstanding section 4731.22 of the Revised Code, 1822
the physician-patient privilege shall not be a ground for 1823
excluding evidence regarding a child's injuries, abuse, or 1824
neglect, or the cause of the injuries, abuse, or neglect in any 1825
judicial proceeding resulting from a report submitted pursuant 1826
to this section. 1827

(2) In any civil or criminal action or proceeding in which 1828
it is alleged and proved that participation in the making of a 1829
report under this section was not in good faith or participation 1830
in a judicial proceeding resulting from a report made under this 1831
section was not in good faith, the court shall award the 1832
prevailing party reasonable attorney's fees and costs and, if a 1833
civil action or proceeding is voluntarily dismissed, may award 1834
reasonable attorney's fees and costs to the party against whom 1835
the civil action or proceeding is brought. 1836

(I) (1) Except as provided in divisions (I) (4) and (N) of 1837
this section and sections 2151.423 and 2151.4210 of the Revised 1838
Code, a report made under this section is confidential. The 1839
information provided in a report made pursuant to this section 1840
and the name of the person who made the report shall not be 1841
released for use, and shall not be used, as evidence in any 1842
civil action or proceeding brought against the person who made 1843
the report. Nothing in this division shall preclude the use of 1844
reports of other incidents of known or suspected abuse or 1845
neglect in a civil action or proceeding brought pursuant to 1846
division (M) of this section against a person who is alleged to 1847
have violated division (A) (1) of this section, provided that any 1848
information in a report that would identify the child who is the 1849
subject of the report or the maker of the report, if the maker 1850
of the report is not the defendant or an agent or employee of 1851
the defendant, has been redacted. In a criminal proceeding, the 1852
report is admissible in evidence in accordance with the Rules of 1853
Evidence and is subject to discovery in accordance with the 1854
Rules of Criminal Procedure. 1855

(2) (a) Except as provided in division (I) (2) (b) of this 1856
section, no person shall permit or encourage the unauthorized 1857
dissemination of the contents of any report made under this 1858

section. 1859

(b) A health care professional that obtains the same 1860
information contained in a report made under this section from a 1861
source other than the report may disseminate the information, if 1862
its dissemination is otherwise permitted by law. 1863

(3) A person who knowingly makes or causes another person 1864
to make a false report under division (B) of this section that 1865
alleges that any person has committed an act or omission that 1866
resulted in a child being an abused child or a neglected child 1867
is guilty of a violation of section 2921.14 of the Revised Code. 1868

(4) If a report is made pursuant to division (A) or (B) of 1869
this section and the child who is the subject of the report dies 1870
for any reason at any time after the report is made, but before 1871
the child attains eighteen years of age, the public children 1872
services agency or peace officer to which the report was made or 1873
referred, on the request of the child fatality review board, the 1874
suicide fatality review committee, or the director of health 1875
pursuant to guidelines established under section 3701.70 of the 1876
Revised Code, shall submit a summary sheet of information 1877
providing a summary of the report to the review board or review 1878
committee of the county in which the deceased child resided at 1879
the time of death or to the director. On the request of the 1880
review board, review committee, or director, the agency or peace 1881
officer may, at its discretion, make the report available to the 1882
review board, review committee, or director. If the county 1883
served by the public children services agency is also served by 1884
a children's advocacy center and the report of alleged sexual 1885
abuse of a child or another type of abuse of a child is 1886
specified in the memorandum of understanding that creates the 1887
center as being within the center's jurisdiction, the agency or 1888

center shall perform the duties and functions specified in this 1889
division in accordance with the interagency agreement entered 1890
into under section 2151.428 of the Revised Code relative to that 1891
advocacy center. 1892

(5) Not later than five business days after the 1893
determination of a disposition, a public children services 1894
agency shall advise a person alleged to have inflicted abuse or 1895
neglect on a child who is the subject of a report made pursuant 1896
to this section, including a report alleging sexual abuse of a 1897
child or another type of abuse of a child referred to a 1898
children's advocacy center pursuant to an interagency agreement 1899
entered into under section 2151.428 of the Revised Code, in 1900
writing of the disposition of the investigation. The agency 1901
shall not provide to the person any information that identifies 1902
the person who made the report, statements of witnesses, or 1903
police or other investigative reports. The written notice of 1904
disposition shall be made in a form designated by the department 1905
of job and family services and shall inform the person of the 1906
right to appeal the disposition. 1907

(J) Any report that is required by this section, other 1908
than a report that is made to the state highway patrol as 1909
described in section 5120.173 of the Revised Code, shall result 1910
in protective services and emergency supportive services being 1911
made available by the public children services agency on behalf 1912
of the children about whom the report is made. The agency 1913
required to provide the services shall be the agency conducting 1914
the investigation of the report pursuant to section 2151.422 of 1915
the Revised Code. If a child is determined to be a candidate for 1916
prevention services, the agency also shall make efforts to 1917
prevent neglect or abuse, to enhance a child's welfare, and to 1918
preserve the family unit intact by referring a report for 1919

assessment and provision of services to an agency providing 1920
prevention services. 1921

(K) (1) Except as provided in division (K) (4) or (5) of 1922
this section, a person who is required to make a report under 1923
division (A) of this section may make a reasonable number of 1924
requests of the public children services agency that receives or 1925
is referred the report, or of the children's advocacy center 1926
that is referred the report if the report is referred to a 1927
children's advocacy center pursuant to an interagency agreement 1928
entered into under section 2151.428 of the Revised Code, to be 1929
provided with the following information: 1930

(a) Whether the agency or center has initiated an 1931
investigation of the report; 1932

(b) Whether the agency or center is continuing to 1933
investigate the report; 1934

(c) Whether the agency or center is otherwise involved 1935
with the child who is the subject of the report; 1936

(d) The general status of the health and safety of the 1937
child who is the subject of the report; 1938

(e) Whether the report has resulted in the filing of a 1939
complaint in juvenile court or of criminal charges in another 1940
court. 1941

(2) (a) A person may request the information specified in 1942
division (K) (1) of this section only if, at the time the report 1943
is made, the person's name, address, and telephone number are 1944
provided to the person who receives the report. 1945

(b) When a peace officer or employee of a public children 1946
services agency receives a report pursuant to division (A) or 1947

(B) of this section the recipient of the report shall inform the 1948
person of the right to request the information described in 1949
division (K) (1) of this section. The recipient of the report 1950
shall include in the initial child abuse or child neglect report 1951
that the person making the report was so informed and, if 1952
provided at the time of the making of the report, shall include 1953
the person's name, address, and telephone number in the report. 1954

(c) If the person making the report provides the person's 1955
name and contact information on making the report, the public 1956
children services agency that received or was referred the 1957
report shall send a written notice via United States mail or 1958
electronic mail, in accordance with the person's preference, to 1959
the person not later than seven calendar days after receipt of 1960
the report. The notice shall provide the status of the agency's 1961
investigation into the report made, who the person may contact 1962
at the agency for further information, and a description of the 1963
person's rights under division (K) (1) of this section. 1964

(d) Each request is subject to verification of the 1965
identity of the person making the report. If that person's 1966
identity is verified, the agency shall provide the person with 1967
the information described in division (K) (1) of this section a 1968
reasonable number of times, except that the agency shall not 1969
disclose any confidential information regarding the child who is 1970
the subject of the report other than the information described 1971
in those divisions. 1972

(3) A request made pursuant to division (K) (1) of this 1973
section is not a substitute for any report required to be made 1974
pursuant to division (A) of this section. 1975

(4) If an agency other than the agency that received or 1976
was referred the report is conducting the investigation of the 1977

report pursuant to section 2151.422 of the Revised Code, the 1978
agency conducting the investigation shall comply with the 1979
requirements of division (K) of this section. 1980

(5) A health care professional who made a report under 1981
division (A) of this section, or on whose behalf such a report 1982
was made as provided in division (A)(1)(c) of this section, may 1983
authorize a person to obtain the information described in 1984
division (K)(1) of this section if the person requesting the 1985
information is associated with or acting on behalf of the health 1986
care professional who provided health care services to the child 1987
about whom the report was made. 1988

(6) If the person making the report provides the person's 1989
name and contact information on making the report, the public 1990
children services agency that received or was referred the 1991
report shall send a written notice via United States mail or 1992
electronic mail, in accordance with the person's preference, to 1993
the person not later than seven calendar days after the agency 1994
closes the investigation into the case reported by the person. 1995
The notice shall notify the person that the agency has closed 1996
the investigation. 1997

(L)(1) The director of children and youth shall adopt 1998
rules in accordance with Chapter 119. of the Revised Code to 1999
implement this section. The department of children and youth may 2000
enter into a plan of cooperation with any other governmental 2001
entity to aid in ensuring that children are protected from abuse 2002
and neglect. The department shall make recommendations to the 2003
attorney general that the department determines are necessary to 2004
protect children from child abuse and child neglect. 2005

(2) The director of children and youth shall adopt rules 2006
in accordance with Chapter 119. of the Revised Code to identify 2007

the types of neglect of a child that a public children services 2008
agency shall be required to notify law enforcement of pursuant 2009
to division (E) (2) (c) (ii) of this section. 2010

(M) Whoever violates division (A) of this section is 2011
liable for compensatory and exemplary damages to the child who 2012
would have been the subject of the report that was not made. A 2013
person who brings a civil action or proceeding pursuant to this 2014
division against a person who is alleged to have violated 2015
division (A) (1) of this section may use in the action or 2016
proceeding reports of other incidents of known or suspected 2017
abuse or neglect, provided that any information in a report that 2018
would identify the child who is the subject of the report or the 2019
maker of the report, if the maker is not the defendant or an 2020
agent or employee of the defendant, has been redacted. 2021

(N) (1) As used in this division: 2022

(a) "Out-of-home care" includes a nonchartered nonpublic 2023
school if the alleged child abuse or child neglect, or alleged 2024
threat of child abuse or child neglect, described in a report 2025
received by a public children services agency allegedly occurred 2026
in or involved the nonchartered nonpublic school and the alleged 2027
perpetrator named in the report holds a certificate, permit, or 2028
license issued by the state board of education under section 2029
3301.071 or Chapter 3319. of the Revised Code. 2030

(b) "Administrator, director, or other chief 2031
administrative officer" means the superintendent of the school 2032
district if the out-of-home care entity subject to a report made 2033
pursuant to this section is a school operated by the district. 2034

(2) No later than the end of the day following the day on 2035
which a public children services agency receives a report of 2036

alleged child abuse or child neglect, or a report of an alleged 2037
threat of child abuse or child neglect, that allegedly occurred 2038
in or involved an out-of-home care entity, the agency shall 2039
provide written notice of the allegations contained in and the 2040
person named as the alleged perpetrator in the report to the 2041
administrator, director, or other chief administrative officer 2042
of the out-of-home care entity that is the subject of the report 2043
unless the administrator, director, or other chief 2044
administrative officer is named as an alleged perpetrator in the 2045
report. If the administrator, director, or other chief 2046
administrative officer of an out-of-home care entity is named as 2047
an alleged perpetrator in a report of alleged child abuse or 2048
child neglect, or a report of an alleged threat of child abuse 2049
or child neglect, that allegedly occurred in or involved the 2050
out-of-home care entity, the agency shall provide the written 2051
notice to the owner or governing board of the out-of-home care 2052
entity that is the subject of the report. The agency shall not 2053
provide witness statements or police or other investigative 2054
reports. 2055

(3) No later than three days after the day on which a 2056
public children services agency that conducted the investigation 2057
as determined pursuant to section 2151.422 of the Revised Code 2058
makes a disposition of an investigation involving a report of 2059
alleged child abuse or child neglect, or a report of an alleged 2060
threat of child abuse or child neglect, that allegedly occurred 2061
in or involved an out-of-home care entity, the agency shall send 2062
written notice of the disposition of the investigation to the 2063
administrator, director, or other chief administrative officer 2064
and the owner or governing board of the out-of-home care entity. 2065
The agency shall not provide witness statements or police or 2066
other investigative reports. 2067

- (0) As used in this section: 2068
- (1) "Children's advocacy center" and "sexual abuse of a child" have the same meanings as in section 2151.425 of the Revised Code. 2069
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- (2) "Health care professional" means an individual who provides health-related services ~~including~~. "Health care professional" includes all of the following: a physician, 2072
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including a hospital intern or resident; a dentist; a podiatrist; a registered nurse, including such a nurse who is an advanced practice registered nurse; a licensed practical nurse; ~~visiting; a home care nurse~~; a licensed psychologist; ~~speech; a speech-language pathologist~~; an audiologist; a person engaged in social work or the practice of professional counseling; and an employee of a home health agency. "Health care professional" does not include a practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, licensed school psychologist, independent marriage and family therapist or marriage and family therapist, or coroner. 2075
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- (3) "Investigation" means the public children services agency's response to an accepted report of child abuse or neglect through either an alternative response or a traditional response. 2086
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- (4) "Peace officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, or a state highway patrol trooper. 2090
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- Sec. 2305.235.** (A) As used in this section: 2094
- (1) "Automated external defibrillation" means the process of applying a specialized defibrillator to a person in cardiac 2095
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arrest, allowing the defibrillator to interpret the cardiac 2097
rhythm, and, if appropriate, delivering an electrical shock to 2098
the heart to allow it to resume effective electrical activity. 2099

(2) "Physician" has the same meaning as in section 4765.01 2100
of the Revised Code. 2101

(B) Except in the case of willful or wanton misconduct, no 2102
physician, certified nurse-midwife, clinical nurse specialist, 2103
or certified nurse practitioner shall be held liable in civil 2104
damages for injury, death, or loss to person or property for 2105
providing a prescription for an automated external defibrillator 2106
approved for use as a medical device by the United States food 2107
and drug administration or consulting with a person regarding 2108
the use and maintenance of a defibrillator. 2109

(C) Except in the case of willful or wanton misconduct, no 2110
person shall be held liable in civil damages for injury, death, 2111
or loss to person or property for doing any of the following: 2112

(1) Providing training in automated external 2113
defibrillation and cardiopulmonary resuscitation; 2114

(2) Authorizing, directing, or supervising the 2115
installation or placement of an automated external 2116
defibrillator; 2117

(3) Designing, managing, or operating a cardiopulmonary 2118
resuscitation or automated external defibrillation program; 2119

(4) Acquiring an automated external defibrillator; 2120

(5) Owning, managing, or having responsibility for a 2121
premises or location where an automated external defibrillator 2122
has been placed. 2123

(D) Except in the case of willful or wanton misconduct or 2124

when there is no good faith attempt to activate an emergency 2125
medical services system in accordance with section 3701.85 of 2126
the Revised Code, no person shall be held liable in civil 2127
damages for injury, death, or loss to person or property, or 2128
held criminally liable, for performing automated external 2129
defibrillation in good faith, regardless of whether the person 2130
has obtained appropriate training on how to perform automated 2131
external defibrillation or successfully completed a course in 2132
cardiopulmonary resuscitation. 2133

Sec. 2313.14. (A) Except as provided by section 2313.15 of 2134
the Revised Code, the court of common pleas or the commissioners 2135
of jurors shall not excuse a person who is liable to serve as a 2136
juror and who is drawn and notified, unless it is shown to the 2137
satisfaction of the judge or commissioners by either the juror 2138
or another person acquainted with the facts that one or more of 2139
the following applies: 2140

(1) The interests of the public will be materially injured 2141
by the juror's attendance. 2142

(2) The juror's spouse or a near relative of the juror or 2143
the juror's spouse has recently died or is dangerously ill. 2144

(3) The juror is a cloistered member of a religious 2145
organization. 2146

(4) The prospective juror has a mental or physical 2147
condition that causes the prospective juror to be incapable of 2148
performing jury service. The court or commissioners may require 2149
the prospective juror to provide the court with documentation, 2150
from a physician licensed to practice medicine or a certified 2151
nurse-midwife, clinical nurse specialist, or certified nurse 2152
practitioner, verifying that a mental or physical condition 2153

renders the prospective juror unfit for jury service for the 2154
remainder of the jury year. 2155

(5) Jury service would otherwise cause undue or extreme 2156
physical or financial hardship to the prospective juror or a 2157
person under the care or supervision of the prospective juror. A 2158
judge of the court for which the prospective juror was called to 2159
jury service shall make undue or extreme physical or financial 2160
hardship determinations. The judge may delegate the authority to 2161
make these determinations to an appropriate court employee 2162
appointed by the court. 2163

(6) The juror is over seventy-five years of age, and the 2164
juror requests to be excused. 2165

(7) The prospective juror is an active member of a 2166
recognized Amish sect and requests to be excused because of the 2167
prospective juror's sincere belief that as a result of that 2168
membership the prospective juror cannot pass judgment in a 2169
judicial matter. 2170

(8) The prospective juror is on active duty pursuant to an 2171
executive order of the president of the United States, an act of 2172
the congress of the United States, or section 5919.29 or 5923.21 2173
of the Revised Code. 2174

(B) (1) A prospective juror who requests to be excused from 2175
jury service under this section shall take all actions necessary 2176
to obtain a ruling on that request by not later than the date on 2177
which the prospective juror is scheduled to appear for jury 2178
duty. 2179

(2) A prospective juror who requests to be excused as 2180
provided in division (A) (6) of this section shall inform the 2181
appropriate court employee appointed by the court of the 2182

prospective juror's request to be so excused by not later than 2183
the date on which the prospective juror is scheduled to appear 2184
for jury duty. The prospective juror shall inform that court 2185
employee of the request to be so excused by appearing in person 2186
before the employee or contacting the employee by telephone, in 2187
writing, or by electronic mail. 2188

(C) (1) For purposes of this section, undue or extreme 2189
physical or financial hardship is limited to circumstances in 2190
which any of the following apply: 2191

(a) The prospective juror would be required to abandon a 2192
person under the prospective juror's personal care or 2193
supervision due to the impossibility of obtaining an appropriate 2194
substitute caregiver during the period of participation in the 2195
jury pool or on the jury. 2196

(b) The prospective juror would incur costs that would 2197
have a substantial adverse impact on the payment of the 2198
prospective juror's necessary daily living expenses or on those 2199
for whom the prospective juror provides the principal means of 2200
support. 2201

(c) The prospective juror would suffer physical hardship 2202
that would result in illness or disease. 2203

(d) The prospective juror is a mother who is breast- 2204
feeding her baby, and the baby is one year of age or younger. 2205

(2) Undue or extreme physical or financial hardship does 2206
not exist solely based on the fact that a prospective juror will 2207
be required to be absent from the prospective juror's place of 2208
employment. 2209

(D) (1) A prospective juror who asks a judge to grant an 2210
excuse based on undue or extreme physical or financial hardship 2211

shall provide the judge with documentation that the judge finds 2212
to clearly support the request to be excused. If a prospective 2213
juror fails to provide satisfactory documentation, the court may 2214
deny the request to be excused. 2215

(2) A signed affidavit that a prospective juror described 2216
in division (C)(1)(d) of this section provides to the judge and 2217
states that the prospective juror is a mother who is breast- 2218
feeding her baby is satisfactory documentation to support the 2219
prospective juror's request to be excused based on undue or 2220
extreme physical or financial hardship. 2221

(E) An excuse, whether permanent or not, approved pursuant 2222
to this section shall not extend beyond that jury year. Every 2223
approved excuse shall be recorded and filed with the 2224
commissioners of jurors. A person is excused from jury service 2225
permanently only when the deciding judge determines that the 2226
underlying grounds for being excused are of a permanent nature. 2227

(F) No person shall be exempted or excused from jury 2228
service or be granted a postponement of jury service by reason 2229
of any financial contribution to any public or private 2230
organization. 2231

(G) The commissioners shall keep a record of all 2232
proceedings before them or in their office, of all persons who 2233
are granted an excuse or postponement, and of the time of and 2234
reasons for each excuse. 2235

Sec. 2317.47. Whenever it is relevant in a civil or 2236
criminal action or proceeding to determine the paternity or 2237
identity of any person, the trial court on motion shall order 2238
any party to the action and any person involved in the 2239
controversy or proceeding to submit to one or more blood- 2240

grouping tests, to be made by qualified physicians, clinical 2241
nurse specialists, or certified nurse practitioners or other 2242
qualified persons, not to exceed three, to be selected by the 2243
court and under such restrictions or directions as the court or 2244
judge deems proper. In cases where exclusion is established, the 2245
results of the tests together with the findings of the experts 2246
of the fact of nonpaternity are receivable in evidence. Such 2247
experts shall be subject to cross-examination by both parties 2248
after the court has caused them to disclose their findings to 2249
the court or to the court and jury. Whenever the court orders 2250
such blood-grouping tests to be taken and one of the parties 2251
refuses to submit to such test, such fact shall be disclosed 2252
upon the trial unless good cause is shown to the contrary. The 2253
court shall determine how and by whom the costs of such 2254
examination shall be paid. 2255

Sec. 3101.05. (A) The parties to a marriage shall make an 2256
application for a marriage license. Each of the persons seeking 2257
a marriage license shall personally appear in the probate court 2258
within the county where either resides, or, if neither is a 2259
resident of this state, where the marriage is expected to be 2260
solemnized. If neither party is a resident of this state, the 2261
marriage may be solemnized only in the county where the license 2262
is obtained. Each party shall make application and shall state 2263
upon oath, the party's name, age, residence, place of birth, 2264
occupation, father's name, and mother's maiden name, if known, 2265
and the name of the person who is expected to solemnize the 2266
marriage. If either party has been previously married, the 2267
application shall include the names of the parties to any 2268
previous marriage and of any minor children, and if divorced the 2269
jurisdiction, date, and case number of the decree. If either 2270
applicant is the age of seventeen years, the judge shall require 2271

the applicants to state that they received marriage counseling 2272
satisfactory to the court. Except as otherwise provided in this 2273
division, the application also shall include each party's social 2274
security number. In lieu of requiring each party's social 2275
security number on the application, the court may obtain each 2276
party's social security number, retain the social security 2277
numbers in a separate record, and allow a number other than the 2278
social security number to be used on the application for 2279
reference purposes. If a court allows the use of a number other 2280
than the social security number to be used on the application 2281
for reference purposes, the record containing the social 2282
security number is not a public record, except that, in any of 2283
the circumstances set forth in divisions (C)(1) to (5) of 2284
section 3101.051 of the Revised Code, the record containing the 2285
social security number shall be made available for inspection 2286
under section 149.43 of the Revised Code. 2287

Immediately upon receipt of an application for a marriage 2288
license, the court shall place the parties' record in a book 2289
kept for that purpose. If the probate judge is satisfied that 2290
there is no legal impediment and if one or both of the parties 2291
are present, the probate judge shall grant the marriage license. 2292

If the judge is satisfied from the affidavit of a 2293
reputable physician, clinical nurse specialist, or certified 2294
nurse practitioner in active practice and residing in the county 2295
where the probate court is located, that one of the parties is 2296
unable to appear in court, by reason of illness or other 2297
physical disability, a marriage license may be granted upon 2298
application and oath of the other party to the contemplated 2299
marriage; but in that case the person who is unable to appear in 2300
court, at the time of making application for a marriage license, 2301
shall make and file in that court, an affidavit setting forth 2302

the information required of applicants for a marriage license. 2303

A probate judge may grant a marriage license under this 2304
section at any time after the application is made. 2305

A marriage license issued shall not display the social 2306
security number of either party to the marriage. 2307

Each person seeking a marriage license shall present 2308
documentary proof of age in the form of any one of the 2309
following: 2310

(1) A copy of a birth record; 2311

(2) A birth certificate issued by the department of 2312
health, a local registrar of vital statistics, or other public 2313
office charged with similar duties by the laws of another state, 2314
territory, or country; 2315

(3) A baptismal record showing the person's date of birth; 2316

(4) A passport; 2317

(5) A license or permit to operate a motor vehicle as 2318
defined under section 4501.01 of the Revised Code; 2319

(6) Any government- or school-issued identification card 2320
showing the person's date of birth; 2321

(7) An immigration record showing the person's date of 2322
birth; 2323

(8) A naturalization record showing the person's date of 2324
birth; 2325

(9) A court record or any other document or record issued 2326
by a governmental entity showing the person's date of birth. 2327

(B) An applicant for a marriage license who knowingly 2328

makes a false statement in an application or affidavit 2329
prescribed by this section is guilty of falsification under 2330
section 2921.13 of the Revised Code. 2331

(C) No licensing officer shall issue a marriage license if 2332
the officer has not received the application, affidavit, or 2333
other statements prescribed by this section or if the officer 2334
has reason to believe that any of the statements in a marriage 2335
license application or in an affidavit prescribed by this 2336
section are false. 2337

(D) Any fine collected for violation of this section shall 2338
be paid to the use of the county together with the costs of 2339
prosecution. 2340

Sec. 3105.091. (A) At any time after thirty days from the 2341
service of summons or first publication of notice in an action 2342
for divorce, annulment, or legal separation, or at any time 2343
after the filing of a petition for dissolution of marriage, the 2344
court of common pleas, upon its own motion or the motion of one 2345
of the parties, may order the parties to undergo conciliation 2346
for the period of time not exceeding ninety days as the court 2347
specifies, and, if children are involved in the proceeding, the 2348
court may order the parties to take part in family counseling 2349
during the course of the proceeding or for any reasonable period 2350
of time as directed by the court. An order requiring 2351
conciliation shall set forth the conciliation procedure and name 2352
the conciliator. The conciliation procedures may include without 2353
limitation referrals to the conciliation judge as provided in 2354
Chapter 3117. of the Revised Code, public or private marriage 2355
counselors, family service agencies, community health services, 2356
physicians, certified nurse-midwives, clinical nurse 2357
specialists, certified nurse practitioners, licensed 2358

psychologists, or ~~clergymen~~ members of the clergy. The court, in 2359
its order requiring the parties to undergo family counseling, 2360
may name the counselor and shall set forth the required type of 2361
counseling, the length of time for the counseling, and any other 2362
specific conditions required by it. The court shall direct and 2363
order the manner in which the costs of any conciliation 2364
procedures and of any family counseling are to be paid. 2365

(B) No action for divorce, annulment, or legal separation, 2366
in which conciliation or family counseling has been ordered, 2367
shall be heard or decided until the conciliation or family 2368
counseling has concluded and been reported to the court. 2369

Sec. 3111.12. (A) In an action under sections 3111.01 to 2370
3111.18 of the Revised Code, the mother of the child and the 2371
alleged father are competent to testify and may be compelled to 2372
testify by subpoena. If a witness refuses to testify upon the 2373
ground that the testimony or evidence of the witness might tend 2374
to incriminate the witness and the court compels the witness to 2375
testify, the court may grant the witness immunity from having 2376
the testimony of the witness used against the witness in 2377
subsequent criminal proceedings. 2378

(B) Testimony of a physician or certified nurse-midwife 2379
concerning the medical circumstances of the mother's pregnancy 2380
and the condition and characteristics of the child upon birth is 2381
not privileged. 2382

(C) Testimony relating to sexual access to the mother by a 2383
man at a time other than the probable time of conception of the 2384
child is inadmissible in evidence, unless offered by the mother. 2385

(D) If, pursuant to section 3111.09 of the Revised Code, a 2386
court orders genetic tests to be conducted, orders disclosure of 2387

information regarding a DNA record stored in the DNA database 2388
pursuant to section 109.573 of the Revised Code, or intends to 2389
use a report of genetic test results obtained from tests 2390
conducted pursuant to former section 3111.21 or 3111.22 or 2391
sections 3111.38 to 3111.54 of the Revised Code, a party may 2392
object to the admission into evidence of any of the genetic test 2393
results or of the DNA record information by filing a written 2394
objection with the court that ordered the tests or disclosure or 2395
intends to use a report of genetic test results. The party shall 2396
file the written objection with the court no later than fourteen 2397
days after the report of the test results or the DNA record 2398
information is mailed to the attorney of record of a party or to 2399
a party. The party making the objection shall send a copy of the 2400
objection to all parties. 2401

If a party files a written objection, the report of the 2402
test results or the DNA record information shall be admissible 2403
into evidence as provided by the Rules of Evidence. If a written 2404
objection is not filed, the report of the test results or the 2405
DNA record information shall be admissible into evidence without 2406
the need for foundation testimony or other proof of authenticity 2407
or accuracy. 2408

(E) If a party intends to introduce into evidence invoices 2409
or other documents showing amounts expended to cover pregnancy 2410
and confinement and genetic testing, the party shall notify all 2411
other parties in writing of that intent and include copies of 2412
the invoices and documents. A party may object to the admission 2413
into evidence of the invoices or documents by filing a written 2414
objection with the court that is hearing the action no later 2415
than fourteen days after the notice and the copies of the 2416
invoices and documents are mailed to the attorney of record of 2417
each party or to each party. 2418

If a party files a written objection, the invoices and 2419
other documents shall be admissible into evidence as provided by 2420
the Rules of Evidence. If a written objection is not filed, the 2421
invoices or other documents are admissible into evidence without 2422
the need for foundation testimony or other evidence of 2423
authenticity or accuracy. 2424

(F) A juvenile court or other court with jurisdiction 2425
under section 2101.022 or 2301.03 of the Revised Code shall give 2426
priority to actions under sections 3111.01 to 3111.18 of the 2427
Revised Code and shall issue an order determining the existence 2428
or nonexistence of a parent and child relationship no later than 2429
one hundred twenty days after the date on which the action was 2430
brought in the juvenile court or other court with jurisdiction. 2431

Sec. 3119.05. When a court computes the amount of child 2432
support required to be paid under a court child support order or 2433
a child support enforcement agency computes the amount of child 2434
support to be paid pursuant to an administrative child support 2435
order, all of the following apply: 2436

(A) The parents' current and past income and personal 2437
earnings shall be verified by electronic means or with suitable 2438
documents, including, but not limited to, paystubs, employer 2439
statements, receipts and expense vouchers related to self- 2440
generated income, tax returns, and all supporting documentation 2441
and schedules for the tax returns. 2442

(B) The annual amount of any court-ordered spousal support 2443
actually paid, excluding any ordered payment on arrears, shall 2444
be deducted from the annual income of that parent to the extent 2445
that payment of that court-ordered spousal support is verified 2446
by supporting documentation. 2447

(C) The court or agency shall adjust the amount of child support paid by a parent to give credit for children not included in the current calculation. When calculating the adjusted amount, the court or agency shall use the schedule and do the following:

(1) Determine the amount of child support that each parent would be ordered to pay for all children for whom the parent has the legal duty to support, according to each parent's annual income. If the number of children subject to the order is greater than six, multiply the amount for three children in accordance with division (C) (4) of this section to determine the amount of child support.

(2) Compute a child support credit amount for each parent's children who are not subject to this order by dividing the amount determined in division (C) (1) of this section by the total number of children whom the parent is obligated to support and multiplying that number by the number of the parent's children who are not subject to this order.

(3) Determine the adjusted income of the parents by subtracting the credit for minor children not subject to this order computed under division (C) (2) of this section, from the annual income of each parent for the children each has a duty to support that are not subject to this order.

(4) If the number of children is greater than six, multiply the amount for three children by:

(a) 1.440 for seven children;

(b) 1.540 for eight children;

(c) 1.638 for nine children;

(d) 1.734 for ten children;	2476
(e) 1.827 for eleven children;	2477
(f) 1.919 for twelve children;	2478
(g) 2.008 for thirteen children;	2479
(h) 2.096 for fourteen children;	2480
(i) 2.182 for more than fourteen children.	2481
(D) When the court or agency calculates the annual income	2482
of a parent, it shall include the lesser of the following as	2483
income from overtime and bonuses:	2484
(1) The yearly average of all overtime, commissions, and	2485
bonuses received during the three years immediately prior to the	2486
time when the person's child support obligation is being	2487
computed;	2488
(2) The total overtime, commissions, and bonuses received	2489
during the year immediately prior to the time when the person's	2490
child support obligation is being computed.	2491
(E) When the court or agency calculates the annual income	2492
of a parent, it shall not include any income earned by the	2493
spouse of that parent.	2494
(F) The court shall issue a separate medical support order	2495
for extraordinary medical expenses, including orthodontia,	2496
dental, optical, and psychological services.	2497
If the court makes an order for payment of private	2498
education, and other appropriate expenses, it shall do so by	2499
issuing a separate order.	2500
The court may consider these expenses in adjusting a child	2501
support order.	2502

(G) When a court or agency calculates the amount of child support to be paid pursuant to a court child support order or an administrative child support order, the following shall apply:

(1) The court or agency shall apply the basic child support schedule to the parents' combined annual incomes and to each parent's individual income.

(2) If the combined annual income of both parents or the individual annual income of a parent is an amount that is between two amounts set forth in the first column of the schedule, the court or agency may use the basic child support obligation that corresponds to the higher of the two amounts in the first column of the schedule, use the basic child support obligation that corresponds to the lower of the two amounts in the first column of the schedule, or calculate a basic child support obligation that is between those two amounts and corresponds proportionally to the parents' actual combined annual income or the individual parent's annual income.

(3) If the annual individual income of either or both of the parents is within the self-sufficiency reserve in the basic child support schedule, the court or agency shall do both of the following:

(a) Calculate the basic child support obligation for the parents using the schedule amount applicable to the combined annual income and the schedule amount applicable to the income in the self-sufficiency reserve;

(b) Determine the lesser of the following amounts to be the applicable basic child support obligation:

(i) The amount that results from using the combined annual income of the parents not in the self-sufficiency reserve of the

schedule; or 2532

(ii) The amount that results from using the individual 2533
parent's income within the self-sufficiency reserve of the 2534
schedule. 2535

(H) When the court or agency calculates annual income, the 2536
court or agency, when appropriate, may average income over a 2537
reasonable period of years. 2538

(I) Unless it would be unjust or inappropriate and 2539
therefore not in the best interests of the child, a court or 2540
agency shall not determine a parent to be voluntarily unemployed 2541
or underemployed and shall not impute income to that parent if 2542
any of the following conditions exist: 2543

(1) The parent is receiving recurring monetary income from 2544
means-tested public assistance benefits, including cash 2545
assistance payments under the Ohio works first program 2546
established under Chapter 5107. of the Revised Code, general 2547
assistance under former Chapter 5113. of the Revised Code, 2548
supplemental security income, or means-tested veterans' 2549
benefits; 2550

(2) The parent is approved for social security disability 2551
insurance benefits because of a mental or physical disability, 2552
or the court or agency determines that the parent is unable to 2553
work based on medical documentation that includes ~~a physician's~~ 2554
the diagnosis of a physician, certified nurse-midwife, clinical 2555
nurse specialist, or certified nurse practitioner and a the 2556
physician's or nurse's opinion regarding the parent's mental or 2557
physical disability and inability to work. 2558

(3) The parent has proven that the parent has made 2559
continuous and diligent efforts without success to find and 2560

accept employment, including temporary employment, part-time 2561
employment, or employment at less than the parent's previous 2562
salary or wage. 2563

(4) The parent is complying with court-ordered family 2564
reunification efforts in a child abuse, neglect, or dependency 2565
proceeding, to the extent that compliance with those efforts 2566
limits the parent's ability to earn income. 2567

(5) The parent is institutionalized for a period of twelve 2568
months or more with no other available income or assets. 2569

(J) When a court or agency calculates the income of a 2570
parent, it shall not determine a parent to be voluntarily 2571
unemployed or underemployed and shall not impute income to that 2572
parent if the parent is incarcerated. 2573

(K) When a court or agency requires a parent to pay an 2574
amount for that parent's failure to support a child for a period 2575
of time prior to the date the court modifies or issues a court 2576
child support order or an agency modifies or issues an 2577
administrative child support order for the current support of 2578
the child, the court or agency shall calculate that amount using 2579
the basic child support schedule, worksheets, and child support 2580
laws in effect, and the incomes of the parents as they existed, 2581
for that prior period of time. 2582

(L) A court or agency may disregard a parent's additional 2583
income from overtime or additional employment when the court or 2584
agency finds that the additional income was generated primarily 2585
to support a new or additional family member or members, or 2586
under other appropriate circumstances. 2587

(M) If both parents involved in the immediate child 2588
support determination have a prior order for support relative to 2589

a minor child or children born to both parents, the court or 2590
agency shall collect information about the existing order or 2591
orders and consider those together with the current calculation 2592
for support to ensure that the total of all orders for all 2593
children of the parties does not exceed the amount that would 2594
have been ordered if all children were addressed in a single 2595
judicial or administrative proceeding. 2596

(N) A support obligation of a parent with annual income 2597
subject to the self-sufficiency reserve of the basic child 2598
support schedule shall not exceed the support obligation that 2599
would result from application of the schedule without the 2600
reserve. 2601

(O) Any non-means tested benefit received by the child or 2602
children subject to the order resulting from the claims of 2603
either parent shall be deducted from that parent's annual child 2604
support obligation after all other adjustments have been made. 2605
If that non-means tested benefit exceeds the child support 2606
obligation of the parent from whose claim the benefit is 2607
realized, the child support obligation for that parent shall be 2608
zero. 2609

(P) As part of the child support calculation, the parents 2610
shall be ordered to share the costs of child care. Subject to 2611
the limitations in this division, a child support obligor shall 2612
pay an amount equal to the obligor's income share of the child 2613
care cost incurred for the child or children subject to the 2614
order. 2615

(1) The child care cost used in the calculation: 2616

(a) Shall be for the child determined to be necessary to 2617
allow a parent to work, or for activities related to employment 2618

training; 2619

(b) Shall be verifiable by credible evidence as determined 2620
by a court or child support enforcement agency; 2621

(c) Shall exclude any reimbursed or subsidized child care 2622
cost, including any state or federal tax credit for child care 2623
available to the parent or caretaker, whether or not claimed 2624

(d) Shall not exceed the maximum state-wide average cost 2625
estimate as determined in accordance with 45 C.F.R. 98.45. 2626

(2) When the annual income of the obligor is subject to 2627
the self-sufficiency reserve of the basic support schedule, the 2628
share of the child care cost paid by the obligor shall be equal 2629
to the lower of the obligor's income share of the child care 2630
cost, or fifty per cent of the child care cost. 2631

(Q) As used in this section, a parent is considered 2632
"incarcerated" if the parent is confined under a sentence 2633
imposed for an offense or serving a term of imprisonment, jail, 2634
or local incarceration, or other term under a sentence imposed 2635
by a government entity authorized to order such confinement. 2636

Sec. 3119.54. A party to a child support order issued in 2637
accordance with section 3119.30 of the Revised Code shall notify 2638
any physician, clinical nurse specialist, certified nurse 2639
practitioner, hospital, or other provider of medical services 2640
that provides medical services to the child who is the subject 2641
of the child support order of the number of any health insurance 2642
or health care policy, contract, or plan that covers the child 2643
if the child is eligible for medicaid. The party shall include 2644
in the notice the name and address of the insurer. Any 2645
physician, clinical nurse specialist, certified nurse 2646
practitioner, hospital, or other provider of medical services 2647

covered by the medicaid program who is notified under this 2648
section of the existence of a health insurance or health care 2649
policy, contract, or plan with coverage for children who are 2650
eligible for medicaid shall first bill the insurer for any 2651
services provided for those children. If the insurer fails to 2652
pay all or any part of a claim filed under this section and the 2653
services for which the claim is filed are covered by the 2654
medicaid program, the physician, clinical nurse specialist, 2655
certified nurse practitioner, hospital, or other medical 2656
services provider shall bill the remaining unpaid costs of the 2657
services to the medicaid program. 2658

Sec. 3304.23. (A) As used in this section: 2659

(1) "Clinical nurse specialist" and "certified nurse 2660
practitioner" have the same meanings as in section 4723.01 of 2661
the Revised Code. 2662

(2) "Communication disability" means a human condition 2663
involving an impairment in the human's ability to receive, send, 2664
process, or comprehend concepts or verbal, nonverbal, or graphic 2665
symbol systems that may result in a primary disability or may be 2666
secondary to other disabilities. 2667

~~(2)~~ (3) "Disability that can impair communication" means a 2668
human condition with symptoms that can impair the human's 2669
ability to receive, send, process, or comprehend concepts or 2670
verbal, nonverbal, or graphic symbol systems. 2671

~~(3)~~ (4) "Guardian" has the same meaning as in section 2672
2111.01 of the Revised Code. 2673

~~(4)~~ (5) "Physician" means a person licensed to practice 2674
medicine or surgery or osteopathic medicine and surgery under 2675
Chapter 4731. of the Revised Code. 2676

~~(5)~~(6) "Psychiatrist" has the same meaning as in section 2677
5122.01 of the Revised Code. 2678

~~(6)~~(7) "Psychologist" has the same meaning as in section 2679
4732.01 of the Revised Code. 2680

(B) The opportunities for Ohioans with disabilities agency 2681
shall develop a verification form for a person diagnosed with a 2682
communication disability or a disability that can impair 2683
communication to be submitted voluntarily to the department of 2684
public safety so that the person may be included in the database 2685
established under section 5502.08 of the Revised Code. The same 2686
form shall be used to indicate that the person wishes to be 2687
removed from the database in accordance with division (F) of 2688
section 5502.08 of the Revised Code. 2689

(C) The form shall include the following information: 2690

(1) The name of the person diagnosed with a communication 2691
disability or a disability that can impair communication; 2692

(2) The name of the person completing the form on behalf 2693
of the person diagnosed with a communication disability or a 2694
disability that can impair communication, if applicable; 2695

(3) The relationship between the person completing the 2696
form and the person diagnosed with a communication disability or 2697
a disability that can impair communication, if applicable; 2698

(4) The driver's license number or state identification 2699
card number issued to the person diagnosed with a communication 2700
disability or a disability that can impair communication, if 2701
that person has such a number; 2702

(5) The license plate number of each vehicle owned, 2703
operated, or regularly occupied by the person diagnosed with a 2704

communication disability or a disability that can impair 2705
communication or registered in that person's name; 2706

(6) A ~~physician, psychiatrist, or psychologist's signed~~ 2707
certification that the person has been diagnosed with a 2708
communication disability or a disability that can impair 2709
communication, signed by a psychiatrist or other physician, a 2710
psychologist, a clinical nurse specialist, or a certified nurse 2711
practitioner; 2712

(7) The name, business address, business telephone number, 2713
and ~~medical professional license number of the physician,~~ 2714
~~psychiatrist, or psychologist professional~~ making the 2715
certification described in division (C) (6) of this section; 2716

(8) The signature of the person diagnosed with a 2717
communication disability or a disability that can impair 2718
communication or the signature of the person completing the form 2719
on behalf of such a person; 2720

(9) A place where the person diagnosed with a 2721
communication disability or a disability that can impair 2722
communication or the person completing the form on behalf of 2723
such a person may indicate the desire to be removed from the 2724
database. 2725

(D) Any of the following persons may complete the 2726
verification form: 2727

(1) Any person diagnosed with a communication disability 2728
or a disability that can impair communication who is eighteen 2729
years of age or older; 2730

(2) The parent or parents of a minor child diagnosed with 2731
a communication disability or a disability that can impair 2732
communication; 2733

(3) The guardian of a person diagnosed with a communication disability or a disability that can impair communication, regardless of the age of the person.

(E) The opportunities for Ohioans with disabilities agency and the department of public safety shall make the verification form electronically available on each of their respective web sites.

Sec. 3309.22. (A) (1) As used in this division, "personal history record" means information maintained in any format by the board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, electronic mail address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection and may be made available in printed or electronic format, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 3309.28 of the Revised Code;

(b) Any information identifying by name and address the amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(B) All medical reports and recommendations required by the system are privileged except as follows:

(1) Copies of medical reports or recommendations shall be made available to the following:	2762 2763
(a) The individual concerned, on written request;	2764
(b) The personal physician, <u>certified nurse-midwife, clinical nurse specialist, certified nurse practitioner,</u> attorney, or authorized agent of the individual concerned on written release received from the individual or the individual's agent;	2765 2766 2767 2768 2769
(c) The board assigned physician, <u>certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner.</u>	2770 2771
(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.	2772 2773 2774
(C) Any person who is a contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one such request of a person in any one year.	2775 2776 2777 2778
(D) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information:	2779 2780 2781
(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.	2782 2783 2784 2785 2786 2787 2788 2789 2790

(2) Pursuant to a court or administrative order issued 2791
under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of 2792
the Revised Code, the board shall furnish to a court or child 2793
support enforcement agency the information required under that 2794
section. 2795

(3) At the written request of any person, the board shall 2796
provide to the person a list of the names and addresses of 2797
members, former members, retirants, contributors, former 2798
contributors, or beneficiaries. The costs of compiling, copying, 2799
and mailing the list shall be paid by such person. 2800

(4) Within fourteen days after receiving from the director 2801
of job and family services a list of the names and social 2802
security numbers of recipients of public assistance pursuant to 2803
section 5101.181 of the Revised Code, the board shall inform the 2804
auditor of state of the name, current or most recent employer 2805
address, and social security number of each contributor whose 2806
name and social security number are the same as that of a person 2807
whose name or social security number was submitted by the 2808
director. The board and its employees shall, except for purposes 2809
of furnishing the auditor of state with information required by 2810
this section, preserve the confidentiality of recipients of 2811
public assistance in compliance with section 5101.181 of the 2812
Revised Code. 2813

(5) The system shall comply with orders issued under 2814
section 3105.87 of the Revised Code. 2815

On the written request of an alternate payee, as defined 2816
in section 3105.80 of the Revised Code, the system shall furnish 2817
to the alternate payee information on the amount and status of 2818
any amounts payable to the alternate payee under an order issued 2819
under section 3105.171 or 3105.65 of the Revised Code. 2820

(6) At the request of any person, the board shall make 2821
available to the person copies of all documents, including 2822
resumes, in the board's possession regarding filling a vacancy 2823
of an employee member or retirant member of the board. The 2824
person who made the request shall pay the cost of compiling, 2825
copying, and mailing the documents. The information described in 2826
this division is a public record. 2827

(7) The system shall provide the notice required by 2828
section 3309.673 of the Revised Code to the prosecutor assigned 2829
to the case. 2830

(8) The system may provide information requested by the 2831
United States social security administration, United States 2832
centers for medicare and medicaid services, Ohio public 2833
employees deferred compensation program, Ohio police and fire 2834
pension fund, state teachers retirement system, public employees 2835
retirement system, state highway patrol retirement system, 2836
Cincinnati retirement system, or a third party that the school 2837
employees retirement board has contracted with for the purpose 2838
of administering any part of this chapter. 2839

(E) A statement that contains information obtained from 2840
the system's records that is signed by an officer of the 2841
retirement system and to which the system's official seal is 2842
affixed, or copies of the system's records to which the 2843
signature and seal are attached, shall be received as true 2844
copies of the system's records in any court or before any 2845
officer of this state. 2846

Sec. 3309.41. (A) Notwithstanding any contrary provisions 2847
in Chapter 124. or 3319. of the Revised Code: 2848

(1) A disability benefit recipient whose benefit effective 2849

date was before ~~the effective date of this amendment~~ January 7, 2850
2013, shall retain membership status and shall be considered on 2851
leave of absence from employment during the first five years 2852
following the effective date of a disability benefit. 2853

(2) A disability benefit recipient whose benefit effective 2854
date is on or after ~~the effective date of this amendment~~ January 2855
7, 2013, shall retain membership status and shall be considered 2856
on leave of absence from employment during the first three years 2857
following the effective date of a disability benefit, except 2858
that, if the school employees retirement board has recommended 2859
medical treatment or vocational rehabilitation and the member is 2860
receiving treatment or rehabilitation acceptable to a physician, 2861
certified nurse-midwife, clinical nurse specialist, or certified 2862
nurse practitioner, or consultant selected by the board, the 2863
board may permit the recipient to retain membership status and 2864
be considered on leave of absence from employment for up to five 2865
years following the effective date of a disability benefit. 2866

(B) The board shall require a disability benefit recipient 2867
to undergo an annual medical examination, except that the board 2868
may waive the medical examination if one or more of the board's 2869
~~physician or physicians,~~ certified nurse-midwives, clinical 2870
nurse specialists, or certified nurse practitioners certify that 2871
the recipient's disability is ongoing. Should any disability 2872
benefit recipient refuse to submit to a medical examination, the 2873
recipient's disability benefit shall be suspended until 2874
withdrawal of the refusal. Should the refusal continue for one 2875
year, all the recipient's rights in and to the disability 2876
benefit shall be terminated as of the effective date of the 2877
original suspension. 2878

(C) On completion of the examination by ~~an examining~~ 2879

~~physician or one or more physicians, certified nurse-midwives,~~ 2880
~~clinical nurse specialists, or certified nurse practitioners~~ 2881
selected by the board, the physician or ~~physicians-nurse~~ shall 2882
report and certify to the board whether the disability benefit 2883
recipient meets the applicable standard for termination of a 2884
disability benefit. If the recipient's benefit effective date is 2885
before ~~the effective date of this amendment~~ January 7, 2013, or 2886
the benefit effective date is after ~~the effective date of this~~ 2887
~~amendment~~ January 7, 2013, and the recipient is considered on a 2888
leave of absence under division (A)(2) of this section, the 2889
standard for termination is that the recipient is no longer 2890
physically and mentally incapable of resuming the service from 2891
which the recipient was found disabled. If the recipient's 2892
benefit effective date is on or after ~~the effective date of this~~ 2893
~~amendment~~ January 7, 2013, and the recipient is not considered on 2894
a leave of absence under division (A)(2) of this section, the 2895
standard is that the recipient is not physically or mentally 2896
incapable of performing the duties of a position that meets all 2897
of the following criteria: 2898

(1) Replaces not less than seventy-five per cent of the 2899
member's final average salary, adjusted each year by the actual 2900
average increase in the consumer price index prepared by the 2901
United States bureau of labor statistics (U.S. City Average for 2902
Urban Wage Earners and Clerical Workers: "All Items 1982- 2903
84=100"); 2904

(2) Is reasonably to be found in the member's regional job 2905
market; 2906

(3) Is one that the member is qualified for by experience 2907
or education. 2908

If the board concurs in the report that the disability 2909

benefit recipient meets the applicable standard for termination 2910
of a disability benefit, the payment of the disability benefit 2911
shall be terminated not later than three months after the date 2912
of the board's concurrence or upon employment as an employee. If 2913
the leave of absence has not expired, the retirement board shall 2914
certify to the disability benefit recipient's last employer 2915
before being found disabled that the recipient is no longer 2916
physically and mentally incapable of resuming service that is 2917
the same or similar to that from which the recipient was found 2918
disabled. The employer shall restore the recipient to the 2919
recipient's previous position and salary or to a position and 2920
salary similar thereto not later than the first day of the first 2921
month following termination of the disability benefit, unless 2922
the recipient was dismissed or resigned in lieu of dismissal for 2923
dishonesty, misfeasance, malfeasance, or conviction of a felony. 2924

(D) Each disability benefit recipient shall file with the 2925
board an annual statement of earnings, current medical 2926
information on the recipient's condition, and any other 2927
information required in rules adopted by the board. The board 2928
may waive the requirement that a disability benefit recipient 2929
file an annual statement of earnings or current medical 2930
information on the recipient's condition if one or more of the 2931
board's ~~physician or physicians, certified nurse-midwives,~~ 2932
clinical nurse specialists, or certified nurse practitioners 2933
certify that the recipient's disability is ongoing. 2934

The board shall annually examine the information submitted 2935
by the recipient. If a disability benefit recipient refuses to 2936
file the statement or information, the disability benefit shall 2937
be suspended until the statement and information are filed. If 2938
the refusal continues for one year, the recipient's right to the 2939
disability benefit shall be terminated as of the effective date 2940

of the original suspension. 2941

(E) If a disability benefit recipient is employed by an 2942
employer covered by this chapter, the recipient's disability 2943
benefit shall cease. 2944

(F) If disability retirement under section 3309.40 of the 2945
Revised Code is terminated for any reason, the annuity and 2946
pension reserves at that time in the annuity and pension reserve 2947
fund shall be transferred to the employees' savings fund and the 2948
employers' trust fund, respectively. If the total disability 2949
benefit paid is less than the amount of the accumulated 2950
contributions of the member transferred into the annuity and 2951
pension reserve fund at the time of the member's disability 2952
retirement, the difference shall be transferred from the annuity 2953
and pension reserve fund to another fund as may be required. In 2954
determining the amount of a member's account following the 2955
termination of disability retirement for any reason, the amount 2956
paid shall be charged against the member's refundable account. 2957

If a disability allowance paid under section 3309.401 of 2958
the Revised Code is terminated for any reason, the reserve on 2959
the allowance at that time in the annuity and pension reserve 2960
fund shall be transferred from that fund to the employers' trust 2961
fund. 2962

The board may terminate a disability benefit at the 2963
request of the recipient. 2964

(G) If a disability benefit is terminated and a former 2965
disability benefit recipient again becomes a contributor, other 2966
than as an other system retirant as defined in section 3309.341 2967
of the Revised Code, to this system, the public employees 2968
retirement system, or the state teachers retirement system, and 2969

completes an additional two years of service credit after the 2970
termination of the disability benefit, the former disability 2971
benefit recipient shall be entitled to receive up to two years 2972
of service credit for the period as a disability benefit 2973
recipient and may purchase service for the remaining period of 2974
the disability benefit. Total service credit received and 2975
purchased under this section shall not exceed the period of the 2976
disability benefit. 2977

For each year of credit purchased, the member shall pay to 2978
the system for credit to the member's accumulated account the 2979
sum of the following amounts: 2980

(1) The employee contribution rate in effect at the time 2981
the disability benefit commenced multiplied by the member's 2982
annual disability benefit; 2983

(2) The employer contribution rate in effect at the time 2984
the disability benefit commenced multiplied by the member's 2985
annual disability benefit; 2986

(3) Compound interest at a rate established by the board 2987
from the date the member is eligible to purchase the credit to 2988
the date of payment. 2989

The member may choose to purchase only part of such credit 2990
in any one payment, subject to board rules. 2991

(H) If any employer employs any member who is receiving a 2992
disability benefit, the employer shall file notice of employment 2993
with the retirement board, designating the date of employment. 2994
In case the notice is not filed, the total amount of the benefit 2995
paid during the period of employment prior to notice shall be 2996
paid from amounts allocated under Chapter 3317. of the Revised 2997
Code prior to its distribution to the school district in which 2998

the disability benefit recipient was so employed. 2999

Sec. 3309.45. Except as provided in division (C) (1) of 3000
this section, in lieu of accepting the payment of the 3001
accumulated account of a member who dies before service 3002
retirement, the beneficiary, as determined in section 3309.44 of 3003
the Revised Code, may elect to forfeit the accumulated account 3004
and to substitute certain other benefits either under division 3005
(A) or (B) of this section. 3006

(A) (1) If a deceased member was eligible for a service 3007
retirement allowance as provided in section 3309.36 or 3309.381 3008
of the Revised Code, a surviving spouse or other sole dependent 3009
beneficiary may elect to receive a monthly benefit computed as 3010
the joint-survivor allowance designated as "plan D" in section 3011
3309.46 of the Revised Code, which the member would have 3012
received had the member retired on the last day of the month of 3013
death and had the member at that time selected such joint- 3014
survivor plan. Payment shall begin with the month subsequent to 3015
the member's death. 3016

(2) Beginning on a date selected by the school employees 3017
retirement board, which shall be not later than July 1, 2004, a 3018
surviving spouse or other sole dependent beneficiary may elect, 3019
in lieu of a monthly payment under division (A) (1) of this 3020
section, a plan of payment consisting of both of the following: 3021

(a) A lump sum in an amount the surviving spouse or other 3022
sole dependent beneficiary designates that constitutes a portion 3023
of the allowance that would be payable under division (A) (1) of 3024
this section; 3025

(b) The remainder of that allowance in monthly payments. 3026

The total amount paid as a lump sum and a monthly benefit 3027

shall be the actuarial equivalent of the amount that would have 3028
been paid had the lump sum not been selected. 3029

The lump sum amount designated by the surviving spouse or 3030
other sole dependent beneficiary under division (A) (2) (a) of 3031
this section shall be not less than six times and not more than 3032
thirty-six times the monthly amount that would be payable to the 3033
surviving spouse or other sole dependent beneficiary under 3034
division (A) (1) of this section and shall not result in a 3035
monthly benefit that is less than fifty per cent of that monthly 3036
amount. 3037

(B) If the deceased member had completed at least one and 3038
one-half years of credit for Ohio service, with at least one- 3039
quarter year of Ohio contributing service credit within the two 3040
and one-half years prior to the date of death, or was receiving 3041
at the time of death a disability benefit as provided in section 3042
3309.40 or 3309.401 of the Revised Code, qualified survivors who 3043
elect to receive monthly benefits shall receive the greater of 3044
the benefits provided in division (B) (1) (a) or (b) as allocated 3045
in accordance with division (B) (5) of this section. 3046

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	1	2	3
A	(1) (a) Number of Qualified survivors affecting the benefit	Annual Benefit as a Per Cent of Decedent's Final Average Salary	Or Monthly Benefit shall not be less than

B	1	25%	\$95
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C	2	40	186
D	3	50	236
E	4	55	236
F	5 or more	60	236

3048

	1	2
A	(b) Years of Service	Annual Benefit as a Per Cent of Member's Final Average Salary
B	20	29%
C	21	33
D	22	37
E	23	41
F	24	45
G	25	48
H	26	51
I	27	54
J	28	57

K 29 or more 60

(2) Benefits shall begin as qualified survivors meet 3049
eligibility requirements as follows: 3050

(a) A qualified spouse is the surviving spouse of the 3051
deceased member who is age sixty-two, or regardless of age if 3052
the deceased member had ten or more years of Ohio service 3053
credit, or regardless of age if caring for a surviving child, or 3054
regardless of age if adjudged physically or mentally 3055
incompetent. 3056

(b) A qualified child whose benefit began before January 3057
7, 2013, is any child of the deceased member who has never been 3058
married and to whom one of the following applies: 3059

(i) Is under age eighteen, or under age twenty-two if the 3060
child is attending an institution of learning or training 3061
pursuant to a program designed to complete in each school year 3062
the equivalent of at least two-thirds of the full-time 3063
curriculum requirements of such institution and as further 3064
determined by board policy; 3065

(ii) Regardless of age, is adjudged physically or mentally 3066
incompetent if the incompetence existed prior to the member's 3067
death and prior to the child attaining age eighteen, or age 3068
twenty-two if attending an institution described in division (B) 3069
(2)(b)(i) of this section. 3070

(c) A qualified child whose benefit begins on or after 3071
January 7, 2013, is any child of the deceased member who has 3072
never been married and to whom one of the following applies: 3073

(i) Is under age nineteen; 3074

(ii) Regardless of age, is adjudged physically or mentally 3075
incompetent if the incompetence existed prior to the member's 3076
death and prior to the child attaining age nineteen. 3077

(d) A qualified parent is a dependent parent aged sixty- 3078
five or older. 3079

(3) "Physically or mentally incompetent" as used in this 3080
section may be determined by a court of jurisdiction, or by a 3081
physician, certified nurse-midwife, clinical nurse specialist, 3082
or certified nurse practitioner appointed by the retirement 3083
board. Incapability of earning a living because of a physically 3084
or mentally disabling condition shall meet the qualifications of 3085
this division. 3086

(4) Benefits to a qualified survivor shall terminate upon 3087
a first marriage, abandonment, adoption, or during active 3088
military service. Benefits to a deceased member's surviving 3089
spouse that were terminated under a former version of this 3090
section that required termination due to remarriage and were not 3091
resumed prior to September 16, 1998, shall resume on the first 3092
day of the month immediately following receipt by the board of 3093
an application on a form provided by the board. 3094

Upon the death of any subsequent spouse who was a member 3095
of the public employees retirement system, state teachers 3096
retirement system, or school employees retirement system, the 3097
surviving spouse of such member may elect to continue receiving 3098
benefits under this division, or to receive survivor's benefits, 3099
based upon the subsequent spouse's membership in one or more of 3100
the systems, for which such surviving spouse is eligible under 3101
this section or section 145.45 or 3307.66 of the Revised Code. 3102
If the surviving spouse elects to continue receiving benefits 3103
under this division, such election shall not preclude the 3104

payment of benefits under this division to any other qualified survivor. 3105
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Benefits shall begin or resume on the first day of the month following the attainment of eligibility and shall terminate on the first day of the month following loss of eligibility. 3107
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(5) (a) If a benefit is payable under division (B) (1) (a) of this section, benefits to a qualified spouse shall be paid in the amount determined for the first qualifying survivor in division (B) (1) (a) of this section, but shall not be less than one hundred six dollars per month if the deceased member had ten or more years of Ohio service credit. All other qualifying survivors shall share equally in the benefit or remaining portion thereof. 3111
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(b) All qualifying survivors shall share equally in a benefit payable under division (B) (1) (b) of this section, except that if there is a surviving spouse, the surviving spouse shall receive no less than the greater of the amount determined for the first qualifying survivor in division (B) (1) (a) of this section or one hundred six dollars per month. 3119
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(6) The beneficiary of a member who is also a member of the public employees retirement system, or of the state teachers retirement system, must forfeit the member's accumulated contributions in those systems, if the beneficiary takes a survivor benefit. Such benefit shall be exclusively governed by section 3309.35 of the Revised Code. 3125
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(C) (1) Regardless of whether the member is survived by a spouse or designated beneficiary, if the school employees retirement system receives notice that a deceased member 3131
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described in division (A) or (B) of this section has one or more 3134
qualified children, all persons who are qualified survivors 3135
under division (B) of this section shall receive monthly 3136
benefits as provided in division (B) of this section. 3137

If, after determining the monthly benefits to be paid 3138
under division (B) of this section, the system receives notice 3139
that there is a qualified survivor who was not considered when 3140
the determination was made, the system shall, notwithstanding 3141
section 3309.661 of the Revised Code, recalculate the monthly 3142
benefits with that qualified survivor included, even if the 3143
benefits to qualified survivors already receiving benefits are 3144
reduced as a result. The benefits shall be calculated as if the 3145
qualified survivor who is the subject of the notice became 3146
eligible on the date the notice was received and shall be paid 3147
to qualified survivors effective on the first day of the first 3148
month following the system's receipt of the notice. 3149

If the retirement system did not receive notice that a 3150
deceased member has one or more qualified children prior to 3151
making payment under section 3309.44 of the Revised Code to a 3152
beneficiary as determined by the retirement system, the payment 3153
is a full discharge and release of the system from any future 3154
claims under this section or section 3309.44 of the Revised 3155
Code. 3156

(2) If benefits under division (C) (1) of this section to 3157
all persons, or to all persons other than a surviving spouse or 3158
other sole beneficiary, terminate, there are no qualified 3159
children, and the surviving spouse or beneficiary qualifies for 3160
benefits under division (A) of this section, the surviving 3161
spouse or beneficiary may elect to receive benefits under 3162
division (A) of this section. Benefits shall be effective on the 3163

first day of the month following receipt by the board of an 3164
application for benefits under division (A) of this section. 3165

(D) The final average salary used in the calculation of a 3166
benefit payable pursuant to division (A) or (B) of this section 3167
to a survivor or beneficiary of a disability benefit recipient 3168
shall be adjusted for each year between the disability benefit's 3169
effective date and the recipient's date of death by the lesser 3170
of three per cent or the actual average percentage increase in 3171
the consumer price index prepared by the United States bureau of 3172
labor statistics (U.S. City Average for Urban Wage Earners and 3173
Clerical Workers: "All Items 1982-84=100"). 3174

(E) If the survivor benefits due and paid under this 3175
section are in a total amount less than the member's accumulated 3176
account that was transferred from the employees' savings fund, 3177
the state teachers retirement fund, and the public employees 3178
retirement fund to the survivors' benefit fund, then the 3179
difference between the total amount of the benefits paid shall 3180
be paid to the beneficiary under section 3309.44 of the Revised 3181
Code. 3182

Sec. 3313.64. (A) As used in this section and in section 3183
3313.65 of the Revised Code: 3184

(1) (a) Except as provided in division (A) (1) (b) of this 3185
section, "parent" means either parent, unless the parents are 3186
separated or divorced or their marriage has been dissolved or 3187
annulled, in which case "parent" means the parent who is the 3188
residential parent and legal custodian of the child. When a 3189
child is in the legal custody of a government agency or a person 3190
other than the child's natural or adoptive parent, "parent" 3191
means the parent with residual parental rights, privileges, and 3192
responsibilities. When a child is in the permanent custody of a 3193

government agency or a person other than the child's natural or adoptive parent, "parent" means the parent who was divested of parental rights and responsibilities for the care of the child and the right to have the child live with the parent and be the legal custodian of the child and all residual parental rights, privileges, and responsibilities.

(b) When a child is the subject of a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code, "parent" means the grandparent designated as attorney in fact under the power of attorney. When a child is the subject of a caretaker authorization affidavit executed under sections 3109.64 to 3109.73 of the Revised Code, "parent" means the grandparent that executed the affidavit.

(2) "Legal custody," "permanent custody," and "residual parental rights, privileges, and responsibilities" have the same meanings as in section 2151.011 of the Revised Code.

(3) "School district" or "district" means a city, local, or exempted village school district and excludes any school operated in an institution maintained by the department of youth services.

(4) Except as used in division (C) (2) of this section, "home" means a home, institution, foster home, group home, or other residential facility in this state that receives and cares for children, to which any of the following applies:

(a) The home is licensed, certified, or approved for such purpose by the state or is maintained by the department of youth services.

(b) The home is operated by a person who is licensed, certified, or approved by the state to operate the home for such

purpose.	3223
(c) The home accepted the child through a placement by a person licensed, certified, or approved to place a child in such a home by the state.	3224 3225 3226
(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.	3227 3228
(5) "Agency" means all of the following:	3229
(a) A public children services agency;	3230
(b) An organization that holds a certificate issued by the department of children and youth in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;	3231 3232 3233 3234 3235 3236
(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.	3237 3238 3239 3240
(6) A child is placed for adoption if either of the following occurs:	3241 3242
(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.	3243 3244 3245 3246
(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.	3247 3248 3249

(7) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code.	3250 3251
(8) "Child," unless otherwise indicated, includes preschool children with disabilities.	3252 3253
(9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.	3254 3255 3256 3257
(B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least five but under twenty-two years of age and any preschool child with a disability shall be admitted to school as provided in this division.	3258 3259 3260 3261 3262
(1) A child shall be admitted to the schools of the school district in which the child's parent resides.	3263 3264
(2) Except as provided in division (B) of section 2151.362 and section 3317.30 of the Revised Code, a child who does not reside in the district where the child's parent resides shall be admitted to the schools of the district in which the child resides if any of the following applies:	3265 3266 3267 3268 3269
(a) The child is in the legal or permanent custody of a government agency or a person other than the child's natural or adoptive parent.	3270 3271 3272
(b) The child resides in a home.	3273
(c) The child requires special education.	3274
(3) A child who is not entitled under division (B) (2) of this section to be admitted to the schools of the district where the child resides and who is residing with a resident of this	3275 3276 3277

state with whom the child has been placed for adoption shall be 3278
admitted to the schools of the district where the child resides 3279
unless either of the following applies: 3280

(a) The placement for adoption has been terminated. 3281

(b) Another school district is required to admit the child 3282
under division (B) (1) of this section. 3283

Division (B) of this section does not prohibit the board 3284
of education of a school district from placing a child with a 3285
disability who resides in the district in a special education 3286
program outside of the district or its schools in compliance 3287
with Chapter 3323. of the Revised Code. 3288

(C) A district shall not charge tuition for children 3289
admitted under division (B) (1) or (3) of this section. If the 3290
district admits a child under division (B) (2) of this section, 3291
tuition shall be paid to the district that admits the child as 3292
provided in divisions (C) (1) to (3) of this section, unless 3293
division (C) (4) of this section applies to the child: 3294

(1) If the child receives special education in accordance 3295
with Chapter 3323. of the Revised Code, the school district of 3296
residence, as defined in section 3323.01 of the Revised Code, 3297
shall pay tuition for the child in accordance with section 3298
3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code 3299
regardless of who has custody of the child or whether the child 3300
resides in a home. 3301

(2) For a child that does not receive special education in 3302
accordance with Chapter 3323. of the Revised Code, except as 3303
otherwise provided in division (C) (2) (d) of this section, if the 3304
child is in the permanent or legal custody of a government 3305
agency or person other than the child's parent, tuition shall be 3306

paid by: 3307

(a) The district in which the child's parent resided at 3308
the time the court removed the child from home or at the time 3309
the court vested legal or permanent custody of the child in the 3310
person or government agency, whichever occurred first; 3311

(b) If the parent's residence at the time the court 3312
removed the child from home or placed the child in the legal or 3313
permanent custody of the person or government agency is unknown, 3314
tuition shall be paid by the district in which the child resided 3315
at the time the child was removed from home or placed in legal 3316
or permanent custody, whichever occurred first; 3317

(c) If a school district cannot be established under 3318
division (C) (2) (a) or (b) of this section, tuition shall be paid 3319
by the district determined as required by section 2151.362 of 3320
the Revised Code by the court at the time it vests custody of 3321
the child in the person or government agency; 3322

(d) If at the time the court removed the child from home 3323
or vested legal or permanent custody of the child in the person 3324
or government agency, whichever occurred first, one parent was 3325
in a residential or correctional facility or a juvenile 3326
residential placement and the other parent, if living and not in 3327
such a facility or placement, was not known to reside in this 3328
state, tuition shall be paid by the district determined under 3329
division (D) of section 3313.65 of the Revised Code as the 3330
district required to pay any tuition while the parent was in 3331
such facility or placement; 3332

(e) If the department of education and workforce has 3333
determined, pursuant to division (A) (2) of section 2151.362 of 3334
the Revised Code, that a school district other than the one 3335

named in the court's initial order, or in a prior determination 3336
of the department, is responsible to bear the cost of educating 3337
the child, the district so determined shall be responsible for 3338
that cost. 3339

(3) If the child is not in the permanent or legal custody 3340
of a government agency or person other than the child's parent 3341
and the child resides in a home, tuition shall be paid by one of 3342
the following: 3343

(a) The school district in which the child's parent 3344
resides; 3345

(b) If the child's parent is not a resident of this state, 3346
the home in which the child resides. 3347

(4) Division (C)(4) of this section applies to any child 3348
who is admitted to a school district under division (B)(2) of 3349
this section, resides in a home that is not a foster home, a 3350
home maintained by the department of youth services, a detention 3351
facility established under section 2152.41 of the Revised Code, 3352
or a juvenile facility established under section 2151.65 of the 3353
Revised Code, and receives educational services at the home or 3354
facility in which the child resides pursuant to a contract 3355
between the home or facility and the school district providing 3356
those services. 3357

If a child to whom division (C)(4) of this section applies 3358
is a special education student, a district may choose whether to 3359
receive a tuition payment for that child under division (C)(4) 3360
of this section or to receive a payment for that child under 3361
section 3323.14 of the Revised Code. If a district chooses to 3362
receive a payment for that child under section 3323.14 of the 3363
Revised Code, it shall not receive a tuition payment for that 3364

child under division (C) (4) of this section. 3365

If a child to whom division (C) (4) of this section applies 3366
is not a special education student, a district shall receive a 3367
tuition payment for that child under division (C) (4) of this 3368
section. 3369

In the case of a child to which division (C) (4) of this 3370
section applies, the total educational cost to be paid for the 3371
child shall be determined by a formula approved by the 3372
department of education and workforce, which formula shall be 3373
designed to calculate a per diem cost for the educational 3374
services provided to the child for each day the child is served 3375
and shall reflect the total actual cost incurred in providing 3376
those services. The department shall certify the total 3377
educational cost to be paid for the child to both the school 3378
district providing the educational services and, if different, 3379
the school district that is responsible to pay tuition for the 3380
child. The department shall deduct the certified amount from the 3381
state basic aid funds payable under Chapter 3317. of the Revised 3382
Code to the district responsible to pay tuition and shall pay 3383
that amount to the district providing the educational services 3384
to the child. 3385

(D) Tuition required to be paid under divisions (C) (2) and 3386
(3) (a) of this section shall be computed in accordance with 3387
section 3317.08 of the Revised Code. Tuition required to be paid 3388
under division (C) (3) (b) of this section shall be computed in 3389
accordance with section 3317.081 of the Revised Code. If a home 3390
fails to pay the tuition required by division (C) (3) (b) of this 3391
section, the board of education providing the education may 3392
recover in a civil action the tuition and the expenses incurred 3393
in prosecuting the action, including court costs and reasonable 3394

attorney's fees. If the prosecuting attorney or city director of 3395
law represents the board in such action, costs and reasonable 3396
attorney's fees awarded by the court, based upon the prosecuting 3397
attorney's, director's, or one of their designee's time spent 3398
preparing and presenting the case, shall be deposited in the 3399
county or city general fund. 3400

(E) A board of education may enroll a child free of any 3401
tuition obligation for a period not to exceed sixty days, on the 3402
sworn statement of an adult resident of the district that the 3403
resident has initiated legal proceedings for custody of the 3404
child. 3405

(F) In the case of any individual entitled to attend 3406
school under this division, no tuition shall be charged by the 3407
school district of attendance and no other school district shall 3408
be required to pay tuition for the individual's attendance. 3409
Notwithstanding division (B), (C), or (E) of this section: 3410

(1) All persons at least eighteen but under twenty-two 3411
years of age who live apart from their parents, support 3412
themselves by their own labor, and have not successfully 3413
completed the high school curriculum or the individualized 3414
education program developed for the person by the high school 3415
pursuant to section 3323.08 of the Revised Code, are entitled to 3416
attend school in the district in which they reside. 3417

(2) Any child under eighteen years of age who is married 3418
is entitled to attend school in the child's district of 3419
residence. 3420

(3) A child is entitled to attend school in the district 3421
in which either of the child's parents is employed if the child 3422
has a medical condition that may require emergency medical 3423

attention. The parent of a child entitled to attend school under 3424
division (F) (3) of this section shall submit to the board of 3425
education of the district in which the parent is employed a 3426
statement from the child's physician, certified nurse-midwife, 3427
clinical nurse specialist, or certified nurse practitioner 3428
certifying that the child's medical condition may require 3429
emergency medical attention. The statement shall be supported by 3430
such other evidence as the board may require. 3431

(4) Any child residing with a person other than the 3432
child's parent is entitled, for a period not to exceed twelve 3433
months, to attend school in the district in which that person 3434
resides if the child's parent files an affidavit with the 3435
superintendent of the district in which the person with whom the 3436
child is living resides stating all of the following: 3437

(a) That the parent is serving outside of the state in the 3438
armed services of the United States; 3439

(b) That the parent intends to reside in the district upon 3440
returning to this state; 3441

(c) The name and address of the person with whom the child 3442
is living while the parent is outside the state. 3443

(5) Any child under the age of twenty-two years who, after 3444
the death of a parent, resides in a school district other than 3445
the district in which the child attended school at the time of 3446
the parent's death is entitled to continue to attend school in 3447
the district in which the child attended school at the time of 3448
the parent's death for the remainder of the school year, subject 3449
to approval of that district board. 3450

(6) A child under the age of twenty-two years who resides 3451
with a parent who is having a new house built in a school 3452

district outside the district where the parent is residing is 3453
entitled to attend school for a period of time in the district 3454
where the new house is being built. In order to be entitled to 3455
such attendance, the parent shall provide the district 3456
superintendent with the following: 3457

(a) A sworn statement explaining the situation, revealing 3458
the location of the house being built, and stating the parent's 3459
intention to reside there upon its completion; 3460

(b) A statement from the builder confirming that a new 3461
house is being built for the parent and that the house is at the 3462
location indicated in the parent's statement. 3463

(7) A child under the age of twenty-two years residing 3464
with a parent who has a contract to purchase a house in a school 3465
district outside the district where the parent is residing and 3466
who is waiting upon the date of closing of the mortgage loan for 3467
the purchase of such house is entitled to attend school for a 3468
period of time in the district where the house is being 3469
purchased. In order to be entitled to such attendance, the 3470
parent shall provide the district superintendent with the 3471
following: 3472

(a) A sworn statement explaining the situation, revealing 3473
the location of the house being purchased, and stating the 3474
parent's intent to reside there; 3475

(b) A statement from a real estate broker or bank officer 3476
confirming that the parent has a contract to purchase the house, 3477
that the parent is waiting upon the date of closing of the 3478
mortgage loan, and that the house is at the location indicated 3479
in the parent's statement. 3480

The district superintendent shall establish a period of 3481

time not to exceed ninety days during which the child entitled 3482
to attend school under division (F) (6) or (7) of this section 3483
may attend without tuition obligation. A student attending a 3484
school under division (F) (6) or (7) of this section shall be 3485
eligible to participate in interscholastic athletics under the 3486
auspices of that school, provided the board of education of the 3487
school district where the student's parent resides, by a formal 3488
action, releases the student to participate in interscholastic 3489
athletics at the school where the student is attending, and 3490
provided the student receives any authorization required by a 3491
public agency or private organization of which the school 3492
district is a member exercising authority over interscholastic 3493
sports. 3494

(8) A child whose parent is a full-time employee of a 3495
city, local, or exempted village school district, or of an 3496
educational service center, may be admitted to the schools of 3497
the district where the child's parent is employed, or in the 3498
case of a child whose parent is employed by an educational 3499
service center, in the district that serves the location where 3500
the parent's job is primarily located, provided the district 3501
board of education establishes such an admission policy by 3502
resolution adopted by a majority of its members. Any such policy 3503
shall take effect on the first day of the school year and the 3504
effective date of any amendment or repeal may not be prior to 3505
the first day of the subsequent school year. The policy shall be 3506
uniformly applied to all such children and shall provide for the 3507
admission of any such child upon request of the parent. No child 3508
may be admitted under this policy after the first day of classes 3509
of any school year. 3510

(9) A child who is with the child's parent under the care 3511
of a shelter for victims of domestic violence, as defined in 3512

section 3113.33 of the Revised Code, is entitled to attend 3513
school free in the district in which the child is with the 3514
child's parent, and no other school district shall be required 3515
to pay tuition for the child's attendance in that school 3516
district. 3517

The enrollment of a child in a school district under this 3518
division shall not be denied due to a delay in the school 3519
district's receipt of any records required under section 3520
3313.672 of the Revised Code or any other records required for 3521
enrollment. Any days of attendance and any credits earned by a 3522
child while enrolled in a school district under this division 3523
shall be transferred to and accepted by any school district in 3524
which the child subsequently enrolls. The department of 3525
education and workforce shall adopt rules to ensure compliance 3526
with this division. 3527

(10) Any child under the age of twenty-two years whose 3528
parent has moved out of the school district after the 3529
commencement of classes in the child's senior year of high 3530
school is entitled, subject to the approval of that district 3531
board, to attend school in the district in which the child 3532
attended school at the time of the parental move for the 3533
remainder of the school year and for one additional semester or 3534
equivalent term. A district board may also adopt a policy 3535
specifying extenuating circumstances under which a student may 3536
continue to attend school under division (F) (10) of this section 3537
for an additional period of time in order to successfully 3538
complete the high school curriculum for the individualized 3539
education program developed for the student by the high school 3540
pursuant to section 3323.08 of the Revised Code. 3541

(11) As used in this division, "grandparent" means a 3542

parent of a parent of a child. A child under the age of twenty- 3543
two years who is in the custody of the child's parent, resides 3544
with a grandparent, and does not require special education is 3545
entitled to attend the schools of the district in which the 3546
child's grandparent resides, provided that, prior to such 3547
attendance in any school year, the board of education of the 3548
school district in which the child's grandparent resides and the 3549
board of education of the school district in which the child's 3550
parent resides enter into a written agreement specifying that 3551
good cause exists for such attendance, describing the nature of 3552
this good cause, and consenting to such attendance. 3553

In lieu of a consent form signed by a parent, a board of 3554
education may request the grandparent of a child attending 3555
school in the district in which the grandparent resides pursuant 3556
to division (F)(11) of this section to complete any consent form 3557
required by the district, including any authorization required 3558
by sections 3313.712, 3313.713, 3313.716, and 3313.718 of the 3559
Revised Code. Upon request, the grandparent shall complete any 3560
consent form required by the district. A school district shall 3561
not incur any liability solely because of its receipt of a 3562
consent form from a grandparent in lieu of a parent. 3563

Division (F)(11) of this section does not create, and 3564
shall not be construed as creating, a new cause of action or 3565
substantive legal right against a school district, a member of a 3566
board of education, or an employee of a school district. This 3567
section does not affect, and shall not be construed as 3568
affecting, any immunities from defenses to tort liability 3569
created or recognized by Chapter 2744. of the Revised Code for a 3570
school district, member, or employee. 3571

(12) A child under the age of twenty-two years is entitled 3572

to attend school in a school district other than the district in 3573
which the child is entitled to attend school under division (B), 3574
(C), or (E) of this section provided that, prior to such 3575
attendance in any school year, both of the following occur: 3576

(a) The superintendent of the district in which the child 3577
is entitled to attend school under division (B), (C), or (E) of 3578
this section contacts the superintendent of another district for 3579
purposes of this division; 3580

(b) The superintendents of both districts enter into a 3581
written agreement that consents to the attendance and specifies 3582
that the purpose of such attendance is to protect the student's 3583
physical or mental well-being or to deal with other extenuating 3584
circumstances deemed appropriate by the superintendents. 3585

While an agreement is in effect under this division for a 3586
student who is not receiving special education under Chapter 3587
3323. of the Revised Code and notwithstanding Chapter 3327. of 3588
the Revised Code, the board of education of neither school 3589
district involved in the agreement is required to provide 3590
transportation for the student to and from the school where the 3591
student attends. 3592

A student attending a school of a district pursuant to 3593
this division shall be allowed to participate in all student 3594
activities, including interscholastic athletics, at the school 3595
where the student is attending on the same basis as any student 3596
who has always attended the schools of that district while of 3597
compulsory school age. 3598

(13) All school districts shall comply with the "McKinney- 3599
Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et seq., for 3600
the education of homeless children. Each city, local, and 3601

exempted village school district shall comply with the 3602
requirements of that act governing the provision of a free, 3603
appropriate public education, including public preschool, to 3604
each homeless child. 3605

When a child loses permanent housing and becomes a 3606
homeless person, as defined in 42 U.S.C.A. 11481(5), or when a 3607
child who is such a homeless person changes temporary living 3608
arrangements, the child's parent or guardian shall have the 3609
option of enrolling the child in either of the following: 3610

(a) The child's school of origin, as defined in 42 3611
U.S.C.A. 11432(g) (3) (C); 3612

(b) The school that is operated by the school district in 3613
which the shelter where the child currently resides is located 3614
and that serves the geographic area in which the shelter is 3615
located. 3616

(14) A child under the age of twenty-two years who resides 3617
with a person other than the child's parent is entitled to 3618
attend school in the school district in which that person 3619
resides if both of the following apply: 3620

(a) That person has been appointed, through a military 3621
power of attorney executed under section 574(a) of the "National 3622
Defense Authorization Act for Fiscal Year 1994," 107 Stat. 1674 3623
(1993), 10 U.S.C. 1044b, or through a comparable document 3624
necessary to complete a family care plan, as the parent's agent 3625
for the care, custody, and control of the child while the parent 3626
is on active duty as a member of the national guard or a reserve 3627
unit of the armed forces of the United States or because the 3628
parent is a member of the armed forces of the United States and 3629
is on a duty assignment away from the parent's residence. 3630

(b) The military power of attorney or comparable document 3631
includes at least the authority to enroll the child in school. 3632

The entitlement to attend school in the district in which 3633
the parent's agent under the military power of attorney or 3634
comparable document resides applies until the end of the school 3635
year in which the military power of attorney or comparable 3636
document expires. 3637

(G) A board of education, after approving admission, may 3638
waive tuition for students who will temporarily reside in the 3639
district and who are either of the following: 3640

(1) Residents or domiciliaries of a foreign nation who 3641
request admission as foreign exchange students; 3642

(2) Residents or domiciliaries of the United States but 3643
not of Ohio who request admission as participants in an exchange 3644
program operated by a student exchange organization. 3645

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3646
3323.04, 3327.04, and 3327.06 of the Revised Code, a child may 3647
attend school or participate in a special education program in a 3648
school district other than in the district where the child is 3649
entitled to attend school under division (B) of this section. 3650

(I) (1) Notwithstanding anything to the contrary in this 3651
section or section 3313.65 of the Revised Code, a child under 3652
twenty-two years of age may attend school in the school district 3653
in which the child, at the end of the first full week of October 3654
of the school year, was entitled to attend school as otherwise 3655
provided under this section or section 3313.65 of the Revised 3656
Code, if at that time the child was enrolled in the schools of 3657
the district but since that time the child or the child's parent 3658
has relocated to a new address located outside of that school 3659

district and within the same county as the child's or parent's 3660
address immediately prior to the relocation. The child may 3661
continue to attend school in the district, and at the school to 3662
which the child was assigned at the end of the first full week 3663
of October of the current school year, for the balance of the 3664
school year. Division (I)(1) of this section applies only if 3665
both of the following conditions are satisfied: 3666

(a) The board of education of the school district in which 3667
the child was entitled to attend school at the end of the first 3668
full week in October and of the district to which the child or 3669
child's parent has relocated each has adopted a policy to enroll 3670
children described in division (I)(1) of this section. 3671

(b) The child's parent provides written notification of 3672
the relocation outside of the school district to the 3673
superintendent of each of the two school districts. 3674

(2) At the beginning of the school year following the 3675
school year in which the child or the child's parent relocated 3676
outside of the school district as described in division (I)(1) 3677
of this section, the child is not entitled to attend school in 3678
the school district under that division. 3679

(3) Any person or entity owing tuition to the school 3680
district on behalf of the child at the end of the first full 3681
week in October, as provided in division (C) of this section, 3682
shall continue to owe such tuition to the district for the 3683
child's attendance under division (I)(1) of this section for the 3684
lesser of the balance of the school year or the balance of the 3685
time that the child attends school in the district under 3686
division (I)(1) of this section. 3687

(4) A pupil who may attend school in the district under 3688

division (I) (1) of this section shall be entitled to 3689
transportation services pursuant to an agreement between the 3690
district and the district in which the child or child's parent 3691
has relocated unless the districts have not entered into such 3692
agreement, in which case the child shall be entitled to 3693
transportation services in the same manner as a pupil attending 3694
school in the district under interdistrict open enrollment as 3695
described in division (E) of section 3313.981 of the Revised 3696
Code, regardless of whether the district has adopted an open 3697
enrollment policy as described in division (B) (1) (b) or (c) of 3698
section 3313.98 of the Revised Code. 3699

(J) This division does not apply to a child receiving 3700
special education. 3701

A school district required to pay tuition pursuant to 3702
division (C) (2) or (3) of this section or section 3313.65 of the 3703
Revised Code shall have an amount deducted under division (C) of 3704
section 3317.023 of the Revised Code equal to its own tuition 3705
rate for the same period of attendance. A school district 3706
entitled to receive tuition pursuant to division (C) (2) or (3) 3707
of this section or section 3313.65 of the Revised Code shall 3708
have an amount credited under division (C) of section 3317.023 3709
of the Revised Code equal to its own tuition rate for the same 3710
period of attendance. If the tuition rate credited to the 3711
district of attendance exceeds the rate deducted from the 3712
district required to pay tuition, the department of education 3713
and workforce shall pay the district of attendance the 3714
difference from amounts deducted from all districts' payments 3715
under division (C) of section 3317.023 of the Revised Code but 3716
not credited to other school districts under such division and 3717
from appropriations made for such purpose. The treasurer of each 3718
school district shall, by the fifteenth day of January and July, 3719

furnish the director of education and workforce a report of the 3720
names of each child who attended the district's schools under 3721
divisions (C) (2) and (3) of this section or section 3313.65 of 3722
the Revised Code during the preceding six calendar months, the 3723
duration of the attendance of those children, the school 3724
district responsible for tuition on behalf of the child, and any 3725
other information that the director requires. 3726

Upon receipt of the report the director, pursuant to 3727
division (C) of section 3317.023 of the Revised Code, shall 3728
deduct each district's tuition obligations under divisions (C) 3729
(2) and (3) of this section or section 3313.65 of the Revised 3730
Code and pay to the district of attendance that amount plus any 3731
amount required to be paid by the state. 3732

(K) In the event of a disagreement, the director of 3733
education and workforce shall determine the school district in 3734
which the parent resides. 3735

(L) Nothing in this section requires or authorizes, or 3736
shall be construed to require or authorize, the admission to a 3737
public school in this state of a pupil who has been permanently 3738
excluded from public school attendance by the director pursuant 3739
to sections 3301.121 and 3313.662 of the Revised Code. 3740

(M) In accordance with division (B) (1) of this section, a 3741
child whose parent is a member of the national guard or a 3742
reserve unit of the armed forces of the United States and is 3743
called to active duty, or a child whose parent is a member of 3744
the armed forces of the United States and is ordered to a 3745
temporary duty assignment outside of the district, may continue 3746
to attend school in the district in which the child's parent 3747
lived before being called to active duty or ordered to a 3748
temporary duty assignment outside of the district, as long as 3749

the child's parent continues to be a resident of that district, 3750
and regardless of where the child lives as a result of the 3751
parent's active duty status or temporary duty assignment. 3752
However, the district is not responsible for providing 3753
transportation for the child if the child lives outside of the 3754
district as a result of the parent's active duty status or 3755
temporary duty assignment. 3756

Sec. 3313.716. (A) Notwithstanding section 3313.713 of the 3757
Revised Code or any policy adopted under that section, a student 3758
of a school operated by a city, local, exempted village, or 3759
joint vocational school district or a student of a chartered 3760
nonpublic school may possess and use a metered dose inhaler or a 3761
dry powder inhaler to alleviate asthmatic symptoms, or before 3762
exercise to prevent the onset of asthmatic symptoms, if both of 3763
the following conditions are satisfied: 3764

(1) The student has the written approval of the student's 3765
physician, clinical nurse specialist, or certified nurse 3766
practitioner and, if the student is a minor, the written 3767
approval of the parent, guardian, or other person having care or 3768
charge of the student. The physician's or nurse's written 3769
approval shall include at least all of the following 3770
information: 3771

(a) The student's name and address; 3772

(b) The names and dose of the medication contained in the 3773
inhaler; 3774

(c) The date the administration of the medication is to 3775
begin; 3776

(d) The date, if known, that the administration of the 3777
medication is to cease; 3778

(e) Written instructions that outline procedures school personnel should follow in the event that the asthma medication does not produce the expected relief from the student's asthma attack; 3779
3780
3781
3782

(f) Any severe adverse reactions that may occur to the child using the inhaler and that should be reported to the physician or nurse; 3783
3784
3785

(g) Any severe adverse reactions that may occur to another child, for whom the inhaler is not prescribed, should such a child receive a dose of the medication; 3786
3787
3788

(h) At least one emergency telephone number for contacting the physician or nurse in an emergency; 3789
3790

(i) At least one emergency telephone number for contacting the parent, guardian, or other person having care or charge of the student in an emergency; 3791
3792
3793

(j) Any other special instructions from the physician or nurse. 3794
3795

(2) The school principal and, if a school nurse is assigned to the student's school building, the school nurse has received copies of the written approvals required by division (A) (1) of this section. 3796
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If these conditions are satisfied, the student may possess and use the inhaler at school or at any activity, event, or program sponsored by or in which the student's school is a participant. 3800
3801
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3803

(B) (1) A school district, member of a school district board of education, or school district employee is not liable in damages in a civil action for injury, death, or loss to person 3804
3805
3806

or property allegedly arising from a district employee's 3807
prohibiting a student from using an inhaler because of the 3808
employee's good faith belief that the conditions of divisions 3809
(A) (1) and (2) of this section had not been satisfied. A school 3810
district, member of a school district board of education, or 3811
school district employee is not liable in damages in a civil 3812
action for injury, death, or loss to person or property 3813
allegedly arising from a district employee's permitting a 3814
student to use an inhaler because of the employee's good faith 3815
belief that the conditions of divisions (A) (1) and (2) of this 3816
section had been satisfied. Furthermore, when a school district 3817
is required by this section to permit a student to possess and 3818
use an inhaler because the conditions of divisions (A) (1) and 3819
(2) of this section have been satisfied, the school district, 3820
any member of the school district board of education, or any 3821
school district employee is not liable in damages in a civil 3822
action for injury, death, or loss to person or property 3823
allegedly arising from the use of the inhaler by a student for 3824
whom it was not prescribed. 3825

This section does not eliminate, limit, or reduce any 3826
other immunity or defense that a school district, member of a 3827
school district board of education, or school district employee 3828
may be entitled to under Chapter 2744. or any other provision of 3829
the Revised Code or under the common law of this state. 3830

(2) A chartered nonpublic school or any officer, director, 3831
or employee of the school is not liable in damages in a civil 3832
action for injury, death, or loss to person or property 3833
allegedly arising from a school employee's prohibiting a student 3834
from using an inhaler because of the employee's good faith 3835
belief that the conditions of divisions (A) (1) and (2) of this 3836
section had not been satisfied. A chartered nonpublic school or 3837

any officer, director, or employee of the school is not liable 3838
in damages in a civil action for injury, death, or loss to 3839
person or property allegedly arising from a school employee's 3840
permitting a student to use an inhaler because of the employee's 3841
good faith belief that the conditions of divisions (A)(1) and 3842
(2) of this section had been satisfied. Furthermore, when a 3843
chartered nonpublic school is required by this section to permit 3844
a student to possess and use an inhaler because the conditions 3845
of divisions (A)(1) and (2) of this section have been satisfied, 3846
the chartered nonpublic school or any officer, director, or 3847
employee of the school is not liable in damages in a civil 3848
action for injury, death, or loss to person or property 3849
allegedly arising from the use of the inhaler by a student for 3850
whom it was not prescribed. 3851

Sec. 3313.72. The board of education of a city, exempted 3852
village, or local school district may enter into a contract with 3853
a health district for the purpose of providing the services of a 3854
school physician, dentist, or nurse, including a clinical nurse 3855
specialist or certified nurse practitioner. The board may also 3856
enter into a contract under section 3313.721 of the Revised Code 3857
for the purpose of providing health care services to students. 3858

Sec. 3319.141. Each person who is employed by any board of 3859
education in this state, except for substitutes, adult education 3860
instructors who are scheduled to work the full-time equivalent 3861
of less than one hundred twenty days per school year, or persons 3862
who are employed on an as-needed, seasonal, or intermittent 3863
basis, shall be entitled to fifteen days sick leave with pay, 3864
for each year under contract, which shall be credited at the 3865
rate of one and one-fourth days per month. Teachers and regular 3866
nonteaching school employees, upon approval of the responsible 3867
administrative officer of the school district, may use sick 3868

leave for absence due to personal illness, pregnancy, injury, 3869
exposure to contagious disease which could be communicated to 3870
others, and for absence due to illness, injury, or death in the 3871
employee's immediate family. Unused sick leave shall be 3872
cumulative up to one hundred twenty work days, unless more than 3873
one hundred twenty days are approved by the employing board of 3874
education. The previously accumulated sick leave of a person who 3875
has been separated from public service, whether accumulated 3876
pursuant to section 124.38 of the Revised Code or pursuant to 3877
this section, shall be placed to the person's credit upon re- 3878
employment in the public service, provided that such re- 3879
employment takes place within ten years of the date of the last 3880
termination from public service. A teacher or nonteaching school 3881
employee who transfers from one public agency to another shall 3882
be credited with the unused balance of the teacher's or 3883
nonteaching employee's accumulated sick leave up to the maximum 3884
of the sick leave accumulation permitted in the public agency to 3885
which the employee transfers. Teachers and nonteaching school 3886
employees who render regular part-time, per diem, or hourly 3887
service shall be entitled to sick leave for the time actually 3888
worked at the same rate as that granted like full-time 3889
employees, calculated in the same manner as the ratio of sick 3890
leave granted to hours of service established by section 124.38 3891
of the Revised Code. Each board of education may establish 3892
regulations for the entitlement, crediting and use of sick leave 3893
by those substitute teachers employed by such board pursuant to 3894
section 3319.10 of the Revised Code who are not otherwise 3895
entitled to sick leave pursuant to such section. A board of 3896
education shall require a teacher or nonteaching school employee 3897
to furnish a written, signed statement on forms prescribed by 3898
such board to justify the use of sick leave. If medical 3899
attention is required, the employee's statement shall list the 3900

name and address of the attending physician, certified nurse- 3901
midwife, clinical nurse specialist, or certified nurse 3902
practitioner and the dates when the physician or nurse was 3903
consulted. Nothing in this section shall be construed to waive 3904
the physician-patient or advanced practice registered nurse- 3905
patient privilege provided by section 2317.02 of the Revised 3906
Code. Falsification of a statement is grounds for suspension or 3907
termination of employment under sections 3311.82, 3319.081, and 3908
3319.16 of the Revised Code. No sick leave shall be granted or 3909
credited to a teacher after the teacher's retirement or 3910
termination of employment. 3911

Except to the extent used as sick leave, leave granted 3912
under regulations adopted by a board of education pursuant to 3913
section 3311.77 or 3319.08 of the Revised Code shall not be 3914
charged against sick leave earned or earnable under this 3915
section. Nothing in this section shall be construed to affect in 3916
any other way the granting of leave pursuant to section 3311.77 3917
or 3319.08 of the Revised Code and any granting of sick leave 3918
pursuant to such section shall be charged against sick leave 3919
accumulated pursuant to this section. 3920

This section shall not be construed to interfere with any 3921
unused sick leave credit in any agency of government where 3922
attendance records are maintained and credit has been given for 3923
unused sick leave. Unused sick leave accumulated by teachers and 3924
nonteaching school employees under section 124.38 of the Revised 3925
Code shall continue to be credited toward the maximum 3926
accumulation permitted in accordance with this section. Each 3927
newly hired regular nonteaching and each regular nonteaching 3928
employee of any board of education who has exhausted the 3929
employee's accumulated sick leave shall be entitled to an 3930
advancement of not less than five days of sick leave each year, 3931

as authorized by rules which each board shall adopt, to be charged against the sick leave the employee subsequently accumulates under this section.

This section shall be uniformly administered.

Sec. 3319.143. Notwithstanding section 3319.141 of the Revised Code, the board of education of a city, exempted village, local or joint vocational school district may adopt a policy of assault leave by which an employee who is absent due to physical disability resulting from an assault which occurs in the course of board employment will be maintained on full pay status during the period of such absence. A board of education electing to effect such a policy of assault leave shall establish rules for the entitlement, crediting, and use of assault leave and file a copy of same with the department of education and workforce. A board of education adopting this policy shall require an employee to furnish a signed statement on forms prescribed by such board to justify the use of assault leave. If medical attention is required, a certificate from a licensed physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner stating the nature of the disability and its duration shall be required before assault leave can be approved for payment. Falsification of either ~~a signed the statement or a physician's the certificate~~ is ~~ground grounds~~ for suspension or termination of employment under section 3311.82 or 3319.16 of the Revised Code.

Assault leave granted under rules adopted by a board of education pursuant to this section shall not be charged against sick leave earned or earnable under section 3319.141 of the Revised Code or leave granted under rules adopted by a board of education pursuant to section 3311.77 or 3319.08 of the Revised

Code. This section shall be uniformly administered in those 3962
districts where such policy is adopted. 3963

Sec. 3321.04. Notwithstanding division (D) of section 3964
3311.19 and division (D) of section 3311.52 of the Revised Code, 3965
this section does not apply to any joint vocational or 3966
cooperative education school district or its superintendent. 3967

Every parent of any child of compulsory school age who is 3968
not employed under an age and schooling certificate or exempt 3969
under section 3321.042 of the Revised Code must send such child 3970
to a school or a special education program that conforms to the 3971
minimum standards prescribed by the director of education and 3972
workforce, for the full time the school or program attended is 3973
in session, which shall not be for less than thirty-two weeks 3974
per school year. Such attendance must begin within the first 3975
week of the school term or program or within one week of the 3976
date on which the child begins to reside in the district or 3977
within one week after the child's withdrawal from employment. 3978

For the purpose of operating a school or program on a 3979
trimester plan, "full time the school attended is in session," 3980
as used in this section means the two trimesters to which the 3981
child is assigned by the board of education. For the purpose of 3982
operating a school or program on a quarterly plan, "full time 3983
the school attended is in session," as used in this section, 3984
means the three quarters to which the child is assigned by the 3985
board of education. For the purpose of operating a school or 3986
program on a pentamester plan, "full time the school is in 3987
session," as used in this section, means the four pentamesters 3988
to which the child is assigned by the board of education. 3989

Excuses from future attendance at or past absence from 3990
school or a special education program may be granted for the 3991

causes, by the authorities, and under the following conditions: 3992

(A) The superintendent of the school district in which the 3993
child resides may excuse a child enrolled in the district from 3994
attendance for any part of the remainder of the current school 3995
year upon satisfactory showing of either of the following facts: 3996

(1) That the child's bodily or mental condition does not 3997
permit attendance at school or a special education program 3998
during such period; this fact is certified in writing by a 3999
licensed physician, clinical nurse specialist, or certified 4000
nurse practitioner or, in the case of a mental condition, by a 4001
licensed physician, a licensed clinical nurse specialist or 4002
certified nurse practitioner, a licensed psychologist, licensed 4003
school psychologist, or a certificated school psychologist; and 4004
provision is made for appropriate instruction of the child, in 4005
accordance with Chapter 3323. of the Revised Code; 4006

(2) That the child is being instructed at home by a person 4007
qualified to teach the branches in which instruction is 4008
required, and such additional branches, as the advancement and 4009
needs of the child may, in the opinion of such superintendent, 4010
require. In each such case the issuing superintendent shall file 4011
in the superintendent's office, with a copy of the excuse, 4012
papers showing how the inability of the child to attend school 4013
or a special education program or the qualifications of the 4014
person instructing the child at home were determined. All such 4015
excuses shall become void and subject to recall upon the removal 4016
of the disability of the child or the cessation of home 4017
instruction; and thereupon the child or the child's parents may 4018
be proceeded against after due notice whether such excuse be 4019
recalled or not. 4020

(B) The department of education and workforce may adopt 4021

rules authorizing the superintendent of schools of the district 4022
in which the child resides to excuse a child over fourteen years 4023
of age from attendance for a future limited period for the 4024
purpose of performing necessary work directly and exclusively 4025
for the child's parents or legal guardians. 4026

All excuses provided for in divisions (A) and (B) of this 4027
section shall be in writing and shall show the reason for 4028
excusing the child. A copy thereof shall be sent to the person 4029
in charge of the child. 4030

(C) The board of education of the school district or the 4031
governing authorities of a private or parochial school may in 4032
the rules governing the discipline in such schools, prescribe 4033
the authority by which and the manner in which any child may be 4034
excused for absence from such school for good and sufficient 4035
reasons. 4036

The department may by rule prescribe conditions governing 4037
the issuance of excuses, which shall be binding upon the 4038
authorities empowered to issue them. 4039

Sec. 3501.382. (A) (1) A registered voter who, by reason of 4040
disability, is unable to physically sign the voter's name as a 4041
candidate, signer, or circulator on a declaration of candidacy 4042
and petition, nominating petition, other petition, or other 4043
document under Title XXXV of the Revised Code may authorize a 4044
legally competent resident of this state who is eighteen years 4045
of age or older as an attorney in fact to sign that voter's name 4046
to the petition or other election document, at the voter's 4047
direction and in the voter's presence, in accordance with either 4048
of the following procedures: 4049

(a) The voter may file with the board of elections of the 4050

voter's county of residence a notarized form that includes or 4051
has attached all of the following: 4052

(i) The name of the voter who is authorizing an attorney 4053
in fact to sign petitions or other election documents on that 4054
voter's behalf, at the voter's direction and in the voter's 4055
presence; 4056

(ii) An attestation of the voter that the voter, by reason 4057
of disability, is unable to sign physically petitions or other 4058
election documents and that the voter desires the attorney in 4059
fact to sign them on the voter's behalf, at the direction of the 4060
voter and in the voter's presence; 4061

(iii) The name, residence address, date of birth, and, if 4062
applicable, Ohio supreme court registration number of the 4063
attorney in fact authorized to sign on the voter's behalf, at 4064
the voter's direction and in the voter's presence. A photocopy 4065
of the attorney in fact's driver's license or state 4066
identification card issued under section 4507.50 of the Revised 4067
Code shall be attached to the notarized form. 4068

(iv) The form of the signature that the attorney in fact 4069
will use in signing petitions or other election documents on the 4070
voter's behalf, at the voter's direction and in the voter's 4071
presence. 4072

(b) The voter may acknowledge, before an election 4073
official, and file with the board of elections of the voter's 4074
county of residence a form that includes or has attached all of 4075
the following: 4076

(i) The name of the voter who is authorizing an attorney 4077
in fact to sign petitions or other election documents on that 4078
voter's behalf, at the voter's direction and in the voter's 4079

presence; 4080

(ii) An attestation of the voter that the voter, by reason 4081
of disability, is physically unable to sign petitions or other 4082
election documents and that the voter desires the attorney in 4083
fact to sign them on the voter's behalf, at the direction of the 4084
voter and in the voter's presence; 4085

(iii) An attestation from a licensed physician, clinical 4086
nurse specialist, or certified nurse practitioner that the voter 4087
is disabled and, by reason of that disability, is physically 4088
unable to sign petitions or other election documents; 4089

(iv) The name, residence address, date of birth, and, if 4090
applicable, Ohio supreme court registration number of the 4091
attorney in fact authorized to sign on the voter's behalf, at 4092
the voter's direction and in the voter's presence. A photocopy 4093
of the attorney in fact's driver's license or state 4094
identification card issued under section 4507.50 of the Revised 4095
Code shall be attached to the notarized form. 4096

(v) The form of the signature that the attorney in fact 4097
will use in signing petitions or other election documents on the 4098
voter's behalf, at the voter's direction and in the voter's 4099
presence. 4100

(2) In addition to performing customary notarial acts with 4101
respect to the power of attorney form described in division (A) 4102
(1) (a) of this section, the notary public shall acknowledge that 4103
the voter in question affirmed in the presence of the notary 4104
public the information listed in divisions (A) (1) (a) (i), (ii), 4105
and (iii) of this section. A notary public shall not perform any 4106
notarial acts with respect to such a power of attorney form 4107
unless the voter first gives such an affirmation. Only a notary 4108

public satisfying the requirements of section 147.01 of the 4109
Revised Code may perform notarial acts with respect to such a 4110
power of attorney form. 4111

(B) A board of elections that receives a form under 4112
division (A) (1) of this section from a voter shall do both of 4113
the following: 4114

(1) Use the signature provided in accordance with division 4115
(A) (1) (a) (iv) or (A) (1) (b) (v) of this section for the purpose of 4116
verifying the voter's signature on all declarations of candidacy 4117
and petitions, nominating petitions, other petitions, or other 4118
documents signed by that voter under Title XXXV of the Revised 4119
Code; 4120

(2) Cause the poll list or signature pollbook for the 4121
relevant precinct to identify the voter in question as having 4122
authorized an attorney in fact to sign petitions or other 4123
election documents on the voter's behalf, at the voter's 4124
direction and in the voter's presence. 4125

(C) Notwithstanding division (D) of section 3501.38 or any 4126
other provision of the Revised Code to the contrary, an attorney 4127
in fact authorized to sign petitions or other election documents 4128
on a disabled voter's behalf, at the direction of and in the 4129
presence of that voter, in accordance with division (A) of this 4130
section may sign that voter's name to any petition or other 4131
election document under Title XXXV of the Revised Code after the 4132
power of attorney has been filed with the board of elections in 4133
accordance with division (A) (1) of this section. The signature 4134
shall be deemed to be that of the disabled voter, and the voter 4135
shall be deemed to be the signer. 4136

(D) (1) Notwithstanding division (F) of section 3501.38 or 4137

any other provision of the Revised Code to the contrary, the 4138
circulator of a petition may knowingly permit an attorney in 4139
fact to sign the petition on a disabled voter's behalf, at the 4140
direction of and in the presence of that voter, in accordance 4141
with division (A) (1) of this section. 4142

(2) Notwithstanding division (F) of section 3501.38 or any 4143
other provision of the Revised Code to the contrary, no petition 4144
paper shall be invalidated on the ground that the circulator 4145
knowingly permitted an attorney in fact to write a name other 4146
than the attorney in fact's own name on a petition paper, if 4147
that attorney in fact signed the petition on a disabled voter's 4148
behalf, at the direction of and in the presence of that voter, 4149
in accordance with division (C) of this section. 4150

(E) The secretary of state shall prescribe the form and 4151
content of the form for the power of attorney prescribed under 4152
division (A) (1) of this section and also shall prescribe the 4153
form and content of a distinct form to revoke such a power of 4154
attorney. 4155

(F) As used in this section, "unable to physically sign" 4156
means that the person with a disability cannot comply with the 4157
provisions of section 3501.011 of the Revised Code. A person is 4158
not "unable to physically sign" if the person is able to comply 4159
with section 3501.011 through reasonable accommodation, 4160
including the use of assistive technology or augmentative 4161
devices. 4162

Sec. 3701.031. (A) The director of health shall accept and 4163
administer grants received from the federal government or other 4164
sources, public or private, that are made available for use in 4165
monitoring, studying, and preventing pregnancy losses. To the 4166
extent that funding from grants is available, the director shall 4167

do the following: 4168

(1) Establish a population-based pregnancy loss registry 4169
to monitor the incidence of various types of pregnancy losses 4170
that occur in this state, make appropriate epidemiological 4171
studies to determine any causal relations of the pregnancy 4172
losses with occupational, nutritional, environmental, genetic, 4173
or infectious conditions, and determine what can be done to 4174
prevent such losses; 4175

(2) Advise, consult, cooperate with, and assist, by 4176
contract or otherwise, agencies of the state and federal 4177
government, agencies of governments of other states, agencies of 4178
political subdivisions of this state, universities, private 4179
organizations, corporations, and associations for the purpose of 4180
division (A) (1) of this section. 4181

(B) The director may adopt rules pursuant to Chapter 119. 4182
of the Revised Code to specify the reporting requirements for 4183
physicians, certified nurse-midwives, clinical nurse 4184
specialists, or certified nurse practitioners as necessary to 4185
accomplish the purposes of this section. 4186

(C) As used in this section, "Pregnancy-pregnancy loss" 4187
means a termination of pregnancy within the first twenty weeks 4188
of pregnancy either spontaneously or by means other than the 4189
purposeful termination of a pregnancy as described in section 4190
2919.11 of the Revised Code. 4191

Sec. 3701.046. The director of health is authorized to 4192
make grants for women's health services from funds appropriated 4193
for that purpose by the general assembly. 4194

None of the funds received through grants for women's 4195
health services shall be used to provide abortion services. None 4196

of the funds received through these grants shall be used for 4197
counseling for or referrals for abortion, except in the case of 4198
a medical emergency. These funds shall be distributed by the 4199
director to programs that the department of health determines 4200
will provide services that are physically and financially 4201
separate from abortion-providing and abortion-promoting 4202
activities, and that do not include counseling for or referrals 4203
for abortion, other than in the case of medical emergency. 4204

These women's health services include and are limited to 4205
the following: pelvic examinations and laboratory testing; 4206
breast examinations and patient education on breast cancer; 4207
screening for cervical cancer; screening and treatment for 4208
sexually transmitted diseases and HIV screening; voluntary 4209
choice of contraception, including abstinence and natural family 4210
planning; patient education and pre-pregnancy counseling on the 4211
dangers of smoking, alcohol, and drug use during pregnancy; 4212
education on sexual coercion and violence in relationships; and 4213
prenatal care or referral for prenatal care. These health care 4214
services shall be provided in a medical clinic setting by 4215
persons authorized under Chapter 4731. of the Revised Code to 4216
practice medicine and surgery or osteopathic medicine and 4217
surgery; authorized under Chapter 4730. of the Revised Code to 4218
practice as a physician assistant; licensed under Chapter 4723. 4219
of the Revised Code as a registered nurse, including an advanced 4220
practice registered nurse, or as a licensed practical nurse; or 4221
licensed under Chapter 4757. of the Revised Code as a social 4222
worker, independent social worker, licensed professional 4223
clinical counselor, or licensed professional counselor. 4224

The director shall adopt rules under Chapter 119. of the 4225
Revised Code specifying reasonable eligibility standards that 4226
must be met to receive the state funding and provide reasonable 4227

methods by which a grantee wishing to be eligible for federal 4228
funding may comply with these requirements for state funding 4229
without losing its eligibility for federal funding. 4230

Each applicant for these funds shall provide sufficient 4231
assurance to the director of all of the following: 4232

(A) The program shall not discriminate in the provision of 4233
services based on an individual's religion, race, national 4234
origin, disability, age, sex, number of pregnancies, or marital 4235
status; 4236

(B) The program shall provide services without subjecting 4237
individuals to any coercion to accept services or to employ any 4238
particular methods of family planning; 4239

(C) Acceptance of services shall be solely on a voluntary 4240
basis and may not be made a prerequisite to eligibility for, or 4241
receipt of, any other service, assistance from, or participation 4242
in, any other program of the service provider; 4243

(D) Any charges for services provided by the program shall 4244
be based on the patient's ability to pay and priority in the 4245
provision of services shall be given to persons from low-income 4246
families. 4247

In distributing these grant funds, the director shall give 4248
priority to grant requests from local departments of health for 4249
women's health services to be provided directly by personnel of 4250
the local department of health. The director shall issue a 4251
single request for proposals for all grants for women's health 4252
services. The director shall send a notification of this request 4253
for proposals to every local department of health in this state 4254
and shall place a notification on the department's web site. The 4255
director shall allow at least thirty days after issuing this 4256

notification before closing the period to receive applications. 4257

After the closing date for receiving grant applications, 4258
the director shall first consider grant applications from local 4259
departments of health that apply for grants for women's health 4260
services to be provided directly by personnel of the local 4261
department of health. Local departments of health that apply for 4262
grants for women's health services to be provided directly by 4263
personnel of the local department of health need not provide all 4264
the listed women's health services in order to qualify for a 4265
grant. However, in prioritizing awards among local departments 4266
of health that qualify for funding under this paragraph, the 4267
director may consider, among other reasonable factors, the 4268
comprehensiveness of the women's health services to be offered, 4269
provided that no local department of health shall be 4270
discriminated against in the process of awarding these grant 4271
funds because the applicant does not provide contraception. 4272

If funds remain after awarding grants to all local 4273
departments of health that qualify for the priority, the 4274
director may make grants to other applicants. Awards to other 4275
applicants may be made to those applicants that will offer all 4276
eight of the listed women's health services or that will offer 4277
all of the services except contraception. No applicant shall be 4278
discriminated against in the process of awarding these grant 4279
funds because the applicant does not provide contraception. 4280

Sec. 3701.144. (A) As used in this section, "cost sharing" 4281
has the same meaning as in section 3923.85 of the Revised Code. 4282

(B) The department of health shall administer the state's 4283
participation in the national breast and cervical cancer early 4284
detection program (NBCCEDP), which shall be known as the Ohio 4285
breast and cervical cancer project. The project shall be 4286

administered in accordance with Title XV of the "Public Health Service Act," 42 U.S.C. 300k et seq., and the department's NBCCEDP grant agreement with the United States centers for disease control and prevention.

(C) In administering the project, the department shall set eligibility requirements for services provided through the project as follows:

(1) The woman must have countable family income not exceeding three hundred per cent of the federal poverty line.

(2) One of the following must be the case:

(a) The woman is not covered by health insurance.

(b) The woman is covered by health insurance that does not include the screening or diagnostic services the woman seeks through the project.

(c) The woman is covered by health insurance that imposes cost sharing for the screening or diagnostic services the woman seeks through the project that exceeds the limit specified ~~by the director of health~~ in rules adopted under division (D) of this section.

(3) In the case of a woman seeking cervical cancer screening and diagnostic services through the project, the woman must be at least twenty-one and less than sixty-five years of age.

(4) In the case of a woman seeking breast cancer screening and diagnostic services through the project, either of the following must be the case:

(a) The woman is at least forty years of age.

(b) The woman is at least twenty-one and less than forty 4314
years of age and has been determined by a physician, certified 4315
nurse-midwife, clinical nurse specialist, or certified nurse 4316
practitioner to need breast cancer screening and diagnostic 4317
services due to the results of a clinical breast examination, 4318
the woman's family history, or other factors. 4319

(D) The director of health shall adopt rules for purposes 4320
of division (C) (2) (c) of this section specifying the cost 4321
sharing limit for each screening and diagnostic service that may 4322
be obtained through the project. The director may adopt other 4323
rules as necessary to implement this section. The rules shall be 4324
adopted in accordance with Chapter 119. of the Revised Code. 4325

Sec. 3701.146. (A) In taking actions regarding 4326
tuberculosis, the director of health has all of the following 4327
duties and powers: 4328

(1) The director shall maintain registries of hospitals, 4329
clinics, physicians, certified nurse-midwives, clinical nurse 4330
specialists, certified nurse practitioners, or other care 4331
providers to whom the director shall refer persons who make 4332
inquiries to the department of health regarding possible 4333
exposure to tuberculosis. 4334

(2) The director shall engage in tuberculosis surveillance 4335
activities, including the collection and analysis of 4336
epidemiological information relative to the frequency of 4337
tuberculosis infection, demographic and geographic distribution 4338
of tuberculosis cases, and trends pertaining to tuberculosis. 4339

(3) The director shall maintain a tuberculosis registry to 4340
record the incidence of tuberculosis in this state. 4341

(4) The director may appoint physicians, certified nurse- 4342

midwives, clinical nurse specialists, or certified nurse 4343
practitioners to serve as tuberculosis consultants for 4344
geographic regions of the state specified by the director. Each 4345
tuberculosis consultant shall act in accordance with rules the 4346
director establishes and shall be responsible for advising and 4347
assisting physicians, certified nurse-midwives, clinical nurse 4348
specialists, certified nurse practitioners, and other health 4349
care practitioners who participate in tuberculosis control 4350
activities and for reviewing medical records pertaining to the 4351
treatment provided to individuals with tuberculosis. 4352

(B) (1) The director shall adopt rules establishing 4353
standards for the following: 4354

(a) Performing tuberculosis screenings; 4355

(b) Performing examinations of individuals who have been 4356
exposed to tuberculosis and individuals who are suspected of 4357
having tuberculosis; 4358

(c) Providing treatment to individuals with tuberculosis; 4359

(d) Preventing individuals with communicable tuberculosis 4360
from infecting other individuals; 4361

(e) Performing laboratory tests for tuberculosis and 4362
studies of the resistance of tuberculosis to one or more drugs; 4363

(f) Selecting laboratories that provide in a timely 4364
fashion the results of a laboratory test for tuberculosis. The 4365
standards shall include a requirement that first consideration 4366
be given to laboratories located in this state. 4367

(2) Rules adopted pursuant to this section shall be 4368
adopted in accordance with Chapter 119. of the Revised Code and 4369
may be consistent with any recommendations or guidelines on 4370

tuberculosis issued by the United States centers for disease 4371
control and prevention or by the American thoracic society. The 4372
rules shall apply to county or district tuberculosis control 4373
units, physicians, certified nurse-midwives, clinical nurse 4374
specialists, and certified nurse practitioners who examine and 4375
treat individuals for tuberculosis, and laboratories that 4376
perform tests for tuberculosis. 4377

Sec. 3701.162. Any licensed physician, certified nurse- 4378
midwife if authorized as described in section 4723.438 of the 4379
Revised Code, clinical nurse specialist, or certified nurse 4380
practitioner practicing in this state, or the superintendent of 4381
any state or county institution, may receive without charge the 4382
quantities of antitoxin as the physician, nurse, or 4383
superintendent requires for the treatment or prevention of 4384
diphtheria in indigent persons, provided such antitoxin shall be 4385
used only for persons residing in the state, and that a 4386
sufficient supply is available for distribution. 4387

Sec. 3701.243. (A) Except as provided in this section or 4388
section 3701.248 of the Revised Code, no person or agency of 4389
state or local government that acquires the information while 4390
providing any health care service or while in the employ of a 4391
health care facility or health care provider shall disclose or 4392
compel another to disclose any of the following: 4393

(1) The identity of any individual on whom an HIV test is 4394
performed; 4395

(2) The results of an HIV test in a form that identifies 4396
the individual tested; 4397

(3) The identity of any individual diagnosed as having 4398
AIDS or an AIDS-related condition. 4399

(B) (1) Except as provided in divisions (B) (2), (C), (D), 4400
and (F) of this section, the results of an HIV test or the 4401
identity of an individual on whom an HIV test is performed or 4402
who is diagnosed as having AIDS or an AIDS-related condition may 4403
be disclosed only to the following: 4404

(a) The individual who was tested or the individual's 4405
legal guardian, and the individual's spouse or any sexual 4406
partner; 4407

(b) A person to whom disclosure is authorized by a written 4408
release, executed by the individual tested or by the 4409
individual's legal guardian and specifying to whom disclosure of 4410
the test results or diagnosis is authorized and the time period 4411
during which the release is to be effective; 4412

(c) Any physician, certified nurse-midwife, clinical nurse 4413
specialist, or certified nurse practitioner who treats the 4414
individual; 4415

(d) The department of health or a health commissioner to 4416
which reports are made under section 3701.24 of the Revised 4417
Code; 4418

(e) A health care facility or provider that procures, 4419
processes, distributes, or uses a human body part from a 4420
deceased individual, donated for a purpose specified in Chapter 4421
2108. of the Revised Code, and that needs medical information 4422
about the deceased individual to ensure that the body part is 4423
medically acceptable for its intended purpose; 4424

(f) Health care facility staff committees or accreditation 4425
or oversight review organizations conducting program monitoring, 4426
program evaluation, or service reviews; 4427

(g) A health care provider, emergency medical services 4428

worker, or peace officer who sustained a significant exposure to 4429
the body fluids of another individual, if that individual was 4430
tested pursuant to division (E)(6) of section 3701.242 of the 4431
Revised Code, except that the identity of the individual tested 4432
shall not be revealed; 4433

(h) To law enforcement authorities pursuant to a search 4434
warrant or a subpoena issued by or at the request of a grand 4435
jury, a prosecuting attorney, a city director of law or similar 4436
chief legal officer of a municipal corporation, or a village 4437
solicitor, in connection with a criminal investigation or 4438
prosecution. 4439

(2) The results of an HIV test or a diagnosis of AIDS or 4440
an AIDS-related condition may be disclosed to a health care 4441
provider, or an authorized agent or employee of a health care 4442
facility or a health care provider, if the provider, agent, or 4443
employee has a medical need to know the information and is 4444
participating in the diagnosis, care, or treatment of the 4445
individual on whom the test was performed or who has been 4446
diagnosed as having AIDS or an AIDS-related condition. 4447

This division does not impose a standard of disclosure 4448
different from the standard for disclosure of all other specific 4449
information about a patient to health care providers and 4450
facilities. Disclosure may not be requested or made solely for 4451
the purpose of identifying an individual who has a positive HIV 4452
test result or has been diagnosed as having AIDS or an AIDS- 4453
related condition in order to refuse to treat the individual. 4454
Referral of an individual to another health care provider or 4455
facility based on reasonable professional judgment does not 4456
constitute refusal to treat the individual. 4457

(3) Not later than ninety days after November 1, 1989, 4458

each health care facility in this state shall establish a 4459
protocol to be followed by employees and individuals affiliated 4460
with the facility in making disclosures authorized by division 4461
(B) (2) of this section. A person employed by or affiliated with 4462
a health care facility who determines in accordance with the 4463
protocol established by the facility that a disclosure is 4464
authorized by division (B) (2) of this section is immune from 4465
liability to any person in a civil action for damages for 4466
injury, death, or loss to person or property resulting from the 4467
disclosure. 4468

(C) (1) Any person or government agency may seek access to 4469
or authority to disclose the HIV test records of an individual 4470
in accordance with the following provisions: 4471

(a) The person or government agency shall bring an action 4472
in a court of common pleas requesting disclosure of or authority 4473
to disclose the results of an HIV test of a specific individual, 4474
who shall be identified in the complaint by a pseudonym but 4475
whose name shall be communicated to the court confidentially, 4476
pursuant to a court order restricting the use of the name. The 4477
court shall provide the individual with notice and an 4478
opportunity to participate in the proceedings if the individual 4479
is not named as a party. Proceedings shall be conducted in 4480
chambers unless the individual agrees to a hearing in open 4481
court. 4482

(b) The court may issue an order granting the plaintiff 4483
access to or authority to disclose the test results only if the 4484
court finds by clear and convincing evidence that the plaintiff 4485
has demonstrated a compelling need for disclosure of the 4486
information that cannot be accommodated by other means. In 4487
assessing compelling need, the court shall weigh the need for 4488

disclosure against the privacy right of the individual tested 4489
and against any disservice to the public interest that might 4490
result from the disclosure, such as discrimination against the 4491
individual or the deterrence of others from being tested. 4492

(c) If the court issues an order, it shall guard against 4493
unauthorized disclosure by specifying the persons who may have 4494
access to the information, the purposes for which the 4495
information shall be used, and prohibitions against future 4496
disclosure. 4497

(2) A person or government agency that considers it 4498
necessary to disclose the results of an HIV test of a specific 4499
individual in an action in which it is a party may seek 4500
authority for the disclosure by filing an in camera motion with 4501
the court in which the action is being heard. In hearing the 4502
motion, the court shall employ procedures for confidentiality 4503
similar to those specified in division (C)(1) of this section. 4504
The court shall grant the motion only if it finds by clear and 4505
convincing evidence that a compelling need for the disclosure 4506
has been demonstrated. 4507

(3) Except for an order issued in a criminal prosecution 4508
or an order under division (C)(1) or (2) of this section 4509
granting disclosure of the result of an HIV test of a specific 4510
individual, a court shall not compel a blood bank, hospital 4511
blood center, or blood collection facility to disclose the 4512
result of HIV tests performed on the blood of voluntary donors 4513
in a way that reveals the identity of any donor. 4514

(4) In a civil action in which the plaintiff seeks to 4515
recover damages from an individual defendant based on an 4516
allegation that the plaintiff contracted the HIV virus as a 4517
result of actions of the defendant, the prohibitions against 4518

disclosure in this section do not bar discovery of the results 4519
of any HIV test given to the defendant or any diagnosis that the 4520
defendant has AIDS or an AIDS-related condition. 4521

(D) The results of an HIV test or the identity of an 4522
individual on whom an HIV test is performed or who is diagnosed 4523
as having AIDS or an AIDS-related condition may be disclosed to 4524
a federal, state, or local government agency, or the official 4525
representative of such an agency, for purposes of the medicaid 4526
program, the medicare program, or any other public assistance 4527
program. 4528

(E) Any disclosure pursuant to this section shall be in 4529
writing and accompanied by a written statement that includes the 4530
following or substantially similar language: "This information 4531
has been disclosed to you from confidential records protected 4532
from disclosure by state law. You shall make no further 4533
disclosure of this information without the specific, written, 4534
and informed release of the individual to whom it pertains, or 4535
as otherwise permitted by state law. A general authorization for 4536
the release of medical or other information is not sufficient 4537
for the purpose of the release of HIV test results or 4538
diagnoses." 4539

(F) An individual who knows that the individual has 4540
received a positive result on an HIV test or has been diagnosed 4541
as having AIDS or an AIDS-related condition shall disclose this 4542
information to any other person with whom the individual intends 4543
to make common use of a hypodermic needle or engage in sexual 4544
conduct as defined in section 2907.01 of the Revised Code. An 4545
individual's compliance with this division does not prohibit a 4546
prosecution of the individual for a violation of division (B) of 4547
section 2903.11 of the Revised Code. 4548

(G) Nothing in this section prohibits the introduction of evidence concerning an HIV test of a specific individual in a criminal proceeding.

Sec. 3701.245. (A) No state agency as defined in section 1.60 of the Revised Code, political subdivision, agency of local government, or private nonprofit corporation receiving state or local government funds shall refuse to admit as a patient, or to provide services to, any individual solely because ~~he the~~ individual refuses to consent to an HIV test or to disclose HIV test results.

(B) The prohibition contained in division (A) of this section does not prevent a physician, certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, or a person licensed to practice dentistry under Chapter 4715. of the Revised Code from referring an individual ~~he the physician, nurse, or dentist~~ has reason to believe may have AIDS or an AIDS-related condition to an appropriate health care provider or facility, if the referral is based on reasonable professional judgment and not solely on grounds of the refusal of the individual to consent to an HIV test or to disclose the result of an HIV test.

Sec. 3701.262. (A) As used in this section:

(1) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(2) "Dentist" means a person who is licensed under Chapter 4715. of the Revised Code to practice dentistry.

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

(4) "Cancer" includes those diseases specified by rule of the director of health under division (B) (2) of this section.

(5) "Certified nurse-midwife," "clinical nurse specialist," and "certified nurse practitioner" have the same meanings as in section 4723.01 of the Revised Code.

(B) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

(1) Establish the Ohio cancer incidence surveillance system required by section 3701.261 of the Revised Code;

(2) Specify the types of cancer and other tumorous and precancerous diseases to be reported to the department of health under division (D) of this section;

(3) Establish reporting requirements for information concerning diagnosed cancer cases as the director considers necessary to conduct epidemiologic surveys of cancer in this state;

(4) Establish standards that must be met by research projects to be eligible to receive information concerning individual cancer patients from the department of health.

(C) The department of health shall record in the registry all reports of cancer received by it. In the development and administration of the cancer registry the department may use information compiled by public or private cancer registries and may contract for the collection and analysis of, and research related to, the information recorded under this section.

(D) (1) Each physician, certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, dentist,

hospital, or person providing diagnostic or treatment services 4606
to patients with cancer shall report each case of cancer to the 4607
department. Any person required to report pursuant to this 4608
section may elect to report to the department through an 4609
existing cancer registry if the registry meets the reporting 4610
standards established by the director and reports to the 4611
department. 4612

(2) No person shall fail to make the cancer reports 4613
required by division (D)(1) of this section. 4614

(E) All physicians, certified nurse-midwives, clinical 4615
nurse specialists, certified nurse practitioners, dentists, 4616
hospitals, or persons providing diagnostic or treatment services 4617
to patients with cancer shall grant to the department or its 4618
authorized representative access to all records that identify 4619
cases of cancer or establish characteristics of cancer, the 4620
treatment of cancer, or the medical status of any identified 4621
cancer patient. 4622

(F) The Arthur G. James cancer hospital and Richard J. 4623
Solove research institute of the Ohio state university, shall 4624
analyze and evaluate the cancer reports collected pursuant to 4625
this section. The department shall publish and make available to 4626
the public reports summarizing the information collected. 4627
Reports shall be made on a calendar year basis and published not 4628
later than ninety days after the end of each calendar year. 4629

(G) Furnishing information, including records, reports, 4630
statements, notes, memoranda, or other information, to the 4631
department of health, either voluntarily or as required by this 4632
section, or to a person or governmental entity designated as a 4633
medical research project by the department, does not subject a 4634
physician, certified nurse-midwife, clinical nurse specialist, 4635

certified nurse practitioner, dentist, hospital, or person 4636
providing diagnostic or treatment services to patients with 4637
cancer to liability in an action for damages or other relief for 4638
furnishing the information. 4639

(H) This section does not affect the authority of any 4640
person or facility providing diagnostic or treatment services to 4641
patients with cancer to maintain facility-based tumor 4642
registries, in addition to complying with the reporting 4643
requirements of this section. 4644

Sec. 3701.47. As used in sections 3701.46 to 3701.50 of 4645
the Revised Code, the standard tests for syphilis and gonorrhea 4646
are tests approved by the department of health, and shall be 4647
made at a laboratory approved to make such tests by the 4648
department. Such tests as are required shall, on request of the 4649
physician, certified nurse-midwife, clinical nurse specialist, 4650
or certified nurse practitioner submitting the specimens, be 4651
made without charge by the department. 4652

Sec. 3701.48. The approved laboratory making the standard 4653
tests for syphilis and gonorrhea shall make a report to the 4654
physician, certified nurse-midwife, clinical nurse specialist, 4655
certified nurse practitioner, or health commissioner submitting 4656
the specimens. Such laboratory shall forthwith report any 4657
reactive syphilis test or positive gonorrhea test to the 4658
department of health on forms prescribed and furnished by the 4659
director of health. 4660

Sec. 3701.50. Every physician, certified nurse-midwife, 4661
clinical nurse specialist, or certified nurse practitioner who 4662
attends any pregnant woman for conditions relating to pregnancy 4663
during the period of gestation shall take specimens of such 4664
woman at the time of first examination or within ten days 4665

thereof, and shall submit such specimens to an approved 4666
laboratory for standard syphilis and gonorrhea tests. If, in the 4667
opinion of the physician or nurse attending such woman, her 4668
condition does not permit the taking of specimens for submission 4669
to an approved laboratory, then no specimens shall be taken 4670
prior to delivery. If no specimens are taken prior to delivery 4671
because of the woman's condition, then such specimens shall be 4672
taken as soon after delivery as the physician or nurse deems it 4673
advisable. 4674

The health commissioner of the city or general health 4675
district, wherein any person required to be tested for syphilis 4676
and gonorrhea under this section or section 3701.49 of the 4677
Revised Code resides, may waive the requirements of such 4678
sections if the commissioner is satisfied by written affidavit 4679
or other written proof that the tests required are contrary to 4680
the tenets or practices of the religious creed of which the 4681
person is an adherent, and that the public health and welfare 4682
would not be injuriously affected by such waiver. 4683

Sec. 3701.505. (A) (1) Each hospital and each freestanding 4684
birthing center shall do all of the following: 4685

(a) Conduct a hearing screening on each newborn or infant 4686
born in the hospital or center unless the newborn or infant is 4687
transferred to another hospital; 4688

(b) Promptly notify the newborn's or infant's attending 4689
physician, certified nurse-midwife, clinical nurse specialist, 4690
or certified nurse practitioner of the screening results; 4691

(c) Notify the department of health of the screening 4692
results for each newborn or infant screened. 4693

(2) A hearing screening conducted under this section shall 4694

be conducted under the direction of an audiologist ~~or,~~ 4695
physician, certified nurse-midwife, clinical nurse specialist, 4696
or certified nurse practitioner or in collaboration with a 4697
physician, certified nurse-midwife, clinical nurse specialist, 4698
or certified nurse practitioner. Notwithstanding the licensure 4699
requirements of Chapter 4753. of the Revised Code, a screening 4700
may be conducted by a person who is not licensed under that 4701
chapter. 4702

(3) Each hospital and freestanding birthing center shall 4703
take the actions required by divisions (A) (1) and (2) of this 4704
section in accordance with the rules adopted under section 4705
3701.508 of the Revised Code. A hospital or freestanding 4706
birthing center may commence taking these actions at any time 4707
after the effective date of the rules but not later than June 4708
30, 2004, unless an extension is granted. The director may grant 4709
an extension to delay for up to one year after June 30, 2004, 4710
the requirement of compliance with the rules if the hospital or 4711
freestanding birthing center requesting the extension 4712
demonstrates justifiable cause for the extension. Justifiable 4713
cause may include having ordered but not yet received hearing 4714
screening equipment, ongoing efforts to obtain financing for the 4715
equipment, or any other cause accepted by the director. 4716

(B) Any hospital or freestanding birthing center providing 4717
a hearing screening in accordance with division (A) of this 4718
section shall be reimbursed by the department of health at a 4719
rate determined by the director of health, if both of the 4720
following are the case: 4721

(1) The screening is performed before the newborn or 4722
infant is discharged from the hospital or freestanding birthing 4723
center. 4724

(2) The parent, guardian, or custodian is financially 4725
unable to pay for the hearing screening and the hospital or 4726
freestanding birthing center is not reimbursed by a third-party 4727
payer as determined pursuant to rules adopted under section 4728
3701.508 of the Revised Code. 4729

(C) A hospital, clinic, or other health care facility at 4730
which a hearing evaluation is performed on a newborn or infant 4731
shall report the results of the evaluation to the attending 4732
physician, certified nurse-midwife, clinical nurse specialist, 4733
or certified nurse practitioner of the newborn or infant. 4734

Sec. 3701.5010. (A) As used in this section: 4735

(1) "Critical congenital heart defects screening" means 4736
the identification of a newborn that may have a critical 4737
congenital heart defect, through the use of a physiologic test. 4738

(2) "Freestanding birthing center" has the same meaning as 4739
in section 3701.503 of the Revised Code. 4740

(3) "Hospital," "maternity unit," "newborn," and 4741
"physician" have the same meanings as in section 3701.503 of the 4742
Revised Code. 4743

(4) "Pulse oximetry" means a noninvasive test that 4744
estimates the percentage of hemoglobin in blood that is 4745
saturated with oxygen. 4746

(B) Except as provided in division (C) of this section, 4747
each hospital and each freestanding birthing center shall 4748
conduct a critical congenital heart defects screening on each 4749
newborn born in the hospital or center, unless the newborn is 4750
being transferred to another hospital. The screening shall be 4751
performed before discharge. If the newborn is transferred to 4752
another hospital, that hospital shall conduct the screening when 4753

determined to be medically appropriate. The hospital or center 4754
shall promptly notify the newborn's parent, guardian, or 4755
custodian and attending physician, certified nurse-midwife, 4756
clinical nurse specialist, or certified nurse practitioner of 4757
the screening results. 4758

(C) A hospital or freestanding birthing center shall not 4759
conduct a critical congenital heart defects screening if the 4760
newborn's parent objects on the grounds that the screening 4761
conflicts with the parent's religious tenets and practices. 4762

(D) (1) The director of health shall adopt rules in 4763
accordance with Chapter 119. of the Revised Code establishing 4764
standards and procedures for the screening required by this 4765
section, including all of the following: 4766

(a) Designating the person or persons responsible for 4767
causing the screening to be performed; 4768

(b) Specifying screening equipment and methods; 4769

(c) Identifying when the screening should be performed; 4770

(d) Providing notice of the required screening to the 4771
newborn's parent, guardian, or custodian; 4772

(e) Communicating screening results to the newborn's 4773
parent, guardian, or custodian and attending physician, 4774
certified nurse-midwife, clinical nurse specialist, or certified 4775
nurse practitioner; 4776

(f) Reporting screening results to the department of 4777
health; 4778

(g) Referring newborns that receive abnormal screening 4779
results to providers of follow-up services. 4780

(2) In adopting rules under division (D) (1) (b) of this section, the director shall specify screening equipment and methods that include the use of pulse oximetry or other screening equipment and methods that detect critical congenital heart defects at least as accurately as pulse oximetry. The screening equipment and methods specified shall be consistent with recommendations issued by nationally recognized organizations that advocate on behalf of medical professionals or individuals with cardiovascular conditions.

Sec. 3701.59. (A) As used in this section:

(1) "Addiction services" and "alcohol and drug addiction services" have the same meanings as in section 5119.01 of the Revised Code.

(2) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(B) Any of the following health care professionals who attends a pregnant woman for conditions relating to pregnancy before the end of the twentieth week of pregnancy and who has reason to believe that the woman is using or has used a controlled substance in a manner that may place the woman's fetus in jeopardy shall encourage the woman to enroll in a drug treatment program offered by a provider of addiction services or alcohol and drug addiction services:

(1) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) Registered nurses licensed under Chapter 4723. of the Revised Code, including certified nurse-midwives, clinical nurse specialists, and certified nurse practitioners, and licensed

practical nurses licensed under ~~Chapter 4723. of the Revised~~ 4810
~~Code that chapter;~~ 4811

(3) Physician assistants licensed under Chapter 4730. of 4812
the Revised Code. 4813

(C) A health care professional is immune from civil 4814
liability and is not subject to criminal prosecution with regard 4815
to both of the following: 4816

(1) Failure to recognize that a pregnant woman has used or 4817
is using a controlled substance in a manner that may place the 4818
woman's fetus in jeopardy; 4819

(2) Any action taken in good faith compliance with this 4820
section. 4821

Sec. 3701.74. (A) As used in this section and section 4822
3701.741 of the Revised Code: 4823

(1) "Ambulatory care facility" means a facility that 4824
provides medical, diagnostic, or surgical treatment to patients 4825
who do not require hospitalization, including a dialysis center, 4826
ambulatory surgical facility, cardiac catheterization facility, 4827
diagnostic imaging center, extracorporeal shock wave lithotripsy 4828
center, home health agency, inpatient hospice, birthing center, 4829
radiation therapy center, emergency facility, and an urgent care 4830
center. "Ambulatory care facility" does not include the private 4831
office of a physician, advanced practice registered nurse, or 4832
dentist, whether the office is for an individual or group 4833
practice. 4834

(2) "Chiropractor" means an individual licensed under 4835
Chapter 4734. of the Revised Code to practice chiropractic. 4836

(3) "Emergency facility" means a hospital emergency 4837

department or any other facility that provides emergency medical services.	4838 4839
(4) "Health care practitioner" means all of the following:	4840
(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	4841 4842
(b) A registered <u>nurse licensed under Chapter 4723. of the Revised Code, including an advanced practice registered nurse, or a licensed practical nurse licensed under Chapter 4723. of the Revised Code that chapter;</u>	4843 4844 4845 4846
(c) An optometrist licensed under Chapter 4725. of the Revised Code;	4847 4848
(d) A dispensing optician, spectacle dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;	4849 4850 4851
(e) A pharmacist licensed under Chapter 4729. of the Revised Code;	4852 4853
(f) A physician;	4854
(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	4855 4856
(h) A practitioner of a limited branch of medicine issued a <u>license or certificate</u> under Chapter 4731. of the Revised Code;	4857 4858 4859
(i) A psychologist licensed under Chapter 4732. of the Revised Code;	4860 4861
(j) A chiropractor;	4862
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	4863 4864

(l) A speech-language pathologist or audiologist licensed	4865
under Chapter 4753. of the Revised Code;	4866
(m) An occupational therapist or occupational therapy	4867
assistant licensed under Chapter 4755. of the Revised Code;	4868
(n) A physical therapist or physical therapy assistant	4869
licensed under Chapter 4755. of the Revised Code;	4870
(o) A licensed professional clinical counselor, licensed	4871
professional counselor, social worker, independent social	4872
worker, independent marriage and family therapist, or marriage	4873
and family therapist licensed, or a social work assistant	4874
registered, under Chapter 4757. of the Revised Code;	4875
(p) A dietitian licensed under Chapter 4759. of the	4876
Revised Code;	4877
(q) A respiratory care professional licensed under Chapter	4878
4761. of the Revised Code;	4879
(r) An emergency medical technician-basic, emergency	4880
medical technician-intermediate, or emergency medical	4881
technician-paramedic certified under Chapter 4765. of the	4882
Revised Code.	4883
(5) "Health care provider" means a hospital, ambulatory	4884
care facility, long-term care facility, pharmacy, emergency	4885
facility, or health care practitioner.	4886
(6) "Hospital" has the same meaning as in section 3727.01	4887
of the Revised Code.	4888
(7) "Long-term care facility" means a nursing home,	4889
residential care facility, or home for the aging, as those terms	4890
are defined in section 3721.01 of the Revised Code; a	4891
residential facility licensed under section 5119.34 of the	4892

Revised Code that provides accommodations, supervision, and 4893
personal care services for three to sixteen unrelated adults; a 4894
nursing facility, as defined in section 5165.01 of the Revised 4895
Code; a skilled nursing facility, as defined in section 5165.01 4896
of the Revised Code; and an intermediate care facility for 4897
individuals with intellectual disabilities, as defined in 4898
section 5124.01 of the Revised Code. 4899

(8) "Medical record" means data in any form that pertains 4900
to a patient's medical history, diagnosis, prognosis, or medical 4901
condition and that is generated and maintained by a health care 4902
provider in the process of the patient's health care treatment. 4903

(9) "Medical records company" means a person who stores, 4904
locates, or copies medical records for a health care provider, 4905
or is compensated for doing so by a health care provider, and 4906
charges a fee for providing medical records to a patient or 4907
patient's representative. 4908

(10) "Patient" means either of the following: 4909

(a) An individual who received health care treatment from 4910
a health care provider; 4911

(b) A guardian, as defined in section 1337.11 of the 4912
Revised Code, of an individual described in division (A)(10)(a) 4913
of this section. 4914

(11) "Patient's personal representative" means a minor 4915
patient's parent or other person acting in loco parentis, a 4916
court-appointed guardian, or a person with durable power of 4917
attorney for health care for a patient, the executor or 4918
administrator of the patient's estate, or the person responsible 4919
for the patient's estate if it is not to be probated. "Patient's 4920
personal representative" does not include an insurer authorized 4921

under Title XXXIX of the Revised Code to do the business of 4922
sickness and accident insurance in this state, a health insuring 4923
corporation holding a certificate of authority under Chapter 4924
1751. of the Revised Code, or any other person not named in this 4925
division. 4926

(12) "Pharmacy" has the same meaning as in section 4729.01 4927
of the Revised Code. 4928

(13) "Physician" means a person authorized under Chapter 4929
4731. of the Revised Code to practice medicine and surgery, 4930
osteopathic medicine and surgery, or podiatric medicine and 4931
surgery. 4932

(14) "Authorized person" means a person to whom a patient 4933
has given written authorization to act on the patient's behalf 4934
regarding the patient's medical record. 4935

(15) "Advanced practice registered nurse" has the same 4936
meaning as in section 4723.01 of the Revised Code. 4937

(B) A patient, a patient's personal representative, or an 4938
authorized person who wishes to examine or obtain a copy of part 4939
or all of a medical record shall submit to the health care 4940
provider a written request signed by the patient, personal 4941
representative, or authorized person dated not more than one 4942
year before the date on which it is submitted. The request shall 4943
indicate whether the copy is to be sent to the requestor, sent 4944
to a physician, advanced practice registered nurse, or 4945
chiropractor, or held for the requestor at the office of the 4946
health care provider. Within a reasonable time after receiving a 4947
request that meets the requirements of this division and 4948
includes sufficient information to identify the record 4949
requested, a health care provider that has the patient's medical 4950

records shall permit the patient to examine the record during 4951
regular business hours without charge or, on request, shall 4952
provide a copy of the record in accordance with section 3701.741 4953
of the Revised Code, except that if a physician, advanced 4954
practice registered nurse, psychologist, licensed professional 4955
clinical counselor, licensed professional counselor, independent 4956
social worker, social worker, independent marriage and family 4957
therapist, marriage and family therapist, or chiropractor who 4958
has treated the patient determines for clearly stated treatment 4959
reasons that disclosure of the requested record is likely to 4960
have an adverse effect on the patient, the health care provider 4961
shall provide the record to a physician, advanced practice 4962
registered nurse, psychologist, licensed professional clinical 4963
counselor, licensed professional counselor, independent social 4964
worker, social worker, independent marriage and family 4965
therapist, marriage and family therapist, or chiropractor 4966
designated by the patient. The health care provider shall take 4967
reasonable steps to establish the identity of the person making 4968
the request to examine or obtain a copy of the patient's record. 4969

(C) If a health care provider fails to furnish a medical 4970
record as required by division (B) of this section, the patient, 4971
personal representative, or authorized person who requested the 4972
record may bring a civil action to enforce the patient's right 4973
of access to the record. 4974

(D) (1) This section does not apply to medical records 4975
whose release is covered by section 173.20 or 3721.13 of the 4976
Revised Code, by Chapter 1347., 5119., or 5122. of the Revised 4977
Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug 4978
Abuse Patient Records," or by 42 C.F.R. 483.10. 4979

(2) Nothing in this section is intended to supersede the 4980

confidentiality provisions of sections 2305.24, 2305.25, 4981
2305.251, and 2305.252 of the Revised Code. 4982

Sec. 3701.76. (A) The director of health shall establish 4983
and maintain a statewide public information campaign on the 4984
effects of diethylstilbestrol or other nonsteroidal synthetic 4985
estrogens for the purpose of educating the public concerning the 4986
potential hazards related to exposure to diethylstilbestrol or 4987
other nonsteroidal synthetic estrogens and encouraging persons 4988
exposed to diethylstilbestrol or other nonsteroidal synthetic 4989
estrogens, including those exposed before birth, to seek medical 4990
attention for the identification and treatment of any conditions 4991
resulting from this exposure. 4992

(B) The director shall maintain a registry of hospitals, 4993
clinics, physicians, certified nurse-midwives, clinical nurse 4994
specialists, certified nurse practitioners, or other health care 4995
providers to whom the director shall refer persons who make 4996
inquiries to the department of health regarding possible 4997
exposure to diethylstilbestrol or other nonsteroidal synthetic 4998
estrogens. In order to be eligible for listing in the registry, 4999
a health care provider shall make an application to the 5000
director, and shall have the necessary experience, facilities, 5001
and equipment to make examinations for possible effects of 5002
diethylstilbestrol or other nonsteroidal synthetic estrogens. 5003

(C) The director shall maintain a registry of persons who 5004
have been exposed to diethylstilbestrol or other nonsteroidal 5005
synthetic estrogens, including persons exposed before birth, for 5006
the purpose of studying and monitoring conditions caused by 5007
exposure to diethylstilbestrol or other nonsteroidal synthetic 5008
estrogen. No person shall be listed in the registry without the 5009
director's consent. 5010

(D) The director shall make an annual report to the 5011
general assembly on the effectiveness of the programs 5012
established under this section, and shall make recommendations 5013
concerning the programs and possible legislation relating to 5014
them. 5015

(E) No insurance company doing business under Title XXXIX 5016
and no health insuring corporation holding a certificate of 5017
authority under Chapter 1751. of the Revised Code shall cancel 5018
or refuse to renew a policy, contract, certificate, or agreement 5019
or limit benefits provided under a policy, contract, 5020
certificate, or agreement solely because a policyholder, 5021
subscriber, or applicant for a policy, contract, certificate, or 5022
agreement has been exposed to diethylstilbestrol or other 5023
nonsteroidal synthetic estrogens. 5024

Sec. 3705.30. (A) As used in this section: 5025

(1) "Certified nurse-midwife," "clinical nurse 5026
specialist," and "certified nurse practitioner" have the same 5027
meanings as in section 4723.01 of the Revised Code. 5028

(2) "Freestanding birthing center" has the same meaning as 5029
in section 3701.503 of the Revised Code. 5030

~~(2)~~ (3) "Hospital" has the same meaning as in section 5031
3722.01 of the Revised Code. 5032

~~(3)~~ (4) "Physician" means an individual authorized under 5033
Chapter 4731. of the Revised Code to practice medicine and 5034
surgery or osteopathic medicine and surgery. 5035

(B) The director of health shall establish and, if funds 5036
for this purpose are available, implement a statewide birth 5037
defects information system for the collection of information 5038
concerning congenital anomalies, stillbirths, and abnormal 5039

conditions of newborns. 5040

(C) If the system is implemented under division (B) of 5041
this section, all of the following apply: 5042

(1) The director may require each physician, certified 5043
nurse-midwife, clinical nurse specialist, certified nurse 5044
practitioner, hospital, and freestanding birthing center to 5045
report to the system information concerning all patients under 5046
five years of age with a primary diagnosis of a congenital 5047
anomaly or abnormal condition. The director shall not require a 5048
hospital, freestanding birthing center, ~~or physician,~~ certified 5049
nurse-midwife, clinical nurse specialist, or certified nurse 5050
practitioner to report to the system any information that is 5051
reported to the director or department of health under another 5052
provision of the Revised Code or Administrative Code. 5053

(2) On request, each physician, certified nurse-midwife, 5054
clinical nurse specialist, certified nurse practitioner, 5055
hospital, and freestanding birthing center shall give the 5056
director or authorized employees of the department of health 5057
access to the medical records of any patient described in 5058
division (C)(1) of this section. The department shall pay the 5059
costs of copying any medical records pursuant to this division. 5060

(3) The director may review vital statistics records and 5061
shall consider expanding the list of congenital anomalies and 5062
abnormal conditions of newborns reported on birth certificates 5063
pursuant to section 3705.08 of the Revised Code. 5064

(D) A physician, certified nurse-midwife, clinical nurse 5065
specialist, certified nurse practitioner, hospital, or 5066
freestanding birthing center that provides information to the 5067
system under division (C) of this section shall not be subject 5068

to criminal or civil liability for providing the information. 5069

Sec. 3705.33. As used in this section, "local health 5070
department" means a health department operated by the board of 5071
health of a city or general health district or the authority 5072
having the duties of a board of health under section 3709.05 of 5073
the Revised Code. 5074

A child's parent or legal guardian who wants information 5075
concerning the child removed from the birth defects information 5076
system shall request from the local health department or the 5077
child's physician, certified nurse-midwife, clinical nurse 5078
specialist, or certified nurse practitioner a form prepared by 5079
the director of health. On request, a local health department 5080
~~or~~, physician, certified nurse-midwife, clinical nurse 5081
specialist, or certified nurse practitioner shall provide the 5082
form to the child's parent or legal guardian. The individual 5083
providing the form shall discuss with the child's parent or 5084
legal guardian the information contained in the system. If the 5085
child's parent or legal guardian signs the form, the department 5086
~~or~~, physician, or nurse shall forward it to the director. On 5087
receipt of the signed form, the director shall remove from the 5088
system any information that identifies the child. 5089

Sec. 3705.35. Not later than one hundred eighty days after 5090
October 5, 2000, the director of health shall adopt rules in 5091
accordance with Chapter 119. of the Revised Code to do all of 5092
the following: 5093

(A) Implement the birth defects information system; 5094

(B) Specify the types of congenital anomalies and abnormal 5095
conditions of newborns to be reported to the system under 5096
section 3705.30 of the Revised Code; 5097

(C) Establish reporting requirements for information 5098
concerning diagnosed congenital anomalies and abnormal 5099
conditions of newborns; 5100

(D) Establish standards that must be met by persons or 5101
government entities that seek access to the system; 5102

(E) Establish a form for use by parents or legal guardians 5103
who seek to have information regarding their children removed 5104
from the system and a method of distributing the form to local 5105
health departments, as defined in section 3705.33 of the Revised 5106
Code, and to physicians, certified nurse-midwives, clinical 5107
nurse specialists, and certified nurse practitioners. The method 5108
of distribution must include making the form available on the 5109
internet. 5110

Sec. 3707.08. When a person known to have been exposed to 5111
a communicable disease declared quarantinable by the board of 5112
health of a city or general health district or the department of 5113
health is reported within its jurisdiction, the board shall at 5114
once restrict such person to ~~his~~ the person's place of residence 5115
or other suitable place, prohibit entrance to or exit from such 5116
place without the board's written permission in such manner as 5117
to prevent effective contact with individuals not so exposed, 5118
and enforce such restrictive measures as are prescribed by the 5119
department. 5120

When a person has, or is suspected of having, a 5121
communicable disease for which isolation is required by the 5122
board or the department, the board shall at once cause such 5123
person to be separated from susceptible persons in such places 5124
and under such circumstances as will prevent the conveyance of 5125
the infectious agents to susceptible persons, prohibit entrance 5126
to or exit from such places without the board's written 5127

permission, and enforce such restrictive measures as are 5128
prescribed by the department. 5129

When persons have, or are exposed to, a communicable 5130
disease for which placarding of premises is required by the 5131
board or the department, the board shall at once place in a 5132
conspicuous position on the premises where such a person is 5133
isolated or quarantined a placard having printed on it, in large 5134
letters, the name of the disease. No person shall remove, mar, 5135
deface, or destroy such placard, which shall remain in place 5136
until after the persons restricted have been released from 5137
isolation or quarantine. 5138

Physicians, certified nurse-midwives, clinical nurse 5139
specialists, and certified nurse practitioners attending a 5140
person affected with a communicable disease shall use such 5141
precautionary measures to prevent its spread as are required by 5142
the board or the department. 5143

No person isolated or quarantined by a board shall leave 5144
the premises to which ~~he~~ the person has been restricted without 5145
the written permission of such board until released from 5146
isolation or quarantine by it in ~~accordance~~ accordance with the 5147
rules and regulations of the department. 5148

Sec. 3707.10. When a person affected with yellow fever, 5149
typhus fever, or diphtheria has recovered and is no longer 5150
liable to communicate the disease to others, or has died, the 5151
attending physician, certified nurse-midwife, clinical nurse 5152
specialist, or certified nurse practitioner shall furnish a 5153
certificate of the recovery or death to the board of health of 5154
the city or general health district. As soon thereafter as the 5155
board considers it advisable, its health commissioner shall 5156
thoroughly disinfect and purify the house and contents of the 5157

house in which the affected person has been ill or has died, in 5158
accordance with the rules adopted by the department of health. 5159

Sec. 3707.72. (A) (1) If a board of health establishes a 5160
fetal-infant mortality review board under section 3707.71 of the 5161
Revised Code, the board, by a majority vote of a quorum of its 5162
members, shall select the board's members. Members may include 5163
the following professionals or individuals representing the 5164
following constituencies: 5165

(a) Fetal-infant mortality review coordinators; 5166

(b) Physicians who are board-certified in obstetrics and 5167
gynecology by a certifying board recognized by the American 5168
board of medical specialties; 5169

(c) Key community leaders from the board of health's 5170
jurisdiction; 5171

(d) Health care providers; 5172

(e) Human services providers; 5173

(f) Consumer and advocacy groups; 5174

(g) Community action teams; 5175

(h) Certified nurse-midwives. 5176

(2) A majority of the board members specified in division 5177
(A) (1) of this section may invite additional individuals to 5178
serve on the board. The additional members shall serve for a 5179
period of time determined by a majority of the board members 5180
specified in division (A) (1) of this section and shall have the 5181
same authority, duties, and responsibilities as members 5182
specified in that division. 5183

(3) A board, by a majority vote of a quorum of its 5184

members, shall select an individual to serve as its chairperson. 5185

(B) A vacancy on a board shall be filled in the same 5186
manner as the original appointment. 5187

(C) A board member shall not receive any compensation for, 5188
and shall not be paid for any expenses incurred pursuant to, 5189
fulfilling the member's duties on the board. 5190

(D) A board may work in conjunction with, or be a 5191
component of, a child fatality review board or regional child 5192
fatality review board created under section 307.621 of the 5193
Revised Code. 5194

(E) A board shall convene at least once a year at the call 5195
of the board's chairperson. 5196

Sec. 3709.11. Within thirty days after the appointment of 5197
the members of the board of health in a general health district, 5198
they shall organize by selecting one of the members as president 5199
and another member as president pro tempore. ~~The~~ 5200

The board shall appoint a health commissioner upon such 5201
terms, and for such period of time, not exceeding five years, as 5202
may be prescribed by the board. The person appointed as 5203
commissioner shall be one of the following: a licensed 5204
physician; a person who is licensed as a certified nurse- 5205
midwife, clinical nurse specialist, or certified nurse 5206
practitioner and who specializes in public health; a licensed 5207
dentist; a licensed veterinarian; a licensed podiatrist; a 5208
licensed chiropractor; or the holder of a master's degree in 5209
public health or an equivalent master's degree in a related 5210
health field as determined by the members of the board of health 5211
in a general health district. ~~He~~ Notice of such appointment 5212
shall be filed with the director of health. 5213

The commissioner shall be secretary of the board, and 5214
shall devote such time to the duties of ~~his~~ office as may be 5215
fixed by contract with the board. ~~Notice of such appointment~~ 5216
~~shall be filed with the director of health.~~ The commissioner 5217
shall be the executive officer of the board and shall carry out 5218
all orders of the board and of the department of health. ~~He~~ The 5219
commissioner shall be charged with the enforcement of all 5220
sanitary laws and regulations in the district. The commissioner 5221
shall keep the public informed in regard to all matters 5222
affecting the health of the district. ~~When~~ 5223

When the commissioner is not a physician, certified nurse- 5224
midwife, clinical nurse specialist, or certified nurse 5225
practitioner, the board shall provide for adequate medical 5226
direction of all personal health and nursing services by the 5227
employment of a licensed physician, certified nurse-midwife, 5228
clinical nurse specialist, or certified nurse practitioner as 5229
medical director on either a full-time or part-time basis. The 5230
medical director shall be responsible to the board of health. 5231

Sec. 3709.13. In any general health district the board of 5232
health may, upon the recommendation of the health commissioner, 5233
appoint for full or part time service a public health nurse and 5234
a clerk and such additional public health nurses, physicians, 5235
certified nurse-midwives, clinical nurse specialists, certified 5236
nurse practitioners, and other persons as are necessary for the 5237
proper conduct of its work. Such number of public health nurses 5238
may be employed as is necessary to provide adequate public 5239
health nursing service to all parts of the district. Employees 5240
of the board, other than the commissioner, shall be in the 5241
classified service of the state, and all employees of the board 5242
may be removed for cause by a majority of the board. 5243

Sec. 3709.241. Notwithstanding any other provision of law, 5244
a minor may give consent for the diagnosis or treatment of any 5245
~~venerical disease~~ sexually transmitted infection by a licensed 5246
physician, certified nurse-midwife, clinical nurse specialist, 5247
or certified nurse practitioner. Such consent is not subject to 5248
disaffirmance because of minority. The consent of the parent, 5249
parents, or guardian of a minor is not required for such 5250
diagnosis or treatment. The parent, parents, or guardian of a 5251
minor giving consent under this section are not liable for 5252
payment for any diagnostic or treatment service provided under 5253
this section without their consent. 5254

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard 5255
abatement project, an asbestos hazard abatement contractor shall 5256
do all of the following: 5257

(1) Prepare a written respiratory protection program as 5258
defined by the director of environmental protection pursuant to 5259
rule, and make the program available to the environmental 5260
protection agency, and workers at the job site if the contractor 5261
is a public entity or prepare a written respiratory protection 5262
program, consistent with 29 C.F.R. 1910.134 and make the program 5263
available to the agency, and workers at the job site if the 5264
contractor is a business entity; 5265

(2) Ensure that each worker who will be involved in any 5266
asbestos hazard abatement project has been examined within the 5267
preceding year and has been declared by a physician, clinical 5268
nurse specialist, or certified nurse practitioner to be 5269
physically capable of working while wearing a respirator; 5270

(3) Ensure that each of the contractor's employees or 5271
agents who will come in contact with asbestos-containing 5272
materials or will be responsible for an asbestos hazard 5273

abatement project receives the appropriate certification or	5274
licensure required by this chapter and the following training:	5275
(a) An initial course approved by the agency pursuant to	5276
section 3710.10 of the Revised Code, completed before engaging	5277
in any asbestos hazard abatement activity; and	5278
(b) An annual review course approved by the agency	5279
pursuant to section 3710.10 of the Revised Code.	5280
(B) After obtaining or renewing a license, an asbestos	5281
hazard abatement contractor shall notify the agency, on a form	5282
approved by the director, at least ten working days before	5283
beginning each asbestos hazard abatement project conducted	5284
during the term of the contractor's license.	5285
(C) In addition to any other fee imposed under this	5286
chapter, an asbestos hazard abatement contractor shall pay, at	5287
the time of providing notice under division (B) of this section,	5288
the agency a fee of sixty-five dollars for each asbestos hazard	5289
abatement project conducted.	5290
Sec. 3715.872. (A) As used in this section, "health care	5291
professional" means any of the following who provide medical,	5292
dental, or other health-related diagnosis, care, or treatment:	5293
(1) Individuals authorized under Chapter 4731. of the	5294
Revised Code to practice medicine and surgery, osteopathic	5295
medicine and surgery, or podiatric medicine and surgery;	5296
(2) Registered nurses <u>licensed under Chapter 4723. of the</u>	5297
<u>Revised Code, including advanced practice registered nurses,</u> and	5298
licensed practical nurses licensed under Chapter 4723. of the	5299
Revised Code that chapter;	5300
(3) Physician assistants licensed under Chapter 4730. of	5301

the Revised Code;	5302
(4) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	5303 5304
(5) Optometrists licensed under Chapter 4725. of the Revised Code;	5305 5306
(6) Pharmacists licensed under Chapter 4729. of the Revised Code.	5307 5308
(B) For matters related to activities conducted under the drug repository program, all of the following apply:	5309 5310
(1) A pharmacy, drug manufacturer, health care facility, or other person or government entity that donates or gives drugs to the program, and any person or government entity that facilitates the donation or gift, shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property.	5311 5312 5313 5314 5315 5316
(2) A pharmacy, hospital, or nonprofit clinic that accepts or distributes drugs under the program shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the pharmacy, hospital, or nonprofit clinic constitutes willful and wanton misconduct.	5317 5318 5319 5320 5321 5322
(3) A health care professional who accepts, dispenses, or personally furnishes drugs under the program on behalf of a pharmacy, hospital, or nonprofit clinic participating in the program, and the pharmacy, hospital, or nonprofit clinic that employs or otherwise uses the services of the health care professional, shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the health care professional,	5323 5324 5325 5326 5327 5328 5329 5330

pharmacy, hospital, or nonprofit clinic constitutes willful and 5331
wanton misconduct. 5332

(4) The state board of pharmacy shall not be subject to 5333
liability in tort or other civil action for injury, death, or 5334
loss to person or property, unless an action or omission of the 5335
board constitutes willful and wanton misconduct. 5336

(5) In addition to the civil immunity granted under 5337
division (B)(1) of this section, a pharmacy, drug manufacturer, 5338
health care facility, or other person or government entity that 5339
donates or gives drugs to the program, and any person or 5340
government entity that facilitates the donation or gift, shall 5341
not be subject to criminal prosecution for matters related to 5342
activities that it conducts or another party conducts under the 5343
program, unless an action or omission of the party that donates, 5344
gives, or facilitates the donation or gift of the drugs does not 5345
comply with the provisions of this chapter or the rules adopted 5346
under it. 5347

(6) In the case of a drug manufacturer, the immunities 5348
from civil liability and criminal prosecution granted to another 5349
party under divisions (B)(1) and (5) of this section extend to 5350
the manufacturer when any drug it manufactures is the subject of 5351
an activity conducted under the program. This extension of 5352
immunities includes, but is not limited to, immunity from 5353
liability or prosecution for failure to transfer or communicate 5354
product or consumer information or the expiration date of a drug 5355
that is donated or given. 5356

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 5357
and 3721.99 of the Revised Code: 5358

(1) (a) "Home" means an institution, residence, or facility 5359

that provides, for a period of more than twenty-four hours, 5360
whether for a consideration or not, accommodations to three or 5361
more unrelated individuals who are dependent upon the services 5362
of others, including a nursing home, residential care facility, 5363
home for the aging, and a veterans' home operated under Chapter 5364
5907. of the Revised Code. 5365

(b) "Home" also means both of the following: 5366

(i) Any facility that a person, as defined in section 5367
3702.51 of the Revised Code, proposes for certification as a 5368
skilled nursing facility or nursing facility under Title XVIII 5369
or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 5370
U.S.C.A. 301, as amended, and for which a certificate of need, 5371
other than a certificate to recategorize hospital beds as 5372
described in section 3702.521 of the Revised Code or division 5373
(R) (7) (d) of the version of section 3702.51 of the Revised Code 5374
in effect immediately prior to April 20, 1995, has been granted 5375
to the person under sections 3702.51 to 3702.62 of the Revised 5376
Code after August 5, 1989; 5377

(ii) A county home or district home that is or has been 5378
licensed as a residential care facility. 5379

(c) "Home" does not mean any of the following: 5380

(i) Except as provided in division (A) (1) (b) of this 5381
section, a public hospital or hospital as defined in section 5382
3701.01 or 5122.01 of the Revised Code; 5383

(ii) A residential facility as defined in section 5119.34 5384
of the Revised Code; 5385

(iii) A residential facility as defined in section 5123.19 5386
of the Revised Code; 5387

(iv) A community addiction services provider as defined in section 5119.01 of the Revised Code;	5388 5389
(v) A facility licensed under section 5119.37 of the Revised Code to operate an opioid treatment program;	5390 5391
(vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code;	5392 5393 5394
(vii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	5395 5396 5397
(viii) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for the care of pediatric respite care patients or a location operated by a pediatric transition care program registered under section 3712.042 of the Revised Code that is used exclusively for the care of pediatric transition care patients;	5398 5399 5400 5401 5402 5403 5404
(ix) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program or the medicaid program if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;	5405 5406 5407 5408 5409 5410 5411 5412
(x) A county home or district home that has never been licensed as a residential care facility.	5413 5414
(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or	5415 5416

operator as a parent, grandparent, child, grandchild, brother, 5417
sister, niece, nephew, aunt, uncle, or as the child of an aunt 5418
or uncle. 5419

(3) "Mental impairment" does not mean mental illness, as 5420
defined in section 5122.01 of the Revised Code, or developmental 5421
disability, as defined in section 5123.01 of the Revised Code. 5422

(4) "Skilled nursing care" means procedures that require 5423
technical skills and knowledge beyond those the untrained person 5424
possesses and that are commonly employed in providing for the 5425
physical, mental, and emotional needs of the ill or otherwise 5426
incapacitated. "Skilled nursing care" includes, but is not 5427
limited to, the following: 5428

(a) Irrigations, catheterizations, application of 5429
dressings, and supervision of special diets; 5430

(b) Objective observation of changes in the patient's 5431
condition as a means of analyzing and determining the nursing 5432
care required and the need for further medical diagnosis and 5433
treatment; 5434

(c) Special procedures contributing to rehabilitation; 5435

(d) Administration of medication by any method ordered by 5436
a physician, such as hypodermically, rectally, or orally, 5437
including observation of the patient after receipt of the 5438
medication; 5439

(e) Carrying out other treatments prescribed by the 5440
physician that involve a similar level of complexity and skill 5441
in administration. 5442

(5) (a) "Personal care services" means services including, 5443
but not limited to, the following: 5444

- (i) Assisting residents with activities of daily living; 5445
- (ii) Assisting residents with self-administration of 5446
medication, in accordance with rules adopted under section 5447
3721.04 of the Revised Code; 5448
- (iii) Preparing special diets, other than complex 5449
therapeutic diets, for residents pursuant to the instructions of 5450
a physician, certified nurse-midwife if authorized as described 5451
in section 4723.438 of the Revised Code, clinical nurse 5452
specialist, certified nurse practitioner, or a-licensed 5453
dietitian, in accordance with rules adopted under section 5454
3721.04 of the Revised Code. 5455
- (b) "Personal care services" does not include "skilled 5456
nursing care" as defined in division (A) (4) of this section. A 5457
facility need not provide more than one of the services listed 5458
in division (A) (5) (a) of this section to be considered to be 5459
providing personal care services. 5460
- (6) "Nursing home" means a home used for the reception and 5461
care of individuals who by reason of illness or physical or 5462
mental impairment require skilled nursing care and of 5463
individuals who require personal care services but not skilled 5464
nursing care. A nursing home is licensed to provide personal 5465
care services and skilled nursing care. 5466
- (7) "Residential care facility" means a home that provides 5467
either of the following: 5468
- (a) Accommodations for seventeen or more unrelated 5469
individuals and supervision and personal care services for three 5470
or more of those individuals who are dependent on the services 5471
of others by reason of age or physical or mental impairment; 5472
- (b) Accommodations for three or more unrelated 5473

individuals, supervision and personal care services for at least 5474
three of those individuals who are dependent on the services of 5475
others by reason of age or physical or mental impairment, and, 5476
to at least one of those individuals, any of the skilled nursing 5477
care authorized by section 3721.011 of the Revised Code. 5478

(8) "Home for the aging" means a home that provides 5479
services as a residential care facility and a nursing home, 5480
except that the home provides its services only to individuals 5481
who are dependent on the services of others by reason of both 5482
age and physical or mental impairment. 5483

The part or unit of a home for the aging that provides 5484
services only as a residential care facility is licensed as a 5485
residential care facility. The part or unit that may provide 5486
skilled nursing care beyond the extent authorized by section 5487
3721.011 of the Revised Code is licensed as a nursing home. 5488

(9) "County home" and "district home" mean a county home 5489
or district home operated under Chapter 5155. of the Revised 5490
Code. 5491

(10) "Change of operator" includes circumstances in which 5492
an entering operator becomes the operator of a nursing home in 5493
the place of the exiting operator. 5494

(a) Actions that constitute a change of operator include 5495
the following: 5496

(i) A change in an exiting operator's form of legal 5497
organization, including the formation of a partnership or 5498
corporation from a sole proprietorship; 5499

(ii) A change in operational control of the nursing home, 5500
regardless of whether ownership of any or all of the real 5501
property or personal property associated with the nursing home 5502

is also transferred;	5503
(iii) A lease of the nursing home to the entering operator	5504
or termination of the exiting operator's lease;	5505
(iv) If the exiting operator is a partnership, dissolution	5506
of the partnership, a merger of the partnership into another	5507
person that is the survivor of the merger, or a consolidation of	5508
the partnership and at least one other person to form a new	5509
person;	5510
(v) If the exiting operator is a limited liability	5511
company, dissolution of the limited liability company, a merger	5512
of the limited liability company into another person that is the	5513
survivor of the merger, or a consolidation of the limited	5514
liability company and at least one other person to form a new	5515
person;	5516
(vi) If the exiting operator is a corporation, dissolution	5517
of the corporation, a merger of the corporation into another	5518
person that is the survivor of the merger, or a consolidation of	5519
the corporation and at least one other person to form a new	5520
person;	5521
(vii) A contract for a person to assume operational	5522
control of a nursing home;	5523
(viii) A change of fifty per cent or more in the ownership	5524
of the licensed operator that results in a change of operational	5525
control;	5526
(ix) Any pledge, assignment, or hypothecation of or lien	5527
or other encumbrance on any of the legal or beneficial equity	5528
interests in the operator or a person with operational control.	5529
(b) The following do not constitute a change of operator:	5530

(i) Actions necessary to create an employee stock ownership plan under section 401(a) of the "Internal Revenue Code," 26 U.S.C. 401(a);	5531 5532 5533
(ii) A change of ownership of real property or personal property associated with a nursing home;	5534 5535
(iii) If the operator is a corporation that has securities publicly traded in a marketplace, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator;	5536 5537 5538 5539 5540
(iv) An initial public offering for which the securities and exchange commission has declared the registration statement effective, and the newly created public company remains the operator.	5541 5542 5543 5544
(11) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the entering operator.	5545 5546 5547 5548
(a) An individual who is a relative of an entering operator is a related party.	5549 5550
(b) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the entering operator and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the entering operator and another organization from which the entering operator purchases or leases real	5551 5552 5553 5554 5555 5556 5557 5558 5559

property. 5560

(c) Control exists when an individual or organization has 5561
the power, directly or indirectly, to significantly influence or 5562
direct the actions or policies of an organization. 5563

(d) An individual or organization that supplies goods or 5564
services to an entering operator shall not be considered a 5565
related party if all of the following conditions are met: 5566

(i) The supplier is a separate bona fide organization. 5567

(ii) A substantial part of the supplier's business 5568
activity of the type carried on with the entering operator is 5569
transacted with others than the entering operator and there is 5570
an open, competitive market for the types of goods or services 5571
the supplier furnishes. 5572

(iii) The types of goods or services are commonly obtained 5573
by other nursing homes from outside organizations and are not a 5574
basic element of patient care ordinarily furnished directly to 5575
patients by nursing homes. 5576

(iv) The charge to the entering operator is in line with 5577
the charge for the goods or services in the open market and not 5578
more than the charge made under comparable circumstances to 5579
others by the supplier. 5580

(12) "SFF list" means the list of nursing facilities 5581
created by the United States department of health and human 5582
services under the special focus facility program. 5583

(13) "Special focus facility program" means the program 5584
conducted by the United States secretary of health and human 5585
services pursuant to section 1919(f)(10) of the "Social Security 5586
Act," 42 U.S.C. 1396r(f)(10). 5587

(14) "Real and present danger" means immediate danger of 5588
serious physical or life-threatening harm to one or more 5589
occupants of a home. 5590

(15) "Operator" means a person or government entity 5591
responsible for the operational control of a nursing home and 5592
that holds both of the following: 5593

(a) A license to operate the nursing home issued under 5594
section 3721.02 of the Revised Code, if such a license is 5595
required by section 3721.05 of the Revised Code; 5596

(b) A medicaid provider agreement issued under section 5597
5165.07 of the Revised Code, if applicable. 5598

(16) "Entering operator" means the person or government 5599
entity that will become the operator of a nursing home when a 5600
change of operator occurs or following a license revocation. 5601

(17) "Relative of entering operator" means an individual 5602
who is related to an entering operator of a nursing home by one 5603
of the following relationships: 5604

(a) Spouse; 5605

(b) Natural parent, child, or sibling; 5606

(c) Adopted parent, child, or sibling; 5607

(d) Stepparent, stepchild, stepbrother, or stepsister; 5608

(e) Father-in-law, mother-in-law, son-in-law, daughter-in- 5609
law, brother-in-law, or sister-in-law; 5610

(f) Grandparent or grandchild; 5611

(g) Foster caregiver, foster child, foster brother, or 5612
foster sister. 5613

- (18) "Exiting operator" means any of the following: 5614
- (a) An operator that will cease to be the operator of a nursing home on the effective date of a change of operator; 5615
5616
 - (b) An operator that will cease to be the operator of a nursing home on the effective date of a facility closure; 5617
5618
 - (c) An operator of a nursing home that is undergoing or has undergone a surrender of license; 5619
5620
 - (d) An operator of a nursing home that is undergoing or has undergone a license revocation. 5621
5622
- (19) "Operational control" means having the ability to direct the overall operations and cash flow of a nursing home. 5623
5624
"Operational control" may be exercised by one person or by multiple persons acting together or by a government entity, and may exist by means of any of the following: 5625
5626
5627
- (a) The person, persons, or government entity directly operating the nursing home; 5628
5629
 - (b) The person, persons, or government entity directly or indirectly owning fifty per cent or more of the operator of the nursing home; 5630
5631
5632
 - (c) An agreement or other arrangement granting the person, persons, or government entity operational control of the nursing home. 5633
5634
5635
- (20) "Property owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing home: 5636
5637
5638
5639
- (a) The land on which the nursing home is located; 5640

(b) The structure in which the nursing home is located;	5641
(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the nursing home is located;	5642 5643 5644
(d) Any lease or sublease of the land or structure on or in which the nursing home is located.	5645 5646
"Property owner" does not include a holder of a debenture or bond related to the nursing home and purchased at public issue or a regulated lender that has made a loan related to the nursing home, unless the holder or lender operates the nursing home directly or through a subsidiary.	5647 5648 5649 5650 5651
(21) "Person" has the same meaning as in section 1.59 of the Revised Code.	5652 5653
(B) The director of health may further classify homes. For the purposes of this chapter, any residence, institution, hotel, congregate housing project, or similar facility that meets the definition of a home under this section is such a home regardless of how the facility holds itself out to the public.	5654 5655 5656 5657 5658
(C) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.	5659 5660 5661 5662 5663 5664
(D) Nothing in division (A) (4) of this section shall be construed to permit skilled nursing care to be imposed on an individual who does not require skilled nursing care.	5665 5666 5667
Nothing in division (A) (5) of this section shall be	5668

construed to permit personal care services to be imposed on an 5669
individual who is capable of performing the activity in question 5670
without assistance. 5671

(E) Division (A)(1)(c)(ix) of this section does not 5672
prohibit a facility, infirmary, or other entity described in 5673
that division from seeking licensure under sections 3721.01 to 5674
3721.09 of the Revised Code or certification under Title XVIII 5675
or XIX of the "Social Security Act." However, such a facility, 5676
infirmary, or entity that applies for licensure or certification 5677
must meet the requirements of those sections or titles and the 5678
rules adopted under them and obtain a certificate of need from 5679
the director of health under section 3702.52 of the Revised 5680
Code. 5681

(F) Nothing in this chapter, or rules adopted pursuant to 5682
it, shall be construed as authorizing the supervision, 5683
regulation, or control of the spiritual care or treatment of 5684
residents or patients in any home who rely upon treatment by 5685
prayer or spiritual means in accordance with the creed or tenets 5686
of any recognized church or religious denomination. 5687

Sec. 3721.011. (A) In addition to providing 5688
accommodations, supervision, and personal care services to its 5689
residents, a residential care facility may do the following: 5690

(1) Provide the following skilled nursing care to its 5691
residents: 5692

(a) Supervision of special diets; 5693

(b) Application of dressings, in accordance with rules 5694
adopted under section 3721.04 of the Revised Code; 5695

(c) Subject to division (B)(1) of this section, 5696
administration of medication. 5697

(2) Subject to division (C) of this section, provide other 5698
skilled nursing care on a part-time, intermittent basis for not 5699
more than a total of one hundred twenty days in a twelve-month 5700
period; 5701

(3) Provide skilled nursing care for more than one hundred 5702
twenty days in a twelve-month period to a resident when the 5703
requirements of division (D) of this section are met. 5704

A residential care facility may not admit or retain an 5705
individual requiring skilled nursing care that is not authorized 5706
by this section. A residential care facility may not provide 5707
skilled nursing care beyond the limits established by this 5708
section. 5709

(B) (1) A residential care facility may admit or retain an 5710
individual requiring medication, including biologicals, only if 5711
the individual's personal physician, certified nurse-midwife if 5712
authorized as described in section 4723.438 of the Revised Code, 5713
clinical nurse specialist, or certified nurse practitioner has 5714
determined in writing that the individual is capable of self- 5715
administering the medication or the facility provides for the 5716
medication to be administered to the individual by a home health 5717
agency certified under Title XVIII of the "Social Security Act," 5718
79 Stat. 620 (1965), 42 U.S.C. 1395, as amended; a hospice care 5719
program licensed under Chapter 3712. of the Revised Code; or a 5720
member of the staff of the residential care facility who is 5721
qualified to perform medication administration. Medication may 5722
be administered in a residential care facility only by the 5723
following persons authorized by law to administer medication: 5724

(a) A registered nurse licensed under Chapter 4723. of the 5725
Revised Code, including a certified nurse-midwife, clinical 5726
nurse specialist, or certified nurse practitioner; 5727

(b) A licensed practical nurse licensed under Chapter 5728
4723. of the Revised Code who holds proof of successful 5729
completion of a course in medication administration approved by 5730
the board of nursing and who administers the medication only at 5731
the direction of a registered nurse or a physician authorized 5732
under Chapter 4731. of the Revised Code to practice medicine and 5733
surgery or osteopathic medicine and surgery; 5734

(c) A medication aide certified under Chapter 4723. of the 5735
Revised Code; 5736

(d) A physician authorized under Chapter 4731. of the 5737
Revised Code to practice medicine and surgery or osteopathic 5738
medicine and surgery. 5739

(2) In assisting a resident with self-administration of 5740
medication, any member of the staff of a residential care 5741
facility may do the following: 5742

(a) Remind a resident when to take medication and watch to 5743
ensure that the resident follows the directions on the 5744
container; 5745

(b) Assist a resident by taking the medication from the 5746
locked area where it is stored, in accordance with rules adopted 5747
pursuant to section 3721.04 of the Revised Code, and handing it 5748
to the resident. If the resident is physically unable to open 5749
the container, a staff member may open the container for the 5750
resident. 5751

(c) Assist a resident who is physically impaired but 5752
mentally alert, such as a resident with arthritis, cerebral 5753
palsy, or Parkinson's disease, in removing oral or topical 5754
medication from containers and in consuming or applying the 5755
medication, upon request by or with the consent of the resident. 5756

If a resident is physically unable to place a dose of medicine 5757
to the resident's mouth without spilling it, a staff member may 5758
place the dose in a container and place the container to the 5759
mouth of the resident. 5760

(C) Except as provided in division (D) of this section, a 5761
residential care facility may admit or retain individuals who 5762
require skilled nursing care beyond the supervision of special 5763
diets, application of dressings, or administration of 5764
medication, only if the care will be provided on a part-time, 5765
intermittent basis for not more than a total of one hundred 5766
twenty days in any twelve-month period. In accordance with 5767
Chapter 119. of the Revised Code, the director of health shall 5768
adopt rules specifying what constitutes the need for skilled 5769
nursing care on a part-time, intermittent basis. The director 5770
shall adopt rules that are consistent with rules pertaining to 5771
home health care adopted by the medicaid director for the 5772
medicaid program. Skilled nursing care provided pursuant to this 5773
division may be provided by a home health agency certified for 5774
participation in the medicare program, a hospice care program 5775
licensed under Chapter 3712. of the Revised Code, or a member of 5776
the staff of a residential care facility who is qualified to 5777
perform skilled nursing care. 5778

A residential care facility that provides skilled nursing 5779
care pursuant to this division shall do both of the following: 5780

(1) Evaluate each resident receiving the skilled nursing 5781
care at least once every seven days to determine whether the 5782
resident should be transferred to a nursing home; 5783

(2) Meet the skilled nursing care needs of each resident 5784
receiving the care. 5785

(D) (1) A residential care facility may admit or retain an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following:

(a) The individual or individual's sponsor;

(b) The individual's personal physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner;

(c) Unless the individual's personal physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner oversees the skilled nursing care, the provider of the skilled nursing care;

(d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code.

(2) The agreement required by division (D) (1) of this section shall include all of the following provisions:

(a) That the individual will be provided skilled nursing care in the facility only if a determination has been made that the individual's needs can be met at the facility;

(b) That the individual will be retained in the facility only if periodic redeterminations are made that the individual's needs are being met at the facility;

(c) That the redeterminations will be made according to a schedule specified in the agreement;

(d) If the individual is a hospice patient, that the

individual has been given an opportunity to choose the hospice 5814
care program that best meets the individual's needs; 5815

(e) Unless the individual is a hospice patient, that the 5816
individual's personal physician, certified nurse-midwife, 5817
clinical nurse specialist, or certified nurse practitioner has 5818
determined that the skilled nursing care the individual needs is 5819
routine. 5820

(E) Notwithstanding any other provision of this chapter, a 5821
residential care facility in which residents receive skilled 5822
nursing care pursuant to this section is not a nursing home. 5823

Sec. 3721.041. (A) As used in this section: 5824

(1) "Advisory committee" means the advisory committee on 5825
immunization practices of the United States centers for disease 5826
control and prevention or a successor committee or agency. 5827

(2) ~~"Home" has the same meaning as in section 3721.01~~ 5828
"Certified nurse-midwife," "clinical nurse specialist," and 5829
"certified nurse practitioner" have the same meanings as in 5830
section 4723.01 of the Revised Code. 5831

(3) "Physician" means an individual authorized under 5832
Chapter 4731. of the Revised Code to practice medicine and 5833
surgery or osteopathic medicine and surgery. 5834

(B) (1) Each home shall, on an annual basis, offer to each 5835
resident, in accordance with guidelines issued by the advisory 5836
committee, vaccination against influenza, unless a physician, 5837
certified nurse-midwife if authorized as described in section 5838
4723.438 of the Revised Code, clinical nurse specialist, or 5839
certified nurse practitioner has determined that vaccination of 5840
the resident is medically inappropriate. The vaccine shall be of 5841
a form approved by the advisory committee for that calendar 5842

year. A resident may refuse vaccination. 5843

(2) Each home shall obtain the influenza vaccine 5844
information sheet described in section 3701.138 of the Revised 5845
Code and post the sheet in a conspicuous location that is 5846
accessible to all residents, employees, and visitors. Not later 5847
than the first day of August each year, the home shall determine 5848
whether the information sheet it has posted is the most recent 5849
version available. If it is not, the home shall replace the 5850
information sheet with the updated version. Nothing in this 5851
division requires an older adult to be vaccinated against 5852
influenza. 5853

Failure to comply with the requirement to post the 5854
information sheet shall not be taken into account when any 5855
survey or inspection of the home is conducted and shall not be 5856
used as the basis for imposing any penalty against the home. 5857

(C) Each home shall offer to each resident, in accordance 5858
with guidelines issued by the advisory committee, vaccination 5859
against pneumococcal pneumonia, unless the resident has already 5860
received such vaccination or a physician, certified nurse- 5861
midwife if authorized as described in section 4723.438 of the 5862
Revised Code, clinical nurse specialist, or certified nurse 5863
practitioner has determined that vaccination of the resident is 5864
medically inappropriate. Each vaccine shall be of a form 5865
approved by the advisory committee for that calendar year. A 5866
resident may refuse vaccination. 5867

(D) The director of health may adopt rules under Chapter 5868
119. of the Revised Code as the director considers appropriate 5869
to implement this section. 5870

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of 5871

the Revised Code:	5872
(A) "Long-term care facility" means either of the	5873
following:	5874
(1) A nursing home as defined in section 3721.01 of the	5875
Revised Code;	5876
(2) A facility or part of a facility that is certified as	5877
a skilled nursing facility or a nursing facility under Title	5878
XVIII or XIX of the "Social Security Act."	5879
(B) "Residential care facility" has the same meaning as in	5880
section 3721.01 of the Revised Code.	5881
(C) "Abuse" means any of the following:	5882
(1) Physical abuse;	5883
(2) Psychological abuse;	5884
(3) Sexual abuse.	5885
(D) "Neglect" means recklessly failing to provide a	5886
resident with any treatment, care, goods, or service necessary	5887
to maintain the health or safety of the resident when the	5888
failure results in serious physical harm to the resident.	5889
"Neglect" does not include allowing a resident, at the	5890
resident's option, to receive only treatment by spiritual means	5891
through prayer in accordance with the tenets of a recognized	5892
religious denomination.	5893
(E) "Exploitation" means taking advantage of a resident,	5894
regardless of whether the action was for personal gain, whether	5895
the resident knew of the action, or whether the resident was	5896
harmed.	5897
(F) "Misappropriation" means depriving, defrauding, or	5898

otherwise obtaining the real or personal property of a resident 5899
by any means prohibited by the Revised Code, including 5900
violations of Chapter 2911. or 2913. of the Revised Code. 5901

(G) "Resident" includes a resident, patient, former 5902
resident or patient, or deceased resident or patient of a long- 5903
term care facility or a residential care facility. 5904

(H) "Physical abuse" means knowingly causing physical harm 5905
or recklessly causing serious physical harm to a resident 5906
through either of the following: 5907

(1) Physical contact with the resident; 5908

(2) The use of physical restraint, chemical restraint, 5909
medication that does not constitute a chemical restraint, or 5910
isolation, if the restraint, medication, or isolation is 5911
excessive, for punishment, for staff convenience, a substitute 5912
for treatment, or in an amount that precludes habilitation and 5913
treatment. 5914

(I) "Psychological abuse" means knowingly or recklessly 5915
causing psychological harm to a resident, whether verbally or by 5916
action. 5917

(J) "Sexual abuse" means sexual conduct or sexual contact 5918
with a resident, as those terms are defined in section 2907.01 5919
of the Revised Code. 5920

(K) "Physical restraint" has the same meaning as in 5921
section 3721.10 of the Revised Code. 5922

(L) "Chemical restraint" has the same meaning as in 5923
section 3721.10 of the Revised Code. 5924

(M) "Nursing and nursing-related services" means the 5925
personal care services and other services not constituting 5926

skilled nursing care that are specified in rules the director of 5927
health shall adopt in accordance with Chapter 119. of the 5928
Revised Code. 5929

(N) "Personal care services" has the same meaning as in 5930
section 3721.01 of the Revised Code. 5931

(O) (1) Except as provided in division (O) (2) of this 5932
section, "nurse aide" means an individual who provides nursing 5933
and nursing-related services to residents in a long-term care 5934
facility, either as a member of the staff of the facility for 5935
monetary compensation or as a volunteer without monetary 5936
compensation. 5937

(2) "Nurse aide" does not include either of the following: 5938

(a) A licensed health professional practicing within the 5939
scope of the professional's license; 5940

(b) An individual providing nursing and nursing-related 5941
services in a religious nonmedical health care institution, if 5942
the individual has been trained in the principles of nonmedical 5943
care and is recognized by the institution as being competent in 5944
the administration of care within the religious tenets practiced 5945
by the residents of the institution. 5946

(P) "Licensed health professional" means all of the 5947
following: 5948

(1) An occupational therapist or occupational therapy 5949
assistant licensed under Chapter 4755. of the Revised Code; 5950

(2) A physical therapist or physical therapy assistant 5951
licensed under Chapter 4755. of the Revised Code; 5952

(3) A physician authorized under Chapter 4731. of the 5953
Revised Code to practice medicine and surgery, osteopathic 5954

medicine and surgery, or podiatric medicine and surgery;	5955
(4) A physician assistant authorized under Chapter 4730.	5956
of the Revised Code to practice as a physician assistant;	5957
(5) A registered nurse <u>licensed under Chapter 4723. of the</u>	5958
<u>Revised Code, including an advanced practice registered nurse,</u>	5959
or <u>a licensed practical nurse licensed under Chapter 4723. of</u>	5960
<u>the Revised Code that chapter;</u>	5961
(6) A social worker or independent social worker licensed	5962
under Chapter 4757. of the Revised Code or a social work	5963
assistant registered under that chapter;	5964
(7) A speech-language pathologist or audiologist licensed	5965
under Chapter 4753. of the Revised Code;	5966
(8) A dentist or dental hygienist licensed under Chapter	5967
4715. of the Revised Code;	5968
(9) An optometrist licensed under Chapter 4725. of the	5969
Revised Code;	5970
(10) A pharmacist licensed under Chapter 4729. of the	5971
Revised Code;	5972
(11) A psychologist licensed under Chapter 4732. of the	5973
Revised Code;	5974
(12) A chiropractor licensed under Chapter 4734. of the	5975
Revised Code;	5976
(13) A nursing home administrator licensed or temporarily	5977
licensed under Chapter 4751. of the Revised Code;	5978
(14) A licensed professional counselor or licensed	5979
professional clinical counselor licensed under Chapter 4757. of	5980
the Revised Code;	5981

(15) A marriage and family therapist or independent 5982
marriage and family therapist licensed under Chapter 4757. of 5983
the Revised Code. 5984

(Q) "Religious nonmedical health care institution" means 5985
an institution that meets or exceeds the conditions to receive 5986
payment under the medicare program established under Title XVIII 5987
of the "Social Security Act" for inpatient hospital services or 5988
post-hospital extended care services furnished to an individual 5989
in a religious nonmedical health care institution, as defined in 5990
section 1861(ss) (1) of the "Social Security Act," 79 Stat. 286 5991
(1965), 42 U.S.C. 1395x(ss) (1), as amended. 5992

(R) "Competency evaluation program" means a program 5993
through which the competency of a nurse aide to provide nursing 5994
and nursing-related services is evaluated. 5995

(S) "Training and competency evaluation program" means a 5996
program of nurse aide training and evaluation of competency to 5997
provide nursing and nursing-related services. 5998

Sec. 3727.09. (A) As used in this section and sections 5999
3727.10 and 3727.101 of the Revised Code: 6000

(1) "Trauma," "trauma care," "trauma center," "trauma 6001
patient," "pediatric," and "adult" have the same meanings as in 6002
section 4765.01 of the Revised Code. 6003

(2) "Stabilize" and "transfer" have the same meanings as 6004
in section 1753.28 of the Revised Code. 6005

(B) On and after November 3, 2002, each hospital in this 6006
state that is not a trauma center shall adopt protocols for 6007
adult and pediatric trauma care provided in or by that hospital; 6008
each hospital in this state that is an adult trauma center and 6009
not a level I or level II pediatric trauma center shall adopt 6010

protocols for pediatric trauma care provided in or by that 6011
hospital; each hospital in this state that is a pediatric trauma 6012
center and not a level I and II adult trauma center shall adopt 6013
protocols for adult trauma care provided in or by that hospital. 6014
In developing its trauma care protocols, each hospital shall 6015
consider the guidelines for trauma care established by the 6016
American college of surgeons, the American college of emergency 6017
physicians, American academy of emergency nurse practitioners, 6018
and the American academy of pediatrics. Trauma care protocols 6019
shall be written, comply with applicable federal and state laws, 6020
and include policies and procedures with respect to all of the 6021
following: 6022

(1) Evaluation of trauma patients, including criteria for 6023
prompt identification of trauma patients who require a level of 6024
adult or pediatric trauma care that exceeds the hospital's 6025
capabilities; 6026

(2) Emergency treatment and stabilization of trauma 6027
patients prior to transfer to an appropriate adult or pediatric 6028
trauma center; 6029

(3) Timely transfer of trauma patients to appropriate 6030
adult or pediatric trauma centers based on a patient's medical 6031
needs. Trauma patient transfer protocols shall specify all of 6032
the following: 6033

(a) Confirmation of the ability of the receiving trauma 6034
center to provide prompt adult or pediatric trauma care 6035
appropriate to a patient's medical needs; 6036

(b) Procedures for selecting an appropriate alternative 6037
adult or pediatric trauma center to receive a patient when it is 6038
not feasible or safe to transport the patient to a particular 6039

trauma center; 6040

(c) Advance notification and appropriate medical 6041
consultation with the trauma center to which a trauma patient is 6042
being, or will be, transferred; 6043

(d) Procedures for selecting an appropriate method of 6044
transportation and the hospital responsible for arranging or 6045
providing the transportation; 6046

(e) Confirmation of the ability of the persons and vehicle 6047
that will transport a trauma patient to provide appropriate 6048
adult or pediatric trauma care; 6049

(f) Assured communication with, and appropriate medical 6050
direction of, the persons transporting a trauma patient to a 6051
trauma center; 6052

(g) Identification and timely transfer of appropriate 6053
medical records of the trauma patient being transferred; 6054

(h) The hospital responsible for care of a patient in 6055
transit; 6056

(i) The responsibilities of the physician, certified 6057
nurse-midwife, clinical nurse specialist, or certified nurse 6058
practitioner attending a patient and, if different, the 6059
physician, certified nurse-midwife, clinical nurse specialist, 6060
or certified nurse practitioner who authorizes a transfer of the 6061
patient; 6062

(j) Procedures for determining, in consultation with an 6063
appropriate adult or pediatric trauma center and the persons who 6064
will transport a trauma patient, when transportation of the 6065
patient to a trauma center may be delayed for either of the 6066
following reasons: 6067

(i) Immediate transfer of the patient is unsafe due to 6068
adverse weather or ground conditions. 6069

(ii) No trauma center is able to provide appropriate adult 6070
or pediatric trauma care to the patient without undue delay. 6071

(4) Peer review and quality assurance procedures for adult 6072
and pediatric trauma care provided in or by the hospital. 6073

(C) (1) On and after November 3, 2002, each hospital shall 6074
enter into all of the following written agreements unless 6075
otherwise provided in division (C) (2) of this section: 6076

(a) An agreement with one or more adult trauma centers in 6077
each level of categorization as a trauma center higher than the 6078
hospital that governs the transfer of adult trauma patients from 6079
the hospital to those trauma centers; 6080

(b) An agreement with one or more pediatric trauma centers 6081
in each level of categorization as a trauma center higher than 6082
the hospital that governs the transfer of pediatric trauma 6083
patients from the hospital to those trauma centers. 6084

(2) A level I or level II adult trauma center is not 6085
required to enter into an adult trauma patient transfer 6086
agreement with another hospital. A level I or level II pediatric 6087
trauma center is not required to enter into a pediatric trauma 6088
patient transfer agreement with another hospital. A hospital is 6089
not required to enter into an adult trauma patient transfer 6090
agreement with a level III or level IV adult trauma center, or 6091
enter into a pediatric trauma patient transfer agreement with a 6092
level III or level IV pediatric trauma center, if no trauma 6093
center of that type is reasonably available to receive trauma 6094
patients transferred from the hospital. 6095

(3) A trauma patient transfer agreement entered into by a 6096

hospital under division (C) (1) of this section shall comply with 6097
applicable federal and state laws and contain provisions 6098
conforming to the requirements for trauma care protocols set 6099
forth in division (B) of this section. 6100

(D) A hospital shall make trauma care protocols it adopts 6101
under division (B) of this section and trauma patient transfer 6102
agreements it adopts under division (C) of this section 6103
available for public inspection during normal working hours. A 6104
hospital shall furnish a copy of such documents upon request and 6105
may charge a reasonable and necessary fee for doing so, provided 6106
that upon request it shall furnish a copy of such documents to 6107
the director of health free of charge. 6108

(E) A hospital that ceases to operate as an adult or 6109
pediatric trauma center under provisional status is not in 6110
violation of divisions (B) and (C) of this section during the 6111
time it develops different trauma care protocols and enters into 6112
different patient transfer agreements pursuant to division (D) 6113
(2) (c) of section 3727.101 of the Revised Code. 6114

Sec. 3727.19. (A) As used in this section: 6115

(1) "Advisory committee" means the advisory committee on 6116
immunization practices of the United States centers for disease 6117
control and prevention or its successor agency. 6118

(2) "Certified nurse-midwife," "clinical nurse 6119
specialist," and "certified nurse practitioner" have the same 6120
meanings as in section 4723.01 of the Revised Code. 6121

(3) "Physician" means an individual authorized under 6122
Chapter 4731. of the Revised Code to practice medicine and 6123
surgery or osteopathic medicine and surgery. 6124

(B) Each hospital shall offer to each patient who is 6125

admitted to the hospital, in accordance with guidelines issued 6126
by the advisory committee, vaccination against influenza, unless 6127
a physician, certified nurse-midwife if authorized as described 6128
in section 4723.438 of the Revised Code, clinical nurse 6129
specialist, or certified nurse practitioner has determined that 6130
vaccination of the patient is medically inappropriate. The 6131
vaccine shall be of a form approved by the advisory committee 6132
for that calendar year. A patient may refuse vaccination. 6133

(C) Each hospital shall offer to each patient who is 6134
admitted to the hospital, in accordance with guidelines issued 6135
by the advisory committee, vaccination against pneumococcal 6136
pneumonia, unless a physician, certified nurse-midwife if 6137
authorized as described in section 4723.438 of the Revised Code, 6138
clinical nurse specialist, or certified nurse practitioner has 6139
determined that vaccination of the patient is medically 6140
inappropriate. Each vaccine shall be of a form approved by the 6141
advisory committee for that calendar year. A patient may refuse 6142
vaccination. 6143

(D) The director of health may adopt rules under Chapter 6144
119. of the Revised Code as the director considers appropriate 6145
to implement this section. 6146

Sec. 3742.03. The director of health shall adopt rules in 6147
accordance with Chapter 119. of the Revised Code for the 6148
administration and enforcement of sections 3742.01 to 3742.19 6149
and 3742.99 of the Revised Code. The rules shall specify all of 6150
the following: 6151

(A) Procedures to be followed by a lead abatement 6152
contractor, lead abatement project designer, lead abatement 6153
worker, lead inspector, or lead risk assessor licensed under 6154
section 3742.05 of the Revised Code for undertaking lead 6155

abatement activities and procedures to be followed by a 6156
clearance technician, lead inspector, or lead risk assessor in 6157
performing a clearance examination; 6158

(B) (1) Requirements for training and licensure, in 6159
addition to those established under section 3742.08 of the 6160
Revised Code, to include levels of training and periodic 6161
refresher training for each class of worker, and to be used for 6162
licensure under section 3742.05 of the Revised Code. Except in 6163
the case of clearance technicians, these requirements shall 6164
include at least twenty-four classroom hours of training based 6165
on the Occupational Safety and Health Act training program for 6166
lead set forth in 29 C.F.R. 1926.62. For clearance technicians, 6167
the training requirements to obtain an initial license shall not 6168
exceed six hours and the requirements for refresher training 6169
shall not exceed two hours every four years. In establishing the 6170
training and licensure requirements, the director shall consider 6171
the core of information that is needed by all licensed persons, 6172
and establish the training requirements so that persons who 6173
would seek licenses in more than one area would not have to take 6174
duplicative course work. 6175

(2) Persons certified by the American board of industrial 6176
hygiene as a certified industrial hygienist or as an industrial 6177
hygienist-in-training, and persons registered as ~~a~~an 6178
environmental health specialist or environmental health 6179
specialist in training under Chapter 3776. of the Revised Code, 6180
shall be exempt from any training requirements for initial 6181
licensure established under this chapter, but shall be required 6182
to take any examinations for licensure required under section 6183
3742.05 of the Revised Code. 6184

(C) Fees for licenses issued under section 3742.05 of the 6185

Revised Code and for their renewal;	6186
(D) Procedures to be followed by lead inspectors, lead abatement contractors, environmental lead analytical laboratories, lead risk assessors, lead abatement project designers, and lead abatement workers to prevent public exposure to lead hazards and ensure worker protection during lead abatement projects;	6187 6188 6189 6190 6191 6192
(E) (1) Record-keeping and reporting requirements for clinical laboratories, environmental lead analytical laboratories, lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, and lead abatement workers for lead abatement projects and record-keeping and reporting requirements for clinical laboratories, environmental lead analytical laboratories, and clearance technicians for clearance examinations;	6193 6194 6195 6196 6197 6198 6199 6200
(2) Record-keeping and reporting requirements regarding lead poisoning for <u>to be followed by physicians, certified nurse-midwives if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialists, and certified nurse practitioners;</u>	6201 6202 6203 6204 6205
(3) Information that is required to be reported under rules based on divisions (E) (1) and (2) of this section and that is a medical record is not a public record under section 149.43 of the Revised Code and shall not be released, except in aggregate statistical form.	6206 6207 6208 6209 6210
(F) Environmental sampling techniques for use in collecting samples of air, water, dust, paint, and other materials;	6211 6212 6213
(G) Requirements for a respiratory protection plan	6214

prepared in accordance with section 3742.07 of the Revised Code; 6215

(H) Requirements under which a manufacturer of 6216
encapsulants must demonstrate evidence of the safety and 6217
durability of its encapsulants by providing results of testing 6218
from an independent laboratory indicating that the encapsulants 6219
meet the standards developed by the "E06.23.30 task group on 6220
encapsulants," which is the task group of the lead hazards 6221
associated with buildings subcommittee of the performance of 6222
buildings committee of the American society for testing and 6223
materials. 6224

Sec. 3742.04. (A) The director of health shall do all of 6225
the following: 6226

(1) Administer and enforce the requirements of sections 6227
3742.01 to 3742.19 and 3742.99 of the Revised Code and the rules 6228
adopted pursuant to those sections; 6229

(2) Examine records and reports submitted by lead 6230
inspectors, lead abatement contractors, lead risk assessors, 6231
lead abatement project designers, lead abatement workers, and 6232
clearance technicians in accordance with section 3742.05 of the 6233
Revised Code to determine whether the requirements of this 6234
chapter are being met; 6235

(3) Examine records and reports submitted by physicians, 6236
certified nurse-midwives if authorized as described in section 6237
4723.438 of the Revised Code, clinical nurse specialists, and 6238
certified nurse practitioners pursuant to rules adopted under 6239
section 3742.03 of the Revised Code and by clinical laboratories 6240
and environmental lead analytical laboratories under section 6241
3742.09 of the Revised Code; 6242

(4) Issue approval to manufacturers of encapsulants that 6243

have done all of the following: 6244

(a) Submitted an application for approval to the director 6245
on a form prescribed by the director; 6246

(b) Paid the application fee established by the director; 6247

(c) Submitted results from an independent laboratory 6248
indicating that the manufacturer's encapsulants satisfy the 6249
requirements established in rules adopted under division (H) of 6250
section 3742.03 of the Revised Code; 6251

(d) Complied with rules adopted by the director regarding 6252
durability and safety to workers and residents. 6253

(5) Establish liaisons and cooperate with the directors or 6254
agencies in states having lead abatement, licensing, 6255
accreditation, certification, and approval programs to promote 6256
consistency between the requirements of this chapter and those 6257
of other states in order to facilitate reciprocity of the 6258
programs among states; 6259

(6) Establish a program to monitor and audit the quality 6260
of work of lead inspectors, lead risk assessors, lead abatement 6261
project designers, lead abatement contractors, lead abatement 6262
workers, and clearance technicians. The director may refer 6263
improper work discovered through the program to the attorney 6264
general for appropriate action. 6265

(B) In addition to any other authority granted by this 6266
chapter, the director of health may do any of the following: 6267

(1) Employ persons who have received training from a 6268
program the director has determined provides the necessary 6269
background. The appropriate training may be obtained in a state 6270
that has an ongoing lead abatement program under which it 6271

conducts educational programs. 6272

(2) Cooperate with the United States environmental 6273
protection agency in any joint oversight procedures the agency 6274
may propose for laboratories that offer lead analysis services 6275
and are accredited under the agency's laboratory accreditation 6276
program; 6277

(3) Advise, consult, cooperate with, or enter into 6278
contracts or cooperative agreements with any person, government 6279
entity, interstate agency, or the federal government as the 6280
director considers necessary to fulfill the requirements of this 6281
chapter and the rules adopted under it. 6282

Sec. 3742.07. (A) Prior to engaging in any lead abatement 6283
project on a residential unit, child care facility, or school, 6284
the lead abatement contractor primarily responsible for the 6285
project shall do all of the following: 6286

(1) Prepare a written respiratory protection plan that 6287
meets requirements established by rule adopted under section 6288
3742.03 of the Revised Code and make the plan available to the 6289
department of health and all lead abatement workers at the 6290
project site; 6291

(2) Ensure that each lead abatement worker who is or will 6292
be involved in a lead abatement project has been examined ~~by a~~ 6293
~~licensed physician~~ within the preceding calendar year by a 6294
physician, certified nurse-midwife if authorized as described in 6295
section 4723.438 of the Revised Code, clinical nurse specialist, 6296
or certified nurse practitioner and has been declared by the 6297
physician or nurse to be physically capable of working while 6298
wearing a respirator; 6299

(3) Ensure that each employee or agent who will come in 6300

contact with lead hazards or will be responsible for a lead abatement project receives a license and appropriate training as required by this chapter before engaging in a lead abatement project;

(4) At least ten days prior to the commencement of a project, notify the department of health, on a form prescribed by the director of health, of the date a lead abatement project will commence.

(B) During each lead abatement project, the lead abatement contractor primarily responsible for the project shall ensure that all persons involved in the project follow the worker protection standards established under 29 C.F.R. 1926.62 by the United States occupational safety and health administration.

Sec. 3742.32. (A) The director of health shall appoint an advisory council to assist in the ongoing development and implementation of the child lead poisoning prevention program created under section 3742.31 of the Revised Code. The advisory council shall consist of the following members:

(1) A representative of the department of medicaid;

(2) A representative of the bureau of child care in the department of job and family services;

(3) A representative of the department of environmental protection;

(4) A representative of the department of education and workforce;

(5) A representative of the department of development;

(6) A representative of the department of children and youth;

- (7) A representative of the Ohio apartment owner's association; 6329
6330
- (8) A representative of the Ohio healthy homes network; 6331
- (9) A representative of the Ohio environmental health association; 6332
6333
- (10) An Ohio representative of the American coatings association; 6334
6335
- (11) A representative from Ohio realtors; 6336
- (12) A representative of the Ohio housing finance agency; 6337
- (13) A physician knowledgeable in the field of lead poisoning prevention; 6338
6339
- (14) A certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner knowledgeable in the field of lead poisoning prevention; 6340
6341
6342
- (15) A representative of the public. 6343
- (B) The advisory council shall do both of the following: 6344
- (1) Provide the director with advice regarding the policies the child lead poisoning prevention program should emphasize, preferred methods of financing the program, and any other matter relevant to the program's operation; 6345
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- (2) Submit a report of the state's activities to the governor, president of the senate, and speaker of the house of representatives on or before the first day of March each year. 6349
6350
6351
- (C) The advisory council is not subject to sections 101.82 to 101.87 of the Revised Code. 6352
6353
- Sec. 3901.56.** An insurer may offer a wellness or health 6354

improvement program that provides rewards or incentives, 6355
including merchandise; gift cards; debit cards; premium 6356
discounts or rebates; contributions to a health savings account; 6357
modifications to copayment, deductible, or coinsurance amounts; 6358
or any combination of these incentives, to encourage 6359
participation or to reward participation in the program. 6360

A wellness or health improvement program offered by an 6361
insurer under this section shall not be construed to violate 6362
division (E) of section 1751.31 or division (G) of section 6363
3901.21 of the Revised Code if the program is disclosed in the 6364
policy or plan. 6365

The insured may be required to provide verification, such 6366
as a statement from ~~their~~ the individual's physician, certified 6367
nurse-midwife, clinical nurse specialist, or certified nurse 6368
practitioner, that a medical condition makes it unreasonably 6369
difficult or medically inadvisable for the individual to 6370
participate in the wellness or health improvement program. 6371

Nothing in this section shall prohibit an insurer from 6372
offering incentives or rewards to members for adherence to 6373
wellness or health improvement programs if otherwise allowed by 6374
federal law. 6375

Nothing under division (C) (1) of section 3923.571 or 6376
section 3924.25 of the Revised Code shall be construed as 6377
prohibiting an insurer from offering a wellness or health 6378
improvement program or restricting the amount an employee is 6379
charged for coverage under a group policy after the application 6380
of any premium discounts or rebates, or modifying otherwise 6381
applicable copayments or deductibles for adherence to wellness 6382
or health improvement programs. 6383

For purposes of this section, "insurer" means a life insurance company, sickness and accident insurer, multiple employer welfare arrangement, public employee benefit plan, or health insuring corporation.

Sec. 3916.01. As used in this chapter:

(A) "Advertising" means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the internet, or similar communications media, including, but not limited to, film strips, motion pictures, and videos, that is published, disseminated, circulated, or placed directly or indirectly before the public in this state for the purpose of creating an interest in or inducing a person to purchase or sell, assign, devise, bequest, or transfer the death benefit or ownership of a policy pursuant to a viatical settlement contract.

(B) "Business of viatical settlements" means an activity involved, but not limited to, in the offering, solicitation, negotiation, procurement, effectuation, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, or hypothecating or in any other manner acquiring an interest in a policy by means of viatical settlement contracts.

(C) "Chronically ill" means having been certified within the preceding twelve-month period by a licensed health professional as:

(1) Being unable to perform, without substantial assistance from another individual, at least two activities of daily living, including, but not limited to, eating, toileting,

transferring, bathing, dressing, or continence for at least 6413
ninety days due to a loss of functional capacity; or 6414

(2) Requiring substantial supervision to protect the 6415
individual from threats to health and safety due to severe 6416
cognitive impairment; or 6417

(3) Having a level of disability similar to that described 6418
in division (C) (1) of this section, as determined under 6419
regulations prescribed by the United States secretary of the 6420
treasury in consultation with the United States secretary of 6421
health and human services. 6422

(D) "Escrow agent" means an independent third-party person 6423
who, pursuant to a written agreement signed by the viatical 6424
settlement provider and viator, provides escrow services related 6425
to the acquisition of a policy pursuant to a viatical settlement 6426
contract. "Escrow agent" does not include any person associated 6427
with, affiliated with, or under the control of a person licensed 6428
under this chapter or described in division (C) of section 6429
3916.02 of the Revised Code. 6430

(E) (1) "Financing entity" means an underwriter, placement 6431
agent, lender, purchaser of securities, purchaser of a policy 6432
from a viatical settlement provider, credit enhancer, or any 6433
other person that has a direct ownership interest in a policy 6434
that is the subject of a viatical settlement contract and to 6435
which both of the following apply: 6436

(a) Its principal activity related to the transaction is 6437
providing funds to effect the business of viatical settlements 6438
or the purchase of one or more viaticated policies. 6439

(b) It has an agreement in writing with one or more 6440
licensed viatical settlement providers to finance the 6441

acquisition of viatical settlement contracts. 6442

(2) "Financing entity" does not include a non-accredited 6443
investor or viatical settlement purchaser. 6444

(F) "Recklessly" has the same meaning as in section 6445
2901.22 of the Revised Code. 6446

(G) "Defraud" has the same meaning as in section 2913.01 6447
of the Revised Code. 6448

(H) "Life expectancy" means an opinion or evaluation as to 6449
how long a particular person is going to live. 6450

(I) Notwithstanding section 1.59 of the Revised Code, 6451
"person" means a natural person or a legal entity, including, 6452
but not limited to, an individual, partnership, limited 6453
liability company, limited liability partnership, association, 6454
trust, business trust, or corporation. 6455

(J) "Policy" means an individual or group policy, group 6456
certificate, or other contract or arrangement of life insurance 6457
affecting the rights of a resident of this state or bearing a 6458
reasonable relation to this state, regardless of whether 6459
delivered or issued for delivery in this state. 6460

(K) "Related provider trust" means a titling trust or any 6461
other trust established by a licensed viatical settlement 6462
provider or a financing entity for the sole purpose of holding 6463
ownership or beneficial interest in purchased policies in 6464
connection with a financing transaction, provided that the trust 6465
has a written agreement with the licensed viatical settlement 6466
provider under which the licensed viatical settlement provider 6467
is responsible for ensuring compliance with all statutory and 6468
regulatory requirements and under which the trust agrees to make 6469
all records and files related to viatical settlement 6470

transactions available to the superintendent of insurance as if 6471
those records and files were maintained directly by the licensed 6472
viatical settlement provider. 6473

(L) "Special purpose entity" means a corporation, 6474
partnership, trust, limited liability company or other similar 6475
entity formed solely for one of the following purposes: 6476

(i) To provide access, either directly or indirectly, to 6477
institutional capital markets for a financing entity or licensed 6478
viatical settlement provider; 6479

(ii) In connection with a transaction in which the 6480
securities in the special purpose entity are acquired by 6481
qualified institutional buyers. 6482

(M) "Terminally ill" means certified by a physician, 6483
certified nurse-midwife, clinical nurse specialist, or certified 6484
nurse practitioner as having an illness or physical condition 6485
that can reasonably be expected to result in death in twenty- 6486
four months or less. 6487

(N) "Viatical settlement broker" means a person that, on 6488
behalf of a viator and for a fee, commission, or other valuable 6489
consideration, offers or attempts to negotiate viatical 6490
settlements between a viator and one or more viatical settlement 6491
providers or viatical settlement brokers. "Viatical settlement 6492
broker" does not include an attorney, a certified public 6493
accountant, or a financial planner accredited by a nationally 6494
recognized accreditation agency, who is retained to represent 6495
the viator, whose compensation is not paid directly or 6496
indirectly by the viatical settlement provider or purchaser. 6497

(O) (1) "Viatical settlement contract" means any of the 6498
following: 6499

(a) A written agreement between a viator and a viatical settlement provider that establishes the terms under which compensation or anything of value, that is less than the expected death benefit of the policy is or will be paid in return for the viator's present or future assignment, transfer, sale, release, devise, or bequest of the death benefit or ownership of any portion of the policy or any beneficial interest in the policy or its ownership;

(b) The transfer or acquisition for compensation or anything of value for ownership or beneficial interest in a trust or an interest in another person that owns such a policy if the trust or other person was formed or availed of for the principal purpose of acquiring one or more life insurance policies;

(c) A premium finance loan made for a policy by a lender to a viator on, before, or after the date of issuance of the policy in either of the following situations:

(i) The viator or the insured receives a guarantee of the viatical settlement value of the policy.

(ii) The viator or the insured agrees on, before, or after the issuance of the policy to sell the policy or any portion of the policy's death benefit.

(2) "Viatical settlement contracts" include but are not limited to contracts that are commonly termed "life settlement contracts" and "senior settlement contracts."

(3) "Viatical settlement contract" does not include any of the following unless part of a plan, scheme, device, or artifice to avoid the application of this chapter:

(a) A policy loan or accelerated death benefit made by the

insurer pursuant to the policy's terms whether issued with the 6529
original policy or a rider; 6530

(b) Loan proceeds that are used solely to pay premiums for 6531
the policy and the costs of the loan including interest, 6532
arrangement fees, utilization fees and similar fees, closing 6533
costs, legal fees and expenses, trustee fees and expenses, and 6534
third-party collateral provider fees and expenses, including 6535
fees payable to letter of credit issuers; 6536

(c) A loan made by a regulated financial institution in 6537
which the lender takes an interest in a policy solely to secure 6538
repayment of a loan or, if there is a default on the loan and 6539
the policy is transferred, the transfer of such a policy by the 6540
lender, provided that neither the default itself nor the 6541
transfer is pursuant to an agreement or understanding with any 6542
other person for the purpose of evading regulation under this 6543
chapter; 6544

(d) A premium finance loan made by a lender that does not 6545
violate sections 1321.71 to 1321.83 of the Revised Code, if the 6546
premium finance loan is not described in division (O) (1) (c) of 6547
this section; 6548

(e) An agreement where all parties are closely related to 6549
the insured by blood or law or have a lawful substantial 6550
economic interest in the continued life, health, and bodily 6551
safety of the person insured, or are persons or trusts 6552
established primarily for the benefit of such parties; 6553

(f) Any designation, consent, or agreement by an insured 6554
who is an employee of an employer in connection with the 6555
purchase by the employer, or trust established by the employer, 6556
of life insurance on the life of the employee as described in 6557

section 3911.091 of the Revised Code; 6558

(g) Any business succession planning arrangement 6559
including, but not limited to all of the following if the 6560
arrangements are bona fide arrangements: 6561

(i) An arrangement between one or more shareholders in a 6562
corporation or between a corporation and one or more of its 6563
shareholders or one or more persons or trusts established by its 6564
shareholders; 6565

(ii) An arrangement between one or more partners in a 6566
partnership or between a partnership and one or more of its 6567
partners or one or more trusts established by its partners; 6568

(iii) An arrangement between one or more members in a 6569
limited liability company or between a limited liability company 6570
and one or more of its members or one or more trusts established 6571
by its members. 6572

(h) An agreement entered into by a service recipient, a 6573
trust established by the service recipient and a service 6574
provider, or a trust established by the service provider who 6575
performs significant services for the service recipient's trade 6576
or business; 6577

(i) An arrangement or agreement with a special purpose 6578
entity; 6579

(j) Any other contract, transaction, or arrangement 6580
exempted from the definition of viatical settlement contract by 6581
rule adopted by the superintendent based on the superintendent's 6582
determination that the contract, transaction, or arrangement is 6583
not of the type regulated by this chapter. 6584

(P) (1) "Viatical settlement provider" means a person, 6585

other than a viator, that enters into or effectuates a viatical
settlement contract. 6586
6587

(2) "Viatical settlement provider" does not include any of
the following: 6588
6589

(a) A bank, savings bank, savings and loan association,
credit union, or other regulated financial institution that
takes an assignment of a policy solely as a collateral for a
loan; 6590
6591
6592
6593

(b) A premium finance company exempted under section
1321.72 of the Revised Code from the licensure requirements of
section 3921.73 of the Revised Code that takes an assignment of
a policy solely as collateral for a premium finance loan; 6594
6595
6596
6597

(c) The issuer of a policy; 6598

(d) An individual who enters into or effectuates not more
than one viatical settlement contract in any calendar year for
the transfer of life insurance policies for any value less than
the expected death benefit; 6599
6600
6601
6602

(e) An authorized or eligible insurer that provides stop
loss coverage or financial guarantee insurance to a viatical
settlement provider, purchaser, financing entity, special
purpose entity, or related provider trust; 6603
6604
6605
6606

(f) A financing entity; 6607

(g) A special purpose entity; 6608

(h) A related provider trust; 6609

(i) A viatical settlement purchaser; 6610

(j) Any other person the superintendent determines is not
consistent with the definition of viatical settlement provider. 6611
6612

(Q) "Viaticated policy" means a policy that has been 6613
acquired by a viatical settlement provider pursuant to a 6614
viatical settlement contract. 6615

(R) "Viator" means the owner of a policy or a certificate 6616
holder under a group policy that has not previously been 6617
viaticated who, in return for compensation or anything of value 6618
that is less than the expected death benefit of the policy or 6619
certificate, assigns, transfers, sells, releases, devises, or 6620
bequests the death benefit or ownership of any portion of the 6621
policy or certificate of insurance. For the purposes of this 6622
chapter, a "viator" is not limited to an owner of a policy or a 6623
certificate holder under a group policy insuring the life of an 6624
individual who is terminally or chronically ill except where 6625
specifically addressed. "Viator" does not include any of the 6626
following: 6627

- (1) A licensee under this chapter; 6628
- (2) A qualified institutional buyer; 6629
- (3) A financing entity; 6630
- (4) A special purpose entity; 6631
- (5) A related provider trust. 6632

(S) "Viatical settlement purchaser" means a person who 6633
provides a sum of money as consideration for a policy or an 6634
interest in the death benefits of a policy from a viatical 6635
settlement provider that is the subject of a viatical settlement 6636
contract, or a person who owns, acquires, or is entitled to a 6637
beneficial interest in a trust or person that owns a viatical 6638
settlement contract or is the beneficiary of a policy that is 6639
the subject of a viatical settlement contract, for the purpose 6640
of deriving an economic benefit. "Viatical settlement purchaser" 6641

does not include any of the following: 6642

(1) A licensee under this chapter; 6643

(2) A qualified institutional buyer; 6644

(3) A financing entity; 6645

(4) A special purpose entity; 6646

(5) A related provider trust. 6647

(T) "Qualified institutional buyer" has the same meaning 6648
as in 17 C.F.R. 230.144A as that regulation exists on September 6649
11, 2008. 6650

(U) "Licensee" means a person licensed as a viatical 6651
settlement provider or viatical settlement broker under this 6652
chapter. 6653

(V) "NAIC" means the national association of insurance 6654
commissioners. 6655

~~(X)~~ (W) "Regulated financial institution" means a bank, a 6656
savings association, or credit union operating under authority 6657
granted by the superintendent of financial institutions, the 6658
regulatory authority of any other state of the United States, 6659
the national credit union administration, or the office of the 6660
comptroller of the currency. 6661

~~(W)~~ (1) (X) (1) "Stranger-originated life insurance," or 6662
"STOLI," means a practice, arrangement, or agreement initiated 6663
at or prior to the issuance of a policy that includes both of 6664
the following: 6665

(a) The purchase or acquisition of a policy primarily 6666
benefiting one or more persons who, at the time of issuance of 6667
the policy, lack insurable interest in the person insured under 6668

the policy; 6669

(b) The transfer at any time of the legal or beneficial 6670
ownership of the policy or benefits of the policy or both, in 6671
whole or in part, including through an assumption or forgiveness 6672
of a loan to fund premiums. 6673

(2) "Stranger-originated life insurance" also includes 6674
trusts or other persons that are created to give the appearance 6675
of insurable interest and are used to initiate one or more 6676
policies for investors but violate insurable interest laws and 6677
the prohibition against wagering on life. 6678

(3) "Stranger-originated life insurance" does not include 6679
viatical settlement transactions specifically described in 6680
division (O) (3) of this section. 6681

Sec. 3916.07. (A) A viatical settlement provider entering 6682
into a viatical settlement contract shall first obtain all of 6683
the following: 6684

(1) If the viator is the insured, a written statement from 6685
an attending physician, certified nurse-midwife, clinical nurse 6686
specialist, or certified nurse practitioner that the viator is 6687
of sound mind and under no constraint or undue influence to 6688
enter into a viatical settlement contract. As used in this 6689
division, "physician" means a person authorized under Chapter 6690
4731. of the Revised Code to practice medicine and surgery or 6691
osteopathic medicine and surgery. 6692

(2) A document in which the insured consents in writing, 6693
as required by division (E) of section 3916.13 of the Revised 6694
Code, to the release of the insured's medical records to a 6695
viatical settlement provider or viatical settlement broker and 6696
to the insurance company that issued the policy covering the 6697

life of the insured. 6698

(B) Within twenty days after a viator executes documents 6699
necessary to transfer any rights under a policy or within twenty 6700
days of entering any expressed or implied agreement, option, 6701
promise, or other form of understanding to viaticate the policy, 6702
the viatical settlement provider shall give written notice to 6703
the insurer that issued that policy that the policy has or will 6704
become a viaticated policy. The notice shall be accompanied by 6705
the documents required by division (C) of this section. 6706

(C) The viatical settlement provider shall deliver a copy 6707
of the medical release required under division (A) (2) of this 6708
section, a copy of the viator's application for the viatical 6709
settlement contract, the notice required under division (B) of 6710
this section, and a request for verification of coverage to the 6711
insurer that issued the policy that is the subject of the 6712
viatical transaction. The viatical settlement provider shall use 6713
the NAIC's form for verification of coverage unless another form 6714
is developed or approved by the superintendent of insurance. 6715

(D) The insurer shall respond to a request for 6716
verification of coverage submitted on an approved form by a 6717
viatical settlement provider or viatical settlement broker 6718
within thirty calendar days after the date the request is 6719
received and shall indicate whether, based on the medical 6720
evidence and documents provided, the insurer intends to pursue 6721
an investigation at that time regarding possible fraud or the 6722
validity of the life insurance policy that is the subject of the 6723
request. The insurer shall accept an original or facsimile or 6724
electronic copy of such request and any accompanying 6725
authorization signed by the viator. 6726

(E) Prior to or at the time of execution of the viatical 6727

settlement contract, the viatical settlement provider shall 6728
obtain a witnessed document in which the viator consents to the 6729
viatical settlement contract, represents that the viator has a 6730
full and complete understanding of the viatical settlement 6731
contract and a full and complete understanding of the benefits 6732
of the policy, and acknowledges that the viator is entering into 6733
the viatical settlement contract freely and voluntarily and, for 6734
persons who are terminally or chronically ill, acknowledges that 6735
the insured is terminally or chronically ill and that the 6736
terminal or chronic illness was diagnosed after the policy was 6737
issued. 6738

(F) If a viatical settlement broker performs any of the 6739
activities specified in this section on behalf of the viatical 6740
settlement provider, the viatical settlement provider is deemed 6741
to have fulfilled the requirements of this section. 6742

(G) All medical information solicited or obtained by any 6743
licensee shall be subject to the applicable provisions of state 6744
law relating to confidentiality of medical information. 6745

Sec. 3916.16. (A) (1) It is a violation of this chapter for 6746
any person to enter into a viatical settlement contract prior to 6747
the application for or issuance of a policy that is the subject 6748
of the viatical settlement contract. 6749

(2) It is a violation of this chapter for any person to 6750
issue, solicit, market, or otherwise promote the purchase of a 6751
policy for the purpose of or with an emphasis on selling the 6752
policy. 6753

(B) It is a violation of this chapter for any person to 6754
enter into a viatical settlement contract within a five-year 6755
period commencing with the date of issuance of the policy unless 6756

the viator certifies to the viatical settlement provider that 6757
one or more of the following conditions have been met within 6758
five years after the issuance of the policy: 6759

(1) The policy was issued upon the viator's exercise of 6760
conversion rights arising out of a group policy, provided the 6761
total of the time covered under the conversion policy plus the 6762
time covered under the prior policy is at least sixty months. 6763
The time covered under a group policy shall be calculated 6764
without regard to any change in insurance carriers, provided the 6765
coverage has been continuous and under the same group 6766
sponsorship. 6767

(2) The viator is a charitable organization with an 6768
insurable interest pursuant to division (B) of section 3911.09 6769
the Revised Code that has received from the Internal Revenue 6770
Service a determination letter that is currently in effect, 6771
stating that the charitable organization is exempt from federal 6772
income taxation under subsection 501(a) and described in section 6773
501(c)(3) of the "Internal Revenue Code." 6774

(3) The viator certifies and submits independent evidence 6775
to the viatical settlement provider that one or more of the 6776
following conditions have arisen after the issuance of the 6777
policy: 6778

(a) The viator or insured is terminally or chronically 6779
ill. 6780

(b) The viator's spouse dies. 6781

(c) The viator divorces the viator's spouse. 6782

(d) The viator retires from full-time employment. 6783

(e) The viator becomes physically or mentally disabled, 6784

and a physician, certified nurse-midwife, clinical nurse 6785
specialist, or certified nurse practitioner determines that the 6786
disability prevents the viator from maintaining full-time 6787
employment. 6788

(f) A court of competent jurisdiction enters a final 6789
order, judgment, or decree on the application of a creditor of 6790
the viator and adjudicates the viator bankrupt or insolvent or 6791
approves a petition seeking reorganization of the viator or 6792
appointing a receiver, trustee, or liquidator to all or a 6793
substantial part of the viator's assets. 6794

(g) The sole beneficiary of the policy is a family member 6795
of the viator and the beneficiary dies. 6796

(4) The viator enters into a viatical settlement contract 6797
more than two years after the date of issuance of a policy and 6798
certifies that all of the following are true: 6799

(a) The viator has funded the policy using personal 6800
assets, which may include an interest in the life insurance 6801
policy being viaticated up to the cash surrender value of the 6802
policy or any financing agreement to fund the policy premiums 6803
entered into prior to policy issuance or within two years of 6804
policy issuance was provided to the insurer within thirty days 6805
of the date the agreement was executed and the financing 6806
agreement was secured with personal assets. 6807

(b) The viator had no agreement or understanding with any 6808
other person to viaticate the policy or transfer the benefits of 6809
the policy, including through an assumption or forgiveness of a 6810
premium finance loan at any time prior to issuance of the policy 6811
or during the two years after the date of issuance of the 6812
policy. 6813

(c) If requested by the insurer, the viator both disclosed 6814
to the insurer whether a person other than the insurer obtained 6815
a life expectancy evaluation for settlement purposes in 6816
connection with the application, underwriting, and issuance of 6817
the policy and provided a copy of any such life expectancy 6818
evaluation to the insurer at the time of application. 6819

(d) The viator disclosed any financial arrangement, trust, 6820
or other arrangement, transaction, or device that conceals the 6821
ownership or beneficial interest of the policy to the insurer 6822
prior to the issuance of the policy. 6823

(C) Copies of the independent evidence described in 6824
division (B) (3) of this section and documents required by 6825
section 3916.07 of the Revised Code shall be submitted to the 6826
insurer when the viatical settlement provider or any other party 6827
entering into a viatical settlement contract with a viator 6828
submits a request to the insurer for verification of coverage. 6829
The copies shall be accompanied by a letter of attestation from 6830
the viatical settlement provider that the copies are true and 6831
correct copies of the documents received by the viatical 6832
settlement provider. 6833

(D) If the viatical settlement provider submits to the 6834
insurer a copy of the owner or insured's certification and 6835
independent evidence described in division (B) (3) of this 6836
section when the viatical settlement provider submits a request 6837
to the insurer to effect the transfer of the policy or 6838
certificate to the viatical settlement provider, the copy 6839
conclusively establishes that the viatical settlement contract 6840
satisfies the requirements of this section, and the insurer 6841
shall timely respond to the request. 6842

(E) No insurer, as a condition of responding to a request 6843

for verification of coverage or effecting the transfer of a 6844
policy pursuant to a viatical settlement contract, may require 6845
the viator, insured, viatical settlement provider, or viatical 6846
settlement broker to sign any form, disclosure, consent, or 6847
waiver form that has not been approved by the superintendent of 6848
insurance for use in connection with viatical settlement 6849
contracts. 6850

(F) Upon receipt of a properly completed request for 6851
change of ownership or beneficiary of a policy, the insurer 6852
shall respond in writing within thirty calendar days to confirm 6853
that the insurer has made the change or specify reasons that the 6854
change cannot be processed. No insurer shall unreasonably delay 6855
effecting change in ownership or beneficiary or seek to 6856
interfere with any viatical settlement contract lawfully entered 6857
into in this state. 6858

(G) A viatical settlement provider or viatical settlement 6859
broker that is party to a plan, transaction, or series of 6860
transactions to originate, renew, continue, or finance a policy 6861
with the insurer for the purpose of engaging in the business of 6862
viatical settlements at any time prior to or during the first 6863
five years after the insurer issues the policy shall fully 6864
disclose the plan, transaction, or series of transactions to the 6865
superintendent of insurance. 6866

Sec. 3923.25. Every certificate furnished by an insurer in 6867
connection with, or pursuant to any provision of any group 6868
sickness and accident insurance policy delivered, issued for 6869
delivery, renewed, or used in this state, provided such policy 6870
was delivered, issued for delivery, or renewed on or after July 6871
1, 1972, and every policy of sickness and accident insurance 6872
delivered, issued for delivery, renewed, or used in this state, 6873

provided such policy was delivered, issued for delivery, or 6874
renewed on or after July 1, 1972, which provides for kidney 6875
dialysis benefits, shall be deemed to include such benefits on 6876
an equal basis if the dialysis is performed on an out-patient 6877
basis. For purposes of this section, "out-patient basis" 6878
includes care rendered at any location whether or not at a 6879
hospital, upon approval by the attending physician, certified 6880
nurse-midwife if authorized as described in section 4723.438 of 6881
the Revised Code, clinical nurse specialist, or certified nurse 6882
practitioner. 6883

Sec. 3923.84. (A) Notwithstanding section 3901.71 of the 6884
Revised Code, each individual and group sickness and accident 6885
insurance policy that is delivered, issued for delivery, or 6886
renewed in this state shall provide coverage for the screening, 6887
diagnosis, and treatment of autism spectrum disorder. A sickness 6888
and accident insurer shall not terminate an individual's 6889
coverage, or refuse to deliver, execute, issue, amend, adjust, 6890
or renew coverage to an individual solely because the individual 6891
is diagnosed with or has received treatment for an autism 6892
spectrum disorder. Nothing in this section shall be applied to 6893
nongrandfathered plans in the individual and small group markets 6894
or to medicare supplement, accident-only, specified disease, 6895
hospital indemnity, disability income, long-term care, or other 6896
limited benefit hospital insurance policies. Except as otherwise 6897
provided in division (B) of this section, coverage under this 6898
section shall not be subject to dollar limits, deductibles, or 6899
coinsurance provisions that are less favorable to an insured 6900
than the dollar limits, deductibles, or coinsurance provisions 6901
that apply to substantially all medical and surgical benefits 6902
under the policy. 6903

(B) Benefits provided under this section shall cover, at 6904

minimum, all of the following: 6905

(1) For speech and language therapy or occupational 6906
therapy for an insured under the age of fourteen that is 6907
performed by a licensed therapist, twenty visits per year for 6908
each service; 6909

(2) For clinical therapeutic intervention for an insured 6910
under the age of fourteen that is provided by or under the 6911
supervision of a professional who is licensed, certified, or 6912
registered by an appropriate agency of this state to perform 6913
such services in accordance with a health treatment plan, twenty 6914
hours per week; 6915

(3) For mental or behavioral health outpatient services 6916
for an insured under the age of fourteen that are performed by a 6917
~~licensed psychologist, psychiatrist, or physician~~ any of the 6918
following providing consultation, assessment, development, or 6919
oversight of treatment plans, thirty visits per year: 6920

(a) A licensed psychologist; 6921

(b) A licensed physician, including a psychiatrist; 6922

(c) A clinical nurse specialist or certified nurse 6923
practitioner, including a psychiatric-mental health advanced 6924
practice registered nurse or a clinical nurse specialist or 6925
certified nurse practitioner specializing in pediatric or family 6926
health. 6927

(C) (1) Except as provided in division (C) (2) of this 6928
section, this section shall not be construed as limiting 6929
benefits that are otherwise available to an insured under a 6930
policy. 6931

(2) A policy of sickness and accident insurance shall 6932

stipulate that coverage provided under this section be 6933
contingent upon both of the following: 6934

(a) The covered individual receiving prior authorization 6935
for the services in question; 6936

(b) The services in question being prescribed or ordered 6937
by ~~either a developmental pediatrician or a psychologist trained~~ 6938
in autism, a developmental pediatrician, or a clinical nurse 6939
specialist or certified nurse practitioner specializing in 6940
pediatric health. 6941

(D) (1) Except for inpatient services, if an insured is 6942
receiving treatment for an autism spectrum disorder, a sickness 6943
and accident insurer may review the treatment plan annually, 6944
unless the insurer and the insured's treating physician, 6945
clinical nurse specialist, certified nurse practitioner, or 6946
psychologist agree that a more frequent review is necessary. 6947

(2) Any such agreement as described in division (D) (1) of 6948
this section shall apply only to a particular insured being 6949
treated for an autism spectrum disorder and shall not apply to 6950
all individuals being treated for autism spectrum disorder by a 6951
physician, clinical nurse specialist, certified nurse 6952
practitioner, or psychologist. 6953

(3) The insurer shall cover the cost of obtaining any 6954
review or treatment plan. 6955

(E) This section shall not be construed as affecting any 6956
obligation to provide services to an insured under an 6957
individualized family service plan, an individualized education 6958
program, or an individualized service plan. 6959

(F) As used in this section: 6960

(1) "Applied behavior analysis" means the design, 6961
implementation, and evaluation of environmental modifications, 6962
using behavioral stimuli and consequences, to produce socially 6963
significant improvement in human behavior, including the use of 6964
direct observation, measurement, and functional analysis of the 6965
relationship between environment and behavior. 6966

(2) "Autism spectrum disorder" means any of the pervasive 6967
developmental disorders or autism spectrum disorder as defined 6968
by the most recent edition of the diagnostic and statistical 6969
manual of mental disorders published by the American psychiatric 6970
association available at the time an individual is first 6971
evaluated for suspected developmental delay. 6972

(3) "Clinical therapeutic intervention" means therapies 6973
supported by empirical evidence, which include, but are not 6974
limited to, applied behavioral analysis, that satisfy both of 6975
the following: 6976

(a) Are necessary to develop, maintain, or restore, to the 6977
maximum extent practicable, the function of an individual; 6978

(b) Are provided by or under the supervision of any of the 6979
following: 6980

(i) A certified Ohio behavior analyst as defined in 6981
section 4783.01 of the Revised Code; 6982

(ii) An individual licensed under Chapter 4732. of the 6983
Revised Code to practice psychology; 6984

(iii) An individual licensed under Chapter 4757. of the 6985
Revised Code to practice professional counseling, social work, 6986
or marriage and family therapy. 6987

(4) "Diagnosis of autism spectrum disorder" means 6988

medically necessary assessment, evaluations, or tests to 6989
diagnose whether an individual has an autism spectrum disorder. 6990

(5) "Pharmacy care" means prescribed medications 6991
~~prescribed by a licensed physician~~ and any health-related 6992
services considered medically necessary to determine the need or 6993
effectiveness of the medications. 6994

(6) "Psychiatric care" means direct or consultative 6995
services provided by a psychiatrist or psychiatric-mental health 6996
advanced practice registered nurse who is licensed in the state 6997
in which the psychiatrist or nurse practices. 6998

(7) "Psychiatric-mental health advanced practice 6999
registered nurse" means an advanced practice registered nurse 7000
who is either of the following: 7001

(a) A clinical nurse specialist who is certified as a 7002
psychiatric-mental health CNS, or the equivalent of such title, 7003
by the American nurses credentialing center; 7004

(b) A certified nurse practitioner who is certified as a 7005
psychiatric-mental health NP, or the equivalent of such title, 7006
by the American nurses credentialing center or American academy 7007
of nurse practitioners certification board. 7008

(8) "Psychological care" means direct or consultative 7009
services provided by a psychologist licensed in the state in 7010
which the psychologist practices. 7011

~~(8)~~ (9) "Therapeutic care" means services provided by a 7012
speech therapist, occupational therapist, or physical therapist 7013
licensed or certified in the state in which the person 7014
practices. 7015

~~(9)~~ (10) "Treatment for autism spectrum disorder" means 7016

evidence-based care and related equipment prescribed or ordered 7017
for an individual diagnosed with an autism spectrum disorder, by 7018
a licensed physician who is a developmental pediatrician ~~or a,~~ 7019
licensed psychologist trained in autism, clinical nurse 7020
specialist or certified nurse practitioner specializing in 7021
pediatric health, or clinical nurse specialist or certified 7022
nurse practitioner trained in autism who determines the care and 7023
related equipment to be medically necessary, including any of 7024
the following: 7025

- (a) Clinical therapeutic intervention; 7026
- (b) Pharmacy care; 7027
- (c) Psychiatric care; 7028
- (d) Psychological care; 7029
- (e) Therapeutic care. 7030

(G) If any provision of this section or the application 7031
thereof to any person or circumstances is for any reason held to 7032
be invalid, the remainder of the section and the application of 7033
such remainder to other persons or circumstances shall not be 7034
affected thereby. 7035

Sec. 3929.62. As used in sections 3929.62 to 3929.70 of 7036
the Revised Code and any rules adopted pursuant to those 7037
sections: 7038

(A) "Applicant" means any licensed physician, podiatrist, 7039
or hospital, as those terms are defined in section 2305.113 of 7040
the Revised Code, or any certified nurse-midwife, clinical nurse 7041
specialist, or certified nurse practitioner. 7042

(B) "Medical liability underwriting association" means a 7043
nonprofit unincorporated underwriting association for medical 7044

liability insurance established under section 3929.63 of the Revised Code.

(C) "Medical liability insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death, disease, or injury of any person as the result of negligence or malpractice in rendering professional service or related to the credentialing or accreditation of any medical professional or hospital by any licensed physician, podiatrist, or hospital, as those terms are defined in section 2305.113 of the Revised Code, any certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner, or any employee or agent acting within the scope of their duties for a physician, podiatrist, certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, or hospital.

Sec. 3929.63. (A) A medical liability underwriting association for medical liability insurance may be created for one or more classes of insurance by rule of the superintendent of insurance pursuant to Chapter 119. of the Revised Code upon a finding by the superintendent that both of the following circumstances exist:

(1) A substantial number of applicants for such class or classes of medical liability insurance have not been placed with insurers authorized to write medical liability insurance in this state, and are insurable risks. For purposes of this section, "insurable risk" means that the physician, podiatrist, certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, or hospital is licensed, certified, or accredited as required by law.

(2) The lack of such class or classes of medical liability

insurance threatens the availability of health care for any 7075
group of individuals in this state. 7076

(B) The medical liability underwriting association may: 7077

(1) Issue or cause to be issued policies of insurance to 7078
applicants, including incidental coverages, subject to terms, 7079
conditions, exclusions, and limits, established by the medical 7080
liability underwriting association's board of governors subject 7081
to the superintendent's approval. Coverages under such policies 7082
may be made available as primary or excess protection, provided 7083
limits of primary protection under one policy shall not exceed 7084
one million dollars for each claim and three million dollars in 7085
any year unless otherwise provided for in the plan of operation. 7086

(2) Underwrite the insurance and adjust and pay losses 7087
with respect thereto, or appoint service companies or 7088
associations to perform those functions; 7089

(3) Assume reinsurance; 7090

(4) Cede reinsurance. 7091

Sec. 3929.64. (A) (1) A board of governors consisting of 7092
nine members shall govern the medical liability underwriting 7093
association. The members shall be appointed by the governor with 7094
the advice of the superintendent of insurance. Five shall be 7095
selected from insurers licensed to write and writing liability 7096
insurance in this state, at least two of which insurers must 7097
write medical liability insurance in this state. One shall be a 7098
licensed physician, certified nurse-midwife, clinical nurse 7099
specialist, or certified nurse practitioner and one shall be 7100
from a hospital operating in this state. One shall be an 7101
insurance agent licensed and writing medical liability insurance 7102
in this state. One shall represent the interests of consumers 7103

and shall neither be a member of, or associated with, a health 7104
insuring corporation holding a certificate of authority under 7105
Chapter 1751. of the Revised Code or an insurance company. The 7106
members of the board of governors shall serve without 7107
compensation but shall be reimbursed for their actual and 7108
necessary expenses incurred in the discharge of their official 7109
duties. The directors of the stabilization reserve fund shall 7110
serve as ex officio members of the medical liability 7111
underwriting association's board of governors. 7112

(2) Of the initial member appointments made under division 7113
(A) (1) of this section, three shall be for terms of one year, 7114
three shall be for terms of two years, and three shall be for 7115
terms of three years, with the members' terms determined from 7116
the date the medical liability underwriting association is 7117
created under section 3929.63 of the Revised Code. Thereafter, 7118
terms of office for appointed members shall be for three years, 7119
each term ending on the same day of the same month of the year 7120
as did the term it succeeds. A vacancy shall be filled in the 7121
same manner as the original appointment. Members may be 7122
reappointed to the board of governors. 7123

(B) The board of governors may employ, compensate, and 7124
prescribe the duties and powers of as many employees and 7125
consultants as are necessary to carry out the purposes of 7126
sections 3929.62 to 3929.70 of the Revised Code. 7127

Sec. 3929.67. (A) A medical liability insurance policy 7128
that insures a physician ~~or~~, podiatrist, or advanced practice 7129
registered nurse, written by or on behalf of the medical 7130
liability underwriting association pursuant to sections 3929.62 7131
to 3929.70 of the Revised Code, may ~~only~~ be cancelled only 7132
during the term of the policy for one of the following reasons: 7133

(1) Nonpayment of premiums;	7134
(2) The license of the insured to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, <u>or advanced practice registered nursing</u> has been suspended or revoked;	7135 7136 7137 7138
(3) The insured's failure to meet minimum eligibility and underwriting standards;	7139 7140
(4) The occurrence of a change in the individual risk that substantially increases any hazard insured against after the coverage has been issued or renewed, except to the extent that the medical liability underwriting association reasonably should have foreseen the change or contemplated the risk in writing the policy;	7141 7142 7143 7144 7145 7146
(5) Discovery of fraud or material misrepresentation in the procurement of insurance or with respect to any claim submitted thereunder.	7147 7148 7149
(B) A medical liability insurance policy that insures a hospital, written by or on behalf of the medical liability underwriting association pursuant to sections 3929.62 to 3929.70 of the Revised Code, may only be cancelled during the term of the policy for one of the following reasons:	7150 7151 7152 7153 7154
(1) Nonpayment of premiums;	7155
(2) The hospital is not licensed under Chapter 3722. of the Revised Code;	7156 7157
(3) An injunction against the hospital has been granted under section 3722.08 of the Revised Code;	7158 7159
(4) The insured's failure to meet minimum eligibility and underwriting standards;	7160 7161

(5) The occurrence of a change in the individual risk that 7162
substantially increases any hazard insured against after the 7163
coverage has been issued or renewed, except to the extent that 7164
the medical liability underwriting association reasonably should 7165
have foreseen the change or contemplated the risk in writing the 7166
policy; 7167

(6) Discovery of fraud or material misrepresentation in 7168
the procurement of insurance or with respect to any claim 7169
submitted thereunder. 7170

Sec. 4113.23. (A) No employer ~~or,~~ and no physician, 7171
certified nurse-midwife, clinical nurse specialist, or certified 7172
nurse practitioner, other health care professional, hospital, or 7173
laboratory that contracts with the employer to provide medical 7174
information pertaining to employees, shall refuse upon written 7175
request of an employee, including a former employee, to furnish 7176
to the employee ~~or former employee or their~~ the employee's 7177
designated representative a copy of any medical report 7178
pertaining to the employee. The requirements of this section 7179
extend to any medical report arising out of any physical 7180
examination by a physician, certified nurse-midwife, clinical 7181
nurse specialist, certified nurse practitioner, or other health 7182
care professional and any hospital or laboratory tests which 7183
examinations or tests are required by the employer as a 7184
condition of employment or arising out of any injury or disease 7185
related to the employee's employment. However, if a physician, 7186
certified nurse-midwife, clinical nurse specialist, or certified 7187
nurse practitioner concludes that presentation of all or any 7188
part of an employee's medical record directly to the employee 7189
will result in serious medical harm to the employee, ~~he~~ the 7190
physician or nurse shall so indicate on the medical record, in 7191
which case a copy thereof shall be given to a physician, 7192

certified nurse-midwife, clinical nurse specialist, or certified 7193
nurse practitioner designated in writing by the employee. 7194

(B) The employer may require the employee to pay the cost 7195
of furnishing copies of the medical reports described in 7196
division (A) of this section but in no case shall the employer 7197
charge more than twenty-five cents for each page of a report. 7198

(C) As used in this section, "employer" has the same 7199
meaning as contained in the definition of that term found in 7200
section 4123.01 of the Revised Code. 7201

(D) Any employer who refuses to furnish the reports to 7202
which an employee is entitled is guilty of a minor misdemeanor 7203
for each violation. The bureau of workers' compensation shall 7204
enforce this section. 7205

Sec. 4121.121. (A) There is hereby created the bureau of 7206
workers' compensation, which shall be administered by the 7207
administrator of workers' compensation. A person appointed to 7208
the position of administrator shall possess significant 7209
management experience in effectively managing an organization or 7210
organizations of substantial size and complexity. A person 7211
appointed to the position of administrator also shall possess a 7212
minimum of five years of experience in the field of workers' 7213
compensation insurance or in another insurance industry, except 7214
as otherwise provided when the conditions specified in division 7215
(C) of this section are satisfied. The governor shall appoint 7216
the administrator as provided in section 121.03 of the Revised 7217
Code, and the administrator shall serve at the pleasure of the 7218
governor. The governor shall fix the administrator's salary on 7219
the basis of the administrator's experience and the 7220
administrator's responsibilities and duties under this chapter 7221
and Chapters 4123., 4125., 4127., 4131., 4133., and 4167. of the 7222

Revised Code. The governor shall not appoint to the position of administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator.

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

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

(1) Perform all acts and exercise all authorities and powers, discretionary and otherwise that are required of or vested in the bureau or any of its employees in this chapter and Chapters 4123., 4125., 4127., 4131., 4133., and 4167. of the 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 7253
in writing, or bearing the facsimile signature of the 7254
administrator or such employee under sections 4123.42 and 7255
4123.44 of the Revised Code. 7256

(2) Employ, direct, and supervise all employees required 7257
in connection with the performance of the duties assigned to the 7258
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 7259
4133., and 4167. of the Revised Code, including an actuary, and 7260
may establish job classification plans and compensation for all 7261
employees of the bureau provided that this grant of authority 7262
shall not be construed as affecting any employee for whom the 7263
state employment relations board has established an appropriate 7264
bargaining unit under section 4117.06 of the Revised Code. All 7265
positions of employment in the bureau are in the classified 7266
civil service except those employees the administrator may 7267
appoint to serve at the administrator's pleasure in the 7268
unclassified civil service pursuant to section 124.11 of the 7269
Revised Code. The administrator shall fix the salaries of 7270
employees the administrator appoints to serve at the 7271
administrator's pleasure, including the chief operating officer, 7272
staff physicians, staff certified nurse-midwives, staff clinical 7273
nurse specialists, staff certified nurse practitioners, and 7274
other senior management personnel of the bureau and shall 7275
establish the compensation of staff attorneys of the bureau's 7276
legal section and their immediate supervisors, and take whatever 7277
steps are necessary to provide adequate compensation for other 7278
staff attorneys. 7279

The administrator may appoint a person who holds a 7280
certified position in the classified service within the bureau 7281
to a position in the unclassified service within the bureau. A 7282
person appointed pursuant to this division to a position in the 7283

unclassified service shall retain the right to resume the 7284
position and status held by the person in the classified service 7285
immediately prior to the person's appointment in the 7286
unclassified service, regardless of the number of positions the 7287
person held in the unclassified service. An employee's right to 7288
resume a position in the classified service may only be 7289
exercised when the administrator demotes the employee to a pay 7290
range lower than the employee's current pay range or revokes the 7291
employee's appointment to the unclassified service. An employee 7292
who holds a position in the classified service and who is 7293
appointed to a position in the unclassified service on or after 7294
January 1, 2016, shall have the right to resume a position in 7295
the classified service under this division only within five 7296
years after the effective date of the employee's appointment in 7297
the unclassified service. An employee forfeits the right to 7298
resume a position in the classified service when the employee is 7299
removed from the position in the unclassified service due to 7300
incompetence, inefficiency, dishonesty, drunkenness, immoral 7301
conduct, insubordination, discourteous treatment of the public, 7302
neglect of duty, violation of this chapter or Chapter 124., 7303
4123., 4125., 4127., 4131., 4133., or 4167. of the Revised Code, 7304
violation of the rules of the director of administrative 7305
services or the administrator, any other failure of good 7306
behavior, any other acts of misfeasance, malfeasance, or 7307
nonfeasance in office, or conviction of a felony while employed 7308
in the civil service. An employee also forfeits the right to 7309
resume a position in the classified service upon transfer to a 7310
different agency. 7311

Reinstatement to a position in the classified service 7312
shall be to a position substantially equal to that position in 7313
the classified service held previously, as certified by the 7314

department of administrative services. If the position the 7315
person previously held in the classified service has been placed 7316
in the unclassified service or is otherwise unavailable, the 7317
person shall be appointed to a position in the classified 7318
service within the bureau that the director of administrative 7319
services certifies is comparable in compensation to the position 7320
the person previously held in the classified service. Service in 7321
the position in the unclassified service shall be counted as 7322
service in the position in the classified service held by the 7323
person immediately prior to the person's appointment in the 7324
unclassified service. When a person is reinstated to a position 7325
in the classified service as provided in this division, the 7326
person is entitled to all rights, status, and benefits accruing 7327
to the position during the person's time of service in the 7328
position in the unclassified service. 7329

(3) Reorganize the work of the bureau, its sections, 7330
departments, and offices to the extent necessary to achieve the 7331
most efficient performance of its functions and to that end may 7332
establish, change, or abolish positions and assign and reassign 7333
duties and responsibilities of every employee of the bureau. All 7334
persons employed by the commission in positions that, after 7335
November 3, 1989, are supervised and directed by the 7336
administrator under this section are transferred to the bureau 7337
in their respective classifications but subject to reassignment 7338
and reclassification of position and compensation as the 7339
administrator determines to be in the interest of efficient 7340
administration. The civil service status of any person employed 7341
by the commission is not affected by this section. Personnel 7342
employed by the bureau or the commission who are subject to 7343
Chapter 4117. of the Revised Code shall retain all of their 7344
rights and benefits conferred pursuant to that chapter as it 7345

presently exists or is hereafter amended and nothing in this 7346
chapter or Chapter 4123. of the Revised Code shall be construed 7347
as eliminating or interfering with Chapter 4117. of the Revised 7348
Code or the rights and benefits conferred under that chapter to 7349
public employees or to any bargaining unit. 7350

(4) Provide offices, equipment, supplies, and other 7351
facilities for the bureau. 7352

(5) Prepare and submit to the board information the 7353
administrator considers pertinent or the board requires, 7354
together with the administrator's recommendations, in the form 7355
of administrative rules, for the advice and consent of the 7356
board, for classifications of occupations or industries, for 7357
premium rates and contributions, for the amount to be credited 7358
to the surplus fund, for rules and systems of rating, rate 7359
revisions, and merit rating. The administrator shall obtain, 7360
prepare, and submit any other information the board requires for 7361
the prompt and efficient discharge of its duties. 7362

(6) Keep the accounts required by division (A) of section 7363
4123.34 of the Revised Code and all other accounts and records 7364
necessary to the collection, administration, and distribution of 7365
the workers' compensation funds and shall obtain the statistical 7366
and other information required by section 4123.19 of the Revised 7367
Code. 7368

(7) Exercise the investment powers vested in the 7369
administrator by section 4123.44 of the Revised Code in 7370
accordance with the investment policy approved by the board 7371
pursuant to section 4121.12 of the Revised Code and in 7372
consultation with the chief investment officer of the bureau of 7373
workers' compensation. The administrator shall not engage in any 7374
prohibited investment activity specified by the board pursuant 7375

to division (F) (9) of section 4121.12 of the Revised Code and 7376
shall not invest in any type of investment specified in 7377
divisions (B) (1) to (10) of section 4123.442 of the Revised 7378
Code. All business shall be transacted, all funds invested, all 7379
warrants for money drawn and payments made, and all cash and 7380
securities and other property held, in the name of the bureau, 7381
or in the name of its nominee, provided that nominees are 7382
authorized by the administrator solely for the purpose of 7383
facilitating the transfer of securities, and restricted to the 7384
administrator and designated employees. 7385

(8) In accordance with Chapter 125. of the Revised Code, 7386
purchase supplies, materials, equipment, and services. 7387

(9) Prepare and submit to the board an annual budget for 7388
internal operating purposes for the board's approval. The 7389
administrator also shall, separately from the budget the 7390
industrial commission submits, prepare and submit to the 7391
director of budget and management a budget for each biennium. 7392
The budgets submitted to the board and the director shall 7393
include estimates of the costs and necessary expenditures of the 7394
bureau in the discharge of any duty imposed by law. 7395

(10) As promptly as possible in the course of efficient 7396
administration, decentralize and relocate such of the personnel 7397
and activities of the bureau as is appropriate to the end that 7398
the receipt, investigation, determination, and payment of claims 7399
may be undertaken at or near the place of injury or the 7400
residence of the claimant and for that purpose establish 7401
regional offices, in such places as the administrator considers 7402
proper, capable of discharging as many of the functions of the 7403
bureau as is practicable so as to promote prompt and efficient 7404
administration in the processing of claims. All active and 7405

inactive lost-time claims files shall be held at the service 7406
office responsible for the claim. A claimant, at the claimant's 7407
request, shall be provided with information by telephone as to 7408
the location of the file pertaining to the claimant's claim. The 7409
administrator shall ensure that all service office employees 7410
report directly to the director for their service office. 7411

(11) Provide a written binder on new coverage where the 7412
administrator considers it to be in the best interest of the 7413
risk. The administrator, or any other person authorized by the 7414
administrator, shall grant the binder upon submission of a 7415
request for coverage by the employer. A binder is effective for 7416
a period of thirty days from date of issuance and is 7417
nonrenewable. Payroll reports and premium charges shall coincide 7418
with the effective date of the binder. 7419

(12) Set standards for the reasonable and maximum handling 7420
time of claims payment functions, ensure, by rules, the 7421
impartial and prompt treatment of all claims and employer risk 7422
accounts, and establish a secure, accurate method of time 7423
stamping all incoming mail and documents hand delivered to 7424
bureau employees. 7425

(13) Ensure that all employees of the bureau follow the 7426
orders and rules of the commission as such orders and rules 7427
relate to the commission's overall adjudicatory policy-making 7428
and management duties under this chapter and Chapters 4123., 7429
4127., and 4131. of the Revised Code. 7430

(14) Manage and operate a data processing system with a 7431
common data base for the use of both the bureau and the 7432
commission and, in consultation with the commission, using 7433
electronic data processing equipment, shall develop a claims 7434
tracking system that is sufficient to monitor the status of a 7435

claim at any time and that lists appeals that have been filed 7436
and orders or determinations that have been issued pursuant to 7437
section 4123.511 or 4123.512 of the Revised Code, including the 7438
dates of such filings and issuances. 7439

(15) Establish and maintain a medical section within the 7440
bureau. The medical section shall do all of the following: 7441

(a) Assist the administrator in establishing standard 7442
medical fees, approving medical procedures, and determining 7443
eligibility and reasonableness of the compensation payments for 7444
medical, hospital, and nursing services, and in establishing 7445
guidelines for payment policies which recognize usual, 7446
customary, and reasonable methods of payment for covered 7447
services; 7448

(b) Provide a resource to respond to questions from claims 7449
examiners for employees of the bureau; 7450

(c) Audit fee bill payments; 7451

(d) Implement a program to utilize, to the maximum extent 7452
possible, electronic data processing equipment for storage of 7453
information to facilitate authorizations of compensation 7454
payments for medical, hospital, drug, and nursing services; 7455

(e) Perform other duties assigned to it by the 7456
administrator. 7457

(16) Appoint, as the administrator determines necessary, 7458
panels to review and advise the administrator on disputes 7459
arising over a determination that a health care service or 7460
supply provided to a claimant is not covered under this chapter 7461
or Chapter 4123., 4127., or 4131. of the Revised Code or is 7462
medically unnecessary. If an individual health care provider is 7463
involved in the dispute, the panel shall consist of individuals 7464

licensed pursuant to the same section of the Revised Code as 7465
such health care provider. 7466

(17) Pursuant to section 4123.65 of the Revised Code, 7467
approve applications for the final settlement of claims for 7468
compensation or benefits under this chapter and Chapters 4123., 7469
4127., and 4131. of the Revised Code as the administrator 7470
determines appropriate, except in regard to the applications of 7471
self-insuring employers and their employees. 7472

(18) Comply with section 3517.13 of the Revised Code, and 7473
except in regard to contracts entered into pursuant to the 7474
authority contained in section 4121.44 of the Revised Code, 7475
comply with the competitive bidding procedures set forth in the 7476
Revised Code for all contracts into which the administrator 7477
enters provided that those contracts fall within the type of 7478
contracts and dollar amounts specified in the Revised Code for 7479
competitive bidding and further provided that those contracts 7480
are not otherwise specifically exempt from the competitive 7481
bidding procedures contained in the Revised Code. 7482

(19) Adopt, with the advice and consent of the board, 7483
rules for the operation of the bureau. 7484

(20) Prepare and submit to the board information the 7485
administrator considers pertinent or the board requires, 7486
together with the administrator's recommendations, in the form 7487
of administrative rules, for the advice and consent of the 7488
board, for the health partnership program and the qualified 7489
health plan system, as provided in sections 4121.44, 4121.441, 7490
and 4121.442 of the Revised Code. 7491

(C) The administrator, with the advice and consent of the 7492
senate, shall appoint a chief operating officer who has a 7493

minimum of five years of experience in the field of workers' 7494
compensation insurance or in another similar insurance industry 7495
if the administrator does not possess such experience. The chief 7496
operating officer shall not commence the chief operating 7497
officer's duties until after the senate consents to the chief 7498
operating officer's appointment. The chief operating officer 7499
shall serve in the unclassified civil service of the state. 7500

Sec. 4121.31. (A) The administrator of workers' 7501
compensation and the industrial commission jointly shall adopt 7502
rules covering the following general topics with respect to this 7503
chapter and Chapter 4123. of the Revised Code: 7504

(1) Rules that set forth any general policy and the 7505
principal operating procedures of the bureau of workers' 7506
compensation or commission, including but not limited to: 7507

(a) Assignment to various operational units of any duties 7508
placed upon the administrator or the commission by statute; 7509

(b) Procedures for decision-making; 7510

(c) Procedures governing the appearances of a claimant, 7511
employer, or their representatives before the agency in a 7512
hearing; 7513

(d) Procedures that inform claimants, on request, of the 7514
status of a claim and any actions necessary to maintain the 7515
claim; 7516

(e) Time goals for activities of the bureau or commission; 7517

(f) Designation of the person or persons authorized to 7518
issue directives with directives numbered and distributed from a 7519
central distribution point to persons on a list maintained for 7520
that purpose. 7521

(2) A rule barring any employee of the bureau or 7522
commission from having a workers' compensation claims file in 7523
the employee's possession unless the file is necessary to the 7524
performance of the employee's duties. 7525

(3) All claims, whether of a state fund or self-insuring 7526
employer, be processed in an orderly, uniform, and timely 7527
fashion. 7528

(4) Rules governing the submission and sending of 7529
applications, notices, evidence, and other documents by 7530
electronic means. The rules shall provide that where this 7531
chapter or Chapter 4123., 4127., or 4131. of the Revised Code 7532
requires that a document be in writing or requires a signature, 7533
the administrator and the commission, to the extent of their 7534
respective jurisdictions, may approve of and provide for the 7535
electronic submission and sending of those documents, and the 7536
use of an electronic signature on those documents. 7537

(5) Rules allowing a certified nurse-midwife, clinical 7538
nurse specialist, or certified nurse practitioner to act in the 7539
same capacity as a physician for purposes of this chapter and 7540
Chapters 4123., 4127., and 4131. of the Revised Code, including 7541
the ability to complete and sign medical reports to support 7542
payment or nonpayment of disability, except that, in the case of 7543
a medical report completed by a certified nurse-midwife, 7544
clinical nurse specialist, or certified nurse practitioner that 7545
supports disability compensation for the time period that begins 7546
six weeks after the date of injury, the report shall be 7547
reviewed, approved, and signed by a physician. 7548

(B) As used in this section: 7549

(1) "Electronic" includes electrical, digital, magnetic, 7550

optical, electromagnetic, facsimile, or any other form of 7551
technology that entails capabilities similar to these 7552
technologies. 7553

(2) "Electronic record" means a record generated, 7554
communicated, received, or stored by electronic means for use in 7555
an information system or for transmission from one information 7556
system to another. 7557

(3) "Electronic signature" means a signature in electronic 7558
form attached to or logically associated with an electronic 7559
record. 7560

Sec. 4121.32. (A) The rules covering operating procedure 7561
and criteria for decision-making that the administrator of 7562
workers' compensation and the industrial commission are required 7563
to adopt pursuant to section 4121.31 of the Revised Code shall 7564
be supplemented with operating manuals setting forth the 7565
procedural steps in detail for performing each of the assigned 7566
tasks of each section of the bureau of workers' compensation and 7567
commission. The administrator and commission jointly shall adopt 7568
such manuals. No employee may deviate from manual procedures 7569
without authorization of the section chief. 7570

(B) Manuals shall set forth the procedure for the 7571
assignment and transfer of claims within sections and be 7572
designed to provide performance objectives and may require 7573
employees to record sufficient data to reasonably measure the 7574
efficiency of functions in all sections. The bureau shall 7575
perform periodic cost-effectiveness analyses that shall be made 7576
available to the general assembly, the governor, and to the 7577
public during normal working hours. 7578

(C) The bureau and commission jointly shall develop, 7579

adopt, and use a policy manual setting forth the guidelines and 7580
bases for decision-making for any decision which is the 7581
responsibility of the bureau, district hearing officers, staff 7582
hearing officers, or the commission. Guidelines shall be set 7583
forth in the policy manual by the bureau and commission to the 7584
extent of their respective jurisdictions for deciding at least 7585
the following specific matters: 7586

(1) Reasonable ambulance services; 7587

(2) Relationship of drugs to injury; 7588

(3) Awarding lump-sum advances for creditors; 7589

(4) Awarding lump-sum advances for attorney's fees; 7590

(5) Placing a claimant into rehabilitation; 7591

(6) Transferring costs of a claim from employer costs to 7592
the statutory surplus fund pursuant to section 4123.343 of the 7593
Revised Code; 7594

(7) Utilization of physician or nurse specialist reports; 7595

(8) Determining the percentage of permanent partial 7596
disability, temporary partial disability, temporary total 7597
disability, violations of specific safety requirements, an award 7598
under division (B) of section 4123.57 of the Revised Code, and 7599
permanent total disability. 7600

(D) The bureau shall establish, adopt, and implement 7601
policy guidelines and bases for decisions involving 7602
reimbursement issues including, but not limited to, the 7603
adjustment of invoices, the reduction of payments for future 7604
services when an internal audit concludes that a health care 7605
provider was overpaid or improperly paid for past services, 7606
reimbursement fees, or other adjustments to payments. These 7607

policy guidelines and bases for decisions, and any changes to 7608
the guidelines and bases, shall be set forth in a reimbursement 7609
manual and provider bulletins. 7610

Neither the policy guidelines nor the bases set forth in 7611
the reimbursement manual or provider bulletins referred to in 7612
this division is a rule as defined in section 119.01 of the 7613
Revised Code. 7614

(E) With respect to any determination of disability under 7615
Chapter 4123. of the Revised Code, when the physician, certified 7616
nurse-midwife, clinical nurse specialist, or certified nurse 7617
practitioner makes a determination based upon statements or 7618
information furnished by the claimant or upon subjective 7619
evidence, the physician or nurse shall clearly indicate this 7620
fact in the physician's or nurse's report. 7621

(F) The administrator shall publish the manuals and make 7622
copies of all manuals available to interested parties at cost. 7623

Sec. 4121.36. (A) The industrial commission shall adopt 7624
rules as to the conduct of all hearings before the commission 7625
and its staff and district hearing officers and the rendering of 7626
a decision and shall focus such rules on managing, directing, 7627
and otherwise ensuring a fair, equitable, and uniform hearing 7628
process. These rules shall provide for at least the following 7629
steps and procedures: 7630

(1) Adequate notice to all parties and their 7631
representatives to ensure that no hearing is conducted unless 7632
all parties have the opportunity to be present and to present 7633
evidence and arguments in support of their positions or in 7634
rebuttal to the evidence or arguments of other parties; 7635

(2) A public hearing; 7636

- (3) Written decisions; 7637
- (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; 7638
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- (5) Publication of a docket; 7643
- (6) The securing of the attendance or testimony of witnesses; 7644
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- (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; 7646
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- (8) The issuance of orders by the district or staff hearing officer who renders the decision. 7650
7651
- (B) Every decision by a staff or district hearing officer or the commission shall be in writing and contain all of the following elements: 7652
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- (1) A concise statement of the order or award; 7655
- (2) A notation as to notice provided and as to appearance of parties; 7656
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- (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; 7658
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- (4) Description of the part of the body and nature of the disability recognized in the claim. 7661
7662
- (C) The commission shall adopt rules that require the 7663

regular rotation of district hearing officers with respect to 7664
the types of matters under consideration and that ensure that no 7665
district or staff hearing officer or the commission hears a 7666
claim unless all interested and affected parties have the 7667
opportunity to be present and to present evidence and arguments 7668
in support of their positions or in rebuttal to the evidence or 7669
arguments of other parties. 7670

(D) All matters which, at the request of one of the 7671
parties or on the initiative of the administrator and any 7672
commissioner, are to be expedited, shall require at least forty- 7673
eight hours' notice, a public hearing, and a statement in any 7674
order of the circumstances that justified such expeditious 7675
hearings. 7676

(E) All meetings of the commission and district and staff 7677
hearing officers shall be public with adequate notice, including 7678
if necessary, to the claimant, the employer, their 7679
representatives, and the administrator. Confidentiality of 7680
medical evidence presented at a hearing does not constitute a 7681
sufficient ground to relieve the requirement of a public 7682
hearing, but the presentation of privileged or confidential 7683
evidence shall not create any greater right of public inspection 7684
of evidence than presently exists. 7685

(F) The commission shall compile all of its original 7686
memorandums, orders, and decisions in a journal and make the 7687
journal available to the public with sufficient indexing to 7688
allow orderly review of documents. The journal shall indicate 7689
the vote of each commissioner. 7690

(G) (1) All original orders, rules, and memoranda, and 7691
decisions of the commission shall contain the signatures of two 7692
of the three commissioners and state whether adopted at a 7693

meeting of the commission or by circulation to individual 7694
commissioners. Any facsimile or secretarial signature, initials 7695
of commissioners, and delegated employees, and any printed 7696
record of the "yes" and "no" vote of a commission member or of a 7697
hearing officer on such original is invalid. 7698

(2) Written copies of final decisions of district or staff 7699
hearing officers or the commission that are mailed to the 7700
administrator, employee, employer, and their respective 7701
representatives need not contain the signatures of the hearing 7702
officer or commission members if the hearing officer or 7703
commission members have complied with divisions (B) (3) and (G) 7704
(1) of this section. 7705

(H) The commission shall do both of the following: 7706

(1) Appoint an individual as a hearing officer trainer who 7707
is in the unclassified civil service of the state and who serves 7708
at the pleasure of the commission. The trainer shall be an 7709
attorney registered to practice law in this state and have 7710
experience in training or education, and the ability to furnish 7711
the necessary training for district and staff hearing officers. 7712

The hearing officer trainer shall develop and periodically 7713
update a training manual and such other training materials and 7714
courses as will adequately prepare district and staff hearing 7715
officers for their duties under this chapter and Chapter 4123. 7716
of the Revised Code. All district and staff hearing officers 7717
shall undergo the training courses developed by the hearing 7718
officer trainer, the cost of which the commission shall pay. The 7719
commission shall make the hearing officer manual and all 7720
revisions thereto available to the public at cost. 7721

The commission shall have the final right of approval over 7722

all training manuals, courses, and other materials the hearing officer trainer develops and updates. 7723
7724

(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: 7725
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(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. 7731
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(b) Provide information to requesting parties or their representatives on the status of their claim; 7743
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(c) Issue compliance letters, upon a finding of good cause and without a formal hearing in all of the following areas: 7745
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(i) Divisions (B) and (C) of section 4123.651 of the Revised Code; 7747
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(ii) Requests for the taking of depositions of bureau and commission physicians, certified nurse-midwives, clinical nurse specialists, or certified nurse practitioners; 7749
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7751

(iii) The issuance of subpoenas;	7752
(iv) The granting or denying of requests for continuances;	7753
(v) Matters involving section 4123.522 of the Revised Code;	7754 7755
(vi) Requests for conducting telephone pre-hearing conferences;	7756 7757
(vii) Any other matter that will cause a free exchange of information prior to the formal hearing.	7758 7759
(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;	7760 7761 7762
(e) Ensure that for occupational disease claims under section 4123.68 of the Revised Code that require a medical examination the medical examination is conducted prior to the hearing;	7763 7764 7765 7766
(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.	7767 7768 7769
(I) The commission shall permit any person direct access to information contained in electronic data processing equipment regarding the status of a claim in the hearing process. The information shall indicate the number of days that the claim has been in process, the number of days the claim has been in its current location, and the number of days in the current point of the process within that location.	7770 7771 7772 7773 7774 7775 7776
(J) (1) The industrial commission may establish an alternative dispute resolution process for workers' compensation claims that are within the commission's jurisdiction under	7777 7778 7779

Chapters 4121., 4123., 4127., and 4131. of the Revised Code when 7780
the commission determines that such a process is necessary. 7781
Notwithstanding sections 4121.34 and 4121.35 of the Revised 7782
Code, the commission may enter into personal service contracts 7783
with individuals who are qualified because of their education 7784
and experience to act as facilitators in the commission's 7785
alternative dispute resolution process. 7786

(2) The parties' use of the alternative dispute resolution 7787
process is voluntary, and requires the agreement of all 7788
necessary parties. The use of the alternative dispute resolution 7789
process does not alter the rights or obligations of the parties, 7790
nor does it delay the timelines set forth in section 4123.511 of 7791
the Revised Code. 7792

(3) The commission shall prepare monthly reports and 7793
submit those reports to the governor, the president of the 7794
senate, and the speaker of the house of representatives 7795
describing all of the following: 7796

(a) The names of each facilitator employed under a 7797
personal service contract; 7798

(b) The hourly amount of money and the total amount of 7799
money paid to each facilitator; 7800

(c) The number of disputed issues resolved during that 7801
month by each facilitator; 7802

(d) The number of decisions of each facilitator that were 7803
appealed by a party; 7804

(e) A certification by the commission that the alternative 7805
dispute resolution process did not delay any hearing timelines 7806
as set forth in section 4123.511 of the Revised Code for any 7807
disputed issue. 7808

(4) The commission may adopt rules in accordance with 7809
Chapter 119. of the Revised Code for the administration of any 7810
alternative dispute resolution process that the commission 7811
establishes. 7812

Sec. 4121.38. (A) The industrial commission shall: 7813

(1) Implement a program of impairment evaluation training 7814
for its staff physicians, certified nurse-midwives, clinical 7815
nurse specialists, and certified nurse practitioners; 7816

(2) Issue a manual of commission policy as to impairment 7817
evaluation so as to increase consistency of medical reports. 7818
This manual shall be available to the public at cost but shall 7819
be provided free to all physicians, certified nurse-midwives, 7820
clinical nurse specialists, and certified nurse practitioners 7821
who treat claimants or to whom claimants are referred for 7822
evaluation. The commission shall take steps to ensure that the 7823
manual receives the widest possible distribution to physicians, 7824
certified nurse-midwives, clinical nurse specialists, and 7825
certified nurse practitioners. 7826

(3) Develop a method of peer review of medical reports 7827
prepared by the commission referral ~~doctors~~ physicians; 7828

(4) Issue a policy manual as to the basis upon which 7829
referrals to other than commission specialists will be made; 7830

(5) Designate two hearing examiners and two medical staff 7831
members who shall be specially trained in medical-legal 7832
analysis. The specialists shall write evaluations of medical- 7833
legal problems upon assignment by other hearing examiners or the 7834
commission. The director of administrative services upon 7835
commission advice shall assign such employees to a salary 7836
schedule commensurate with expertise required of them. 7837

(6) Require that prior to any examination, a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner to whom a claimant is referred for examination receives all necessary medical information in the claim file about the claimant and a complete statement as to the purpose of the examination.

(B) The commission may establish a medical section within the commission to perform the duties assigned to the commission under this section.

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' 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 7869
on the bureau payroll. The chief ombudsperson and the 7870
ombudsperson system shall be under the direction of the 7871
nominating council. The administrator and all employees of the 7872
bureau and the commission shall give the ~~the~~ ombudsperson system 7873
staff full and prompt cooperation in all matters relating to the 7874
duties of the chief ombudsperson. 7875

(B) The ombudsperson system staff shall: 7876

(1) Answer inquiries or investigate complaints made by 7877
employers or claimants under this chapter and Chapter 4123. of 7878
the Revised Code as they relate to the processing of a claim for 7879
workers' compensation benefits; 7880

(2) Provide claimants and employers with information 7881
regarding problems which arise out of the functions of the 7882
bureau, commission hearing officers, and the commission and the 7883
procedures employed in the processing of claims; 7884

(3) Answer inquiries or investigate complaints of an 7885
employer as they relate to reserves established and premiums 7886
charged in connection with the employer's account; 7887

(4) Comply with Chapter 102. and sections 2921.42 and 7888
2921.43 of the Revised Code and the nominating council's human 7889
resource and ethics policies; 7890

(5) Not express any opinions as to the merit of a claim or 7891
the correctness of a decision by the various officers or 7892
agencies as the decision relates to a claim for benefits or 7893
compensation. 7894

For the purpose of carrying out the chief ombudsperson's 7895
duties, the chief ombudsperson or the ombudsperson system staff, 7896
notwithstanding sections 4123.27 and 4123.88 of the Revised 7897

Code, has the right at all reasonable times to examine the 7898
contents of a claim file and discuss with parties in interest 7899
the contents of the file as long as the ombudsperson does not 7900
divulge information that would tend to prejudice the case of 7901
either party to a claim or that would tend to compromise a 7902
privileged attorney-client or doctor-patient relationship, 7903
physician-patient relationship, or advanced practice registered 7904
nurse-patient relationship. 7905

(C) The chief ombudsperson shall: 7906

(1) Assist any service office in its duties whenever it 7907
requires assistance or information that can best be obtained 7908
from central office personnel or records; 7909

(2) Annually assemble reports from each assistant 7910
ombudsperson as to their activities for the preceding year 7911
together with their recommendations as to changes or 7912
improvements in the operations of the workers' compensation 7913
system. The chief ombudsperson shall prepare a written report 7914
summarizing the activities of the ombudsperson system together 7915
with a digest of recommendations. The chief ombudsperson shall 7916
transmit the report to the nominating council. 7917

(3) Comply with Chapter 102. and sections 2921.42 and 7918
2921.43 of the Revised Code and the nominating council's human 7919
resource and ethics policies. 7920

(D) No ombudsperson or assistant ombudsperson shall: 7921

(1) Represent a claimant or employer in claims pending 7922
before or to be filed with the administrator, a district or 7923
staff hearing officer, the commission, or the courts of the 7924
state, nor shall an ombudsperson or assistant ombudsperson 7925
undertake any such representation for a period of one year after 7926

the ombudsperson's or assistant ombudsperson's employment 7927
terminates or be eligible for employment by the bureau or the 7928
commission or as a district or staff hearing officer for one 7929
year; 7930

(2) Express any opinions as to the merit of a claim or the 7931
correctness of a decision by the various officers or agencies as 7932
the decision relates to a claim for benefits or compensation. 7933

(E) The chief ombudsperson and assistant ombudspersons 7934
shall receive compensation at a level established by the 7935
nominating council commensurate with the individual's 7936
background, education, and experience in workers' compensation 7937
or related fields. The chief ombudsperson and assistant 7938
ombudspersons are full-time permanent employees in the 7939
unclassified service of the state and are entitled to all 7940
benefits that accrue to such employees, including, without 7941
limitation, sick, vacation, and personal leaves. Assistant 7942
ombudspersons serve at the pleasure of the chief ombudsperson. 7943

(F) In the event of a vacancy in the position of chief 7944
ombudsperson, the nominating council may appoint a person to 7945
serve as acting chief ombudsperson until a chief ombudsperson is 7946
appointed. The acting chief ombudsperson shall be under the 7947
direction and control of the nominating council and may be 7948
removed by the nominating council with or without just cause. 7949

Sec. 4123.19. The bureau of workers' compensation may make 7950
necessary expenditures to obtain statistical and other 7951
information to establish the classes provided for in section 7952
4123.29 of the Revised Code. 7953

The salaries and compensation of all of the actuaries, 7954
accountants, inspectors, examiners, experts, clerks, physicians, 7955

nurses, stenographers, and other assistants of the bureau, and 7956
all other expenses of the bureau, including the premium to be 7957
paid for the bond to be furnished by the treasurer of state 7958
pursuant to section 4123.42 of the Revised Code, shall be paid 7959
out of the workers' compensation fund pursuant to warrants 7960
signed by the administrator of workers' compensation. 7961

Sec. 4123.511. (A) Within seven days after receipt of any 7962
claim under this chapter, the bureau of workers' compensation 7963
shall notify the claimant and the employer of the claimant of 7964
the receipt of the claim and of the facts alleged therein. If 7965
the bureau receives from a person other than the claimant 7966
written or facsimile information or information communicated 7967
verbally over the telephone indicating that an injury or 7968
occupational disease has occurred or been contracted which may 7969
be compensable under this chapter, the bureau shall notify the 7970
employee and the employer of the information. If the information 7971
is provided verbally over the telephone, the person providing 7972
the information shall provide written verification of the 7973
information to the bureau according to division (E) of section 7974
4123.84 of the Revised Code. The receipt of the information in 7975
writing or facsimile, or if initially by telephone, the 7976
subsequent written verification, and the notice by the bureau 7977
shall be considered an application for compensation under 7978
section 4123.84 or 4123.85 of the Revised Code, provided that 7979
the conditions of division (E) of section 4123.84 of the Revised 7980
Code apply to information provided verbally over the telephone. 7981
Upon receipt of a claim, the bureau shall advise the claimant of 7982
the claim number assigned and the claimant's right to 7983
representation in the processing of a claim or to elect no 7984
representation. If the bureau determines that a claim is 7985
determined to be a compensable lost-time claim, the bureau shall 7986

notify the claimant and the employer of the availability of 7987
rehabilitation services. No bureau or industrial commission 7988
employee shall directly or indirectly convey any information in 7989
derogation of this right. This section shall in no way abrogate 7990
the bureau's responsibility to aid and assist a claimant in the 7991
filing of a claim and to advise the claimant of the claimant's 7992
rights under the law. 7993

The administrator of workers' compensation shall assign 7994
all claims and investigations to the bureau service office from 7995
which investigation and determination may be made most 7996
expeditiously. 7997

The bureau shall investigate the facts concerning an 7998
injury or occupational disease and ascertain such facts in 7999
whatever manner is most appropriate and may obtain statements ~~of~~ 8000
in whatever manner is most appropriate from any of the 8001
following: employee~~;~~ employer~~;~~ attending physician, certified 8002
nurse-midwife, clinical nurse specialist, or certified nurse 8003
practitioner; and witnesses ~~in whatever manner is most~~ 8004
appropriate. 8005

The administrator, with the advice and consent of the 8006
bureau of workers' compensation board of directors, may adopt 8007
rules that identify specified medical conditions that have a 8008
historical record of being allowed whenever included in a claim. 8009
The administrator may grant immediate allowance of any medical 8010
condition identified in those rules upon the filing of a claim 8011
involving that medical condition and may make immediate payment 8012
of medical bills for any medical condition identified in those 8013
rules that is included in a claim. If an employer contests the 8014
allowance of a claim involving any medical condition identified 8015
in those rules, and the claim is disallowed, payment for the 8016

medical condition included in that claim shall be charged to and 8017
paid from the surplus fund created under section 4123.34 of the 8018
Revised Code. 8019

(B) (1) Except as provided in division (B) (2) of this 8020
section, in claims other than those in which the employer is a 8021
self-insuring employer, if the administrator determines under 8022
division (A) of this section that a claimant is or is not 8023
entitled to an award of compensation or benefits, the 8024
administrator shall issue an order no later than twenty-eight 8025
days after the sending of the notice under division (A) of this 8026
section, granting or denying the payment of the compensation or 8027
benefits, or both as is appropriate to the claimant. 8028
Notwithstanding the time limitation specified in this division 8029
for the issuance of an order, if a medical examination of the 8030
claimant is required by statute, the administrator promptly 8031
shall schedule the claimant for that examination and shall issue 8032
an order no later than twenty-eight days after receipt of the 8033
report of the examination. The administrator shall notify the 8034
claimant and the employer of the claimant and their respective 8035
representatives in writing of the nature of the order and the 8036
amounts of compensation and benefit payments involved. The 8037
employer or claimant may appeal the order pursuant to division 8038
(C) of this section within fourteen days after the date of the 8039
receipt of the order. The employer and claimant may waive, in 8040
writing, their rights to an appeal under this division. 8041

(2) Notwithstanding the time limitation specified in 8042
division (B) (1) of this section for the issuance of an order, if 8043
the employer certifies a claim for payment of compensation or 8044
benefits, or both, to a claimant, and the administrator has 8045
completed the investigation of the claim, the payment of 8046
benefits or compensation, or both, as is appropriate, shall 8047

commence upon the later of the date of the certification or 8048
completion of the investigation and issuance of the order by the 8049
administrator, provided that the administrator shall issue the 8050
order no later than the time limitation specified in division 8051
(B) (1) of this section. 8052

(3) If an appeal is made under division (B) (1) or (2) of 8053
this section, the administrator shall forward the claim file to 8054
the appropriate district hearing officer within seven days of 8055
the appeal. In contested claims other than state fund claims, 8056
the administrator shall forward the claim within seven days of 8057
the administrator's receipt of the claim to the industrial 8058
commission, which shall refer the claim to an appropriate 8059
district hearing officer for a hearing in accordance with 8060
division (C) of this section. 8061

(C) If an employer or claimant timely appeals the order of 8062
the administrator issued under division (B) of this section or 8063
in the case of other contested claims other than state fund 8064
claims, the commission shall refer the claim to an appropriate 8065
district hearing officer according to rules the commission 8066
adopts under section 4121.36 of the Revised Code. The district 8067
hearing officer shall notify the parties and their respective 8068
representatives of the time and place of the hearing. 8069

The district hearing officer shall hold a hearing on a 8070
disputed issue or claim within forty-five days after the filing 8071
of the appeal under this division and issue a decision within 8072
seven days after holding the hearing. The district hearing 8073
officer shall notify the parties and their respective 8074
representatives in writing of the order. Any party may appeal an 8075
order issued under this division pursuant to division (D) of 8076
this section within fourteen days after receipt of the order 8077

under this division. 8078

(D) Upon the timely filing of an appeal of the order of 8079
the district hearing officer issued under division (C) of this 8080
section, the commission shall refer the claim file to an 8081
appropriate staff hearing officer according to its rules adopted 8082
under section 4121.36 of the Revised Code. The staff hearing 8083
officer shall hold a hearing within forty-five days after the 8084
filing of an appeal under this division and issue a decision 8085
within seven days after holding the hearing under this division. 8086
The staff hearing officer shall notify the parties and their 8087
respective representatives in writing of the staff hearing 8088
officer's order. Any party may appeal an order issued under this 8089
division pursuant to division (E) of this section within 8090
fourteen days after receipt of the order under this division. 8091

(E) Upon the filing of a timely appeal of the order of the 8092
staff hearing officer issued under division (D) of this section, 8093
the commission or a designated staff hearing officer, on behalf 8094
of the commission, shall determine whether the commission will 8095
hear the appeal. If the commission or the designated staff 8096
hearing officer decides to hear the appeal, the commission or 8097
the designated staff hearing officer shall notify the parties 8098
and their respective representatives in writing of the time and 8099
place of the hearing. The commission shall hold the hearing 8100
within forty-five days after the filing of the notice of appeal 8101
and, within seven days after the conclusion of the hearing, the 8102
commission shall issue its order affirming, modifying, or 8103
reversing the order issued under division (D) of this section. 8104
The commission shall notify the parties and their respective 8105
representatives in writing of the order. If the commission or 8106
the designated staff hearing officer determines not to hear the 8107
appeal, within fourteen days after the expiration of the period 8108

in which an appeal of the order of the staff hearing officer may 8109
be filed as provided in division (D) of this section, the 8110
commission or the designated staff hearing officer shall issue 8111
an order to that effect and notify the parties and their 8112
respective representatives in writing of that order. 8113

Except as otherwise provided in this chapter and Chapters 8114
4121., 4127., and 4131. of the Revised Code, any party may 8115
appeal an order issued under this division to the court pursuant 8116
to section 4123.512 of the Revised Code within sixty days after 8117
receipt of the order, subject to the limitations contained in 8118
that section. 8119

(F) Every notice of an appeal from an order issued under 8120
divisions (B), (C), (D), and (E) of this section shall state the 8121
names of the claimant and employer, the number of the claim, the 8122
date of the decision appealed from, and the fact that the 8123
appellant appeals therefrom. 8124

(G) All of the following apply to the proceedings under 8125
divisions (C), (D), and (E) of this section: 8126

(1) The parties shall proceed promptly and without 8127
continuances except for good cause; 8128

(2) The parties, in good faith, shall engage in the free 8129
exchange of information relevant to the claim prior to the 8130
conduct of a hearing according to the rules the commission 8131
adopts under section 4121.36 of the Revised Code; 8132

(3) The administrator is a party and may appear and 8133
participate at all administrative proceedings on behalf of the 8134
state insurance fund. However, in cases in which the employer is 8135
represented, the administrator shall neither present arguments 8136
nor introduce testimony that is cumulative to that presented or 8137

introduced by the employer or the employer's representative. The 8138
administrator may file an appeal under this section on behalf of 8139
the state insurance fund; however, except in cases arising under 8140
section 4123.343 of the Revised Code, the administrator only may 8141
appeal questions of law or issues of fraud when the employer 8142
appears in person or by representative. 8143

(H) Except as provided in section 4121.63 of the Revised 8144
Code and division (K) of this section, payments of compensation 8145
to a claimant or on behalf of a claimant as a result of any 8146
order issued under this chapter shall commence upon the earlier 8147
of the following: 8148

(1) Fourteen days after the date the administrator issues 8149
an order under division (B) of this section, unless that order 8150
is appealed; 8151

(2) The date when the employer has waived the right to 8152
appeal a decision issued under division (B) of this section; 8153

(3) If no appeal of an order has been filed under this 8154
section or to a court under section 4123.512 of the Revised 8155
Code, the expiration of the time limitations for the filing of 8156
an appeal of an order; 8157

(4) The date of receipt by the employer of an order of a 8158
district hearing officer, a staff hearing officer, or the 8159
industrial commission issued under division (C), (D), or (E) of 8160
this section. 8161

(I) Except as otherwise provided in division (B) of 8162
section 4123.66 of the Revised Code, payments of medical 8163
benefits payable under this chapter or Chapter 4121., 4127., or 8164
4131. of the Revised Code shall commence upon the earlier of the 8165
following: 8166

(1) The date of the issuance of the staff hearing officer's order under division (D) of this section;	8167 8168
(2) The date of the final administrative or judicial determination.	8169 8170
(J) The administrator shall charge the compensation payments made in accordance with division (H) of this section or medical benefits payments made in accordance with division (I) of this section to an employer's experience immediately after the employer has exhausted the employer's administrative appeals as provided in this section or has waived the employer's right to an administrative appeal under division (B) of this section, subject to the adjustment specified in division (H) of section 4123.512 of the Revised Code.	8171 8172 8173 8174 8175 8176 8177 8178 8179
(K) Upon the final administrative or judicial determination under this section or section 4123.512 of the Revised Code of an appeal of an order to pay compensation, if a claimant is found to have received compensation pursuant to a prior order which is reversed upon subsequent appeal, the claimant's employer, if a self-insuring employer, or the bureau, shall withhold from any amount to which the claimant becomes entitled pursuant to any claim, past, present, or future, under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, the amount of previously paid compensation to the claimant which, due to reversal upon appeal, the claimant is not entitled, pursuant to the following criteria:	8180 8181 8182 8183 8184 8185 8186 8187 8188 8189 8190 8191
(1) No withholding for the first twelve weeks of temporary total disability compensation pursuant to section 4123.56 of the Revised Code shall be made;	8192 8193 8194
(2) Forty per cent of all awards of compensation paid	8195

pursuant to sections 4123.56 and 4123.57 of the Revised Code, 8196
until the amount overpaid is refunded; 8197

(3) Twenty-five per cent of any compensation paid pursuant 8198
to section 4123.58 of the Revised Code until the amount overpaid 8199
is refunded; 8200

(4) If, pursuant to an appeal under section 4123.512 of 8201
the Revised Code, the court of appeals or the supreme court 8202
reverses the allowance of the claim, then no amount of any 8203
compensation will be withheld. 8204

The administrator and self-insuring employers, as 8205
appropriate, are subject to the repayment schedule of this 8206
division only with respect to an order to pay compensation that 8207
was properly paid under a previous order, but which is 8208
subsequently reversed upon an administrative or judicial appeal. 8209
The administrator and self-insuring employers are not subject 8210
to, but may utilize, the repayment schedule of this division, or 8211
any other lawful means, to collect payment of compensation made 8212
to a person who was not entitled to the compensation due to 8213
fraud as determined by the administrator or the industrial 8214
commission. 8215

(L) If a staff hearing officer or the commission fails to 8216
issue a decision or the commission fails to refuse to hear an 8217
appeal within the time periods required by this section, 8218
payments to a claimant shall cease until the staff hearing 8219
officer or commission issues a decision or hears the appeal, 8220
unless the failure was due to the fault or neglect of the 8221
employer or the employer agrees that the payments should 8222
continue for a longer period of time. 8223

(M) Except as otherwise provided in this section or 8224

section 4123.522 of the Revised Code, no appeal is timely filed 8225
under this section unless the appeal is filed with the time 8226
limits set forth in this section. 8227

(N) No person who is not an employee of the bureau or 8228
commission or who is not by law given access to the contents of 8229
a claims file shall have a file in the person's possession. 8230

(O) Upon application of a party who resides in an area in 8231
which an emergency or disaster is declared, the industrial 8232
commission and hearing officers of the commission may waive the 8233
time frame within which claims and appeals of claims set forth 8234
in this section must be filed upon a finding that the applicant 8235
was unable to comply with a filing deadline due to an emergency 8236
or a disaster. 8237

As used in this division: 8238

(1) "Emergency" means any occasion or instance for which 8239
the governor of Ohio or the president of the United States 8240
publicly declares an emergency and orders state or federal 8241
assistance to save lives and protect property, the public health 8242
and safety, or to lessen or avert the threat of a catastrophe. 8243

(2) "Disaster" means any natural catastrophe or fire, 8244
flood, or explosion, regardless of the cause, that causes damage 8245
of sufficient magnitude that the governor of Ohio or the 8246
president of the United States, through a public declaration, 8247
orders state or federal assistance to alleviate damage, loss, 8248
hardship, or suffering that results from the occurrence. 8249

Sec. 4123.512. (A) The claimant or the employer may appeal 8250
an order of the industrial commission made under division (E) of 8251
section 4123.511 of the Revised Code in any injury or 8252
occupational disease case, other than a decision as to the 8253

extent of disability to the court of common pleas of the county 8254
in which the injury was inflicted or in which the contract of 8255
employment was made if the injury occurred outside the state, or 8256
in which the contract of employment was made if the exposure 8257
occurred outside the state. If no common pleas court has 8258
jurisdiction for the purposes of an appeal by the use of the 8259
jurisdictional requirements described in this division, the 8260
appellant may use the venue provisions in the Rules of Civil 8261
Procedure to vest jurisdiction in a court. If the claim is for 8262
an occupational disease, the appeal shall be to the court of 8263
common pleas of the county in which the exposure which caused 8264
the disease occurred. Like appeal may be taken from an order of 8265
a staff hearing officer made under division (D) of section 8266
4123.511 of the Revised Code from which the commission has 8267
refused to hear an appeal. Except as otherwise provided in this 8268
division, the appellant shall file the notice of appeal with a 8269
court of common pleas within sixty days after the date of the 8270
receipt of the order appealed from or the date of receipt of the 8271
order of the commission refusing to hear an appeal of a staff 8272
hearing officer's decision under division (D) of section 8273
4123.511 of the Revised Code. Either the claimant or the 8274
employer may file a notice of an intent to settle the claim 8275
within thirty days after the date of the receipt of the order 8276
appealed from or of the order of the commission refusing to hear 8277
an appeal of a staff hearing officer's decision. The claimant or 8278
employer shall file notice of intent to settle with the 8279
administrator of workers' compensation, and the notice shall be 8280
served on the opposing party and the party's representative. The 8281
filing of the notice of intent to settle extends the time to 8282
file an appeal to one hundred fifty days, unless the opposing 8283
party files an objection to the notice of intent to settle 8284
within fourteen days after the date of the receipt of the notice 8285

of intent to settle. The party shall file the objection with the 8286
administrator, and the objection shall be served on the party 8287
that filed the notice of intent to settle and the party's 8288
representative. The filing of the notice of the appeal with the 8289
court is the only act required to perfect the appeal. 8290

If an action has been commenced in a court of a county 8291
other than a court of a county having jurisdiction over the 8292
action, the court, upon notice by any party or upon its own 8293
motion, shall transfer the action to a court of a county having 8294
jurisdiction. 8295

Notwithstanding anything to the contrary in this section, 8296
if the commission determines under section 4123.522 of the 8297
Revised Code that an employee, employer, or their respective 8298
representatives have not received written notice of an order or 8299
decision which is appealable to a court under this section and 8300
which grants relief pursuant to section 4123.522 of the Revised 8301
Code, the party granted the relief has sixty days from receipt 8302
of the order under section 4123.522 of the Revised Code to file 8303
a notice of appeal under this section. 8304

(B) The notice of appeal shall state the names of the 8305
administrator of workers' compensation, the claimant, and the 8306
employer; the number of the claim; the date of the order 8307
appealed from; and the fact that the appellant appeals 8308
therefrom. 8309

The administrator, the claimant, and the employer shall be 8310
parties to the appeal and the court, upon the application of the 8311
commission, shall make the commission a party. The party filing 8312
the appeal shall serve a copy of the notice of appeal on the 8313
administrator at the central office of the bureau of workers' 8314
compensation in Columbus. The administrator shall notify the 8315

employer that if the employer fails to become an active party to 8316
the appeal, then the administrator may act on behalf of the 8317
employer and the results of the appeal could have an adverse 8318
effect upon the employer's premium rates or may result in a 8319
recovery from the employer if the employer is determined to be a 8320
noncomplying employer under section 4123.75 of the Revised Code. 8321

(C) The attorney general or one or more of the attorney 8322
general's assistants or special counsel designated by the 8323
attorney general shall represent the administrator and the 8324
commission. In the event the attorney general or the attorney 8325
general's designated assistants or special counsel are absent, 8326
the administrator or the commission shall select one or more of 8327
the attorneys in the employ of the administrator or the 8328
commission as the administrator's attorney or the commission's 8329
attorney in the appeal. Any attorney so employed shall continue 8330
the representation during the entire period of the appeal and in 8331
all hearings thereof except where the continued representation 8332
becomes impractical. 8333

(D) Upon receipt of notice of appeal, the clerk of courts 8334
shall provide notice to all parties who are appellees and to the 8335
commission. 8336

The claimant shall, within thirty days after the filing of 8337
the notice of appeal, file a petition containing a statement of 8338
facts in ordinary and concise language showing a cause of action 8339
to participate or to continue to participate in the fund and 8340
setting forth the basis for the jurisdiction of the court over 8341
the action. Further pleadings shall be had in accordance with 8342
the Rules of Civil Procedure, provided that service of summons 8343
on such petition shall not be required and provided that the 8344
claimant may not dismiss the complaint without the employer's 8345

consent if the employer is the party that filed the notice of 8346
appeal to court pursuant to this section. The clerk of the court 8347
shall, upon receipt thereof, transmit by certified mail a copy 8348
thereof to each party named in the notice of appeal other than 8349
the claimant. Any party may file with the clerk prior to the 8350
trial of the action a deposition of any physician, certified 8351
nurse-midwife, clinical nurse specialist, or certified nurse 8352
practitioner taken in accordance with the provisions of the 8353
Revised Code, which deposition may be read in the trial of the 8354
action even though the physician or nurse is a resident of or 8355
subject to service in the county in which the trial is had. The 8356
bureau of workers' compensation shall pay the cost of the 8357
deposition filed in court and of copies of the deposition for 8358
each party from the surplus fund and charge the costs thereof 8359
against the unsuccessful party if the claimant's right to 8360
participate or continue to participate is finally sustained or 8361
established in the appeal. In the event the deposition is taken 8362
and filed, the physician or nurse whose deposition is taken is 8363
not required to respond to any subpoena issued in the trial of 8364
the action. The court, or the jury under the instructions of the 8365
court, if a jury is demanded, shall determine the right of the 8366
claimant to participate or to continue to participate in the 8367
fund upon the evidence adduced at the hearing of the action. 8368

(E) The court shall certify its decision to the commission 8369
and the certificate shall be entered in the records of the 8370
court. Appeals from the judgment are governed by the law 8371
applicable to the appeal of civil actions. 8372

(F) The cost of any legal proceedings authorized by this 8373
section, including an attorney's fee to the claimant's attorney 8374
to be fixed by the trial judge, based upon the effort expended, 8375
in the event the claimant's right to participate or to continue 8376

to participate in the fund is established upon the final 8377
determination of an appeal, shall be taxed against the employer 8378
or the commission if the commission or the administrator rather 8379
than the employer contested the right of the claimant to 8380
participate in the fund. The attorney's fee shall not exceed 8381
five thousand dollars. 8382

(G) If the finding of the court or the verdict of the jury 8383
is in favor of the claimant's right to participate in the fund, 8384
the commission and the administrator shall thereafter proceed in 8385
the matter of the claim as if the judgment were the decision of 8386
the commission, subject to the power of modification provided by 8387
section 4123.52 of the Revised Code. 8388

(H) (1) An appeal from an order issued under division (E) 8389
of section 4123.511 of the Revised Code or any action filed in 8390
court in a case in which an award of compensation or medical 8391
benefits has been made shall not stay the payment of 8392
compensation or medical benefits under the award, or payment for 8393
subsequent periods of total disability or medical benefits 8394
during the pendency of the appeal. If, in a final administrative 8395
or judicial action, it is determined that payments of 8396
compensation or benefits, or both, made to or on behalf of a 8397
claimant should not have been made, the amount thereof shall be 8398
charged to the surplus fund account under division (B) of 8399
section 4123.34 of the Revised Code. In the event the employer 8400
is a state risk, the amount shall not be charged to the 8401
employer's experience, and the administrator shall adjust the 8402
employer's account accordingly. In the event the employer is a 8403
self-insuring employer, the self-insuring employer shall deduct 8404
the amount from the paid compensation the self-insuring employer 8405
reports to the administrator under division (L) of section 8406
4123.35 of the Revised Code. If an employer is a state risk and 8407

has paid an assessment for a violation of a specific safety 8408
requirement, and, in a final administrative or judicial action, 8409
it is determined that the employer did not violate the specific 8410
safety requirement, the administrator shall reimburse the 8411
employer from the surplus fund account under division (B) of 8412
section 4123.34 of the Revised Code for the amount of the 8413
assessment the employer paid for the violation. 8414

(2) (a) Notwithstanding a final determination that payments 8415
of benefits made to or on behalf of a claimant should not have 8416
been made, the administrator or self-insuring employer shall 8417
award payment of medical or vocational rehabilitation services 8418
submitted for payment after the date of the final determination 8419
if all of the following apply: 8420

(i) The services were approved and were rendered by the 8421
provider in good faith prior to the date of the final 8422
determination. 8423

(ii) The services were payable under division (I) of 8424
section 4123.511 of the Revised Code prior to the date of the 8425
final determination. 8426

(iii) The request for payment is submitted within the time 8427
limit set forth in section 4123.52 of the Revised Code. 8428

(b) Payments made under division (H) (1) of this section 8429
shall be charged to the surplus fund account under division (B) 8430
of section 4123.34 of the Revised Code. If the employer of the 8431
employee who is the subject of a claim described in division (H) 8432
(2) (a) of this section is a state fund employer, the payments 8433
made under that division shall not be charged to the employer's 8434
experience. If that employer is a self-insuring employer, the 8435
self-insuring employer shall deduct the amount from the paid 8436

compensation the self-insuring employer reports to the 8437
administrator under division (L) of section 4123.35 of the 8438
Revised Code. 8439

(c) Division (H) (2) of this section shall apply only to a 8440
claim under this chapter or Chapter 4121., 4127., or 4131. of 8441
the Revised Code arising on or after July 29, 2011. 8442

(3) A self-insuring employer may elect to pay compensation 8443
and benefits under this section directly to an employee or an 8444
employee's dependents by filing an application with the bureau 8445
of workers' compensation not more than one hundred eighty days 8446
and not less than ninety days before the first day of the 8447
employer's next six-month coverage period. If the self-insuring 8448
employer timely files the application, the application is 8449
effective on the first day of the employer's next six-month 8450
coverage period, provided that the administrator shall compute 8451
the employer's assessment for the surplus fund account due with 8452
respect to the period during which that application was filed 8453
without regard to the filing of the application. On and after 8454
the effective date of the employer's election, the self-insuring 8455
employer shall pay directly to an employee or to an employee's 8456
dependents compensation and benefits under this section 8457
regardless of the date of the injury or occupational disease, 8458
and the employer shall receive no money or credits from the 8459
surplus fund account on account of those payments and shall not 8460
be required to pay any amounts into the surplus fund account on 8461
account of this section. The election made under this division 8462
is irrevocable. 8463

(I) All actions and proceedings under this section which 8464
are the subject of an appeal to the court of common pleas or the 8465
court of appeals shall be preferred over all other civil actions 8466

except election causes, irrespective of position on the 8467
calendar. 8468

This section applies to all decisions of the commission or 8469
the administrator on November 2, 1959, and all claims filed 8470
thereafter are governed by sections 4123.511 and 4123.512 of the 8471
Revised Code. 8472

Any action pending in common pleas court or any other 8473
court on January 1, 1986, under this section is governed by 8474
former sections 4123.514, 4123.515, 4123.516, and 4123.519 and 8475
section 4123.522 of the Revised Code. 8476

Sec. 4123.54. (A) Except as otherwise provided in this 8477
division or divisions (I) and (K) of this section, every 8478
employee, who is injured or who contracts an occupational 8479
disease, and the dependents of each employee who is killed, or 8480
dies as the result of an occupational disease contracted in the 8481
course of employment, wherever the injury has occurred or 8482
occupational disease has been contracted, is entitled to receive 8483
the compensation for loss sustained on account of the injury, 8484
occupational disease, or death, and the medical, nurse, and 8485
hospital services and medicines, and the amount of funeral 8486
expenses in case of death, as are provided by this chapter. The 8487
compensation and benefits shall be provided, as applicable, 8488
directly from the employee's self-insuring employer as provided 8489
in section 4123.35 of the Revised Code or from the state 8490
insurance fund. An employee or dependent is not entitled to 8491
receive compensation or benefits under this division if the 8492
employee's injury or occupational disease is either of the 8493
following: 8494

(1) Purposely self-inflicted; 8495

(2) Caused by the employee being intoxicated, under the 8496
influence of a controlled substance not prescribed by a 8497
physician, certified nurse-midwife, clinical nurse specialist, 8498
or certified nurse practitioner, or under the influence of 8499
marihuana if being intoxicated, under the influence of a 8500
controlled substance not prescribed by a physician, certified 8501
nurse-midwife, clinical nurse specialist, or certified nurse 8502
practitioner, or under the influence of marihuana was the 8503
proximate cause of the injury. 8504

(B) For the purpose of this section, provided that an 8505
employer has posted written notice to employees that the results 8506
of, or the employee's refusal to submit to, any chemical test 8507
described under this division may affect the employee's 8508
eligibility for compensation and benefits pursuant to this 8509
chapter and Chapter 4121. of the Revised Code, there is a 8510
rebuttable presumption that an employee is intoxicated, under 8511
the influence of a controlled substance not prescribed by the 8512
employee's physician, certified nurse-midwife, clinical nurse 8513
specialist, or certified nurse practitioner, or under the 8514
influence of marihuana and that being intoxicated, under the 8515
influence of a controlled substance not prescribed by the 8516
employee's physician, certified nurse-midwife, clinical nurse 8517
specialist, or certified nurse practitioner, or under the 8518
influence of marihuana is the proximate cause of an injury under 8519
either of the following conditions: 8520

(1) When any one or more of the following is true: 8521

(a) The employee, through a qualifying chemical test 8522
administered within eight hours of an injury, is determined to 8523
have an alcohol concentration level equal to or in excess of the 8524
levels established in divisions (A) (1) (b) to (i) of section 8525

4511.19 of the Revised Code. 8526

(b) The employee, through a qualifying chemical test 8527
administered within thirty-two hours of an injury, is determined 8528
to have a controlled substance not prescribed by the employee's 8529
physician, certified nurse-midwife, clinical nurse specialist, 8530
or certified nurse practitioner or marihuana in the employee's 8531
system at a level equal to or in excess of the cutoff 8532
concentration level for the particular substance as provided in 8533
section 40.87 of Title 49 of the Code of Federal Regulations, 49 8534
C.F.R. 40.87, as amended. 8535

(c) The employee, through a qualifying chemical test 8536
administered within thirty-two hours of an injury, is determined 8537
to have barbiturates, benzodiazepines, or methadone in the 8538
employee's system that tests above levels established by 8539
laboratories certified by the United States department of health 8540
and human services. 8541

(2) When the employee refuses to submit to a requested 8542
chemical test, on the condition that that employee is or was 8543
given notice that the refusal to submit to any chemical test 8544
described in division (B) (1) of this section may affect the 8545
employee's eligibility for compensation and benefits under this 8546
chapter and Chapter 4121. of the Revised Code. 8547

(C) (1) For purposes of division (B) of this section, a 8548
chemical test is a qualifying chemical test if it is 8549
administered to an employee after an injury under at least one 8550
of the following conditions: 8551

(a) When the employee's employer had reasonable cause to 8552
suspect that the employee may be intoxicated, under the 8553
influence of a controlled substance not prescribed by the 8554

employee's physician, certified nurse-midwife, clinical nurse 8555
specialist, or certified nurse practitioner, or under the 8556
influence of marihuana; 8557

(b) At the request of a police officer pursuant to section 8558
4511.191 of the Revised Code, and not at the request of the 8559
employee's employer; 8560

(c) At the request of a licensed physician, certified 8561
nurse-midwife, clinical nurse specialist, or certified nurse 8562
practitioner who is not employed by the employee's employer, and 8563
not at the request of the employee's employer. 8564

(2) As used in division (C) (1) (a) of this section, 8565
"reasonable cause" means, but is not limited to, evidence that 8566
an employee is or was using alcohol, a controlled substance, or 8567
marihuana drawn from specific, objective facts and reasonable 8568
inferences drawn from these facts in light of experience and 8569
training. These facts and inferences may be based on, but are 8570
not limited to, any of the following: 8571

(a) Observable phenomena, such as direct observation of 8572
use, possession, or distribution of alcohol, a controlled 8573
substance, or marihuana, or of the physical symptoms of being 8574
under the influence of alcohol, a controlled substance, or 8575
marihuana, such as but not limited to slurred speech; dilated 8576
pupils; odor of alcohol, a controlled substance, or marihuana; 8577
changes in affect; or dynamic mood swings; 8578

(b) A pattern of abnormal conduct, erratic or aberrant 8579
behavior, or deteriorating work performance such as frequent 8580
absenteeism, excessive tardiness, or recurrent accidents, that 8581
appears to be related to the use of alcohol, a controlled 8582
substance, or marihuana, and does not appear to be attributable 8583

to other factors; 8584

(c) The identification of an employee as the focus of a 8585
criminal investigation into unauthorized possession, use, or 8586
trafficking of a controlled substance or marihuana; 8587

(d) A report of use of alcohol, a controlled substance, or 8588
marihuana provided by a reliable and credible source; 8589

(e) Repeated or flagrant violations of the safety or work 8590
rules of the employee's employer, that are determined by the 8591
employee's supervisor to pose a substantial risk of physical 8592
injury or property damage and that appear to be related to the 8593
use of alcohol, a controlled substance, or marihuana and that do 8594
not appear attributable to other factors. 8595

(D) Nothing in this section shall be construed to affect 8596
the rights of an employer to test employees for alcohol or 8597
controlled substance abuse. 8598

(E) For the purpose of this section, laboratories 8599
certified by the United States department of health and human 8600
services or laboratories that meet or exceed the standards of 8601
that department for laboratory certification shall be used for 8602
processing the test results of a qualifying chemical test. 8603

(F) The written notice required by division (B) of this 8604
section shall be the same size or larger than the proof of 8605
workers' compensation coverage furnished by the bureau of 8606
workers' compensation and shall be posted by the employer in the 8607
same location as the proof of workers' compensation coverage or 8608
the certificate of self-insurance. 8609

(G) If a condition that pre-existed an injury is 8610
substantially aggravated by the injury, and that substantial 8611
aggravation is documented by objective diagnostic findings, 8612

objective clinical findings, or objective test results, no 8613
compensation or benefits are payable because of the pre-existing 8614
condition once that condition has returned to a level that would 8615
have existed without the injury. 8616

(H) (1) Whenever, with respect to an employee of an 8617
employer who is subject to and has complied with this chapter, 8618
there is possibility of conflict with respect to the application 8619
of workers' compensation laws because the contract of employment 8620
is entered into and all or some portion of the work is or is to 8621
be performed in a state or states other than Ohio, the employer 8622
and the employee may agree to be bound by the laws of this state 8623
or by the laws of some other state in which all or some portion 8624
of the work of the employee is to be performed. The agreement 8625
shall be in writing and shall be filed with the bureau of 8626
workers' compensation within ten days after it is executed and 8627
shall remain in force until terminated or modified by agreement 8628
of the parties similarly filed. If the agreement is to be bound 8629
by the laws of this state and the employer has complied with 8630
this chapter, then the employee is entitled to compensation and 8631
benefits regardless of where the injury occurs or the disease is 8632
contracted and the rights of the employee and the employee's 8633
dependents under the laws of this state are the exclusive remedy 8634
against the employer on account of injury, disease, or death in 8635
the course of and arising out of the employee's employment. If 8636
the agreement is to be bound by the laws of another state and 8637
the employer has complied with the laws of that state, the 8638
rights of the employee and the employee's dependents under the 8639
laws of that state are the exclusive remedy against the employer 8640
on account of injury, disease, or death in the course of and 8641
arising out of the employee's employment without regard to the 8642
place where the injury was sustained or the disease contracted. 8643

If an employer and an employee enter into an agreement under 8644
this division, the fact that the employer and the employee 8645
entered into that agreement shall not be construed to change the 8646
status of an employee whose continued employment is subject to 8647
the will of the employer or the employee, unless the agreement 8648
contains a provision that expressly changes that status. 8649

(2) If an employee or the employee's dependents receive an 8650
award of compensation or benefits under this chapter or Chapter 8651
4121., 4127., or 4131. of the Revised Code for the same injury, 8652
occupational disease, or death for which the employee or the 8653
employee's dependents previously pursued or otherwise elected to 8654
accept workers' compensation benefits and received a decision on 8655
the merits as defined in section 4123.542 of the Revised Code 8656
under the laws of another state or recovered damages under the 8657
laws of another state, the claim shall be disallowed and the 8658
administrator or any self-insuring employer, by any lawful 8659
means, may collect from the employee or the employee's 8660
dependents any of the following: 8661

(a) The amount of compensation or benefits paid to or on 8662
behalf of the employee or the employee's dependents by the 8663
administrator or a self-insuring employer pursuant to this 8664
chapter or Chapter 4121., 4127., or 4131. of the Revised Code 8665
for that award; 8666

(b) Any interest, attorney's fees, and costs the 8667
administrator or the self-insuring employer incurs in collecting 8668
that payment. 8669

(3) If an employee or the employee's dependents receive an 8670
award of compensation or benefits under this chapter or Chapter 8671
4121., 4127., or 4131. of the Revised Code and subsequently 8672
pursue or otherwise elect to accept workers' compensation 8673

benefits or damages under the laws of another state for the same 8674
injury, occupational disease, or death the claim under this 8675
chapter or Chapter 4121., 4127., or 4131. of the Revised Code 8676
shall be disallowed. The administrator or a self-insuring 8677
employer, by any lawful means, may collect from the employee or 8678
the employee's dependents or other-states' insurer any of the 8679
following: 8680

(a) The amount of compensation or benefits paid to or on 8681
behalf of the employee or the employee's dependents by the 8682
administrator or the self-insuring employer pursuant to this 8683
chapter or Chapter 4121., 4127., or 4131. of the Revised Code 8684
for that award; 8685

(b) Any interest, costs, and attorney's fees the 8686
administrator or the self-insuring employer incurs in collecting 8687
that payment; 8688

(c) Any costs incurred by an employer in contesting or 8689
responding to any claim filed by the employee or the employee's 8690
dependents for the same injury, occupational disease, or death 8691
that was filed after the original claim for which the employee 8692
or the employee's dependents received a decision on the merits 8693
as described in section 4123.542 of the Revised Code. 8694

(4) If the employee's employer pays premiums into the 8695
state insurance fund, the administrator shall not charge the 8696
amount of compensation or benefits the administrator collects 8697
pursuant to division (H) (2) or (3) of this section to the 8698
employer's experience. If the administrator collects any costs 8699
incurred by an employer in contesting or responding to any claim 8700
pursuant to division (H) (2) or (3) of this section, the 8701
administrator shall forward the amount collected to that 8702
employer. If the employee's employer is a self-insuring 8703

employer, the self-insuring employer shall deduct the amount of 8704
compensation or benefits the self-insuring employer collects 8705
pursuant to this division from the paid compensation the self- 8706
insuring employer reports to the administrator under division 8707
(L) of section 4123.35 of the Revised Code. 8708

(5) If an employee is a resident of a state other than 8709
this state and is insured under the workers' compensation law or 8710
similar laws of a state other than this state, the employee and 8711
the employee's dependents are not entitled to receive 8712
compensation or benefits under this chapter, on account of 8713
injury, disease, or death arising out of or in the course of 8714
employment while temporarily within this state, and the rights 8715
of the employee and the employee's dependents under the laws of 8716
the other state are the exclusive remedy against the employer on 8717
account of the injury, disease, or death. 8718

(6) An employee, or the dependent of an employee, who 8719
elects to receive compensation and benefits under this chapter 8720
or Chapter 4121., 4127., or 4131. of the Revised Code for a 8721
claim may not receive compensation and benefits under the 8722
workers' compensation laws of any state other than this state 8723
for that same claim. For each claim submitted by or on behalf of 8724
an employee, the administrator or, if the employee is employed 8725
by a self-insuring employer, the self-insuring employer, shall 8726
request the employee or the employee's dependent to sign an 8727
election that affirms the employee's or employee's dependent's 8728
acceptance of electing to receive compensation and benefits 8729
under this chapter or Chapter 4121., 4127., or 4131. of the 8730
Revised Code for that claim that also affirmatively waives and 8731
releases the employee's or the employee's dependent's right to 8732
file for and receive compensation and benefits under the laws of 8733
any state other than this state for that claim. The employee or 8734

employee's dependent shall sign the election form within twenty- 8735
eight days after the administrator or self-insuring employer 8736
submits the request or the administrator or self-insuring 8737
employer shall dismiss that claim. 8738

In the event a workers' compensation claim has been filed 8739
in another jurisdiction on behalf of an employee or the 8740
dependents of an employee, and the employee or dependents 8741
subsequently elect to receive compensation, benefits, or both 8742
under this chapter or Chapter 4121., 4127., or 4131. of the 8743
Revised Code, the employee or dependent shall withdraw or refuse 8744
acceptance of the workers' compensation claim filed in the other 8745
jurisdiction in order to pursue compensation or benefits under 8746
the laws of this state. If the employee or dependents were 8747
awarded workers' compensation benefits or had recovered damages 8748
under the laws of the other state, any compensation and benefits 8749
awarded under this chapter or Chapter 4121., 4127., or 4131. of 8750
the Revised Code shall be paid only to the extent to which those 8751
payments exceed the amounts paid under the laws of the other 8752
state. If the employee or dependent fails to withdraw or to 8753
refuse acceptance of the workers' compensation claim in the 8754
other jurisdiction within twenty-eight days after a request made 8755
by the administrator or a self-insuring employer, the 8756
administrator or self-insuring employer shall dismiss the 8757
employee's or employee's dependents' claim made in this state. 8758

(I) If an employee who is covered under the federal 8759
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 8760
33 U.S.C. 901 et seq., is injured or contracts an occupational 8761
disease or dies as a result of an injury or occupational 8762
disease, and if that employee's or that employee's dependents' 8763
claim for compensation or benefits for that injury, occupational 8764
disease, or death is subject to the jurisdiction of that act, 8765

the employee or the employee's dependents are not entitled to 8766
apply for and shall not receive compensation or benefits under 8767
this chapter and Chapter 4121. of the Revised Code. The rights 8768
of such an employee and the employee's dependents under the 8769
federal "Longshore and Harbor Workers' Compensation Act," 98 8770
Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy 8771
against the employer for that injury, occupational disease, or 8772
death. 8773

(J) Compensation or benefits are not payable to a claimant 8774
or a dependent during the period of confinement of the claimant 8775
or dependent in any state or federal correctional institution, 8776
or in any county jail in lieu of incarceration in a state or 8777
federal correctional institution, whether in this or any other 8778
state for conviction of violation of any state or federal 8779
criminal law. 8780

(K) An employer, upon the approval of the administrator, 8781
may provide for workers' compensation coverage for the 8782
employer's employees who are professional athletes and coaches 8783
by submitting to the administrator proof of coverage under a 8784
league policy issued under the laws of another state under 8785
either of the following circumstances: 8786

(1) The employer administers the payroll and workers' 8787
compensation insurance for a professional sports team subject to 8788
a collective bargaining agreement, and the collective bargaining 8789
agreement provides for the uniform administration of workers' 8790
compensation benefits and compensation for professional 8791
athletes. 8792

(2) The employer is a professional sports league, or is a 8793
member team of a professional sports league, and all of the 8794
following apply: 8795

(a) The professional sports league operates as a single 8796
entity, whereby all of the players and coaches of the sports 8797
league are employees of the sports league and not of the 8798
individual member teams. 8799

(b) The professional sports league at all times maintains 8800
workers' compensation insurance that provides coverage for the 8801
players and coaches of the sports league. 8802

(c) Each individual member team of the professional sports 8803
league, pursuant to the organizational or operating documents of 8804
the sports league, is obligated to the sports league to pay to 8805
the sports league any workers' compensation claims that are not 8806
covered by the workers' compensation insurance maintained by the 8807
sports league. 8808

If the administrator approves the employer's proof of 8809
coverage submitted under division (K) of this section, a 8810
professional athlete or coach who is an employee of the employer 8811
and the dependents of the professional athlete or coach are not 8812
entitled to apply for and shall not receive compensation or 8813
benefits under this chapter and Chapter 4121. of the Revised 8814
Code. The rights of such an athlete or coach and the dependents 8815
of such an athlete or coach under the laws of the state where 8816
the policy was issued are the exclusive remedy against the 8817
employer for the athlete or coach if the athlete or coach 8818
suffers an injury or contracts an occupational disease in the 8819
course of employment, or for the dependents of the athlete or 8820
the coach if the athlete or coach is killed as a result of an 8821
injury or dies as a result of an occupational disease, 8822
regardless of the location where the injury was suffered or the 8823
occupational disease was contracted. 8824

Sec. 4123.56. (A) Except as provided in division (D) of 8825

this section, in the case of temporary disability, an employee 8826
shall receive sixty-six and two-thirds per cent of the 8827
employee's average weekly wage so long as such disability is 8828
total, not to exceed a maximum amount of weekly compensation 8829
which is equal to the statewide average weekly wage as defined 8830
in division (C) of section 4123.62 of the Revised Code, and not 8831
less than a minimum amount of compensation which is equal to 8832
thirty-three and one-third per cent of the statewide average 8833
weekly wage as defined in division (C) of section 4123.62 of the 8834
Revised Code unless the employee's wage is less than thirty- 8835
three and one-third per cent of the minimum statewide average 8836
weekly wage, in which event the employee shall receive 8837
compensation equal to the employee's full wages; provided that 8838
for the first twelve weeks of total disability the employee 8839
shall receive seventy-two per cent of the employee's full weekly 8840
wage, but not to exceed a maximum amount of weekly compensation 8841
which is equal to the lesser of the statewide average weekly 8842
wage as defined in division (C) of section 4123.62 of the 8843
Revised Code or one hundred per cent of the employee's net take- 8844
home weekly wage. In the case of a self-insuring employer, 8845
payments shall be for a duration based upon the medical reports 8846
of the attending physician, certified nurse-midwife, clinical 8847
nurse specialist, or certified nurse practitioner. If the 8848
employer disputes the attending physician's or attending nurse's 8849
report, payments may be terminated only upon application and 8850
hearing by a district hearing officer pursuant to division (C) 8851
of section 4123.511 of the Revised Code. Payments shall continue 8852
pending the determination of the matter, however payment shall 8853
not be made for the period when any employee has returned to 8854
work, when an employee's treating physician, certified nurse- 8855
midwife, clinical nurse specialist, or certified nurse 8856
practitioner has made a written statement that the employee is 8857

capable of returning to the employee's former position of 8858
employment, when work within the physical capabilities of the 8859
employee is made available by the employer or another employer, 8860
or when the employee has reached the maximum medical 8861
improvement. Where the employee is capable of work activity, but 8862
the employee's employer is unable to offer the employee any 8863
employment, the employee shall register with the director of job 8864
and family services, who shall assist the employee in finding 8865
suitable employment. The termination of temporary total 8866
disability, whether by order or otherwise, does not preclude the 8867
commencement of temporary total disability at another point in 8868
time if the employee again becomes temporarily totally disabled. 8869

After two hundred weeks of temporary total disability 8870
benefits, the bureau of workers' compensation may schedule the 8871
claimant for an examination for an evaluation to determine 8872
whether or not the temporary disability has become permanent. A 8873
self-insuring employer shall notify the bureau immediately after 8874
payment of two hundred weeks of temporary total disability. The 8875
self-insuring employer may request that the bureau schedule the 8876
claimant for an examination to determine whether the temporary 8877
disability has become permanent. 8878

When the employee is awarded compensation for temporary 8879
total disability for a period for which the employee has 8880
received benefits under Chapter 4141. of the Revised Code, the 8881
bureau shall pay an amount equal to the amount received from the 8882
award to the director of job and family services and the 8883
director shall credit the amount to the accounts of the 8884
employers to whose accounts the payment of benefits was charged 8885
or is chargeable to the extent it was charged or is chargeable. 8886

If any compensation under this section has been paid for 8887

the same period or periods for which temporary nonoccupational 8888
accident and sickness insurance is or has been paid pursuant to 8889
an insurance policy or program to which the employer has made 8890
the entire contribution or payment for providing insurance or 8891
under a nonoccupational accident and sickness program fully 8892
funded by the employer, except as otherwise provided in this 8893
division compensation paid under this section for the period or 8894
periods shall be paid only to the extent by which the payment or 8895
payments exceeds the amount of the nonoccupational insurance or 8896
program paid or payable. Offset of the compensation shall be 8897
made only upon the prior order of the bureau or industrial 8898
commission or agreement of the claimant. If an employer provides 8899
supplemental sick leave benefits in addition to temporary total 8900
disability compensation paid under this section, and if the 8901
employer and an employee agree in writing to the payment of the 8902
supplemental sick leave benefits, temporary total disability 8903
benefits may be paid without an offset for those supplemental 8904
sick leave benefits. 8905

As used in this division, "net take-home weekly wage" 8906
means the amount obtained by dividing an employee's total 8907
remuneration, as defined in section 4141.01 of the Revised Code, 8908
paid to or earned by the employee during the first four of the 8909
last five completed calendar quarters which immediately precede 8910
the first day of the employee's entitlement to benefits under 8911
this division, by the number of weeks during which the employee 8912
was paid or earned remuneration during those four quarters, less 8913
the amount of local, state, and federal income taxes deducted 8914
for each such week. 8915

(B) (1) If an employee in a claim allowed under this 8916
chapter suffers a wage loss as a result of returning to 8917
employment other than the employee's former position of 8918

employment due to an injury or occupational disease, the 8919
employee shall receive compensation at sixty-six and two-thirds 8920
per cent of the difference between the employee's average weekly 8921
wage and the employee's present earnings not to exceed the 8922
statewide average weekly wage. The payments may continue for up 8923
to a maximum of two hundred weeks, but the payments shall be 8924
reduced by the corresponding number of weeks in which the 8925
employee receives payments pursuant to division (A) (2) of 8926
section 4121.67 of the Revised Code. 8927

(2) If an employee in a claim allowed under this chapter 8928
suffers a wage loss as a result of being unable to find 8929
employment consistent with the employee's disability resulting 8930
from the employee's injury or occupational disease, the employee 8931
shall receive compensation at sixty-six and two-thirds per cent 8932
of the difference between the employee's average weekly wage and 8933
the employee's present earnings, not to exceed the statewide 8934
average weekly wage. The payments may continue for up to a 8935
maximum of fifty-two weeks. The first twenty-six weeks of 8936
payments under division (B) (2) of this section shall be in 8937
addition to the maximum of two hundred weeks of payments allowed 8938
under division (B) (1) of this section. If an employee in a claim 8939
allowed under this chapter receives compensation under division 8940
(B) (2) of this section in excess of twenty-six weeks, the number 8941
of weeks of compensation allowable under division (B) (1) of this 8942
section shall be reduced by the corresponding number of weeks in 8943
excess of twenty-six, and up to fifty-two, that is allowable 8944
under division (B) (1) of this section. 8945

(3) The number of weeks of wage loss payable to an 8946
employee under divisions (B) (1) and (2) of this section shall 8947
not exceed two hundred and twenty-six weeks in the aggregate. 8948

(C) In the event an employee of a professional sports franchise domiciled in this state is disabled as the result of an injury or occupational disease, the total amount of payments made under a contract of hire or collective bargaining agreement to the employee during a period of disability is deemed an advanced payment of compensation payable under sections 4123.56 to 4123.58 of the Revised Code. The employer shall be reimbursed the total amount of the advanced payments out of any award of compensation made pursuant to sections 4123.56 to 4123.58 of the Revised Code.

(D) If an employee receives temporary total disability benefits pursuant to division (A) of this section and social security retirement benefits pursuant to the "Social Security Act," the weekly benefit amount under division (A) of this section shall not exceed sixty-six and two-thirds per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code.

(E) If an employee is eligible for compensation under division (A) of this section, but the employee's full weekly wage has not been determined at the time payments are to commence under division (H) of section 4123.511 of the Revised Code, the employee shall receive 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. On determination of the employee's full weekly wage, the compensation an employee receives shall be adjusted pursuant to division (A) of this section.

If the amount of compensation an employee receives under this division is greater than the adjusted amount the employee receives under division (A) of this section that is based on the

employee's full weekly wage, the excess amount shall be 8979
recovered in the manner provided in division (K) of section 8980
4123.511 of the Revised Code. If the amount of compensation an 8981
employee receives under this division is less than the adjusted 8982
amount the employee receives under that division that is based 8983
on the employee's full weekly wage, the employee shall receive 8984
the difference between those two amounts. 8985

(F) If an employee is unable to work or suffers a wage 8986
loss as the direct result of an impairment arising from an 8987
injury or occupational disease, the employee is entitled to 8988
receive compensation under this section, provided the employee 8989
is otherwise qualified. If an employee is not working or has 8990
suffered a wage loss as the direct result of reasons unrelated 8991
to the allowed injury or occupational disease, the employee is 8992
not eligible to receive compensation under this section. It is 8993
the intent of the general assembly to supersede any previous 8994
judicial decision that applied the doctrine of voluntary 8995
abandonment to a claim brought under this section. 8996

Sec. 4123.57. Partial disability compensation shall be 8997
paid as follows. 8998

Except as provided in this section, not earlier than 8999
twenty-six weeks after the date of termination of the latest 9000
period of payments under section 4123.56 of the Revised Code or 9001
twenty-six weeks after the termination of wages in lieu of those 9002
payments, or not earlier than twenty-six weeks after the date of 9003
the injury or contraction of an occupational disease in the 9004
absence of payments under section 4123.56 of the Revised Code or 9005
wages in lieu of those payments, the employee may file an 9006
application with the bureau of workers' compensation for the 9007
determination of the percentage of the employee's permanent 9008

partial disability resulting from an injury or occupational 9009
disease. 9010

Whenever the application is filed, the bureau shall send a 9011
copy of the application to the employee's employer or the 9012
employer's representative and shall schedule the employee for a 9013
medical examination by the bureau medical section. The bureau 9014
shall send a copy of the report of the medical examination to 9015
the employee, the employer, and their representatives. 9016
Thereafter, the administrator of workers' compensation shall 9017
review the employee's claim file and make a tentative order as 9018
the evidence before the administrator at the time of the making 9019
of the order warrants. If the administrator determines that 9020
there is a conflict of evidence, the administrator shall send 9021
the application, along with the claimant's file, to the district 9022
hearing officer who shall set the application for a hearing. 9023

If an employee fails to respond to an attempt to schedule 9024
a medical examination by the bureau medical section, or fails to 9025
attend a medical examination scheduled under this section 9026
without notice or explanation, the employee's application for a 9027
finding shall be dismissed without prejudice. The employee may 9028
refile the application. A dismissed application does not toll 9029
the continuing jurisdiction of the industrial commission under 9030
section 4123.52 of the Revised Code. The administrator shall 9031
adopt rules addressing the manner in which an employee will be 9032
notified of a possible dismissal and how an employee may refile 9033
an application for a determination. 9034

The administrator shall notify the employee, the employer, 9035
and their representatives, in writing, of the tentative order 9036
and of the parties' right to request a hearing. Unless the 9037
employee, the employer, or their representative notifies the 9038

administrator, in writing, of an objection to the tentative 9039
order within twenty days after receipt of the notice thereof, 9040
the tentative order shall go into effect and the employee shall 9041
receive the compensation provided in the order. In no event 9042
shall there be a reconsideration of a tentative order issued 9043
under this division. 9044

If the employee, the employer, or their representatives 9045
timely notify the administrator of an objection to the tentative 9046
order, the matter shall be referred to a district hearing 9047
officer who shall set the application for hearing with written 9048
notices to all interested persons. Upon referral to a district 9049
hearing officer, the employer may obtain a medical examination 9050
of the employee, pursuant to rules of the industrial commission. 9051

(A) The district hearing officer, upon the application, 9052
shall determine the percentage of the employee's permanent 9053
disability, except as is subject to division (B) of this 9054
section, based upon that condition of the employee resulting 9055
from the injury or occupational disease and causing permanent 9056
impairment evidenced by medical or clinical findings reasonably 9057
demonstrable. The employee shall receive sixty-six and two- 9058
thirds per cent of the employee's average weekly wage, but not 9059
more than a maximum of thirty-three and one-third per cent of 9060
the statewide average weekly wage as defined in division (C) of 9061
section 4123.62 of the Revised Code, per week regardless of the 9062
average weekly wage, for the number of weeks which equals the 9063
percentage of two hundred weeks. Except on application for 9064
reconsideration, review, or modification, which is filed within 9065
ten days after the date of receipt of the decision of the 9066
district hearing officer, in no instance shall the former award 9067
be modified unless it is found from medical or clinical findings 9068
that the condition of the claimant resulting from the injury has 9069

so progressed as to have increased the percentage of permanent 9070
partial disability. A staff hearing officer shall hear an 9071
application for reconsideration filed and the staff hearing 9072
officer's decision is final. An employee may file an application 9073
for a subsequent determination of the percentage of the 9074
employee's permanent disability. If such an application is 9075
filed, the bureau shall send a copy of the application to the 9076
employer or the employer's representative. No sooner than sixty 9077
days from the date of the mailing of the application to the 9078
employer or the employer's representative, the administrator 9079
shall review the application. The administrator may require a 9080
medical examination or medical review of the employee. The 9081
administrator shall issue a tentative order based upon the 9082
evidence before the administrator, provided that if the 9083
administrator requires a medical examination or medical review, 9084
the administrator shall not issue the tentative order until the 9085
completion of the examination or review. 9086

The employer may obtain a medical examination of the 9087
employee and may submit medical evidence at any stage of the 9088
process up to a hearing before the district hearing officer, 9089
pursuant to rules of the commission. The administrator shall 9090
notify the employee, the employer, and their representatives, in 9091
writing, of the nature and amount of any tentative order issued 9092
on an application requesting a subsequent determination of the 9093
percentage of an employee's permanent disability. An employee, 9094
employer, or their representatives may object to the tentative 9095
order within twenty days after the receipt of the notice 9096
thereof. If no timely objection is made, the tentative order 9097
shall go into effect. In no event shall there be a 9098
reconsideration of a tentative order issued under this division. 9099
If an objection is timely made, the application for a subsequent 9100

determination shall be referred to a district hearing officer 9101
who shall set the application for a hearing with written notice 9102
to all interested persons. No application for subsequent 9103
percentage determinations on the same claim for injury or 9104
occupational disease shall be accepted for review by the 9105
district hearing officer unless supported by substantial 9106
evidence of new and changed circumstances developing since the 9107
time of the hearing on the original or last determination. 9108

No award shall be made under this division based upon a 9109
percentage of disability which, when taken with all other 9110
percentages of permanent disability, exceeds one hundred per 9111
cent. If the percentage of the permanent disability of the 9112
employee equals or exceeds ninety per cent, compensation for 9113
permanent partial disability shall be paid for two hundred 9114
weeks. 9115

Compensation payable under this division accrues and is 9116
payable to the employee from the date of last payment of 9117
compensation, or, in cases where no previous compensation has 9118
been paid, from the date of the injury or the date of the 9119
diagnosis of the occupational disease. 9120

When an award under this division has been made prior to 9121
the death of an employee, all unpaid installments accrued or to 9122
accrue under the provisions of the award are payable to the 9123
surviving spouse, or if there is no surviving spouse, to the 9124
dependent children of the employee, and if there are no children 9125
surviving, then to other dependents as the administrator 9126
determines. 9127

(B) For purposes of this division, "payable per week" 9128
means the seven-consecutive-day period in which compensation is 9129
paid in installments according to the schedule associated with 9130

the applicable injury as set forth in this division. 9131

Compensation paid in weekly installments according to the 9132
schedule described in this division may only be commuted to one 9133
or more lump sum payments pursuant to the procedure set forth in 9134
section 4123.64 of the Revised Code. 9135

In cases included in the following schedule the 9136
compensation payable per week to the employee is the statewide 9137
average weekly wage as defined in division (C) of section 9138
4123.62 of the Revised Code per week and shall be paid in 9139
installments according to the following schedule: 9140

For the loss of a first finger, commonly known as a thumb, 9141
sixty weeks. 9142

For the loss of a second finger, commonly called index 9143
finger, thirty-five weeks. 9144

For the loss of a third finger, thirty weeks. 9145

For the loss of a fourth finger, twenty weeks. 9146

For the loss of a fifth finger, commonly known as the 9147
little finger, fifteen weeks. 9148

The loss of a second, or distal, phalange of the thumb is 9149
considered equal to the loss of one half of such thumb; the loss 9150
of more than one half of such thumb is considered equal to the 9151
loss of the whole thumb. 9152

The loss of the third, or distal, phalange of any finger 9153
is considered equal to the loss of one-third of the finger. 9154

The loss of the middle, or second, phalange of any finger 9155
is considered equal to the loss of two-thirds of the finger. 9156

The loss of more than the middle and distal phalanges of 9157

any finger is considered equal to the loss of the whole finger. 9158
In no case shall the amount received for more than one finger 9159
exceed the amount provided in this schedule for the loss of a 9160
hand. 9161

For the loss of the metacarpal bone (bones of the palm) 9162
for the corresponding thumb, or fingers, add ten weeks to the 9163
number of weeks under this division. 9164

For ankylosis (total stiffness of) or contractures (due to 9165
scars or injuries) which makes any of the fingers, thumbs, or 9166
parts of either useless, the same number of weeks apply to the 9167
members or parts thereof as given for the loss thereof. 9168

If the claimant has suffered the loss of two or more 9169
fingers by amputation or ankylosis and the nature of the 9170
claimant's employment in the course of which the claimant was 9171
working at the time of the injury or occupational disease is 9172
such that the impairment or disability resulting from the loss 9173
of fingers, or loss of use of fingers, exceeds the normal 9174
impairment or disability resulting from the loss of fingers, or 9175
loss of use of fingers, the administrator may take that fact 9176
into consideration and increase the award of compensation 9177
accordingly, but the award made shall not exceed the amount of 9178
compensation for loss of a hand. 9179

For the loss of a hand, one hundred seventy-five weeks. 9180

For the loss of an arm, two hundred twenty-five weeks. 9181

For the loss of a great toe, thirty weeks. 9182

For the loss of one of the toes other than the great toe, 9183
ten weeks. 9184

The loss of more than two-thirds of any toe is considered 9185

equal to the loss of the whole toe. 9186

The loss of less than two-thirds of any toe is considered 9187
no loss, except as to the great toe; the loss of the great toe 9188
up to the interphalangeal joint is co-equal to the loss of one- 9189
half of the great toe; the loss of the great toe beyond the 9190
interphalangeal joint is considered equal to the loss of the 9191
whole great toe. 9192

For the loss of a foot, one hundred fifty weeks. 9193

For the loss of a leg, two hundred weeks. 9194

For the loss of the sight of an eye, one hundred twenty- 9195
five weeks. 9196

For the permanent partial loss of sight of an eye, the 9197
portion of one hundred twenty-five weeks as the administrator in 9198
each case determines, based upon the percentage of vision 9199
actually lost as a result of the injury or occupational disease, 9200
but, in no case shall an award of compensation be made for less 9201
than twenty-five per cent loss of uncorrected vision. "Loss of 9202
uncorrected vision" means the percentage of vision actually lost 9203
as the result of the injury or occupational disease. 9204

For the permanent and total loss of hearing of one ear, 9205
twenty-five weeks; but in no case shall an award of compensation 9206
be made for less than permanent and total loss of hearing of one 9207
ear. 9208

For the permanent and total loss of hearing, one hundred 9209
twenty-five weeks; but, except pursuant to the next preceding 9210
paragraph, in no case shall an award of compensation be made for 9211
less than permanent and total loss of hearing. 9212

In case an injury or occupational disease results in 9213

serious facial or head disfigurement which either impairs or may 9214
in the future impair the opportunities to secure or retain 9215
employment, the administrator shall make an award of 9216
compensation as it deems proper and equitable, in view of the 9217
nature of the disfigurement, and not to exceed the sum of ten 9218
thousand dollars. For the purpose of making the award, it is not 9219
material whether the employee is gainfully employed in any 9220
occupation or trade at the time of the administrator's 9221
determination. 9222

When an award under this division has been made prior to 9223
the death of an employee all unpaid installments accrued or to 9224
accrue under the provisions of the award shall be payable to the 9225
surviving spouse, or if there is no surviving spouse, to the 9226
dependent children of the employee and if there are no such 9227
children, then to such dependents as the administrator 9228
determines. 9229

When an employee has sustained the loss of a member by 9230
severance, but no award has been made on account thereof prior 9231
to the employee's death, the administrator shall make an award 9232
in accordance with this division for the loss which shall be 9233
payable to the surviving spouse, or if there is no surviving 9234
spouse, to the dependent children of the employee and if there 9235
are no such children, then to such dependents as the 9236
administrator determines. 9237

(C) Compensation for partial impairment under divisions 9238
(A) and (B) of this section is in addition to the compensation 9239
paid the employee pursuant to section 4123.56 of the Revised 9240
Code. A claimant may receive compensation under divisions (A) 9241
and (B) of this section. 9242

In all cases arising under division (B) of this section, 9243

if it is determined by any one of the following: (1) the amputee 9244
clinic at University hospital, Ohio state university; (2) the 9245
opportunities for Ohioans with disabilities agency; (3) an 9246
amputee clinic or prescribing physician, certified nurse- 9247
midwife, clinical nurse specialist, or certified nurse 9248
practitioner approved by the administrator or the 9249
administrator's designee, that an injured or disabled employee 9250
is in need of an artificial appliance, or in need of a repair 9251
thereof, regardless of whether the appliance or its repair will 9252
be serviceable in the vocational rehabilitation of the injured 9253
employee, and regardless of whether the employee has returned to 9254
or can ever again return to any gainful employment, the bureau 9255
shall pay the cost of the artificial appliance or its repair out 9256
of the surplus created by division (B) of section 4123.34 of the 9257
Revised Code. 9258

In those cases where an opportunities for Ohioans with 9259
disabilities agency's recommendation that an injured or disabled 9260
employee is in need of an artificial appliance would conflict 9261
with their state plan, adopted pursuant to the "Rehabilitation 9262
Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator 9263
or the administrator's designee or the bureau may obtain a 9264
recommendation from an amputee clinic or prescribing physician, 9265
certified nurse-midwife, clinical nurse specialist, or certified 9266
nurse practitioner that they determine appropriate. 9267

(D) If an employee of a state fund employer makes 9268
application for a finding and the administrator finds that the 9269
employee has contracted silicosis as defined in division (Y), or 9270
coal miners' pneumoconiosis as defined in division (Z), or 9271
asbestosis as defined in division (BB) of section 4123.68 of the 9272
Revised Code, and that a change of such employee's occupation is 9273
medically advisable in order to decrease substantially further 9274

exposure to silica dust, asbestos, or coal dust and if the 9275
employee, after the finding, has changed or shall change the 9276
employee's occupation to an occupation in which the exposure to 9277
silica dust, asbestos, or coal dust is substantially decreased, 9278
the administrator shall allow to the employee an amount equal to 9279
fifty per cent of the statewide average weekly wage per week for 9280
a period of thirty weeks, commencing as of the date of the 9281
discontinuance or change, and for a period of one hundred weeks 9282
immediately following the expiration of the period of thirty 9283
weeks, the employee shall receive sixty-six and two-thirds per 9284
cent of the loss of wages resulting directly and solely from the 9285
change of occupation but not to exceed a maximum of an amount 9286
equal to fifty per cent of the statewide average weekly wage per 9287
week. No such employee is entitled to receive more than one 9288
allowance on account of discontinuance of employment or change 9289
of occupation and benefits shall cease for any period during 9290
which the employee is employed in an occupation in which the 9291
exposure to silica dust, asbestos, or coal dust is not 9292
substantially less than the exposure in the occupation in which 9293
the employee was formerly employed or for any period during 9294
which the employee may be entitled to receive compensation or 9295
benefits under section 4123.68 of the Revised Code on account of 9296
disability from silicosis, asbestosis, or coal miners' 9297
pneumoconiosis. An award for change of occupation for a coal 9298
miner who has contracted coal miners' pneumoconiosis may be 9299
granted under this division even though the coal miner continues 9300
employment with the same employer, so long as the coal miner's 9301
employment subsequent to the change is such that the coal 9302
miner's exposure to coal dust is substantially decreased and a 9303
change of occupation is certified by the claimant as permanent. 9304
The administrator may accord to the employee medical and other 9305
benefits in accordance with section 4123.66 of the Revised Code. 9306

(E) If a firefighter or police officer makes application 9307
for a finding and the administrator finds that the firefighter 9308
or police officer has contracted a cardiovascular and pulmonary 9309
disease as defined in division (W) of section 4123.68 of the 9310
Revised Code, and that a change of the firefighter's or police 9311
officer's occupation is medically advisable in order to decrease 9312
substantially further exposure to smoke, toxic gases, chemical 9313
fumes, and other toxic vapors, and if the firefighter, or police 9314
officer, after the finding, has changed or changes occupation to 9315
an occupation in which the exposure to smoke, toxic gases, 9316
chemical fumes, and other toxic vapors is substantially 9317
decreased, the administrator shall allow to the firefighter or 9318
police officer an amount equal to fifty per cent of the 9319
statewide average weekly wage per week for a period of thirty 9320
weeks, commencing as of the date of the discontinuance or 9321
change, and for a period of seventy-five weeks immediately 9322
following the expiration of the period of thirty weeks the 9323
administrator shall allow the firefighter or police officer 9324
sixty-six and two-thirds per cent of the loss of wages resulting 9325
directly and solely from the change of occupation but not to 9326
exceed a maximum of an amount equal to fifty per cent of the 9327
statewide average weekly wage per week. No such firefighter or 9328
police officer is entitled to receive more than one allowance on 9329
account of discontinuance of employment or change of occupation 9330
and benefits shall cease for any period during which the 9331
firefighter or police officer is employed in an occupation in 9332
which the exposure to smoke, toxic gases, chemical fumes, and 9333
other toxic vapors is not substantially less than the exposure 9334
in the occupation in which the firefighter or police officer was 9335
formerly employed or for any period during which the firefighter 9336
or police officer may be entitled to receive compensation or 9337
benefits under section 4123.68 of the Revised Code on account of 9338

disability from a cardiovascular and pulmonary disease. The 9339
administrator may accord to the firefighter or police officer 9340
medical and other benefits in accordance with section 4123.66 of 9341
the Revised Code. 9342

(F) An order issued under this section is appealable 9343
pursuant to section 4123.511 of the Revised Code but is not 9344
appealable to court under section 4123.512 of the Revised Code. 9345

Sec. 4123.651. ~~(A)~~ (A) (1) The employer of a claimant who 9346
is injured or disabled in the course of the claimant's 9347
employment may require, without the approval of the 9348
administrator or the industrial commission, that the claimant be 9349
examined by ~~a physician~~ any of the following of the employer's 9350
choice one time ~~upon~~ ; 9351

(a) A physician; 9352

(b) A certified nurse midwife; 9353

(c) A clinical nurse specialist; 9354

(d) A certified nurse practitioner. 9355

(2) The examination described in division (A) (1) of this 9356
section shall be for the purpose of any issue asserted by the 9357
employee or a physician any of the practitioners listed in 9358
divisions (A) (1) (a) to (d) of this section of the employee's 9359
choice or for the purpose of any issue which is to be considered 9360
by the commission. ~~Any~~ 9361

(3) Any further requests for medical examinations shall be 9362
made to the commission, which shall consider and rule on the 9363
request. The employer shall pay the cost of any examinations 9364
initiated by the employer. 9365

(B) The bureau of workers' compensation shall prepare or 9366

adopt a form for the release of medical information, records, 9367
and reports relative to the issues necessary for the 9368
administration of a claim under this chapter. The claimant 9369
promptly shall provide a current signed form, or an equivalent 9370
form such as the standard form under section 3798.10 of the 9371
Revised Code, for the release of the information, records, and 9372
reports when requested by the employer. The employer promptly 9373
shall provide copies of all medical information, records, and 9374
reports to the bureau and to the claimant or the claimant's 9375
representative upon request. 9376

Medical information, records, and reports shall be related 9377
causally or historically to physical, psychological, or 9378
psychiatric injuries relevant to the claimant's workers' 9379
compensation claim. 9380

(C) If, without good cause, an employee refuses to submit 9381
to any examination scheduled under this section or refuses to 9382
release or execute a release for any medical information, 9383
record, or report that is required to be released under this 9384
section and involves an issue pertinent to the condition alleged 9385
in the claim, the employee's right to have the employee's claim 9386
for compensation or benefits considered, if the employee's claim 9387
is pending before the administrator, commission, or a district 9388
or staff hearing officer, or to receive any payment for 9389
compensation or benefits previously granted, is suspended during 9390
the period of refusal. 9391

(D) No bureau or commission employee shall alter any 9392
medical report obtained from a health care provider the bureau 9393
or commission has selected or cause or request the health care 9394
provider to alter or change a report. The bureau and commission 9395
shall make any request for clarification of a health care 9396

provider's report in writing and shall provide a copy of the 9397
request to the affected parties and their representatives at the 9398
time of making the request. 9399

Sec. 4123.71. Every physician, certified nurse-midwife, 9400
clinical nurse specialist, or certified nurse practitioner in 9401
this state attending on or called in to visit a patient whom the 9402
physician or nurse believes to have an occupational disease as 9403
defined in section 4123.68 of the Revised Code shall, within 9404
forty-eight hours from the time of making such diagnosis, send 9405
to the bureau of workers' compensation a report stating: 9406

(A) Name, address, and occupation of patient; 9407

(B) Name and address of business in which employed; 9408

(C) Nature of disease; 9409

(D) Name and address of employer of patient; 9410

(E) Such other information as is reasonably required by 9411
the bureau. 9412

The reports shall be made on blanks to be furnished by the 9413
bureau. A physician or nurse who sends the report within the 9414
time stated to the bureau is in compliance with this section. 9415

Reports made under this section shall not be evidence of 9416
the facts therein stated in any action arising out of a disease 9417
therein reported. 9418

The bureau shall, within twenty-four hours after the 9419
receipt of the report, send a copy thereof to the employer of 9420
the patient named in the report. 9421

Sec. 4123.84. (A) In all cases of injury or death, claims 9422
for compensation or benefits for the specific part or parts of 9423

the body injured shall be forever barred unless, within one year 9424
after the injury or death: 9425

(1) Written or facsimile notice of the specific part or 9426
parts of the body claimed to have been injured has been made to 9427
the industrial commission or the bureau of workers' 9428
compensation; 9429

(2) The employer, with knowledge of a claimed compensable 9430
injury or occupational disease, has paid wages in lieu of 9431
compensation for total disability; 9432

(3) In the event the employer is a self-insuring employer, 9433
one of the following has occurred: 9434

(a) Written or facsimile notice of the specific part or 9435
parts of the body claimed to have been injured has been given to 9436
the commission or bureau or the employer has furnished treatment 9437
by a licensed physician, certified nurse-midwife, clinical nurse 9438
specialist, or certified nurse practitioner in the employ of an 9439
employer, provided, however, that the furnishing of such 9440
treatment shall not constitute a recognition of a claim as 9441
compensable, but shall do no more than satisfy the requirements 9442
of this section; 9443

(b) Compensation or benefits have been paid or furnished 9444
equal to or greater than is provided for in sections 4123.52, 9445
4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code. 9446

(4) Written or facsimile notice of death has been given to 9447
the commission or bureau. 9448

(B) The bureau shall provide printed notices quoting in 9449
full division (A) of this section, and every self-insuring 9450
employer shall post and maintain at all times one or more of the 9451
notices in conspicuous places in the workshop or places of 9452

employment. 9453

(C) The commission has continuing jurisdiction as set 9454
forth in section 4123.52 of the Revised Code over a claim which 9455
meets the requirement of this section, including jurisdiction to 9456
award compensation or benefits for loss or impairment of bodily 9457
functions developing in a part or parts of the body not 9458
specified pursuant to division (A)(1) of this section, if the 9459
commission finds that the loss or impairment of bodily functions 9460
was due to and a result of or a residual of the injury to one of 9461
the parts of the body set forth in the written notice filed 9462
pursuant to division (A)(1) of this section. 9463

(D) Any claim pending before the administrator, the 9464
commission, or a court on December 11, 1967, in which the remedy 9465
is affected by this section is governed by this section. 9466

(E) Notwithstanding the requirement that the notice 9467
required to be given to the bureau, commission, or employer 9468
under this section is to be in writing or facsimile, the bureau 9469
may accept, assign a claim number, and process a claim when 9470
notice is provided verbally over the telephone. Immediately upon 9471
receipt of notice provided verbally over the telephone, the 9472
bureau shall send a written or facsimile notice to the employer 9473
of the bureau's receipt of the verbal notice. Within fifteen 9474
days after receipt of the bureau's written or facsimile notice, 9475
the employer may in writing or facsimile either verify or not 9476
verify the verbal notice. If the bureau does not receive the 9477
written or facsimile notification from the employer or receives 9478
a written or facsimile notification verifying the verbal notice 9479
within such time period, the claim is validly filed and such 9480
verbal notice tolls the statute of limitations in regard to the 9481
claim filed and is considered to meet the requirements of 9482

written or facsimile notice required by this section. 9483

(F) As used in division (A) (3) (b) of this section, 9484
"benefits" means payments by a self-insuring employer to, or on 9485
behalf of, an employee for any of the following: a hospital 9486
bill; a medical bill to a licensed physician, certified nurse- 9487
midwife, clinical nurse specialist, certified nurse 9488
practitioner, or hospital; or an orthopedic or prosthetic 9489
device. 9490

Sec. 4123.85. In all cases of occupational disease, or 9491
death resulting from occupational disease, claims for 9492
compensation or benefits are forever barred unless, within one 9493
year after the disability due to the disease began, or within 9494
such longer period as does not exceed six months after diagnosis 9495
of the occupational disease by a licensed physician, certified 9496
nurse-midwife, clinical nurse specialist, or certified nurse 9497
practitioner or within one year after death occurs, application 9498
is made to the industrial commission or the bureau of workers' 9499
compensation or to the employer if the employer is a self- 9500
insuring employer. 9501

Sec. 4506.07. (A) An applicant for a commercial driver's 9502
license, restricted commercial driver's license, or a commercial 9503
driver's license temporary instruction permit, or a duplicate of 9504
such a license or permit, shall submit an application upon a 9505
form approved and furnished by the registrar of motor vehicles. 9506
Except as provided in section 4506.24 of the Revised Code in 9507
regard to a restricted commercial driver's license, the 9508
applicant shall sign the application which shall contain the 9509
following information: 9510

(1) The applicant's name, date of birth, social security 9511
account number, sex, general description including height, 9512

weight, and color of hair and eyes, current residence, duration 9513
of residence in this state, state of domicile, country of 9514
citizenship, and occupation; 9515

(2) Whether the applicant previously has been licensed to 9516
operate a commercial motor vehicle or any other type of motor 9517
vehicle in another state or a foreign jurisdiction and, if so, 9518
when, by what state, and whether the license or driving 9519
privileges currently are suspended or revoked in any 9520
jurisdiction, or the applicant otherwise has been disqualified 9521
from operating a commercial motor vehicle, or is subject to an 9522
out-of-service order issued under this chapter or any similar 9523
law of another state or a foreign jurisdiction and, if so, the 9524
date of, locations involved, and reason for the suspension, 9525
revocation, disqualification, or out-of-service order; 9526

(3) Whether the applicant has any physical or mental 9527
disability or disease that prevents the applicant from 9528
exercising reasonable and ordinary control over a motor vehicle 9529
while operating it upon a highway or is or has been subject to 9530
any condition resulting in episodic impairment of consciousness 9531
or loss of muscular control and, if so, the nature and extent of 9532
the disability, disease, or condition, and the names and 9533
addresses of the physicians, certified nurse-midwives if 9534
authorized as described in section 4723.438 of the Revised Code, 9535
clinical nurse specialists, or certified nurse practitioners 9536
attending the applicant; 9537

(4) Whether the applicant has obtained a medical 9538
examiner's certificate as required by this chapter and, 9539
beginning January 30, 2012, the applicant, prior to or at the 9540
time of applying, has self-certified to the registrar the 9541
applicable status of the applicant under division (A) (1) of 9542

section 4506.10 of the Revised Code; 9543

(5) Whether the applicant has pending a citation for 9544
violation of any motor vehicle law or ordinance except a parking 9545
violation and, if so, a description of the citation, the court 9546
having jurisdiction of the offense, and the date when the 9547
offense occurred; 9548

(6) If an applicant has not certified the applicant's 9549
willingness to make an anatomical gift under section 2108.05 of 9550
the Revised Code, whether the applicant wishes to certify 9551
willingness to make such an anatomical gift, which shall be 9552
given no consideration in the issuance of a license; 9553

(7) Whether the applicant has executed a valid durable 9554
power of attorney for health care pursuant to sections 1337.11 9555
to 1337.17 of the Revised Code or has executed a declaration 9556
governing the use or continuation, or the withholding or 9557
withdrawal, of life-sustaining treatment pursuant to sections 9558
2133.01 to 2133.15 of the Revised Code and, if the applicant has 9559
executed either type of instrument, whether the applicant wishes 9560
the license issued to indicate that the applicant has executed 9561
the instrument; 9562

(8) Whether the applicant is a veteran, active duty, or 9563
reservist of the armed forces of the United States and, if the 9564
applicant is such, whether the applicant wishes the license 9565
issued to indicate that the applicant is a veteran, active duty, 9566
or reservist of the armed forces of the United States by a 9567
military designation on the license. 9568

(B) Every applicant shall certify, on a form approved and 9569
furnished by the registrar, all of the following: 9570

(1) That the motor vehicle in which the applicant intends 9571

to take the driving skills test is representative of the type of 9572
motor vehicle that the applicant expects to operate as a driver; 9573

(2) That the applicant is not subject to any 9574
disqualification or out-of-service order, or license suspension, 9575
revocation, or cancellation, under the laws of this state, of 9576
another state, or of a foreign jurisdiction and does not have 9577
more than one driver's license issued by this or another state 9578
or a foreign jurisdiction; 9579

(3) Any additional information, certification, or evidence 9580
that the registrar requires by rule in order to ensure that the 9581
issuance of a commercial driver's license or commercial driver's 9582
license temporary instruction permit to the applicant is in 9583
compliance with the law of this state and with federal law. 9584

(C) Every applicant shall execute a form, approved and 9585
furnished by the registrar, under which the applicant consents 9586
to the release by the registrar of information from the 9587
applicant's driving record. 9588

(D) The registrar or a deputy registrar, in accordance 9589
with section 3503.11 of the Revised Code, shall register as an 9590
elector any applicant for a commercial driver's license or for a 9591
renewal or duplicate of such a license under this chapter, if 9592
the applicant is eligible and wishes to be registered as an 9593
elector. The decision of an applicant whether to register as an 9594
elector shall be given no consideration in the decision of 9595
whether to issue the applicant a license or a renewal or 9596
duplicate. 9597

(E) The registrar or a deputy registrar, in accordance 9598
with section 3503.11 of the Revised Code, shall offer the 9599
opportunity of completing a notice of change of residence or 9600

change of name to any applicant for a commercial driver's 9601
license or for a renewal or duplicate of such a license who is a 9602
resident of this state, if the applicant is a registered elector 9603
who has changed the applicant's residence or name and has not 9604
filed such a notice. 9605

(F) In considering any application submitted pursuant to 9606
this section, the bureau of motor vehicles may conduct any 9607
inquiries necessary to ensure that issuance or renewal of a 9608
commercial driver's license would not violate any provision of 9609
the Revised Code or federal law. 9610

(G) In addition to any other information it contains, the 9611
form approved and furnished by the registrar of motor vehicles 9612
for an application for a commercial driver's license, restricted 9613
commercial driver's license, or a commercial driver's license 9614
temporary instruction permit or an application for a duplicate 9615
of such a license or permit shall inform applicants that the 9616
applicant must present a copy of the applicant's DD-214 or an 9617
equivalent document in order to qualify to have the license, or 9618
permit, or duplicate indicate that the applicant is a veteran, 9619
active duty, or reservist of the armed forces of the United 9620
States based on a request made pursuant to division (A)(8) of 9621
this section. 9622

Sec. 4507.06. (A)(1) Every application for a driver's 9623
license, motorcycle operator's license or endorsement, or motor- 9624
driven cycle or motor scooter license or endorsement, or 9625
duplicate of any such license or endorsement, shall be made upon 9626
the approved form furnished by the registrar of motor vehicles 9627
and shall be signed by the applicant. 9628

Every application shall state the following: 9629

(a) The applicant's name, date of birth, social security number if such has been assigned, sex, general description, including height, weight, color of hair, and eyes, residence address, including county of residence, duration of residence in this state, and country of citizenship;

(b) Whether the applicant previously has been licensed as an operator, chauffeur, driver, commercial driver, or motorcycle operator and, if so, when, by what state, and whether such license is suspended or canceled at the present time and, if so, the date of and reason for the suspension or cancellation;

(c) Whether the applicant is now or ever has been afflicted with epilepsy, or whether the applicant now has any physical or mental disability or disease and, if so, the nature and extent of the disability or disease, giving the names and addresses of physicians, certified nurse-midwives if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialists, or certified nurse practitioners then or previously in attendance upon the applicant;

(d) Whether an applicant for a duplicate driver's license, duplicate license containing a motorcycle operator endorsement, or duplicate license containing a motor-driven cycle or motor scooter endorsement has pending a citation for violation of any motor vehicle law or ordinance, a description of any such citation pending, and the date of the citation;

(e) If an applicant has not certified the applicant's willingness to make an anatomical gift under section 2108.05 of the Revised Code, whether the applicant wishes to certify willingness to make such an anatomical gift, which shall be given no consideration in the issuance of a license or endorsement;

(f) Whether the applicant has executed a valid durable 9660
power of attorney for health care pursuant to sections 1337.11 9661
to 1337.17 of the Revised Code or has executed a declaration 9662
governing the use or continuation, or the withholding or 9663
withdrawal, of life-sustaining treatment pursuant to sections 9664
2133.01 to 2133.15 of the Revised Code and, if the applicant has 9665
executed either type of instrument, whether the applicant wishes 9666
the applicant's license to indicate that the applicant has 9667
executed the instrument; 9668

(g) Whether the applicant is a veteran, active duty, or 9669
reservist of the armed forces of the United States and, if the 9670
applicant is such, whether the applicant wishes the applicant's 9671
license to indicate that the applicant is a veteran, active 9672
duty, or reservist of the armed forces of the United States by a 9673
military designation on the license. 9674

(2) Every applicant for a driver's license applying in 9675
person at a deputy registrar office shall be photographed at the 9676
time the application for the license is made. The application 9677
shall state any additional information that the registrar 9678
requires. 9679

(B) The registrar or a deputy registrar, in accordance 9680
with section 3503.11 of the Revised Code, shall register as an 9681
elector any person who applies for a license or endorsement 9682
under division (A) of this section, or for a renewal or 9683
duplicate of the license or endorsement, if the applicant is 9684
eligible and wishes to be registered as an elector. The decision 9685
of an applicant whether to register as an elector shall be given 9686
no consideration in the decision of whether to issue the 9687
applicant a license or endorsement, or a renewal or duplicate. 9688

(C) The registrar or a deputy registrar, in accordance 9689

with section 3503.11 of the Revised Code, shall offer the 9690
opportunity of completing a notice of change of residence or 9691
change of name to any applicant for a driver's license or 9692
endorsement under division (A) of this section, or for a renewal 9693
or duplicate of the license or endorsement, if the applicant is 9694
a registered elector who has changed the applicant's residence 9695
or name and has not filed such a notice. 9696

(D) In addition to any other information it contains, the 9697
approved form furnished by the registrar of motor vehicles for 9698
an application for a license or endorsement or an application 9699
for a duplicate of any such license or endorsement shall inform 9700
applicants that the applicant must present a copy of the 9701
applicant's DD-214 or an equivalent document in order to qualify 9702
to have the license or duplicate indicate that the applicant is 9703
a veteran, active duty, or reservist of the armed forces of the 9704
United States based on a request made pursuant to division (A) 9705
(1)(g) of this section. 9706

Sec. 4507.08. (A) No probationary license shall be issued 9707
to any person under the age of eighteen who has been adjudicated 9708
an unruly or delinquent child or a juvenile traffic offender for 9709
having committed any act that if committed by an adult would be 9710
a drug abuse offense, as defined in section 2925.01 of the 9711
Revised Code, a violation of division (B) of section 2917.11, or 9712
a violation of division (A) of section 4511.19 of the Revised 9713
Code, unless the person has been required by the court to attend 9714
a drug abuse or alcohol abuse education, intervention, or 9715
treatment program specified by the court and has satisfactorily 9716
completed the program. 9717

(B) No temporary instruction permit or driver's license 9718
shall be issued to any person whose license has been suspended, 9719

during the period for which the license was suspended, nor to 9720
any person whose license has been canceled, under Chapter 4510. 9721
or any other provision of the Revised Code. 9722

(C) No temporary instruction permit or driver's license 9723
shall be issued to any person whose commercial driver's license 9724
is suspended under Chapter 4510. or any other provision of the 9725
Revised Code during the period of the suspension. 9726

No temporary instruction permit or driver's license shall 9727
be issued to any person when issuance is prohibited by division 9728
(A) of section 4507.091 of the Revised Code. 9729

(D) No temporary instruction permit or driver's license 9730
shall be issued to, or retained by, any of the following 9731
persons: 9732

(1) Any person who has alcoholism, or is addicted to the 9733
use of controlled substances to the extent that the use 9734
constitutes an impairment to the person's ability to operate a 9735
motor vehicle with the required degree of safety; 9736

(2) Any person who is under the age of eighteen and has 9737
been adjudicated an unruly or delinquent child or a juvenile 9738
traffic offender for having committed any act that if committed 9739
by an adult would be a drug abuse offense, as defined in section 9740
2925.01 of the Revised Code, a violation of division (B) of 9741
section 2917.11, or a violation of division (A) of section 9742
4511.19 of the Revised Code, unless the person has been required 9743
by the court to attend a drug abuse or alcohol abuse education, 9744
intervention, or treatment program specified by the court and 9745
has satisfactorily completed the program; 9746

(3) Any person who, in the opinion of the registrar, has a 9747
physical or mental disability or disease that prevents the 9748

person from exercising reasonable and ordinary control over a 9749
motor vehicle while operating the vehicle upon the highways, 9750
except that a restricted license effective for six months may be 9751
issued to any person otherwise qualified who is or has been 9752
subject to any condition resulting in episodic impairment of 9753
consciousness or loss of muscular control and whose condition, 9754
in the opinion of the registrar, is dormant or is sufficiently 9755
under medical control that the person is capable of exercising 9756
reasonable and ordinary control over a motor vehicle. A 9757
restricted license effective for six months shall be issued to 9758
any person who otherwise is qualified and who is subject to any 9759
condition that causes episodic impairment of consciousness or a 9760
loss of muscular control if the person presents a statement from 9761
a licensed physician, certified nurse-midwife if authorized as 9762
described in section 4723.438 of the Revised Code, clinical 9763
nurse specialist, or certified nurse practitioner that the 9764
person's condition is under effective medical control and the 9765
period of time for which the control has been continuously 9766
maintained, unless, thereafter, a medical examination is ordered 9767
and, pursuant thereto, cause for denial is found. 9768

A person to whom a six-month restricted license has been 9769
issued shall give notice of the person's medical condition to 9770
the registrar on forms provided by the registrar and signed by 9771
the licensee's physician, certified nurse-midwife, clinical 9772
nurse specialist, or certified nurse practitioner. The notice 9773
shall be sent to the registrar six months after the issuance of 9774
the license. Subsequent restricted licenses issued to the same 9775
individual shall be effective for six months. 9776

(4) Any person who is unable to understand highway 9777
warnings or traffic signs or directions given in the English 9778
language; 9779

(5) Any person making an application whose driver's license or driving privileges are under cancellation, revocation, or suspension in the jurisdiction where issued or any other jurisdiction, until the expiration of one year after the license was canceled or revoked or until the period of suspension ends. Any person whose application is denied under this division may file a petition in the municipal court or county court in whose jurisdiction the person resides agreeing to pay the cost of the proceedings and alleging that the conduct involved in the offense that resulted in suspension, cancellation, or revocation in the foreign jurisdiction would not have resulted in a suspension, cancellation, or revocation had the offense occurred in this state. If the petition is granted, the petitioner shall notify the registrar by a certified copy of the court's findings and a license shall not be denied under this division.

(6) Any person who is under a class one or two suspension imposed for a violation of section 2903.01, 2903.02, 2903.04, 2903.06, 2903.08, 2903.11, 2921.331, or 2923.02 of the Revised Code or whose driver's or commercial driver's license or permit was permanently revoked prior to January 1, 2004, for a substantially equivalent violation pursuant to section 4507.16 of the Revised Code;

(7) Any person who is not a resident or temporary resident of this state.

(E) No person whose driver's license or permit has been suspended under Chapter 4510. of the Revised Code or any other provision of the Revised Code shall have driving privileges reinstated if the registrar determines that a warrant has been issued in this state or any other state for the person's arrest

and that warrant is an active warrant. 9810

Sec. 4507.081. (A) Upon the expiration of a restricted 9811
license issued under division (D) (3) of section 4507.08 of the 9812
Revised Code and submission of a statement as provided in 9813
division (C) of this section, the registrar of motor vehicles 9814
may issue a driver's license to the person to whom the 9815
restricted license was issued. A driver's license issued under 9816
this section, unless otherwise suspended or canceled, shall be 9817
effective for one year. 9818

(B) A driver's license issued under this section may be 9819
renewed annually, for no more than three consecutive years, 9820
whenever the person to whom the license has been issued submits 9821
to the registrar no sooner than thirty days prior to the 9822
expiration date of the license or renewal thereof, a statement 9823
as provided in division (C) of this section. A renewal of a 9824
driver's license, unless the license is otherwise suspended or 9825
canceled, shall be effective for one year following the 9826
expiration date of the license or renewal thereof. 9827

(C) No person may be issued a driver's license under this 9828
section, and no such driver's license may be renewed, unless the 9829
person presents a signed statement from a licensed physician, 9830
certified nurse-midwife if authorized as described in section 9831
4723.438 of the Revised Code, clinical nurse specialist, or 9832
certified nurse practitioner that the person's condition either 9833
is dormant or is under effective medical control, that the 9834
control has been maintained continuously for at least one year 9835
prior to the date on which application for the license is made, 9836
and that, if continued medication is prescribed to control the 9837
condition, the person may be depended upon to take the 9838
medication. 9839

The statement shall be made on a form provided by the 9840
registrar and shall contain any other information the registrar 9841
considers necessary. 9842

(D) Whenever the registrar receives a statement indicating 9843
that the condition of a person to whom a driver's license has 9844
been issued under this section no longer is dormant or under 9845
effective medical control, the registrar shall cancel the 9846
person's driver's license. 9847

(E) Nothing in this section shall require a person 9848
submitting a signed statement from a licensed physician, 9849
certified nurse-midwife, clinical nurse specialist, or certified 9850
nurse practitioner to obtain a medical examination prior to the 9851
submission of the statement. 9852

(F) Any person whose driver's license has been canceled 9853
under this section may apply for a subsequent restricted license 9854
according to the provisions of section 4507.08 of the Revised 9855
Code. 9856

Sec. 4507.141. (A) Any hearing-impaired person may apply 9857
to the registrar of motor vehicles for an identification card 9858
identifying the person as hearing-impaired. The application for 9859
a hearing-impaired identification card shall be accompanied by a 9860
statement, signed ~~statement from~~ by the applicant's personal 9861
physician, certified nurse-midwife if authorized as described in 9862
section 4723.438 of the Revised Code, clinical nurse specialist, 9863
or certified nurse practitioner, certifying that the applicant 9864
is hearing-impaired. Upon receipt of the application ~~for the~~ 9865
~~identification card and the signed statement from the~~ 9866
~~applicant's personal physician,~~ and upon presentation by the 9867
applicant of the applicant's driver's or commercial driver's 9868
license or motorcycle operator's license, the registrar shall 9869

issue the applicant an identification card. A hearing-impaired 9870
person may also apply for a hearing-impaired identification card 9871
at the time the person applies for a driver's or commercial 9872
driver's license or motorcycle operator's license or 9873
endorsement. Every hearing-impaired identification card shall 9874
expire on the same date that the cardholder's driver's or 9875
commercial driver's license or motorcycle operator's license 9876
expires. 9877

(B) The hearing-impaired identification card shall be 9878
rectangular in shape, approximately the same size as an average 9879
motor vehicle sun visor, as determined by the registrar, to 9880
enable the identification card to be attached to a sun visor in 9881
a motor vehicle. The identification card shall contain the 9882
heading "Identification Card for the Hearing-impaired Driver" in 9883
boldface type, the name and signature of the hearing-impaired 9884
person to whom it is issued, an identifying number, and 9885
instructions on the actions the hearing-impaired person should 9886
take and the actions the person should refrain from taking in 9887
the event the person is stopped by a law enforcement officer 9888
while operating the motor vehicle. The registrar shall determine 9889
the preferred manner in which a hearing-impaired motorcycle 9890
operator should carry or display the hearing-impaired 9891
identification card, and the color and composition of, and any 9892
other information to be included on, the identification card. 9893

(C) As used in this section, "hearing-impaired" means a 9894
hearing loss of forty decibels or more in one or both ears. 9895

Sec. 4507.30. No person shall do any of the following: 9896

(A) Display, or cause or permit to be displayed, or 9897
possess any identification card, driver's or commercial driver's 9898
license, temporary instruction permit, or commercial driver's 9899

license temporary instruction permit knowing the same to be 9900
fictitious, or to have been canceled, suspended, or altered; 9901

(B) Lend to a person not entitled thereto, or knowingly 9902
permit a person not entitled thereto to use any identification 9903
card, driver's or commercial driver's license, temporary 9904
instruction permit, or commercial driver's license temporary 9905
instruction permit issued to the person so lending or permitting 9906
the use thereof; 9907

(C) Display, or represent as one's own, any identification 9908
card, driver's or commercial driver's license, temporary 9909
instruction permit, or commercial driver's license temporary 9910
instruction permit not issued to the person so displaying the 9911
same; 9912

(D) Fail to surrender to the registrar of motor vehicles, 9913
upon the registrar's demand, any identification card, driver's 9914
or commercial driver's license, temporary instruction permit, or 9915
commercial driver's license temporary instruction permit that 9916
has been suspended or canceled; 9917

(E) In any application for an identification card, 9918
driver's or commercial driver's license, temporary instruction 9919
permit, or commercial driver's license temporary instruction 9920
permit, or any renewal, reprint, or duplicate thereof, knowingly 9921
conceal a material fact, or present any ~~physician's~~ statement 9922
required under section 4507.08 or 4507.081 of the Revised Code 9923
when knowing the same to be false or fictitious. 9924

(F) Whoever violates any division of this section is 9925
guilty of a misdemeanor of the first degree. 9926

Sec. 4511.81. (A) When any child who is in either or both 9927
of the following categories is being transported in a motor 9928

vehicle, other than a taxicab or public safety vehicle as 9929
defined in section 4511.01 of the Revised Code, that is required 9930
by the United States department of transportation to be equipped 9931
with seat belts at the time of manufacture or assembly, the 9932
operator of the motor vehicle shall have the child properly 9933
secured in accordance with the manufacturer's instructions in a 9934
child restraint system that meets federal motor vehicle safety 9935
standards: 9936

(1) A child who is less than four years of age; 9937

(2) A child who weighs less than forty pounds. 9938

(B) When any child who is in either or both of the 9939
following categories is being transported in a motor vehicle, 9940
other than a taxicab, that is owned, leased, or otherwise under 9941
the control of a nursery school or child care center, the 9942
operator of the motor vehicle shall have the child properly 9943
secured in accordance with the manufacturer's instructions in a 9944
child restraint system that meets federal motor vehicle safety 9945
standards: 9946

(1) A child who is less than four years of age; 9947

(2) A child who weighs less than forty pounds. 9948

(C) When any child who is less than eight years of age and 9949
less than four feet nine inches in height, who is not required 9950
by division (A) or (B) of this section to be secured in a child 9951
restraint system, is being transported in a motor vehicle, other 9952
than a taxicab or public safety vehicle as defined in section 9953
4511.01 of the Revised Code or a vehicle that is regulated under 9954
section 5104.015 of the Revised Code, that is required by the 9955
United States department of transportation to be equipped with 9956
seat belts at the time of manufacture or assembly, the operator 9957

of the motor vehicle shall have the child properly secured in 9958
accordance with the manufacturer's instructions on a booster 9959
seat that meets federal motor vehicle safety standards. 9960

(D) When any child who is at least eight years of age but 9961
not older than fifteen years of age, and who is not otherwise 9962
required by division (A), (B), or (C) of this section to be 9963
secured in a child restraint system or booster seat, is being 9964
transported in a motor vehicle, other than a taxicab or public 9965
safety vehicle as defined in section 4511.01 of the Revised 9966
Code, that is required by the United States department of 9967
transportation to be equipped with seat belts at the time of 9968
manufacture or assembly, the operator of the motor vehicle shall 9969
have the child properly restrained either in accordance with the 9970
manufacturer's instructions in a child restraint system that 9971
meets federal motor vehicle safety standards or in an occupant 9972
restraining device as defined in section 4513.263 of the Revised 9973
Code. 9974

(E) Notwithstanding any provision of law to the contrary, 9975
no law enforcement officer shall cause an operator of a motor 9976
vehicle being operated on any street or highway to stop the 9977
motor vehicle for the sole purpose of determining whether a 9978
violation of division (C) or (D) of this section has been or is 9979
being committed or for the sole purpose of issuing a ticket, 9980
citation, or summons for a violation of division (C) or (D) of 9981
this section or causing the arrest of or commencing a 9982
prosecution of a person for a violation of division (C) or (D) 9983
of this section, and absent another violation of law, a law 9984
enforcement officer's view of the interior or visual inspection 9985
of a motor vehicle being operated on any street or highway may 9986
not be used for the purpose of determining whether a violation 9987
of division (C) or (D) of this section has been or is being 9988

committed. 9989

(F) The director of public safety shall adopt such rules 9990
as are necessary to carry out this section. 9991

(G) The failure of an operator of a motor vehicle to 9992
secure a child in a child restraint system, a booster seat, or 9993
an occupant restraining device as required by this section is 9994
not negligence imputable to the child, is not admissible as 9995
evidence in any civil action involving the rights of the child 9996
against any other person allegedly liable for injuries to the 9997
child, is not to be used as a basis for a criminal prosecution 9998
of the operator of the motor vehicle other than a prosecution 9999
for a violation of this section, and is not admissible as 10000
evidence in any criminal action involving the operator of the 10001
motor vehicle other than a prosecution for a violation of this 10002
section. 10003

(H) This section does not apply when an emergency exists 10004
that threatens the life of any person operating or occupying a 10005
motor vehicle that is being used to transport a child who 10006
otherwise would be required to be restrained under this section. 10007
This section does not apply to a person operating a motor 10008
vehicle who has an affidavit signed by a physician licensed to 10009
practice in this state under Chapter 4731. of the Revised Code, 10010
a clinical nurse specialist or certified nurse practitioner 10011
licensed to practice in this state under Chapter 4723. of the 10012
Revised Code, or a chiropractor licensed to practice in this 10013
state under Chapter 4734. of the Revised Code that states that 10014
the child who otherwise would be required to be restrained under 10015
this section has a physical impairment that makes use of a child 10016
restraint system, booster seat, or an occupant restraining 10017
device impossible or impractical, provided that the person 10018

operating the vehicle has safely and appropriately restrained 10019
the child in accordance with any recommendations of the 10020
physician, nurse, or chiropractor as noted on the affidavit. 10021

(I) There is hereby created in the state treasury the 10022
child highway safety fund, consisting of fines imposed pursuant 10023
to division (L)(1) of this section for violations of divisions 10024
(A), (B), (C), and (D) of this section. The money in the fund 10025
shall be used by the department of health only to defray the 10026
cost of designating hospitals as pediatric trauma centers under 10027
section 3727.081 of the Revised Code and to establish and 10028
administer a child highway safety program. The purpose of the 10029
program shall be to educate the public about child restraint 10030
systems and booster seats and the importance of their proper 10031
use. The program also shall include a process for providing 10032
child restraint systems and booster seats to persons who meet 10033
the eligibility criteria established by the department, and a 10034
toll-free telephone number the public may utilize to obtain 10035
information about child restraint systems and booster seats, and 10036
their proper use. 10037

(J) The director of health, in accordance with Chapter 10038
119. of the Revised Code, shall adopt any rules necessary to 10039
carry out this section, including rules establishing the 10040
criteria a person must meet in order to receive a child 10041
restraint system or booster seat under the department's child 10042
highway safety program; provided that rules relating to the 10043
verification of pediatric trauma centers shall not be adopted 10044
under this section. 10045

(K) Nothing in this section shall be construed to require 10046
any person to carry with the person the birth certificate of a 10047
child to prove the age of the child, but the production of a 10048

valid birth certificate for a child showing that the child was 10049
not of an age to which this section applies is a defense against 10050
any ticket, citation, or summons issued for violating this 10051
section. 10052

(L) (1) Whoever violates division (A), (B), (C), or (D) of 10053
this section shall be punished as follows, provided that the 10054
failure of an operator of a motor vehicle to secure more than 10055
one child in a child restraint system, booster seat, or occupant 10056
restraining device as required by this section that occurred at 10057
the same time, on the same day, and at the same location is 10058
deemed to be a single violation of this section: 10059

(a) Except as otherwise provided in division (L) (1) (b) of 10060
this section, the offender is guilty of a minor misdemeanor and 10061
shall be fined not less than twenty-five dollars nor more than 10062
seventy-five dollars. 10063

(b) If the offender previously has been convicted of or 10064
pleaded guilty to a violation of division (A), (B), (C), or (D) 10065
of this section or of a municipal ordinance that is 10066
substantially similar to any of those divisions, the offender is 10067
guilty of a misdemeanor of the fourth degree. 10068

(2) All fines imposed pursuant to division (L) (1) of this 10069
section shall be forwarded to the treasurer of state for deposit 10070
in the child highway safety fund created by division (I) of this 10071
section. 10072

Sec. 4723.36. (A) A certified nurse-midwife, certified 10073
nurse practitioner, or clinical nurse specialist may determine 10074
and pronounce an individual's death, ~~but only if the~~ 10075
~~individual's respiratory and circulatory functions are not being~~ 10076
~~artificially sustained and, at the time the determination and~~ 10077

~~pronouncement of death is made, either or both of the following~~ 10078
~~apply:—~~ 10079

~~(1) The individual was receiving care in one of the~~ 10080
~~following:~~ 10081

~~(a) A nursing home licensed under section 3721.02 of the~~ 10082
~~Revised Code or by a political subdivision under section 3721.09~~ 10083
~~of the Revised Code;~~ 10084

~~(b) A residential care facility or home for the aging~~ 10085
~~licensed under Chapter 3721. of the Revised Code;~~ 10086

~~(c) A county home or district home operated pursuant to~~ 10087
~~Chapter 5155. of the Revised Code;~~ 10088

~~(d) A residential facility licensed under section 5123.19~~ 10089
~~of the Revised Code.~~ 10090

~~(2) The certified nurse practitioner or clinical nurse~~ 10091
~~specialist is providing or supervising the individual's care~~ 10092
~~through a hospice care program licensed under Chapter 3712. of~~ 10093
~~the Revised Code or any other entity that provides palliative~~ 10094
~~care.~~ 10095

~~(B)~~ (B) (1) A registered nurse who is not described in 10096
division (A) of this section may determine and pronounce an 10097
individual's death, but only if the individual's respiratory and 10098
circulatory functions are not being artificially sustained and, 10099
at the time the determination and pronouncement of death is 10100
made, the registered nurse is providing or supervising the 10101
individual's care through a hospice care program licensed under 10102
Chapter 3712. of the Revised Code or any other entity that 10103
provides palliative care. 10104

~~(C) If a certified nurse practitioner, clinical nurse~~ 10105

~~specialist, or (2) A registered nurse who determines and~~ 10106
~~pronounces an individual's death, the nurse under division (B)~~ 10107
(1) of this section shall comply with both of the following: 10108

~~(1)(a) The nurse shall not complete any portion of the~~ 10109
individual's death certificate. 10110

~~(2)(b) The nurse shall notify the individual's attending~~ 10111
~~physician, certified nurse-midwife, certified nurse~~ 10112
~~practitioner, or clinical nurse specialist of the determination~~ 10113
and pronouncement of death in order for the physician, certified 10114
nurse-midwife, certified nurse practitioner, or clinical nurse 10115
specialist to fulfill the physician's, certified nurse- 10116
midwife's, certified nurse practitioner's, or clinical nurse 10117
specialist's duties under section 3705.16 of the Revised Code. 10118
The nurse shall provide the notification within a period of time 10119
that is reasonable but not later than twenty-four hours 10120
following the determination and pronouncement of the 10121
individual's death. 10122

Sec. 4723.431. (A) (1) An advanced practice registered 10123
nurse who is designated as a clinical nurse specialist, 10124
certified nurse-midwife, or certified nurse practitioner may 10125
practice only in accordance with a standard care arrangement 10126
entered into with each physician or podiatrist with whom the 10127
nurse collaborates. A copy of the standard care arrangement 10128
shall be retained on file by the nurse's employer. Prior 10129
approval of the standard care arrangement by the board of 10130
nursing is not required, but the board may periodically review 10131
it for compliance with this section. 10132

A clinical nurse specialist, certified nurse-midwife, or 10133
certified nurse practitioner may enter into a standard care 10134
arrangement with one or more collaborating physicians or 10135

podiatrists. If a collaborating physician or podiatrist enters 10136
into standard care arrangements with more than five nurses, the 10137
physician or podiatrist shall not collaborate at the same time 10138
with more than five nurses in the prescribing component of their 10139
practices. 10140

Not later than thirty days after first engaging in the 10141
practice of nursing as a clinical nurse specialist, certified 10142
nurse-midwife, or certified nurse practitioner, the nurse shall 10143
submit to the board the name and business address of each 10144
collaborating physician or podiatrist. Thereafter, the nurse 10145
shall notify the board of any additions or deletions to the 10146
nurse's collaborating physicians or podiatrists. Except as 10147
provided in division (D) of this section, the notice must be 10148
provided not later than thirty days after the change takes 10149
effect. 10150

(2) All of the following conditions apply with respect to 10151
the practice of a collaborating physician or podiatrist with 10152
whom a clinical nurse specialist, certified nurse-midwife, or 10153
certified nurse practitioner may enter into a standard care 10154
arrangement: 10155

(a) The physician or podiatrist must be authorized to 10156
practice in this state. 10157

(b) Except as provided in division (A) (2) (c) of this 10158
section, the physician or podiatrist must be practicing in a 10159
specialty that is the same as or similar to the nurse's nursing 10160
specialty. 10161

(c) If the nurse is a clinical nurse specialist who is 10162
certified as a psychiatric-mental health CNS or the equivalent 10163
of such title by the American nurses credentialing center or a 10164

certified nurse practitioner who is certified as a psychiatric- 10165
mental health NP or the equivalent of such title by the American 10166
nurses credentialing center or American academy of nurse 10167
practitioners certification board, the nurse may enter into a 10168
standard care arrangement with a physician but not a podiatrist 10169
and the collaborating physician must be practicing in one of the 10170
following specialties: 10171

- (i) Psychiatry; 10172
- (ii) Pediatrics; 10173
- (iii) Primary care or family practice. 10174

(B) A standard care arrangement shall be in writing and 10175
shall contain all of the following: 10176

- (1) Criteria for referral of a patient by the clinical 10177
nurse specialist, certified nurse-midwife, or certified nurse 10178
practitioner to a collaborating physician or podiatrist or 10179
another physician or podiatrist; 10180
- (2) A process for the clinical nurse specialist, certified 10181
nurse-midwife, or certified nurse practitioner to obtain a 10182
consultation with a collaborating physician or podiatrist or 10183
another physician or podiatrist; 10184
- (3) A plan for coverage in instances of emergency or 10185
planned absences of either the clinical nurse specialist, 10186
certified nurse-midwife, or certified nurse practitioner or a 10187
collaborating physician or podiatrist that provides the means 10188
whereby a physician or podiatrist is available for emergency 10189
care; 10190
- (4) The process for resolution of disagreements regarding 10191
matters of patient management between the clinical nurse 10192

specialist, certified nurse-midwife, or certified nurse 10193
practitioner and a collaborating physician or podiatrist; 10194

(5) Any other criteria required by rule of the board 10195
adopted pursuant to section 4723.07 or 4723.50 of the Revised 10196
Code. 10197

(C) A standard care arrangement entered into pursuant to 10198
this section may permit a clinical nurse specialist, certified 10199
nurse-midwife, or certified nurse practitioner to do any of the 10200
following: 10201

(1) Supervise services provided by a home health agency as 10202
defined in section 3740.01 of the Revised Code; 10203

(2) Admit a patient to a hospital in accordance with 10204
section 3727.06 of the Revised Code; 10205

(3) Sign any document relating to the admission, 10206
treatment, or discharge of an inpatient receiving psychiatric or 10207
other behavioral health care services, but only if the 10208
conditions of section 4723.436 of the Revised Code have been 10209
met. 10210

(D) (1) Except as provided in division (D) (2) of this 10211
section, if a physician or podiatrist terminates the 10212
collaboration between the physician or podiatrist and a 10213
certified nurse-midwife, certified nurse practitioner, or 10214
clinical nurse specialist before their standard care arrangement 10215
expires, all of the following apply: 10216

(a) The physician or podiatrist must give the nurse 10217
written or electronic notice of the termination. 10218

(b) Once the nurse receives the termination notice, the 10219
nurse must notify the board of nursing of the termination as 10220

soon as practicable by submitting to the board a copy of the 10221
physician's or podiatrist's termination notice. 10222

(c) Notwithstanding the requirement of section 4723.43 of 10223
the Revised Code that the nurse practice in collaboration with a 10224
physician or podiatrist, the nurse may continue to practice 10225
under the existing standard care arrangement without a 10226
collaborating physician or podiatrist for not more than one 10227
hundred twenty days after submitting to the board a copy of the 10228
termination notice. 10229

(2) In the event that the collaboration between a 10230
physician or podiatrist and a certified nurse-midwife, certified 10231
nurse practitioner, or clinical nurse specialist terminates 10232
because of the physician's or podiatrist's death, the nurse must 10233
notify the board of the death as soon as practicable. The nurse 10234
may continue to practice under the existing standard care 10235
arrangement without a collaborating physician or podiatrist for 10236
not more than one hundred twenty days after notifying the board 10237
of the physician's or podiatrist's death. 10238

~~(E)~~ (E) (1) Nothing in this section prohibits a hospital 10239
from hiring a clinical nurse specialist, certified nurse- 10240
midwife, or certified nurse practitioner as an employee and 10241
negotiating standard care arrangements on behalf of the employee 10242
as necessary to meet the requirements of this section. A 10243
standard care arrangement between the hospital's employee and 10244
the employee's collaborating physician is subject to approval by 10245
the medical staff and governing body of the hospital prior to 10246
implementation of the arrangement at the hospital. 10247

(2) Nothing in this section prohibits a standard care 10248
arrangement from specifying actions that a clinical nurse 10249
specialist, certified nurse-midwife, or certified nurse 10250

practitioner is authorized to take, or is prohibited from 10251
taking, as part of the nurse's practice in collaboration with a 10252
physician or podiatrist. In specifying such actions, the 10253
standard care arrangement shall not authorize the nurse to take 10254
any action that is otherwise prohibited by the Revised Code or 10255
rule of the board. 10256

Sec. 4723.437. (A) As used in this section, "fetal death" 10257
has the same meaning as in section 3705.01 of the Revised Code, 10258
except that it does not include either of the following: 10259

(1) The product of human conception of at least twenty 10260
weeks of gestation; 10261

(2) The purposeful termination of a pregnancy, as 10262
described in section 2919.11 of the Revised Code. 10263

(B) If a woman who is in the process of experiencing a 10264
fetal death or who is with the product of human conception as a 10265
result of a fetal death presents herself to a certified nurse- 10266
midwife, clinical nurse specialist, or certified nurse 10267
practitioner and is not referred to a hospital, the nurse shall 10268
provide the woman with all of the following: 10269

(1) A written statement, not longer than one page in 10270
length, that confirms that the woman was pregnant and that she 10271
subsequently suffered a miscarriage that resulted in a fetal 10272
death; 10273

(2) Notice of the right of the woman to apply for a fetal 10274
death certificate pursuant to section 3705.20 of the Revised 10275
Code; 10276

(3) A short, general description of the nurse's procedures 10277
for disposing of the product of a fetal death. 10278

The nurse may present the notice and description required 10279
by divisions (B) (2) and (3) of this section through oral or 10280
written means. The nurse shall document in the woman's medical 10281
record that all of the items required by this division were 10282
provided to the woman and shall place in the record a copy of 10283
the statement required by division (B) (1) of this section. 10284

(C) A certified nurse-midwife, clinical nurse specialist, 10285
or certified nurse practitioner is immune from civil or criminal 10286
liability or professional disciplinary action with regard to any 10287
action taken in good faith compliance with this section. 10288

Sec. 4723.438. For purposes of sections 173.521, 173.542, 10289
3701.162, 3721.01, 3721.011, 3721.041, 3727.19, 3742.03, 10290
3742.04, 3742.07, 3923.25, 4506.07, 4507.06, 4507.08, 4507.081, 10291
and 4507.141 of the Revised Code, a certified nurse-midwife may 10292
sign documents or take related actions under those sections only 10293
if the nurse's scope of practice, as determined in accordance 10294
with section 4723.43 of the Revised Code and standards 10295
established by the board of nursing, authorizes the nurse to 10296
practice in the manner described in those sections. 10297

Sec. 4723.4812. (A) A certified nurse-midwife, clinical 10298
nurse specialist, or certified nurse practitioner who has 10299
established a protocol that meets the requirements of section 10300
4729.284 of the Revised Code and the rules adopted under that 10301
section may authorize one or more pharmacists to use the 10302
protocol for the purpose of dispensing nicotine replacement 10303
therapy under section 4729.284 of the Revised Code. 10304

(B) The board of nursing shall adopt rules establishing 10305
standards and procedures to be followed by a certified nurse- 10306
midwife, clinical nurse specialist, or certified nurse 10307
practitioner when prescribing a drug that may be administered by 10308

a pharmacist pursuant to section 4729.45 of the Revised Code. 10309
The rules shall be adopted in accordance with Chapter 119. of 10310
the Revised Code and in consultation with the state board of 10311
pharmacy. 10312

(C) A certified nurse-midwife, clinical nurse specialist 10313
or certified nurse practitioner who has established a protocol 10314
that meets the requirements specified by the state board of 10315
pharmacy in rules adopted under section 4729.47 of the Revised 10316
Code may authorize one or more pharmacists and any of the 10317
pharmacy interns supervised by the pharmacist or pharmacists to 10318
use the protocol for the purpose of dispensing epinephrine under 10319
section 4729.47 of the Revised Code. 10320

Sec. 4729.284. (A) As used in this section, "nicotine 10321
replacement therapy" means a drug, including a dangerous drug, 10322
that delivers small doses of nicotine to an individual for the 10323
purpose of aiding in tobacco cessation or smoking cessation. 10324

(B) Subject to division (C) of this section, if use of a 10325
protocol that has been developed under this section has been 10326
authorized under section 4723.4812 or 4731.90 of the Revised 10327
Code, a pharmacist may dispense nicotine replacement therapy in 10328
accordance with that protocol to individuals who are eighteen 10329
years old or older and seeking to quit using tobacco-containing 10330
products. 10331

(C) For a pharmacist to be authorized to dispense nicotine 10332
replacement therapy under this section, the pharmacist shall do 10333
both of the following: 10334

(1) Successfully complete a course on nicotine replacement 10335
therapy that is taught by a provider that is accredited by the 10336
accreditation council for pharmacy education, or another 10337

provider approved by the state board of pharmacy, and that meets 10338
requirements established in rules adopted under this section; 10339

(2) Practice in accordance with a protocol that meets the 10340
requirements of division (D) of this section. 10341

(D) All of the following apply with respect to the 10342
protocol required by this section: 10343

(1) The protocol shall be established by a physician 10344
authorized under Chapter 4731. of the Revised Code to practice 10345
medicine and surgery or osteopathic medicine and surgery or a 10346
certified nurse-midwife, clinical nurse specialist, or certified 10347
nurse practitioner licensed under Chapter 4723. of the Revised 10348
Code. 10349

(2) The protocol shall specify a definitive set of 10350
treatment guidelines and the locations at which a pharmacist may 10351
dispense nicotine replacement therapy under this section. 10352

(3) The protocol shall include provisions for 10353
implementation of the following requirements: 10354

(a) Use by the pharmacist of a screening procedure, 10355
recommended by the United States centers for disease control and 10356
prevention or another organization approved by the board, to 10357
determine if an individual is a good candidate to receive 10358
nicotine replacement therapy dispensed as authorized by this 10359
section; 10360

(b) A requirement that the pharmacist refer high-risk 10361
individuals or individuals with contraindications to a primary 10362
care provider or, as appropriate, to another type of provider; 10363

(c) A requirement that the pharmacist develop and 10364
implement a follow-up care plan in accordance with guidelines 10365

specified in rules adopted under this section, including a 10366
recommendation by the pharmacist that the individual seek 10367
additional assistance with behavior change, including assistance 10368
from the Ohio tobacco quit line made available by the department 10369
of health. 10370

(4) The protocol shall satisfy any additional requirements 10371
established in rules adopted under this section. 10372

(E) (1) Documentation related to screening, dispensing, and 10373
follow-up care plans shall be maintained in the records of the 10374
pharmacy where the pharmacist practices for at least three 10375
years. Dispensing of nicotine replacement therapy may be 10376
documented on a prescription form, and the form may be assigned 10377
a number for recordkeeping purposes. 10378

(2) Not later than seventy-two hours after a screening is 10379
conducted under this section, the pharmacist shall provide 10380
notice to the individual's primary care provider, if known, or 10381
to the individual if the primary care provider is unknown. The 10382
notice shall include results of the screening, and if 10383
applicable, the dispensing record and follow-up care plan. 10384

A copy of the documentation identified in division (E) (1) 10385
of this section shall also be provided to the individual or the 10386
individual's primary care provider on request. 10387

(F) This section does not affect the authority of a 10388
pharmacist to do any of the following: 10389

(1) Fill or refill prescriptions for nicotine replacement 10390
therapy; 10391

(2) Sell nicotine replacement therapy that does not 10392
require a prescription. 10393

(G) No pharmacist shall do either of the following:	10394
(1) Dispense nicotine replacement therapy in accordance with a protocol unless the requirements of division (C) of this section have been met;	10395 10396 10397
(2) Delegate to any person the pharmacist's authority to engage in or supervise the dispensing of nicotine replacement therapy.	10398 10399 10400
(H) (1) The board shall adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall include all of the following:	10401 10402 10403
(a) Provisions specifying the nicotine replacement therapy that may be dispensed in accordance with a protocol;	10404 10405
(b) Requirements for courses on nicotine replacement therapy including requirements that are consistent with any standards established for such courses by the United States centers for disease control and prevention;	10406 10407 10408 10409
(c) Requirements for protocols to be followed by pharmacists in dispensing nicotine replacement therapy;	10410 10411
(d) Guidelines for follow-up care plans.	10412
(2) Prior to adopting rules regarding requirements for protocols to be followed by pharmacists in dispensing of nicotine replacement therapy, the state board of pharmacy shall consult with the state medical board, <u>board of nursing</u> , and the department of health.	10413 10414 10415 10416 10417
(I) A physician, <u>certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner</u> who in good faith authorizes a pharmacist to dispense nicotine replacement therapy in accordance with a protocol developed pursuant to rules	10418 10419 10420 10421

adopted under division (H) of this section is not liable for or 10422
subject to any of the following for any action or omission of 10423
the individual to whom the nicotine replacement therapy is 10424
dispensed: damages in any civil action, prosecution in any 10425
criminal proceeding, or professional disciplinary action. 10426

Sec. 4729.41. (A) (1) A pharmacist licensed under this 10427
chapter who meets the requirements of division (B) of this 10428
section, a pharmacy intern licensed under this chapter who meets 10429
the requirements of division (B) of this section and is working 10430
under the direct supervision of a pharmacist who meets the 10431
requirements of that division, and a certified pharmacy 10432
technician or a registered pharmacy technician who meets the 10433
requirements of division (B) of this section and is working 10434
under the direct supervision of a pharmacist who meets the 10435
requirements of that division, may administer to an individual 10436
who is five years of age or older- an immunization for any 10437
disease, including an immunization for influenza or COVID-19. 10438

(2) As part of engaging in the administration of 10439
immunizations or supervising a pharmacy intern's, certified 10440
pharmacy technician's, or registered pharmacy technician's 10441
administration of immunizations, a pharmacist may administer 10442
epinephrine or diphenhydramine, or both, to individuals in 10443
emergency situations resulting from adverse reactions to the 10444
immunizations administered by the pharmacist, pharmacy intern, 10445
certified pharmacy technician, or registered pharmacy 10446
technician. 10447

(B) For a pharmacist, pharmacy intern, certified pharmacy 10448
technician, or registered pharmacy technician to be authorized 10449
to engage in the administration of immunizations, the 10450
pharmacist, pharmacy intern, certified pharmacy technician, or 10451

registered pharmacy technician shall do all of the following: 10452

(1) Successfully complete a course in the administration 10453
of immunizations that meets the requirements established in 10454
rules adopted under this section for such courses; 10455

(2) Receive and maintain certification to perform basic 10456
life-support procedures by successfully completing a basic life- 10457
support training course that is certified by the American red 10458
cross or American heart association or approved by the state 10459
board of pharmacy; 10460

(3) Practice in accordance with a protocol that meets the 10461
requirements of division (C) of this section. 10462

(C) All of the following apply with respect to the 10463
protocol required by division (B) (3) of this section: 10464

(1) The protocol shall be established by a physician 10465
authorized under Chapter 4731. of the Revised Code to practice 10466
medicine and surgery or osteopathic medicine and surgery or a 10467
certified nurse-midwife, clinical nurse specialist, or certified 10468
nurse practitioner licensed under Chapter 4723. of the Revised 10469
Code. 10470

(2) The protocol shall specify a definitive set of 10471
treatment guidelines and the locations at which a pharmacist, 10472
pharmacy intern, certified pharmacy technician, or registered 10473
pharmacy technician may engage in the administration of 10474
immunizations. 10475

(3) The protocol shall satisfy the requirements 10476
established in rules adopted under this section for protocols. 10477

(4) The protocol shall include provisions for 10478
implementation of the following requirements: 10479

(a) The pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician who administers an immunization shall observe the individual who receives the immunization to determine whether the individual has an adverse reaction to the immunization. The length of time and location of the observation shall comply with the rules adopted under this section establishing requirements for protocols. The protocol shall specify procedures to be followed by a pharmacist when administering epinephrine or diphenhydramine, or both, to an individual who has an adverse reaction to an immunization administered by the pharmacist or by a pharmacy intern, certified pharmacy technician, or registered pharmacy technician.

(b) For each immunization administered to an individual by a pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician, other than an immunization for influenza administered to an individual eighteen years of age or older, the pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician shall notify the individual's primary care provider or, if the individual has no primary care provider, the board of health of the health district in which the individual resides or the authority having the duties of a board of health for that district under section 3709.05 of the Revised Code. The notice shall be given not later than thirty days after the immunization is administered.

(c) For each immunization administered by a pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician to an individual younger than eighteen years of age, the pharmacist, a pharmacy intern, certified pharmacy technician, or registered pharmacy technician shall obtain permission from the individual's parent or legal guardian in

accordance with the procedures specified in rules adopted under 10511
this section. 10512

(d) For each immunization administered by a pharmacist, 10513
pharmacy intern, certified pharmacy technician, or registered 10514
pharmacy technician to an individual who is younger than 10515
eighteen years of age, the pharmacist, pharmacy intern, 10516
certified pharmacy technician, or registered pharmacy technician 10517
shall inform the individual's parent or legal guardian of the 10518
importance of well child visits with a pediatrician or other 10519
primary care provider and shall refer patients when appropriate. 10520

(D) (1) No pharmacist shall do either of the following: 10521

(a) Engage in the administration of immunizations unless 10522
the requirements of division (B) of this section have been met; 10523

(b) Delegate to any person the pharmacist's authority to 10524
engage in or supervise the administration of immunizations. 10525

(2) No pharmacy intern shall engage in the administration 10526
of immunizations unless the requirements of division (B) of this 10527
section have been met. 10528

(3) No certified pharmacy technician or registered 10529
pharmacy technician shall engage in the administration of 10530
immunizations unless the requirements of division (B) of this 10531
section have been met. 10532

(E) (1) The state board of pharmacy shall adopt rules to 10533
implement this section. The rules shall be adopted in accordance 10534
with Chapter 119. of the Revised Code and shall include the 10535
following: 10536

(a) Requirements for courses in administration of 10537
immunizations, including requirements that are consistent with 10538

any standards established for such courses by the centers for 10539
disease control and prevention; 10540

(b) Requirements for protocols to be followed by 10541
pharmacists, pharmacy interns, certified pharmacy technicians, 10542
and registered pharmacy technicians in engaging in the 10543
administration of immunizations; 10544

(c) Procedures to be followed by pharmacists, pharmacy 10545
interns, certified pharmacy technicians, and registered pharmacy 10546
technicians in obtaining from the individual's parent or legal 10547
guardian permission to administer immunizations to an individual 10548
younger than eighteen years of age. 10549

(2) Prior to adopting rules regarding requirements for 10550
protocols to be followed by pharmacists, pharmacy interns, 10551
certified pharmacy technicians, and registered pharmacy 10552
technicians in engaging in the administration of immunizations, 10553
the state board of pharmacy shall consult with the state medical 10554
board and the board of nursing. 10555

Sec. 4729.45. (A) As used in this section, ~~"physician"~~: 10556

(1) "Certified nurse-midwife," "clinical nurse 10557
specialist," and "certified nurse practitioner" have the same 10558
meanings as in section 4723.01 of the Revised Code. 10559

(2) "Physician" means an individual authorized under 10560
Chapter 4731. of the Revised Code to practice medicine and 10561
surgery or osteopathic medicine and surgery. 10562

(B) (1) Subject to division (C) of this section, a 10563
pharmacist licensed under this chapter may administer by 10564
injection any of the following drugs as long as the drug that is 10565
to be administered has been prescribed by a physician, certified 10566
nurse-midwife, clinical nurse specialist, or certified nurse 10567

practitioner and the individual to whom the drug was prescribed 10568
has an ongoing physician-patient or nurse-patient relationship 10569
with the physician or nurse: 10570

(a) An addiction treatment drug administered in a long- 10571
acting or extended-release form; 10572

(b) An antipsychotic drug administered in a long-acting or 10573
extended-release form; 10574

(c) Hydroxyprogesterone caproate; 10575

(d) Medroxyprogesterone acetate; 10576

(e) Cobalamin. 10577

(2) As part of engaging in the administration of drugs by 10578
injection pursuant to this section, a pharmacist may administer 10579
epinephrine or diphenhydramine, or both, to an individual in an 10580
emergency situation resulting from an adverse reaction to a drug 10581
administered by the pharmacist. 10582

(C) To be authorized to administer drugs pursuant to this 10583
section, a pharmacist must do all of the following: 10584

(1) Successfully complete a course in the administration 10585
of drugs that satisfies the requirements established by the 10586
state board of pharmacy in rules adopted under division (H) (1) 10587
(a) of this section; 10588

(2) Receive and maintain certification to perform basic 10589
life-support procedures by successfully completing a basic life- 10590
support training course that is certified by the American red 10591
cross or American heart association or approved by the state 10592
board of pharmacy; 10593

(3) Practice in accordance with a protocol that meets the 10594

requirements of division (F) of this section. 10595

(D) Each time a pharmacist administers a drug pursuant to 10596
this section, the pharmacist shall do all of the following: 10597

(1) Obtain permission in accordance with the procedures 10598
specified in rules adopted under division (H) of this section 10599
and comply with the following requirements: 10600

(a) Except as provided in division (D)(1)(c) of this 10601
section, for each drug administered by a pharmacist to an 10602
individual who is eighteen years of age or older, the pharmacist 10603
shall obtain permission from the individual. 10604

(b) For each drug administered by a pharmacist to an 10605
individual who is under eighteen years of age, the pharmacist 10606
shall obtain permission from the individual's parent or other 10607
person having care or charge of the individual. 10608

(c) For each drug administered by a pharmacist to an 10609
individual who lacks the capacity to make informed health care 10610
decisions, the pharmacist shall obtain permission from the 10611
person authorized to make such decisions on the individual's 10612
behalf. 10613

(2) In the case of an addiction treatment drug described 10614
in division (B)(1)(a) of this section, obtain in accordance with 10615
division (E) of this section test results indicating that it is 10616
appropriate to administer the drug to the individual if either 10617
of the following is to be administered: 10618

(a) The initial dose of the drug; 10619

(b) Any subsequent dose, if the administration occurs more 10620
than thirty days after the previous dose of the drug was 10621
administered. 10622

(3) Observe the individual to whom the drug is administered to determine whether the individual has an adverse reaction to the drug; 10623
10624
10625

(4) Notify the physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner who prescribed the drug that the drug has been administered to the individual. 10626
10627
10628
10629

(E) A pharmacist may obtain the test results described in division (D) (2) of this section in either of the following ways: 10630
10631

(1) From the physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner; 10632
10633

(2) By ordering blood and urine tests for the individual to whom the drug is to be administered. 10634
10635

If a pharmacist orders blood and urine tests, the pharmacist shall evaluate the results of the tests to determine whether they indicate that it is appropriate to administer the drug. A pharmacist's authority to evaluate test results under this division does not authorize the pharmacist to make a diagnosis. 10636
10637
10638
10639
10640
10641

(F) All of the following apply with respect to the protocol required by division (C) (3) of this section: 10642
10643

(1) The protocol must be established by a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner who has a scope of practice that includes treatment of the condition for which the individual has been prescribed the drug to be administered. 10644
10645
10646
10647
10648

(2) The protocol must satisfy the requirements established in rules adopted under division (H) (1) (b) of this section. 10649
10650

- (3) The protocol must do all of the following: 10651
- (a) Specify a definitive set of treatment guidelines; 10652
 - (b) Specify the locations at which a pharmacist may engage
in the administration of drugs pursuant to this section; 10653
10654
 - (c) Include provisions for implementing the requirements 10655
of division (D) of this section, including for purposes of 10656
division (D) (3) of this section provisions specifying the length 10657
of time and location at which a pharmacist must observe an 10658
individual who receives a drug to determine whether the 10659
individual has an adverse reaction to the drug; 10660
 - (d) Specify procedures to be followed by a pharmacist when 10661
administering epinephrine, diphenhydramine, or both, to an 10662
individual who has an adverse reaction to a drug administered by 10663
the pharmacist. 10664
- (G) A pharmacist shall not do either of the following: 10665
- (1) Engage in the administration of drugs pursuant to this 10666
section unless the requirements of division (C) of this section 10667
have been met; 10668
 - (2) Delegate to any person the pharmacist's authority to 10669
engage in the administration of drugs pursuant to this section. 10670
- (H) (1) The state board of pharmacy shall adopt rules to 10671
implement this section. The rules shall be adopted in accordance 10672
with Chapter 119. of the Revised Code and include all of the 10673
following: 10674
- (a) Requirements for courses in administration of drugs; 10675
 - (b) Requirements for protocols to be followed by 10676
pharmacists in administering drugs pursuant to this section; 10677

(c) Procedures to be followed by a pharmacist in obtaining 10678
permission to administer a drug to an individual. 10679

(2) The board shall consult with the state medical board 10680
and board of nursing before adopting rules regarding 10681
requirements for protocols under this section. 10682

Sec. 4729.47. (A) As used in this section: 10683

(1) "Board of health" means a board of health of a city or 10684
general health district or an authority having the duties of a 10685
board of health under section 3709.05 of the Revised Code. 10686

(2) "Physician" means an individual authorized under 10687
Chapter 4731. of the Revised Code to practice medicine and 10688
surgery, osteopathic medicine and surgery, or podiatric medicine 10689
and surgery. 10690

(B) If use of a protocol that has been developed pursuant 10691
to rules adopted under division (G) of this section has been 10692
authorized under section 3707.60, 4723.4812, or 4731.961 of the 10693
Revised Code, a pharmacist or pharmacy intern may dispense 10694
epinephrine without a prescription in accordance with that 10695
protocol to either of the following individuals so long as the 10696
individual is at least eighteen years of age: 10697

(1) An individual who there is reason to believe is 10698
experiencing or at risk of experiencing anaphylaxis if the 10699
pharmacy affiliated with the pharmacist or intern has a record 10700
of previously dispensing epinephrine to the individual in 10701
accordance with a prescription issued by a licensed health 10702
professional authorized to prescribe drugs; 10703

(2) An individual acting on behalf of a qualified entity, 10704
as defined in section 3728.01 of the Revised Code. 10705

(C) (1) A pharmacist or pharmacy intern who dispenses 10706
epinephrine under this section shall instruct the individual to 10707
whom epinephrine is dispensed to summon emergency services as 10708
soon as practicable either before or after administering 10709
epinephrine. 10710

(2) A pharmacist or pharmacy intern who dispenses 10711
epinephrine to an individual identified in division (B) (1) (a) of 10712
this section shall provide notice of the dispensing to the 10713
individual's primary care provider, if known, or to the 10714
prescriber who issued the individual the initial prescription 10715
for epinephrine. 10716

(D) A pharmacist may document the dispensing of 10717
epinephrine by the pharmacist or a pharmacy intern supervised by 10718
the pharmacist on a prescription form. The form may be assigned 10719
a number for record-keeping purposes. 10720

(E) This section does not affect the authority of a 10721
pharmacist or pharmacy intern to fill or refill a prescription 10722
for epinephrine. 10723

(F) A board of health that in good faith authorizes a 10724
pharmacist or pharmacy intern to dispense epinephrine without a 10725
prescription in accordance with a protocol developed pursuant to 10726
rules adopted under division (G) of this section is not liable 10727
for or subject to any of the following for any action or 10728
omission of the individual to whom the epinephrine is dispensed: 10729
damages in any civil action, prosecution in any criminal 10730
proceeding, or professional disciplinary action. 10731

A physician, certified nurse-midwife, clinical nurse 10732
specialist, or certified nurse practitioner who in good faith 10733
authorizes a pharmacist or pharmacy intern to dispense 10734

epinephrine without a prescription in accordance with a protocol 10735
developed pursuant to rules adopted under division (G) of this 10736
section is not liable for or subject to any of the following for 10737
any action or omission of the individual to whom the epinephrine 10738
is dispensed: damages in any civil action, prosecution in any 10739
criminal proceeding, or professional disciplinary action. 10740

A pharmacist or pharmacy intern authorized under this 10741
section to dispense epinephrine without a prescription who does 10742
so in good faith is not liable for or subject to any of the 10743
following for any action or omission of the individual to whom 10744
the epinephrine is dispensed: damages in any civil action, 10745
prosecution in any criminal proceeding, or professional 10746
disciplinary action. 10747

~~(G) Not later than ninety days after the effective date of~~ 10748
~~this section, the~~ The state board of pharmacy shall, after 10749
consulting with the state medical board and board of nursing, 10750
adopt rules to implement this section. The rules shall specify 10751
minimum requirements for protocols established by physicians, 10752
certified nurse-midwives, clinical nurse specialists, or
certified nurse practitioners under which pharmacists or 10753
pharmacy interns may dispense epinephrine without a 10754
prescription. 10755
10756

All rules adopted under this section shall be adopted in 10757
accordance with Chapter 119. of the Revised Code. 10758

Sec. 5120.17. (A) As used in this section: 10759

(1) "Mental illness" means a substantial disorder of 10760
thought, mood, perception, orientation, or memory that grossly 10761
impairs judgment, behavior, capacity to recognize reality, or 10762
ability to meet the ordinary demands of life. 10763

(2) "Person with a mental illness subject to hospitalization" means a person with a mental illness to whom any of the following applies because of the person's mental illness:

(a) The person represents a substantial risk of physical harm to the person as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm.

(b) The person represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness.

(c) The person represents a substantial and immediate risk of serious physical impairment or injury to the person as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the correctional institution in which the inmate is currently housed.

(d) The person would benefit from treatment in a hospital for the person's mental illness and is in need of treatment in a hospital as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(3) "Psychiatric hospital" means all or part of a facility that is operated and managed by the department of mental health and addiction services to provide psychiatric hospitalization services in accordance with the requirements of this section

pursuant to an agreement between the directors of rehabilitation 10793
and correction and mental health and addiction services or, is 10794
licensed by the department of mental health and addiction 10795
services pursuant to section 5119.33 of the Revised Code as a 10796
psychiatric hospital and is accredited by a health care 10797
accrediting organization approved by the department of mental 10798
health and addiction services and the psychiatric hospital is 10799
any of the following: 10800

(a) Operated and managed by the department of 10801
rehabilitation and correction within a facility that is operated 10802
by the department of rehabilitation and correction; 10803

(b) Operated and managed by a contractor for the 10804
department of rehabilitation and correction within a facility 10805
that is operated by the department of rehabilitation and 10806
correction; 10807

(c) Operated and managed in the community by an entity 10808
that has contracted with the department of rehabilitation and 10809
correction to provide psychiatric hospitalization services in 10810
accordance with the requirements of this section. 10811

(4) "Inmate patient" means an inmate who is admitted to a 10812
psychiatric hospital. 10813

(5) "Admitted" to a psychiatric hospital means being 10814
accepted for and staying at least one night at the psychiatric 10815
hospital. 10816

(6) "Treatment plan" means a written statement of 10817
reasonable objectives and goals for an inmate patient that is 10818
based on the needs of the inmate patient and that is established 10819
by the treatment team, with the active participation of the 10820
inmate patient and with documentation of that participation. 10821

"Treatment plan" includes all of the following: 10822

(a) The specific criteria to be used in evaluating 10823
progress toward achieving the objectives and goals; 10824

(b) The services to be provided to the inmate patient 10825
during the inmate patient's hospitalization; 10826

(c) The services to be provided to the inmate patient 10827
after discharge from the hospital, including, but not limited 10828
to, housing and mental health services provided at the state 10829
correctional institution to which the inmate patient returns 10830
after discharge or community mental health services. 10831

(7) "Emergency transfer" means the transfer of an inmate 10832
with a mental illness to a psychiatric hospital when the inmate 10833
presents an immediate danger to self or others and requires 10834
hospital-level care. 10835

(8) "Uncontested transfer" means the transfer of an inmate 10836
with a mental illness to a psychiatric hospital when the inmate 10837
has the mental capacity to, and has waived, the hearing required 10838
by division (B) of this section. 10839

(9) (a) "Independent decision-maker" means a person who is 10840
employed or retained by the department of rehabilitation and 10841
correction and is appointed by the chief or chief clinical 10842
officer of mental health services as a hospitalization hearing 10843
officer to conduct due process hearings. 10844

(b) An independent decision-maker who presides over any 10845
hearing or issues any order pursuant to this section shall be a 10846
psychiatrist, psychiatric-mental health advanced practice 10847
registered nurse, psychologist, or attorney, shall not be 10848
specifically associated with the institution in which the inmate 10849
who is the subject of the hearing or order resides at the time 10850

of the hearing or order, and previously shall not have had any 10851
treatment relationship with nor have represented in any legal 10852
proceeding the inmate who is the subject of the order. 10853

(10) "Psychiatric-mental health advanced practice 10854
registered nurse" means an advanced practice registered nurse, 10855
as defined in section 4723.01 of the Revised Code, who is either 10856
of the following: 10857

(a) A clinical nurse specialist who is certified as a 10858
psychiatric-mental health CNS, or the equivalent of such title, 10859
by the American nurses credentialing center; 10860

(b) A certified nurse practitioner who is certified as a 10861
psychiatric-mental health NP, or the equivalent of such title, 10862
by the American nurses credentialing center or American academy 10863
of nurse practitioners certification board. 10864

(B) (1) Except as provided in division (C) of this section, 10865
if the warden of a state correctional institution or the 10866
warden's designee believes that an inmate should be transferred 10867
from the institution to a psychiatric hospital, the department 10868
shall hold a hearing to determine whether the inmate is a person 10869
with a mental illness subject to hospitalization. The department 10870
shall conduct the hearing at the state correctional institution 10871
in which the inmate is confined, and the department shall 10872
provide qualified independent assistance to the inmate for the 10873
hearing. An independent decision-maker provided by the 10874
department shall preside at the hearing and determine whether 10875
the inmate is a person with a mental illness subject to 10876
hospitalization. 10877

(2) Except as provided in division (C) of this section, 10878
prior to the hearing held pursuant to division (B) (1) of this 10879

section, the warden or the warden's designee shall give written 10880
notice to the inmate that the department is considering 10881
transferring the inmate to a psychiatric hospital, that it will 10882
hold a hearing on the proposed transfer at which the inmate may 10883
be present, that at the hearing the inmate has the rights 10884
described in division (B) (3) of this section, and that the 10885
department will provide qualified independent assistance to the 10886
inmate with respect to the hearing. The department shall not 10887
hold the hearing until the inmate has received written notice of 10888
the proposed transfer and has had sufficient time to consult 10889
with the person appointed by the department to provide 10890
assistance to the inmate and to prepare for a presentation at 10891
the hearing. 10892

(3) At the hearing held pursuant to division (B) (1) of 10893
this section, the department shall disclose to the inmate the 10894
evidence that it relies upon for the transfer and shall give the 10895
inmate an opportunity to be heard. Unless the independent 10896
decision-maker finds good cause for not permitting it, the 10897
inmate may present documentary evidence and the testimony of 10898
witnesses at the hearing and may confront and cross-examine 10899
witnesses called by the department. 10900

(4) If the independent decision-maker does not find clear 10901
and convincing evidence that the inmate is a person with a 10902
mental illness subject to hospitalization, the department shall 10903
not transfer the inmate to a psychiatric hospital but shall 10904
continue to confine the inmate in the same state correctional 10905
institution or in another state correctional institution that 10906
the department considers appropriate. If the independent 10907
decision-maker finds clear and convincing evidence that the 10908
inmate is a person with a mental illness subject to 10909
hospitalization, the decision-maker shall order that the inmate 10910

be transported to a psychiatric hospital for observation and 10911
treatment for a period of not longer than thirty days. After the 10912
hearing, the independent decision-maker shall submit to the 10913
department a written decision that states one of the findings 10914
described in division (B) (4) of this section, the evidence that 10915
the decision-maker relied on in reaching that conclusion, and, 10916
if the decision is that the inmate should be transferred, the 10917
reasons for the transfer. 10918

(C) (1) The department may transfer an inmate to a 10919
psychiatric hospital under an emergency transfer order if a 10920
determination is made that the inmate has a mental illness, 10921
presents an immediate danger to self or others, and requires 10922
hospital-level care. To qualify, the determination shall be made 10923
as follows: by the chief clinical officer of mental health 10924
services of the department or that officer's designee and either 10925
a psychiatrist or psychiatric-mental health advanced practice 10926
registered nurse employed or retained by the department or, in 10927
the absence of a psychiatrist or psychiatric-mental health 10928
advanced practice registered nurse, a psychologist employed or 10929
retained by the department ~~determines that the inmate has a~~ 10930
~~mental illness, presents an immediate danger to self or others,~~ 10931
~~and requires hospital-level care.~~ 10932

(2) The department may transfer an inmate to a psychiatric 10933
hospital under an uncontested transfer order if both of the 10934
following apply: 10935

(a) A psychiatrist or psychiatric-mental health advanced 10936
practice registered nurse employed or retained by the department 10937
determines all of the following apply: 10938

(i) The inmate has a mental illness or is a person with a 10939
mental illness subject to hospitalization. 10940

(ii) The inmate requires hospital care to address the mental illness. 10941
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(iii) The inmate has the mental capacity to make a reasoned choice regarding the inmate's transfer to a hospital. 10943
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(b) The inmate agrees to a transfer to a hospital. 10945

(3) The written notice and the hearing required under divisions (B) (1) and (2) of this section are not required for an emergency transfer or uncontested transfer under division (C) (1) or (2) of this section. 10946
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(4) After an emergency transfer under division (C) (1) of this section, the department shall hold a hearing for continued hospitalization within five working days after admission of the transferred inmate to the psychiatric hospital. The department shall hold subsequent hearings pursuant to division (F) of this section at the same intervals as required for inmate patients who are transported to a psychiatric hospital under division (B) (4) of this section. 10950
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(5) After an uncontested transfer under division (C) (2) of this section, the inmate may withdraw consent to the transfer in writing at any time. Upon the inmate's withdrawal of consent, the hospital shall discharge the inmate, or, within five working days, the department shall hold a hearing for continued hospitalization. The department shall hold subsequent hearings pursuant to division (F) of this section at the same time intervals as required for inmate patients who are transported to a psychiatric hospital under division (B) (4) of this section. 10958
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(D) (1) If an independent decision-maker, pursuant to division (B) (4) of this section, orders an inmate transported to a psychiatric hospital or if an inmate is transferred pursuant 10967
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to division (C) (1) or (2) of this section, the staff of the 10970
psychiatric hospital shall examine the inmate patient when 10971
admitted to the psychiatric hospital as soon as practicable 10972
after the inmate patient arrives at the hospital and no later 10973
than twenty-four hours after the time of arrival. The attending 10974
physician, certified nurse-midwife, clinical nurse specialist, 10975
or certified nurse practitioner responsible for the inmate 10976
patient's care shall give the inmate patient all information 10977
necessary to enable the patient to give a fully informed, 10978
intelligent, and knowing consent to the treatment the inmate 10979
patient will receive in the hospital. The attending physician or 10980
attending nurse shall tell the inmate patient the expected 10981
physical and medical consequences of any proposed treatment and 10982
shall give the inmate patient the opportunity to consult with 10983
another psychiatrist or psychiatric-mental health advanced 10984
practice registered nurse at the hospital and with the inmate 10985
advisor. 10986

(2) No inmate patient who is transported or transferred 10987
pursuant to division (B) (4) or (C) (1) or (2) of this section to 10988
a psychiatric hospital within a facility that is operated by the 10989
department of rehabilitation and correction shall be subjected 10990
to any of the following procedures: 10991

(a) Convulsive therapy; 10992

(b) Major aversive interventions; 10993

(c) Any unusually hazardous treatment procedures; 10994

(d) Psychosurgery. 10995

(E) The department of rehabilitation and correction shall 10996
ensure that an inmate patient hospitalized pursuant to this 10997
section receives or has all of the following: 10998

- (1) Receives sufficient professional care within twenty days of admission to ensure that an evaluation of the inmate patient's current status, differential diagnosis, probable prognosis, and description of the current treatment plan have been formulated and are stated on the inmate patient's official chart; 10999
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- (2) Has a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals of treatment; 11005
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- (3) Receives treatment consistent with the treatment plan; 11007
- (4) Receives periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed thirty days; 11008
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- (5) Is provided with adequate medical treatment for physical disease or injury; 11011
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- (6) Receives humane care and treatment, including, without being limited to, the following: 11013
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- (a) Access to the facilities and personnel required by the treatment plan; 11015
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- (b) A humane psychological and physical environment; 11017
- (c) The right to obtain current information concerning the treatment program, the expected outcomes of treatment, and the expectations for the inmate patient's participation in the treatment program in terms that the inmate patient reasonably can understand; 11018
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- (d) Opportunity for participation in programs designed to help the inmate patient acquire the skills needed to work toward discharge from the psychiatric hospital; 11023
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(e) The right to be free from unnecessary or excessive medication and from unnecessary restraints or isolation; 11026
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(f) All other rights afforded inmates in the custody of the department consistent with rules, policy, and procedure of the department. 11028
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(F) The department shall hold a hearing for the continued hospitalization of an inmate patient who is transported or transferred to a psychiatric hospital pursuant to division (B) (4) or (C) (1) of this section prior to the expiration of the initial thirty-day period of hospitalization. The department shall hold any subsequent hearings, if necessary, not later than ninety days after the first thirty-day hearing and then not later than each one hundred and eighty days after the immediately prior hearing. An independent decision-maker shall conduct the hearings at the psychiatric hospital in which the inmate patient is confined. The inmate patient shall be afforded all of the rights set forth in this section for the hearing prior to transfer to the psychiatric hospital. The department may not waive a hearing for continued commitment. A hearing for continued commitment is mandatory for an inmate patient transported or transferred to a psychiatric hospital pursuant to division (B) (4) or (C) (1) of this section unless the inmate patient has the capacity to make a reasoned choice to execute a waiver and waives the hearing in writing. An inmate patient who is transferred to a psychiatric hospital pursuant to an uncontested transfer under division (C) (2) of this section and who has scheduled hearings after withdrawal of consent for hospitalization may waive any of the scheduled hearings if the inmate has the capacity to make a reasoned choice and executes a written waiver of the hearing. 11031
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If upon completion of the hearing the independent 11056
decision-maker does not find by clear and convincing evidence 11057
that the inmate patient is a person with a mental illness 11058
subject to hospitalization, the independent decision-maker shall 11059
order the inmate patient's discharge from the psychiatric 11060
hospital. If the independent decision-maker finds by clear and 11061
convincing evidence that the inmate patient is a person with a 11062
mental illness subject to hospitalization, the independent 11063
decision-maker shall order that the inmate patient remain at the 11064
psychiatric hospital for continued hospitalization until the 11065
next required hearing. 11066

If at any time prior to the next required hearing for 11067
continued hospitalization, the medical director of the hospital 11068
or the attending physician, certified nurse-midwife, clinical 11069
nurse specialist, or certified nurse practitioner determines 11070
that the treatment needs of the inmate patient could be met 11071
equally well in an available and appropriate less restrictive 11072
state correctional institution or unit, the medical director ~~or,~~ 11073
attending physician, or attending nurse may discharge the inmate 11074
to that facility. 11075

(G) An inmate patient is entitled to the credits toward 11076
the reduction of the inmate patient's stated prison term 11077
pursuant to Chapters 2967. and 5120. of the Revised Code under 11078
the same terms and conditions as if the inmate patient were in 11079
any other institution of the department of rehabilitation and 11080
correction. 11081

(H) The adult parole authority may place an inmate patient 11082
on parole or under post-release control directly from a 11083
psychiatric hospital. 11084

(I) If an inmate patient who is a person with a mental 11085

illness subject to hospitalization is to be released from a 11086
psychiatric hospital because of the expiration of the inmate 11087
patient's stated prison term, the director of rehabilitation and 11088
correction or the director's designee, at least fourteen days 11089
before the expiration date, may file an affidavit under section 11090
5122.11 or 5123.71 of the Revised Code with the probate court in 11091
the county where the psychiatric hospital is located or the 11092
probate court in the county where the inmate will reside, 11093
alleging that the inmate patient is a person with a mental 11094
illness subject to court order, as defined in section 5122.01 of 11095
the Revised Code, or a person with an intellectual disability 11096
subject to institutionalization by court order, as defined in 11097
section 5123.01 of the Revised Code, whichever is applicable. 11098
The proceedings in the probate court shall be conducted pursuant 11099
to Chapter 5122. or 5123. of the Revised Code except as modified 11100
by this division. 11101

Upon the request of the inmate patient, the probate court 11102
shall grant the inmate patient an initial hearing under section 11103
5122.141 of the Revised Code or a probable cause hearing under 11104
section 5123.75 of the Revised Code before the expiration of the 11105
stated prison term. After holding a full hearing, the probate 11106
court shall make a disposition authorized by section 5122.15 or 11107
5123.76 of the Revised Code before the date of the expiration of 11108
the stated prison term. No inmate patient shall be held in the 11109
custody of the department of rehabilitation and correction past 11110
the date of the expiration of the inmate patient's stated prison 11111
term. 11112

(J) The department of rehabilitation and correction shall 11113
set standards for treatment provided to inmate patients. 11114

(K) A certificate, application, record, or report that is 11115

made in compliance with this section and that directly or 11116
indirectly identifies an inmate or former inmate whose 11117
hospitalization has been sought under this section is 11118
confidential. No person shall disclose the contents of any 11119
certificate, application, record, or report of that nature or 11120
any other psychiatric or medical record or report regarding an 11121
inmate with a mental illness unless one of the following 11122
applies: 11123

(1) The person identified, or the person's legal guardian, 11124
if any, consents to disclosure, and the chief clinical officer 11125
or designee of mental health services of the department of 11126
rehabilitation and correction determines that disclosure is in 11127
the best interests of the person. 11128

(2) Disclosure is required by a court order signed by a 11129
judge. 11130

(3) An inmate patient seeks access to the inmate patient's 11131
own psychiatric and medical records, unless access is 11132
specifically restricted in the treatment plan for clear 11133
treatment reasons. 11134

(4) Hospitals and other institutions and facilities within 11135
the department of rehabilitation and correction may exchange 11136
psychiatric records and other pertinent information with other 11137
hospitals, institutions, and facilities of the department, but 11138
the information that may be released about an inmate patient is 11139
limited to medication history, physical health status and 11140
history, summary of course of treatment in the hospital, summary 11141
of treatment needs, and a discharge summary, if any. 11142

(5) An inmate patient's family member who is involved in 11143
planning, providing, and monitoring services to the inmate 11144

patient may receive medication information, a summary of the 11145
inmate patient's diagnosis and prognosis, and a list of the 11146
services and personnel available to assist the inmate patient 11147
and family if the attending physician, certified nurse-midwife, 11148
clinical nurse specialist, or certified nurse practitioner 11149
determines that disclosure would be in the best interest of the 11150
inmate patient. No disclosure shall be made under this division 11151
unless the inmate patient is notified of the possible 11152
disclosure, receives the information to be disclosed, and does 11153
not object to the disclosure. 11154

(6) The department of rehabilitation and correction may 11155
exchange psychiatric hospitalization records, other mental 11156
health treatment records, and other pertinent information with 11157
county sheriffs' offices, hospitals, institutions, and 11158
facilities of the department of mental health and addiction 11159
services and with community mental health services providers and 11160
boards of alcohol, drug addiction, and mental health services 11161
with which the department of mental health and addiction 11162
services has a current agreement for patient care or services to 11163
ensure continuity of care. With respect to an inmate with a 11164
mental illness, disclosure under this division is limited to 11165
records regarding the inmate's medication history, physical 11166
health status and history, summary of course of treatment, 11167
summary of treatment needs, and a discharge summary, if any. No 11168
office, department, agency, provider, or board shall disclose 11169
the records and other information unless one of the following 11170
applies: 11171

(a) The inmate with a mental illness is notified of the 11172
possible disclosure and consents to the disclosure. 11173

(b) The inmate with a mental illness is notified of the 11174

possible disclosure, an attempt to gain the consent of the 11175
inmate is made, and the office, department, agency, or board 11176
documents the attempt to gain consent, the inmate's objections, 11177
if any, and the reasons for disclosure in spite of the inmate's 11178
objections. 11179

(7) Information may be disclosed to staff members 11180
designated by the director of rehabilitation and correction for 11181
the purpose of evaluating the quality, effectiveness, and 11182
efficiency of services and determining if the services meet 11183
minimum standards. 11184

The name of an inmate patient shall not be retained with 11185
the information obtained during the evaluations. 11186

(L) The director of rehabilitation and correction may 11187
adopt rules setting forth guidelines for the procedures required 11188
under divisions (B), (C) (1), and (C) (2) of this section. 11189

Sec. 5120.21. (A) The department of rehabilitation and 11190
correction shall keep in its office, accessible only to its 11191
employees, except by the consent of the department or the order 11192
of the judge of a court of record, and except as provided in 11193
division (C) of this section, a record showing the name, 11194
residence, sex, age, nativity, occupation, condition, and date 11195
of entrance or commitment of every inmate in the several 11196
institutions governed by it. The record also shall include the 11197
date, cause, and terms of discharge and the condition of such 11198
person at the time of leaving, a record of all transfers from 11199
one institution to another, and, if such inmate is dead, the 11200
date and cause of death. These and other facts that the 11201
department requires shall be furnished by the managing officer 11202
of each institution within ten days after the commitment, 11203
entrance, death, or discharge of an inmate. 11204

(B) In case of an accident or injury or peculiar death of an inmate, the managing officer shall make a special report to the department within twenty-four hours thereafter, giving the circumstances as fully as possible.

(C) (1) As used in this division, "medical record" means any document or combination of documents that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(2) A separate medical record of every inmate in an institution governed by the department shall be compiled, maintained, and kept apart from and independently of any other record pertaining to the inmate. Upon the signed written request of the inmate to whom the record pertains together with the written request of a person the inmate designates who is either a licensed attorney at law or a licensed physician~~designated by the inmate~~, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner, the department shall make the inmate's medical record available to the designated attorney~~or~~, physician, or nurse. The record may be inspected or copied by the inmate's designated attorney~~or~~, physician, or nurse. The department may establish a reasonable fee for the copying of any medical record. If a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner concludes that presentation of all or any part of the medical record directly to the inmate will result in serious medical harm to the inmate, the physician or nurse shall so indicate on the medical record. An inmate's medical record shall be made available to a physician~~or to an~~, certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, or attorney designated in writing by the inmate not more than once

every twelve months. 11236

(D) Except as otherwise provided by a law of this state or 11237
the United States, the department and the officers of its 11238
institutions shall keep confidential and accessible only to its 11239
employees, except by the consent of the department or the order 11240
of a judge of a court of record, all of the following: 11241

(1) Architectural, engineering, or construction diagrams, 11242
drawings, or plans of a correctional institution; 11243

(2) Plans for hostage negotiation, for disturbance 11244
control, for the control and location of keys, and for dealing 11245
with escapes; 11246

(3) Statements made by inmate informants; 11247

(4) Records that are maintained by the department of youth 11248
services, that pertain to children in its custody, and that are 11249
released to the department of rehabilitation and correction by 11250
the department of youth services pursuant to section 5139.05 of 11251
the Revised Code; 11252

(5) Victim impact statements and information provided by 11253
victims of crimes that the department considers when determining 11254
the security level assignment, program participation, and 11255
release eligibility of inmates; 11256

(6) Information and data of any kind or medium pertaining 11257
to groups that pose a security threat; 11258

(7) Conversations recorded from the monitored inmate 11259
telephones that involve nonprivileged communications. 11260

(E) Except as otherwise provided by a law of this state or 11261
the United States, the department of rehabilitation and 11262
correction may release inmate records to the department of youth 11263

services or a court of record, and the department of youth 11264
services or the court of record may use those records for the 11265
limited purpose of carrying out the duties of the department of 11266
youth services or the court of record. Inmate records released 11267
by the department of rehabilitation and correction to the 11268
department of youth services or a court of record shall remain 11269
confidential and shall not be considered public records as 11270
defined in section 149.43 of the Revised Code. 11271

(F) Except as otherwise provided in division (C) of this 11272
section, records of inmates committed to the department of 11273
rehabilitation and correction as well as records of persons 11274
under the supervision of the adult parole authority shall not be 11275
considered public records as defined in section 149.43 of the 11276
Revised Code. 11277

Sec. 5145.22. (A) ~~The chief~~ A physician, clinical nurse 11278
specialist, or certified nurse practitioner who is designated by 11279
the department of rehabilitation and correction shall keep a 11280
correct record of vital statistics of the penitentiary, 11281
containing the name, nationality or race, weight, stature, 11282
former occupation, and family history of each prisoner, a 11283
statement of the condition of the heart, lungs, and other 11284
leading organs, rate of the pulse and respiration, measurement 11285
of the chest and abdomen, condition of the inguinal canal, and 11286
the arch of the foot, and any existing disease, deformity, or 11287
other disability, acquired or inherited. ~~The chief~~ physician or 11288
nurse designated by the department shall perform such other 11289
duties in the line of ~~his~~ the physician's or nurse's profession 11290
as the department ~~of rehabilitation and correction~~ requires. 11291

(B) ~~The chief~~ physician or nurse designated under division 11292
(A) of this section shall keep a separate medical record of each 11293

prisoner as provided in division (C) of section 5120.21 of the Revised Code. 11294
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Sec. 5502.522. (A) There is hereby created the statewide emergency alert program to aid in the identification and location of any individual who has a mental impairment, has autism spectrum disorder or another developmental disability, or is sixty-five years of age or older, who is or is believed to be a temporary or permanent resident of this state, is at a location that cannot be determined by an individual familiar with the missing individual, and is incapable of returning to the missing individual's residence without assistance, and whose disappearance, as determined by a law enforcement agency, poses a credible threat of immediate danger of serious bodily harm or death to the missing individual. The program shall be a coordinated effort among the governor's office, the department of public safety, the attorney general, law enforcement agencies, the state's public and commercial television and radio broadcasters, and others as determined necessary by the governor. No name shall be given to the program created under this division that conflicts with any alert code standards that are required by federal law and that govern the naming of emergency alert programs. 11296
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(B) The statewide emergency alert program shall not be implemented unless all of the following activation criteria are met: 11316
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(1) The local investigating law enforcement agency confirms that the individual is missing. 11319
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(2) The individual meets at least one of the following criteria: 11321
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(a) Is sixty-five years of age or older;	11323
(b) Has a mental impairment;	11324
(c) Has either autism spectrum disorder or another developmental disability.	11325 11326
(3) The disappearance of the individual poses a credible threat of immediate danger of serious bodily harm or death to the individual.	11327 11328 11329
(4) There is sufficient descriptive information about the individual and the circumstances surrounding the individual's disappearance to indicate that activation of the alert will help locate the individual.	11330 11331 11332 11333
(C) Nothing in division (B) of this section prevents the activation of a local or regional emergency alert program that may impose different criteria for the activation of a local or regional plan.	11334 11335 11336 11337
(D) Any radio broadcast station, television broadcast station, or cable system participating in the statewide emergency alert program or in any local or regional emergency alert program, and any director, officer, employee, or agent of any station or system participating in either type of alert program, shall not be liable to any person for damages for any loss allegedly caused by or resulting from the station's or system's broadcast or cablecast of, or failure to broadcast or cablecast, any information pursuant to the statewide emergency alert program or the local or regional emergency alert program.	11338 11339 11340 11341 11342 11343 11344 11345 11346 11347
(E) A local investigating law enforcement agency shall not be required to notify the statewide emergency alert program that the law enforcement agency has received information that meets the activation criteria set forth in division (B) of this	11348 11349 11350 11351

section during the first twenty-four hours after the law 11352
enforcement agency receives the information. 11353

(F) Nothing in this section shall be construed to 11354
authorize the use of the federal emergency alert system unless 11355
otherwise authorized by federal law. 11356

(G) As used in this section: 11357

(1) "Autism spectrum disorder" has the same meaning as in 11358
section 1751.84 of the Revised Code. 11359

(2) "Cable system" has the same meaning as in section 11360
2913.04 of the Revised Code. 11361

(3) "Developmental disability" has the same meaning as in 11362
section 5123.01 of the Revised Code. 11363

(4) "Law enforcement agency" includes, but is not limited 11364
to, a county sheriff's office, the office of a village marshal, 11365
a police department of a municipal corporation, a police force 11366
of a regional transit authority, a police force of a 11367
metropolitan housing authority, the state highway patrol, a 11368
state university law enforcement agency, the office of a 11369
township police constable, and the police department of a 11370
township or joint police district. 11371

(5) "Mental impairment" means a substantial disorder of 11372
thought, mood, perception, orientation, or memory that grossly 11373
impairs judgment, behavior, or ability to live independently or 11374
provide self-care as certified by one of the following: a 11375
licensed physician, including a physician who is a 11376
psychiatrist; a licensed psychiatric-mental health advanced 11377
practice registered nurse, as defined in section 5122.01 of the 11378
Revised Code; or a licensed psychologist. 11379

Sec. 5739.01. As used in this chapter:	11380
(A) "Person" includes individuals, receivers, assignees,	11381
trustees in bankruptcy, estates, firms, partnerships,	11382
associations, joint-stock companies, joint ventures, clubs,	11383
societies, corporations, the state and its political	11384
subdivisions, and combinations of individuals of any form.	11385
(B) "Sale" and "selling" include all of the following	11386
transactions for a consideration in any manner, whether	11387
absolutely or conditionally, whether for a price or rental, in	11388
money or by exchange, and by any means whatsoever:	11389
(1) All transactions by which title or possession, or	11390
both, of tangible personal property, is or is to be transferred,	11391
or a license to use or consume tangible personal property is or	11392
is to be granted;	11393
(2) All transactions by which lodging by a hotel is or is	11394
to be furnished to transient guests;	11395
(3) All transactions by which:	11396
(a) An item of tangible personal property is or is to be	11397
repaired, except property, the purchase of which would not be	11398
subject to the tax imposed by section 5739.02 of the Revised	11399
Code;	11400
(b) An item of tangible personal property is or is to be	11401
installed, except property, the purchase of which would not be	11402
subject to the tax imposed by section 5739.02 of the Revised	11403
Code or property that is or is to be incorporated into and will	11404
become a part of a production, transmission, transportation, or	11405
distribution system for the delivery of a public utility	11406
service;	11407

- (c) The service of washing, cleaning, waxing, polishing, 11408
or painting a motor vehicle is or is to be furnished; 11409
- (d) Laundry and dry cleaning services are or are to be 11410
provided; 11411
- (e) Automatic data processing, computer services, or 11412
electronic information services are or are to be provided for 11413
use in business when the true object of the transaction is the 11414
receipt by the consumer of automatic data processing, computer 11415
services, or electronic information services rather than the 11416
receipt of personal or professional services to which automatic 11417
data processing, computer services, or electronic information 11418
services are incidental or supplemental. Notwithstanding any 11419
other provision of this chapter, such transactions that occur 11420
between members of an affiliated group are not sales. An 11421
"affiliated group" means two or more persons related in such a 11422
way that one person owns or controls the business operation of 11423
another member of the group. In the case of corporations with 11424
stock, one corporation owns or controls another if it owns more 11425
than fifty per cent of the other corporation's common stock with 11426
voting rights. 11427
- (f) Telecommunications service, including prepaid calling 11428
service, prepaid wireless calling service, or ancillary service, 11429
is or is to be provided, but not including coin-operated 11430
telephone service; 11431
- (g) Landscaping and lawn care service is or is to be 11432
provided; 11433
- (h) Private investigation and security service is or is to 11434
be provided; 11435
- (i) Information services or tangible personal property is 11436

provided or ordered by means of a nine hundred telephone call; 11437

(j) Building maintenance and janitorial service is or is 11438
to be provided; 11439

(k) Exterminating service is or is to be provided; 11440

(l) Physical fitness facility service is or is to be 11441
provided; 11442

(m) Recreation and sports club service is or is to be 11443
provided; 11444

(n) Satellite broadcasting service is or is to be 11445
provided; 11446

(o) Personal care service is or is to be provided to an 11447
individual. As used in this division, "personal care service" 11448
includes skin care, the application of cosmetics, manicuring, 11449
pedicuring, hair removal, tattooing, body piercing, tanning, 11450
massage, and other similar services. "Personal care service" 11451
does not include a service provided by or on the order of a 11452
licensed physician ~~or licensed, certified nurse-midwife,~~ 11453
clinical nurse specialist, certified nurse practitioner, or 11454
chiropractor, or the cutting, coloring, or styling of an 11455
individual's hair. 11456

(p) The transportation of persons by motor vehicle or 11457
aircraft is or is to be provided, when the transportation is 11458
entirely within this state, except for transportation provided 11459
by an ambulance service, by a transit bus, as defined in section 11460
5735.01 of the Revised Code, and transportation provided by a 11461
citizen of the United States holding a certificate of public 11462
convenience and necessity issued under 49 U.S.C. 41102; 11463

(q) Motor vehicle towing service is or is to be provided. 11464

As used in this division, "motor vehicle towing service" means 11465
the towing or conveyance of a wrecked, disabled, or illegally 11466
parked motor vehicle. 11467

(r) Snow removal service is or is to be provided. As used 11468
in this division, "snow removal service" means the removal of 11469
snow by any mechanized means, but does not include the providing 11470
of such service by a person that has less than five thousand 11471
dollars in sales of such service during the calendar year. 11472

(s) Electronic publishing service is or is to be provided 11473
to a consumer for use in business, except that such transactions 11474
occurring between members of an affiliated group, as defined in 11475
division (B) (3) (e) of this section, are not sales. 11476

(4) All transactions by which printed, imprinted, 11477
overprinted, lithographic, multilithic, blueprinted, 11478
photostatic, or other productions or reproductions of written or 11479
graphic matter are or are to be furnished or transferred; 11480

(5) The production or fabrication of tangible personal 11481
property for a consideration for consumers who furnish either 11482
directly or indirectly the materials used in the production of 11483
fabrication work; and include the furnishing, preparing, or 11484
serving for a consideration of any tangible personal property 11485
consumed on the premises of the person furnishing, preparing, or 11486
serving such tangible personal property. Except as provided in 11487
section 5739.03 of the Revised Code, a construction contract 11488
pursuant to which tangible personal property is or is to be 11489
incorporated into a structure or improvement on and becoming a 11490
part of real property is not a sale of such tangible personal 11491
property. The construction contractor is the consumer of such 11492
tangible personal property, provided that the sale and 11493
installation of carpeting, the sale and installation of 11494

agricultural land tile, the sale and erection or installation of 11495
portable grain bins, or the provision of landscaping and lawn 11496
care service and the transfer of property as part of such 11497
service is never a construction contract. 11498

As used in division (B) (5) of this section: 11499

(a) "Agricultural land tile" means fired clay or concrete 11500
tile, or flexible or rigid perforated plastic pipe or tubing, 11501
incorporated or to be incorporated into a subsurface drainage 11502
system appurtenant to land used or to be used primarily in 11503
production by farming, agriculture, horticulture, or 11504
floriculture. The term does not include such materials when they 11505
are or are to be incorporated into a drainage system appurtenant 11506
to a building or structure even if the building or structure is 11507
used or to be used in such production. 11508

(b) "Portable grain bin" means a structure that is used or 11509
to be used by a person engaged in farming or agriculture to 11510
shelter the person's grain and that is designed to be 11511
disassembled without significant damage to its component parts. 11512

(6) All transactions in which all of the shares of stock 11513
of a closely held corporation are transferred, or an ownership 11514
interest in a pass-through entity, as defined in section 5733.04 11515
of the Revised Code, is transferred, if the corporation or pass- 11516
through entity is not engaging in business and its entire assets 11517
consist of boats, planes, motor vehicles, or other tangible 11518
personal property operated primarily for the use and enjoyment 11519
of the shareholders or owners; 11520

(7) All transactions in which a warranty, maintenance or 11521
service contract, or similar agreement by which the vendor of 11522
the warranty, contract, or agreement agrees to repair or 11523

maintain the tangible personal property of the consumer is or is 11524
to be provided; 11525

(8) The transfer of copyrighted motion picture films used 11526
solely for advertising purposes, except that the transfer of 11527
such films for exhibition purposes is not a sale; 11528

(9) All transactions by which tangible personal property 11529
is or is to be stored, except such property that the consumer of 11530
the storage holds for sale in the regular course of business; 11531

(10) All transactions in which "guaranteed auto 11532
protection" is provided whereby a person promises to pay to the 11533
consumer the difference between the amount the consumer receives 11534
from motor vehicle insurance and the amount the consumer owes to 11535
a person holding title to or a lien on the consumer's motor 11536
vehicle in the event the consumer's motor vehicle suffers a 11537
total loss under the terms of the motor vehicle insurance policy 11538
or is stolen and not recovered, if the protection and its price 11539
are included in the purchase or lease agreement; 11540

(11) (a) Except as provided in division (B) (11) (b) of this 11541
section, all transactions by which health care services are paid 11542
for, reimbursed, provided, delivered, arranged for, or otherwise 11543
made available by a medicaid health insuring corporation 11544
pursuant to the corporation's contract with the state. 11545

(b) If the centers for medicare and medicaid services of 11546
the United States department of health and human services 11547
determines that the taxation of transactions described in 11548
division (B) (11) (a) of this section constitutes an impermissible 11549
health care-related tax under the "Social Security Act," section 11550
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 11551
the medicaid director shall notify the tax commissioner of that 11552

determination. Beginning with the first day of the month 11553
following that notification, the transactions described in 11554
division (B) (11) (a) of this section are not sales for the 11555
purposes of this chapter or Chapter 5741. of the Revised Code. 11556
The tax commissioner shall order that the collection of taxes 11557
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 11558
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 11559
for transactions occurring on or after that date. 11560

(12) All transactions by which a specified digital product 11561
is provided for permanent use or less than permanent use, 11562
regardless of whether continued payment is required. 11563

Except as provided in this section, "sale" and "selling" 11564
do not include transfers of interest in leased property where 11565
the original lessee and the terms of the original lease 11566
agreement remain unchanged, or professional, insurance, or 11567
personal service transactions that involve the transfer of 11568
tangible personal property as an inconsequential element, for 11569
which no separate charges are made. 11570

(C) "Vendor" means the person providing the service or by 11571
whom the transfer effected or license given by a sale is or is 11572
to be made or given and, for sales described in division (B) (3) 11573
(i) of this section, the telecommunications service vendor that 11574
provides the nine hundred telephone service; if two or more 11575
persons are engaged in business at the same place of business 11576
under a single trade name in which all collections on account of 11577
sales by each are made, such persons shall constitute a single 11578
vendor. 11579

Physicians, certified nurse-midwives, clinical nurse 11580
specialists, certified nurse practitioners, dentists, hospitals, 11581
and veterinarians who are engaged in selling tangible personal 11582

property as received from others, such as eyeglasses, 11583
mouthwashes, dentifrices, or similar articles, are vendors. 11584
Veterinarians who are engaged in transferring to others for a 11585
consideration drugs, the dispensing of which does not require an 11586
order of a licensed veterinarian ~~or~~, physician, certified 11587
nurse-midwife, clinical nurse specialist, or certified nurse 11588
practitioner under federal law, are vendors. 11589

The operator of any peer-to-peer car sharing program shall 11590
be considered to be the vendor. 11591

(D) (1) "Consumer" means the person for whom the service is 11592
provided, to whom the transfer effected or license given by a 11593
sale is or is to be made or given, to whom the service described 11594
in division (B) (3) (f) or (i) of this section is charged, or to 11595
whom the admission is granted. 11596

(2) Physicians, certified nurse-midwives, clinical nurse 11597
specialists, certified nurse practitioners, dentists, hospitals, 11598
and blood banks operated by nonprofit institutions and persons 11599
licensed to practice veterinary medicine, surgery, and dentistry 11600
are consumers of all tangible personal property and services 11601
purchased by them in connection with the practice of medicine, 11602
dentistry, the rendition of hospital or blood bank service, or 11603
the practice of veterinary medicine, surgery, and dentistry. In 11604
addition to being consumers of drugs administered by them or by 11605
their assistants according to their direction, veterinarians 11606
also are consumers of drugs that under federal law may be 11607
dispensed only by or upon the order of a licensed veterinarian 11608
~~or~~, physician, certified nurse-midwife, clinical nurse 11609
specialist, or certified nurse practitioner, when transferred by 11610
them to others for a consideration to provide treatment to 11611
animals as directed by the veterinarian. 11612

(3) A person who performs a facility management, or 11613
similar service contract for a contractee is a consumer of all 11614
tangible personal property and services purchased for use in 11615
connection with the performance of such contract, regardless of 11616
whether title to any such property vests in the contractee. The 11617
purchase of such property and services is not subject to the 11618
exception for resale under division (E) of this section. 11619

(4) (a) In the case of a person who purchases printed 11620
matter for the purpose of distributing it or having it 11621
distributed to the public or to a designated segment of the 11622
public, free of charge, that person is the consumer of that 11623
printed matter, and the purchase of that printed matter for that 11624
purpose is a sale. 11625

(b) In the case of a person who produces, rather than 11626
purchases, printed matter for the purpose of distributing it or 11627
having it distributed to the public or to a designated segment 11628
of the public, free of charge, that person is the consumer of 11629
all tangible personal property and services purchased for use or 11630
consumption in the production of that printed matter. That 11631
person is not entitled to claim exemption under division (B) (42) 11632
(f) of section 5739.02 of the Revised Code for any material 11633
incorporated into the printed matter or any equipment, supplies, 11634
or services primarily used to produce the printed matter. 11635

(c) The distribution of printed matter to the public or to 11636
a designated segment of the public, free of charge, is not a 11637
sale to the members of the public to whom the printed matter is 11638
distributed or to any persons who purchase space in the printed 11639
matter for advertising or other purposes. 11640

(5) A person who makes sales of any of the services listed 11641
in division (B) (3) of this section is the consumer of any 11642

tangible personal property used in performing the service. The 11643
purchase of that property is not subject to the resale exception 11644
under division (E) of this section. 11645

(6) A person who engages in highway transportation for 11646
hire is the consumer of all packaging materials purchased by 11647
that person and used in performing the service, except for 11648
packaging materials sold by such person in a transaction 11649
separate from the service. 11650

(7) In the case of a transaction for health care services 11651
under division (B)(11) of this section, a medicaid health 11652
insuring corporation is the consumer of such services. The 11653
purchase of such services by a medicaid health insuring 11654
corporation is not subject to the exception for resale under 11655
division (E) of this section or to the exemptions provided under 11656
divisions (B)(12), (18), (19), and (22) of section 5739.02 of 11657
the Revised Code. 11658

(E) "Retail sale" and "sales at retail" include all sales, 11659
except those in which the purpose of the consumer is to resell 11660
the thing transferred or benefit of the service provided, by a 11661
person engaging in business, in the form in which the same is, 11662
or is to be, received by the person. 11663

(F) "Business" includes any activity engaged in by any 11664
person with the object of gain, benefit, or advantage, either 11665
direct or indirect. "Business" does not include the activity of 11666
a person in managing and investing the person's own funds. 11667

(G) "Engaging in business" means commencing, conducting, 11668
or continuing in business, and liquidating a business when the 11669
liquidator thereof holds itself out to the public as conducting 11670
such business. Making a casual sale is not engaging in business. 11671

(H) (1) (a) "Price," except as provided in divisions (H) (2), 11672
(3), and (4) of this section, means the total amount of 11673
consideration, including cash, credit, property, and services, 11674
for which tangible personal property or services are sold, 11675
leased, or rented, valued in money, whether received in money or 11676
otherwise, without any deduction for any of the following: 11677

(i) The vendor's cost of the property sold; 11678

(ii) The cost of materials used, labor or service costs, 11679
interest, losses, all costs of transportation to the vendor, all 11680
taxes imposed on the vendor, including the tax imposed under 11681
Chapter 5751. of the Revised Code, and any other expense of the 11682
vendor; 11683

(iii) Charges by the vendor for any services necessary to 11684
complete the sale; 11685

(iv) Delivery charges. As used in this division, "delivery 11686
charges" means charges by the vendor for preparation and 11687
delivery to a location designated by the consumer of tangible 11688
personal property or a service, including transportation, 11689
shipping, postage, handling, crating, and packing. 11690

(v) Installation charges; 11691

(vi) Credit for any trade-in. 11692

(b) "Price" includes consideration received by the vendor 11693
from a third party, if the vendor actually receives the 11694
consideration from a party other than the consumer, and the 11695
consideration is directly related to a price reduction or 11696
discount on the sale; the vendor has an obligation to pass the 11697
price reduction or discount through to the consumer; the amount 11698
of the consideration attributable to the sale is fixed and 11699
determinable by the vendor at the time of the sale of the item 11700

to the consumer; and one of the following criteria is met: 11701

(i) The consumer presents a coupon, certificate, or other 11702
document to the vendor to claim a price reduction or discount 11703
where the coupon, certificate, or document is authorized, 11704
distributed, or granted by a third party with the understanding 11705
that the third party will reimburse any vendor to whom the 11706
coupon, certificate, or document is presented; 11707

(ii) The consumer identifies the consumer's self to the 11708
seller as a member of a group or organization entitled to a 11709
price reduction or discount. A preferred customer card that is 11710
available to any patron does not constitute membership in such a 11711
group or organization. 11712

(iii) The price reduction or discount is identified as a 11713
third party price reduction or discount on the invoice received 11714
by the consumer, or on a coupon, certificate, or other document 11715
presented by the consumer. 11716

(c) "Price" does not include any of the following: 11717

(i) Discounts, including cash, term, or coupons that are 11718
not reimbursed by a third party that are allowed by a vendor and 11719
taken by a consumer on a sale; 11720

(ii) Interest, financing, and carrying charges from credit 11721
extended on the sale of tangible personal property or services, 11722
if the amount is separately stated on the invoice, bill of sale, 11723
or similar document given to the purchaser; 11724

(iii) Any taxes legally imposed directly on the consumer 11725
that are separately stated on the invoice, bill of sale, or 11726
similar document given to the consumer. For the purpose of this 11727
division, the tax imposed under Chapter 5751. of the Revised 11728
Code is not a tax directly on the consumer, even if the tax or a 11729

portion thereof is separately stated. 11730

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 11731
this section, any discount allowed by an automobile manufacturer 11732
to its employee, or to the employee of a supplier, on the 11733
purchase of a new motor vehicle from a new motor vehicle dealer 11734
in this state. 11735

(v) The dollar value of a gift card that is not sold by a 11736
vendor or purchased by a consumer and that is redeemed by the 11737
consumer in purchasing tangible personal property or services if 11738
the vendor is not reimbursed and does not receive compensation 11739
from a third party to cover all or part of the gift card value. 11740
For the purposes of this division, a gift card is not sold by a 11741
vendor or purchased by a consumer if it is distributed pursuant 11742
to an awards, loyalty, or promotional program. Past and present 11743
purchases of tangible personal property or services by the 11744
consumer shall not be treated as consideration exchanged for a 11745
gift card. 11746

(2) In the case of a sale of any new motor vehicle by a 11747
new motor vehicle dealer, as defined in section 4517.01 of the 11748
Revised Code, in which another motor vehicle is accepted by the 11749
dealer as part of the consideration received, "price" has the 11750
same meaning as in division (H) (1) of this section, reduced by 11751
the credit afforded the consumer by the dealer for the motor 11752
vehicle received in trade. 11753

(3) In the case of a sale of any watercraft or outboard 11754
motor by a watercraft dealer licensed in accordance with section 11755
1547.543 of the Revised Code, in which another watercraft, 11756
watercraft and trailer, or outboard motor is accepted by the 11757
dealer as part of the consideration received, "price" has the 11758
same meaning as in division (H) (1) of this section, reduced by 11759

the credit afforded the consumer by the dealer for the 11760
watercraft, watercraft and trailer, or outboard motor received 11761
in trade. As used in this division, "watercraft" includes an 11762
outdrive unit attached to the watercraft. 11763

(4) In the case of transactions for health care services 11764
under division (B)(11) of this section, "price" means the amount 11765
of managed care premiums received each month by a medicaid 11766
health insuring corporation. 11767

(I) "Receipts" means the total amount of the prices of the 11768
sales of vendors, provided that the dollar value of gift cards 11769
distributed pursuant to an awards, loyalty, or promotional 11770
program, and cash discounts allowed and taken on sales at the 11771
time they are consummated are not included, minus any amount 11772
deducted as a bad debt pursuant to section 5739.121 of the 11773
Revised Code. "Receipts" does not include the sale price of 11774
property returned or services rejected by consumers when the 11775
full sale price and tax are refunded either in cash or by 11776
credit. 11777

(J) "Place of business" means any location at which a 11778
person engages in business. 11779

(K) "Premises" includes any real property or portion 11780
thereof upon which any person engages in selling tangible 11781
personal property at retail or making retail sales and also 11782
includes any real property or portion thereof designated for, or 11783
devoted to, use in conjunction with the business engaged in by 11784
such person. 11785

(L) "Casual sale" means a sale of an item of tangible 11786
personal property that was obtained by the person making the 11787
sale, through purchase or otherwise, for the person's own use 11788

and was previously subject to any state's taxing jurisdiction on 11789
its sale or use, and includes such items acquired for the 11790
seller's use that are sold by an auctioneer employed directly by 11791
the person for such purpose, provided the location of such sales 11792
is not the auctioneer's permanent place of business. As used in 11793
this division, "permanent place of business" includes any 11794
location where such auctioneer has conducted more than two 11795
auctions during the year. 11796

(M) "Hotel" means every establishment kept, used, 11797
maintained, advertised, or held out to the public to be a place 11798
where sleeping accommodations are offered to guests, in which 11799
five or more rooms are used for the accommodation of such 11800
guests, whether the rooms are in one or several structures, 11801
except as otherwise provided in section 5739.091 of the Revised 11802
Code. 11803

(N) "Transient guests" means persons occupying a room or 11804
rooms for sleeping accommodations for less than thirty 11805
consecutive days. 11806

(O) "Making retail sales" means the effecting of 11807
transactions wherein one party is obligated to pay the price and 11808
the other party is obligated to provide a service or to transfer 11809
title to or possession of the item sold. "Making retail sales" 11810
does not include the preliminary acts of promoting or soliciting 11811
the retail sales, other than the distribution of printed matter 11812
which displays or describes and prices the item offered for 11813
sale, nor does it include delivery of a predetermined quantity 11814
of tangible personal property or transportation of property or 11815
personnel to or from a place where a service is performed. 11816

(P) "Used directly in the rendition of a public utility 11817
service" means that property that is to be incorporated into and 11818

will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in the rendition of a public utility service. In this definition, "public utility" includes a citizen of the United States holding, and required to hold, a certificate of public convenience and necessity issued under 49 U.S.C. 41102.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with

respect to a county that is a transit authority, the fiscal 11849
officer of the county transit board if one is appointed pursuant 11850
to section 306.03 of the Revised Code or the county auditor if 11851
the board of county commissioners operates the county transit 11852
system. 11853

(U) "Transit authority" means a regional transit authority 11854
created pursuant to section 306.31 of the Revised Code or a 11855
county in which a county transit system is created pursuant to 11856
section 306.01 of the Revised Code. For the purposes of this 11857
chapter, a transit authority must extend to at least the entire 11858
area of a single county. A transit authority that includes 11859
territory in more than one county must include all the area of 11860
the most populous county that is a part of such transit 11861
authority. County population shall be measured by the most 11862
recent census taken by the United States census bureau. 11863

(V) "Legislative authority" means, with respect to a 11864
regional transit authority, the board of trustees thereof, and 11865
with respect to a county that is a transit authority, the board 11866
of county commissioners. 11867

(W) "Territory of the transit authority" means all of the 11868
area included within the territorial boundaries of a transit 11869
authority as they from time to time exist. Such territorial 11870
boundaries must at all times include all the area of a single 11871
county or all the area of the most populous county that is a 11872
part of such transit authority. County population shall be 11873
measured by the most recent census taken by the United States 11874
census bureau. 11875

(X) "Providing a service" means providing or furnishing 11876
anything described in division (B) (3) of this section for 11877
consideration. 11878

(Y) (1) (a) "Automatic data processing" means processing of 11879
others' data, including keypunching or similar data entry 11880
services together with verification thereof, or providing access 11881
to computer equipment for the purpose of processing data. 11882

(b) "Computer services" means providing services 11883
consisting of specifying computer hardware configurations and 11884
evaluating technical processing characteristics, computer 11885
programming, and training of computer programmers and operators, 11886
provided in conjunction with and to support the sale, lease, or 11887
operation of taxable computer equipment or systems. 11888

(c) "Electronic information services" means providing 11889
access to computer equipment by means of telecommunications 11890
equipment for the purpose of either of the following: 11891

(i) Examining or acquiring data stored in or accessible to 11892
the computer equipment; 11893

(ii) Placing data into the computer equipment to be 11894
retrieved by designated recipients with access to the computer 11895
equipment. 11896

"Electronic information services" does not include 11897
electronic publishing. 11898

(d) "Automatic data processing, computer services, or 11899
electronic information services" shall not include personal or 11900
professional services. 11901

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 11902
section, "personal and professional services" means all services 11903
other than automatic data processing, computer services, or 11904
electronic information services, including but not limited to: 11905

(a) Accounting and legal services such as advice on tax 11906

matters, asset management, budgetary matters, quality control,	11907
information security, and auditing and any other situation where	11908
the service provider receives data or information and studies,	11909
alters, analyzes, interprets, or adjusts such material;	11910
(b) Analyzing business policies and procedures;	11911
(c) Identifying management information needs;	11912
(d) Feasibility studies, including economic and technical	11913
analysis of existing or potential computer hardware or software	11914
needs and alternatives;	11915
(e) Designing policies, procedures, and custom software	11916
for collecting business information, and determining how data	11917
should be summarized, sequenced, formatted, processed,	11918
controlled, and reported so that it will be meaningful to	11919
management;	11920
(f) Developing policies and procedures that document how	11921
business events and transactions are to be authorized, executed,	11922
and controlled;	11923
(g) Testing of business procedures;	11924
(h) Training personnel in business procedure applications;	11925
(i) Providing credit information to users of such	11926
information by a consumer reporting agency, as defined in the	11927
"Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15	11928
U.S.C. 1681a(f), or as hereafter amended, including but not	11929
limited to gathering, organizing, analyzing, recording, and	11930
furnishing such information by any oral, written, graphic, or	11931
electronic medium;	11932
(j) Providing debt collection services by any oral,	11933
written, graphic, or electronic means;	11934

(k) Providing digital advertising services;	11935
(l) Providing services to electronically file any federal, state, or local individual income tax return, report, or other related document or schedule with a federal, state, or local government entity or to electronically remit a payment of any such individual income tax to such an entity. For the purpose of this division, "individual income tax" does not include federal, state, or local taxes withheld by an employer from an employee's compensation.	11936 11937 11938 11939 11940 11941 11942 11943
The services listed in divisions (Y) (2) (a) to (l) of this section are not automatic data processing or computer services.	11944 11945
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	11946 11947 11948
(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;	11949 11950 11951 11952 11953
(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z) (1) of this section;	11954 11955 11956 11957 11958 11959 11960
(3) A person who leases a motor vehicle to and operates it for a person described by division (Z) (1) or (2) of this section.	11961 11962 11963

(AA) (1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including directory advertising;

(e) Billing and collection services provided to third parties;

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to,

cable service, as defined in 47 U.S.C. 522(6), and audio and	11993
video programming services delivered by commercial mobile radio	11994
service providers, as defined in 47 C.F.R. 20.3;	11995
(h) Ancillary service;	11996
(i) Digital products delivered electronically, including	11997
software, music, video, reading materials, or ring tones.	11998
(2) "Ancillary service" means a service that is associated	11999
with or incidental to the provision of telecommunications	12000
service, including conference bridging service, detailed	12001
telecommunications billing service, directory assistance,	12002
vertical service, and voice mail service. As used in this	12003
division:	12004
(a) "Conference bridging service" means an ancillary	12005
service that links two or more participants of an audio or video	12006
conference call, including providing a telephone number.	12007
"Conference bridging service" does not include	12008
telecommunications services used to reach the conference bridge.	12009
(b) "Detailed telecommunications billing service" means an	12010
ancillary service of separately stating information pertaining	12011
to individual calls on a customer's billing statement.	12012
(c) "Directory assistance" means an ancillary service of	12013
providing telephone number or address information.	12014
(d) "Vertical service" means an ancillary service that is	12015
offered in connection with one or more telecommunications	12016
services, which offers advanced calling features that allow	12017
customers to identify callers and manage multiple calls and call	12018
connections, including conference bridging service.	12019
(e) "Voice mail service" means an ancillary service that	12020

enables the customer to store, send, or receive recorded 12021
messages. "Voice mail service" does not include any vertical 12022
services that the customer may be required to have in order to 12023
utilize the voice mail service. 12024

(3) "900 service" means an inbound toll telecommunications 12025
service purchased by a subscriber that allows the subscriber's 12026
customers to call in to the subscriber's prerecorded 12027
announcement or live service, and which is typically marketed 12028
under the name "900 service" and any subsequent numbers 12029
designated by the federal communications commission. "900 12030
service" does not include the charge for collection services 12031
provided by the seller of the telecommunications service to the 12032
subscriber, or services or products sold by the subscriber to 12033
the subscriber's customer. 12034

(4) "Prepaid calling service" means the right to access 12035
exclusively telecommunications services, which must be paid for 12036
in advance and which enables the origination of calls using an 12037
access number or authorization code, whether manually or 12038
electronically dialed, and that is sold in predetermined units 12039
or dollars of which the number declines with use in a known 12040
amount. 12041

(5) "Prepaid wireless calling service" means a 12042
telecommunications service that provides the right to utilize 12043
mobile telecommunications service as well as other non- 12044
telecommunications services, including the download of digital 12045
products delivered electronically, and content and ancillary 12046
services, that must be paid for in advance and that is sold in 12047
predetermined units or dollars of which the number declines with 12048
use in a known amount. 12049

(6) "Value-added non-voice data service" means a 12050

telecommunications service in which computer processing 12051
applications are used to act on the form, content, code, or 12052
protocol of the information or data primarily for a purpose 12053
other than transmission, conveyance, or routing. 12054

(7) "Coin-operated telephone service" means a 12055
telecommunications service paid for by inserting money into a 12056
telephone accepting direct deposits of money to operate. 12057

(8) "Customer" has the same meaning as in section 5739.034 12058
of the Revised Code. 12059

(BB) "Laundry and dry cleaning services" means removing 12060
soil or dirt from towels, linens, articles of clothing, or other 12061
fabric items that belong to others and supplying towels, linens, 12062
articles of clothing, or other fabric items. "Laundry and dry 12063
cleaning services" does not include the provision of self- 12064
service facilities for use by consumers to remove soil or dirt 12065
from towels, linens, articles of clothing, or other fabric 12066
items. 12067

(CC) "Magazines distributed as controlled circulation 12068
publications" means magazines containing at least twenty-four 12069
pages, at least twenty-five per cent editorial content, issued 12070
at regular intervals four or more times a year, and circulated 12071
without charge to the recipient, provided that such magazines 12072
are not owned or controlled by individuals or business concerns 12073
which conduct such publications as an auxiliary to, and 12074
essentially for the advancement of the main business or calling 12075
of, those who own or control them. 12076

(DD) "Landscaping and lawn care service" means the 12077
services of planting, seeding, sodding, removing, cutting, 12078
trimming, pruning, mulching, aerating, applying chemicals, 12079

watering, fertilizing, and providing similar services to 12080
establish, promote, or control the growth of trees, shrubs, 12081
flowers, grass, ground cover, and other flora, or otherwise 12082
maintaining a lawn or landscape grown or maintained by the owner 12083
for ornamentation or other nonagricultural purpose. However, 12084
"landscaping and lawn care service" does not include the 12085
providing of such services by a person who has less than five 12086
thousand dollars in sales of such services during the calendar 12087
year. 12088

(EE) "Private investigation and security service" means 12089
the performance of any activity for which the provider of such 12090
service is required to be licensed pursuant to Chapter 4749. of 12091
the Revised Code, or would be required to be so licensed in 12092
performing such services in this state, and also includes the 12093
services of conducting polygraph examinations and of monitoring 12094
or overseeing the activities on or in, or the condition of, the 12095
consumer's home, business, or other facility by means of 12096
electronic or similar monitoring devices. "Private investigation 12097
and security service" does not include special duty services 12098
provided by off-duty police officers, deputy sheriffs, and other 12099
peace officers regularly employed by the state or a political 12100
subdivision. 12101

(FF) "Information services" means providing conversation, 12102
giving consultation or advice, playing or making a voice or 12103
other recording, making or keeping a record of the number of 12104
callers, and any other service provided to a consumer by means 12105
of a nine hundred telephone call, except when the nine hundred 12106
telephone call is the means by which the consumer makes a 12107
contribution to a recognized charity. 12108

(GG) "Research and development" means designing, creating, 12109

or formulating new or enhanced products, equipment, or 12110
manufacturing processes, and also means conducting scientific or 12111
technological inquiry and experimentation in the physical 12112
sciences with the goal of increasing scientific knowledge which 12113
may reveal the bases for new or enhanced products, equipment, or 12114
manufacturing processes. 12115

(HH) "Qualified research and development equipment" means 12116
either of the following: 12117

(1) Capitalized tangible personal property, and leased 12118
personal property that would be capitalized if purchased, used 12119
by a person primarily to perform research and development; 12120

(2) Any tangible personal property used by a megaproject 12121
operator primarily to perform research and development at the 12122
site of a megaproject that satisfies the criteria described in 12123
division (A) (11) (a) (ii) of section 122.17 of the Revised Code 12124
during the period that the megaproject operator has an agreement 12125
for such megaproject with the tax credit authority under 12126
division (D) of that section that remains in effect and has not 12127
expired or been terminated. 12128

"Qualified research and development equipment" does not 12129
include tangible personal property primarily used in testing, as 12130
defined in division (A) (4) of section 5739.011 of the Revised 12131
Code, or used for recording or storing test results, unless such 12132
property is primarily used by the consumer in testing the 12133
product, equipment, or manufacturing process being created, 12134
designed, or formulated by the consumer in the research and 12135
development activity or in recording or storing such test 12136
results. 12137

(II) "Building maintenance and janitorial service" means 12138

cleaning the interior or exterior of a building and any tangible 12139
personal property located therein or thereon, including any 12140
services incidental to such cleaning for which no separate 12141
charge is made. However, "building maintenance and janitorial 12142
service" does not include the providing of such service by a 12143
person who has less than five thousand dollars in sales of such 12144
service during the calendar year. As used in this division, 12145
"cleaning" does not include sanitation services necessary for an 12146
establishment described in 21 U.S.C. 608 to comply with rules 12147
and regulations adopted pursuant to that section. 12148

(JJ) "Exterminating service" means eradicating or 12149
attempting to eradicate vermin infestations from a building or 12150
structure, or the area surrounding a building or structure, and 12151
includes activities to inspect, detect, or prevent vermin 12152
infestation of a building or structure. 12153

(KK) "Physical fitness facility service" means all 12154
transactions by which a membership is granted, maintained, or 12155
renewed, including initiation fees, membership dues, renewal 12156
fees, monthly minimum fees, and other similar fees and dues, by 12157
a physical fitness facility such as an athletic club, health 12158
spa, or gymnasium, which entitles the member to use the facility 12159
for physical exercise. 12160

(LL) "Recreation and sports club service" means all 12161
transactions by which a membership is granted, maintained, or 12162
renewed, including initiation fees, membership dues, renewal 12163
fees, monthly minimum fees, and other similar fees and dues, by 12164
a recreation and sports club, which entitles the member to use 12165
the facilities of the organization. "Recreation and sports club" 12166
means an organization that has ownership of, or controls or 12167
leases on a continuing, long-term basis, the facilities used by 12168

its members and includes an aviation club, gun or shooting club, 12169
yacht club, card club, swimming club, tennis club, golf club, 12170
country club, riding club, amateur sports club, or similar 12171
organization. 12172

(MM) "Livestock" means farm animals commonly raised for 12173
food, food production, or other agricultural purposes, 12174
including, but not limited to, cattle, sheep, goats, swine, 12175
poultry, and captive deer. "Livestock" does not include 12176
invertebrates, amphibians, reptiles, domestic pets, animals for 12177
use in laboratories or for exhibition, or other animals not 12178
commonly raised for food or food production. 12179

(NN) "Livestock structure" means a building or structure 12180
used exclusively for the housing, raising, feeding, or 12181
sheltering of livestock, and includes feed storage or handling 12182
structures and structures for livestock waste handling. 12183

(OO) "Horticulture" means the growing, cultivation, and 12184
production of flowers, fruits, herbs, vegetables, sod, 12185
mushrooms, and nursery stock. As used in this division, "nursery 12186
stock" has the same meaning as in section 927.51 of the Revised 12187
Code. 12188

(PP) "Horticulture structure" means a building or 12189
structure used exclusively for the commercial growing, raising, 12190
or overwintering of horticultural products, and includes the 12191
area used for stocking, storing, and packing horticultural 12192
products when done in conjunction with the production of those 12193
products. 12194

(QQ) "Newspaper" means an unbound publication bearing a 12195
title or name that is regularly published, at least as 12196
frequently as biweekly, and distributed from a fixed place of 12197

business to the public in a specific geographic area, and that 12198
contains a substantial amount of news matter of international, 12199
national, or local events of interest to the general public. 12200

(RR) (1) "Feminine hygiene products" means tampons, panty 12201
liners, menstrual cups, sanitary napkins, and other similar 12202
tangible personal property designed for feminine hygiene in 12203
connection with the human menstrual cycle, but does not include 12204
grooming and hygiene products. 12205

(2) "Grooming and hygiene products" means soaps and 12206
cleaning solutions, shampoo, toothpaste, mouthwash, 12207
antiperspirants, and sun tan lotions and screens, regardless of 12208
whether any of these products are over-the-counter drugs. 12209

(3) "Over-the-counter drugs" means a drug that contains a 12210
label that identifies the product as a drug as required by 21 12211
C.F.R. 201.66, which label includes a drug facts panel or a 12212
statement of the active ingredients with a list of those 12213
ingredients contained in the compound, substance, or 12214
preparation. 12215

(SS) (1) "Lease" or "rental" means any transfer of the 12216
possession or control of tangible personal property for a fixed 12217
or indefinite term, for consideration. "Lease" or "rental" 12218
includes future options to purchase or extend, and agreements 12219
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 12220
trailers where the amount of consideration may be increased or 12221
decreased by reference to the amount realized upon the sale or 12222
disposition of the property. "Lease" or "rental" does not 12223
include: 12224

(a) A transfer of possession or control of tangible 12225
personal property under a security agreement or a deferred 12226

payment plan that requires the transfer of title upon completion 12227
of the required payments; 12228

(b) A transfer of possession or control of tangible 12229
personal property under an agreement that requires the transfer 12230
of title upon completion of required payments and payment of an 12231
option price that does not exceed the greater of one hundred 12232
dollars or one per cent of the total required payments; 12233

(c) Providing tangible personal property along with an 12234
operator for a fixed or indefinite period of time, if the 12235
operator is necessary for the property to perform as designed. 12236
For purposes of this division, the operator must do more than 12237
maintain, inspect, or set up the tangible personal property. 12238

(2) "Lease" and "rental," as defined in division (SS) of 12239
this section, shall not apply to leases or rentals that exist 12240
before June 26, 2003. 12241

(3) "Lease" and "rental" have the same meaning as in 12242
division (SS) (1) of this section regardless of whether a 12243
transaction is characterized as a lease or rental under 12244
generally accepted accounting principles, the Internal Revenue 12245
Code, Title XIII of the Revised Code, or other federal, state, 12246
or local laws. 12247

(TT) "Mobile telecommunications service" has the same 12248
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 12249
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 12250
amended, and, on and after August 1, 2003, includes related fees 12251
and ancillary services, including universal service fees, 12252
detailed billing service, directory assistance, service 12253
initiation, voice mail service, and vertical services, such as 12254
caller ID and three-way calling. 12255

(UU) "Certified service provider" has the same meaning as 12256
in section 5740.01 of the Revised Code. 12257

(VV) "Satellite broadcasting service" means the 12258
distribution or broadcasting of programming or services by 12259
satellite directly to the subscriber's receiving equipment 12260
without the use of ground receiving or distribution equipment, 12261
except the subscriber's receiving equipment or equipment used in 12262
the uplink process to the satellite, and includes all service 12263
and rental charges, premium channels or other special services, 12264
installation and repair service charges, and any other charges 12265
having any connection with the provision of the satellite 12266
broadcasting service. 12267

(WW) "Tangible personal property" means personal property 12268
that can be seen, weighed, measured, felt, or touched, or that 12269
is in any other manner perceptible to the senses. For purposes 12270
of this chapter and Chapter 5741. of the Revised Code, "tangible 12271
personal property" includes motor vehicles, electricity, water, 12272
gas, steam, and prewritten computer software. 12273

(XX) "Municipal gas utility" means a municipal corporation 12274
that owns or operates a system for the distribution of natural 12275
gas. 12276

(YY) "Computer" means an electronic device that accepts 12277
information in digital or similar form and manipulates it for a 12278
result based on a sequence of instructions. 12279

(ZZ) "Computer software" means a set of coded instructions 12280
designed to cause a computer or automatic data processing 12281
equipment to perform a task. 12282

(AAA) "Delivered electronically" means delivery of 12283
computer software from the seller to the purchaser by means 12284

other than tangible storage media. 12285

(BBB) "Prewritten computer software" means computer 12286
software, including prewritten upgrades, that is not designed 12287
and developed by the author or other creator to the 12288
specifications of a specific purchaser. The combining of two or 12289
more prewritten computer software programs or prewritten 12290
portions thereof does not cause the combination to be other than 12291
prewritten computer software. "Prewritten computer software" 12292
includes software designed and developed by the author or other 12293
creator to the specifications of a specific purchaser when it is 12294
sold to a person other than the purchaser. If a person modifies 12295
or enhances computer software of which the person is not the 12296
author or creator, the person shall be deemed to be the author 12297
or creator only of such person's modifications or enhancements. 12298
Prewritten computer software or a prewritten portion thereof 12299
that is modified or enhanced to any degree, where such 12300
modification or enhancement is designed and developed to the 12301
specifications of a specific purchaser, remains prewritten 12302
computer software; provided, however, that where there is a 12303
reasonable, separately stated charge or an invoice or other 12304
statement of the price given to the purchaser for the 12305
modification or enhancement, the modification or enhancement 12306
shall not constitute prewritten computer software. 12307

(CCC) (1) "Food" means substances, whether in liquid, 12308
concentrated, solid, frozen, dried, or dehydrated form, that are 12309
sold for ingestion or chewing by humans and are consumed for 12310
their taste or nutritional value. "Food" does not include 12311
alcoholic beverages, dietary supplements, soft drinks, or 12312
tobacco. 12313

(2) As used in division (CCC) (1) of this section: 12314

(a) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (CCC) (2) (a) (i) to (v) of this section.

(b) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(DDD) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia,

official homeopathic pharmacopoeia of the United States, or 12343
official national formulary, and supplements to them; is 12344
intended for use in the diagnosis, cure, mitigation, treatment, 12345
or prevention of disease; or is intended to affect the structure 12346
or any function of the body. 12347

(EEE) "Prescription" means an order, formula, or recipe 12348
issued in any form of oral, written, electronic, or other means 12349
of transmission by a duly licensed practitioner authorized by 12350
the laws of this state to issue a prescription. 12351

(FFF) "Durable medical equipment" means equipment, 12352
including repair and replacement parts for such equipment, that 12353
can withstand repeated use, is primarily and customarily used to 12354
serve a medical purpose, generally is not useful to a person in 12355
the absence of illness or injury, and is not worn in or on the 12356
body. "Durable medical equipment" does not include mobility 12357
enhancing equipment. 12358

(GGG) "Mobility enhancing equipment" means equipment, 12359
including repair and replacement parts for such equipment, that 12360
is primarily and customarily used to provide or increase the 12361
ability to move from one place to another and is appropriate for 12362
use either in a home or a motor vehicle, that is not generally 12363
used by persons with normal mobility, and that does not include 12364
any motor vehicle or equipment on a motor vehicle normally 12365
provided by a motor vehicle manufacturer. "Mobility enhancing 12366
equipment" does not include durable medical equipment. 12367

(HHH) "Prosthetic device" means a replacement, corrective, 12368
or supportive device, including repair and replacement parts for 12369
the device, worn on or in the human body to artificially replace 12370
a missing portion of the body, prevent or correct physical 12371
deformity or malfunction, or support a weak or deformed portion 12372

of the body. As used in this division, before July 1, 2019, 12373
"prosthetic device" does not include corrective eyeglasses, 12374
contact lenses, or dental prosthesis. On or after July 1, 2019, 12375
"prosthetic device" does not include dental prosthesis but does 12376
include corrective eyeglasses or contact lenses. 12377

(III) (1) "Fractional aircraft ownership program" means a 12378
program in which persons within an affiliated group sell and 12379
manage fractional ownership program aircraft, provided that at 12380
least one hundred airworthy aircraft are operated in the program 12381
and the program meets all of the following criteria: 12382

(a) Management services are provided by at least one 12383
program manager within an affiliated group on behalf of the 12384
fractional owners. 12385

(b) Each program aircraft is owned or possessed by at 12386
least one fractional owner. 12387

(c) Each fractional owner owns or possesses at least a 12388
one-sixteenth interest in at least one fixed-wing program 12389
aircraft. 12390

(d) A dry-lease aircraft interchange arrangement is in 12391
effect among all of the fractional owners. 12392

(e) Multi-year program agreements are in effect regarding 12393
the fractional ownership, management services, and dry-lease 12394
aircraft interchange arrangement aspects of the program. 12395

(2) As used in division (III) (1) of this section: 12396

(a) "Affiliated group" has the same meaning as in division 12397
(B) (3) (e) of this section. 12398

(b) "Fractional owner" means a person that owns or 12399
possesses at least a one-sixteenth interest in a program 12400

aircraft and has entered into the agreements described in 12401
division (III) (1) (e) of this section. 12402

(c) "Fractional ownership program aircraft" or "program 12403
aircraft" means a turbojet aircraft that is owned or possessed 12404
by a fractional owner and that has been included in a dry-lease 12405
aircraft interchange arrangement and agreement under divisions 12406
(III) (1) (d) and (e) of this section, or an aircraft a program 12407
manager owns or possesses primarily for use in a fractional 12408
aircraft ownership program. 12409

(d) "Management services" means administrative and 12410
aviation support services furnished under a fractional aircraft 12411
ownership program in accordance with a management services 12412
agreement under division (III) (1) (e) of this section, and 12413
offered by the program manager to the fractional owners, 12414
including, at a minimum, the establishment and implementation of 12415
safety guidelines; the coordination of the scheduling of the 12416
program aircraft and crews; program aircraft maintenance; 12417
program aircraft insurance; crew training for crews employed, 12418
furnished, or contracted by the program manager or the 12419
fractional owner; the satisfaction of record-keeping 12420
requirements; and the development and use of an operations 12421
manual and a maintenance manual for the fractional aircraft 12422
ownership program. 12423

(e) "Program manager" means the person that offers 12424
management services to fractional owners pursuant to a 12425
management services agreement under division (III) (1) (e) of this 12426
section. 12427

(JJJ) "Electronic publishing" means providing access to 12428
one or more of the following primarily for business customers, 12429
including the federal government or a state government or a 12430

political subdivision thereof, to conduct research: news; 12431
business, financial, legal, consumer, or credit materials; 12432
editorials, columns, reader commentary, or features; photos or 12433
images; archival or research material; legal notices, identity 12434
verification, or public records; scientific, educational, 12435
instructional, technical, professional, trade, or other literary 12436
materials; or other similar information which has been gathered 12437
and made available by the provider to the consumer in an 12438
electronic format. Providing electronic publishing includes the 12439
functions necessary for the acquisition, formatting, editing, 12440
storage, and dissemination of data or information that is the 12441
subject of a sale. 12442

(KKK) "Medicaid health insuring corporation" means a 12443
health insuring corporation that holds a certificate of 12444
authority under Chapter 1751. of the Revised Code and is under 12445
contract with the department of medicaid pursuant to section 12446
5167.10 of the Revised Code. 12447

(LLL) "Managed care premium" means any premium, 12448
capitation, or other payment a medicaid health insuring 12449
corporation receives for providing or arranging for the 12450
provision of health care services to its members or enrollees 12451
residing in this state. 12452

(MMM) "Captive deer" means deer and other cervidae that 12453
have been legally acquired, or their offspring, that are 12454
privately owned for agricultural or farming purposes. 12455

(NNN) "Gift card" means a document, card, certificate, or 12456
other record, whether tangible or intangible, that may be 12457
redeemed by a consumer for a dollar value when making a purchase 12458
of tangible personal property or services. 12459

(OOO) "Specified digital product" means an electronically transferred digital audiovisual work, digital audio work, or digital book.

As used in division (OOO) of this section:

(1) "Digital audiovisual work" means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(3) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(4) "Electronically transferred" means obtained by the purchaser by means other than tangible storage media.

(PPP) "Digital advertising services" means providing access, by means of telecommunications equipment, to computer equipment that is used to enter, upload, download, review, manipulate, store, add, or delete data for the purpose of electronically displaying, delivering, placing, or transferring promotional advertisements to potential customers about products or services or about industry or business brands.

(QQQ) "Peer-to-peer car sharing program" has the same meaning as in section 4516.01 of the Revised Code.

(RRR) "Megaproject" and "megaproject operator" have the same meanings as in section 122.17 of the Revised Code.

(SSS) (1) "Diaper" means an absorbent garment worn by

humans who are incapable of, or have difficulty, controlling 12488
their bladder or bowel movements. 12489

(2) "Children's diaper" means a diaper marketed to be worn 12490
by children. 12491

(3) "Adult diaper" means a diaper other than a children's 12492
diaper. 12493

(TTT) "Sales tax holiday" means three or more dates on 12494
which sales of all eligible tangible personal property are 12495
exempt from the taxes levied under sections 5739.02, 5739.021, 12496
5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of 12497
the Revised Code. 12498

(UUU) "Eligible tangible personal property" means any item 12499
of tangible personal property that meets both of the following 12500
requirements: 12501

(1) The price of the item does not exceed five hundred 12502
dollars; 12503

(2) The item is not a watercraft or outboard motor 12504
required to be titled pursuant to Chapter 1548. of the Revised 12505
Code, a motor vehicle, an alcoholic beverage, tobacco, a vapor 12506
product as defined in section 5743.01 of the Revised Code, or an 12507
item that contains marijuana as defined in section 3796.01 of 12508
the Revised Code. 12509

(VVV) "Alcoholic beverages" means beverages that are 12510
suitable for human consumption and contain one-half of one per 12511
cent or more of alcohol by volume. 12512

(WWW) "Tobacco" means cigarettes, cigars, chewing or pipe 12513
tobacco, or any other item that contains tobacco. 12514

Section 2. That existing sections 109.921, 124.38, 124.82, 12515

173.521, 173.542, 305.03, 313.12, 503.241, 940.09, 1347.08, 12516
1561.12, 1571.012, 1751.84, 1753.21, 2108.16, 2111.031, 2111.49, 12517
2133.25, 2135.01, 2151.33, 2151.3515, 2151.421, 2305.235, 12518
2313.14, 2317.47, 3101.05, 3105.091, 3111.12, 3119.05, 3119.54, 12519
3304.23, 3309.22, 3309.41, 3309.45, 3313.64, 3313.716, 3313.72, 12520
3319.141, 3319.143, 3321.04, 3501.382, 3701.031, 3701.046, 12521
3701.144, 3701.146, 3701.162, 3701.243, 3701.245, 3701.262, 12522
3701.47, 3701.48, 3701.50, 3701.505, 3701.5010, 3701.59, 12523
3701.74, 3701.76, 3705.30, 3705.33, 3705.35, 3707.08, 3707.10, 12524
3707.72, 3709.11, 3709.13, 3709.241, 3710.07, 3715.872, 3721.01, 12525
3721.011, 3721.041, 3721.21, 3727.09, 3727.19, 3742.03, 3742.04, 12526
3742.07, 3742.32, 3901.56, 3916.01, 3916.07, 3916.16, 3923.25, 12527
3923.84, 3929.62, 3929.63, 3929.64, 3929.67, 4113.23, 4121.121, 12528
4121.31, 4121.32, 4121.36, 4121.38, 4121.45, 4123.19, 4123.511, 12529
4123.512, 4123.54, 4123.56, 4123.57, 4123.651, 4123.71, 4123.84, 12530
4123.85, 4506.07, 4507.06, 4507.08, 4507.081, 4507.141, 4507.30, 12531
4511.81, 4723.36, 4723.431, 4729.284, 4729.41, 4729.45, 4729.47, 12532
5120.17, 5120.21, 5145.22, 5502.522, and 5739.01 of the Revised 12533
Code are hereby repealed. 12534

Section 3. Sections 2151.421, 3313.64, and 3742.32 of the 12535
Revised Code, as amended by this act, take effect on January 1, 12536
2025, or on the effective date of this section, whichever is 12537
later. 12538

Section 4. Not later than ninety days after the effective 12539
date of this section, the State Board of Pharmacy shall adopt, 12540
as described in section 4729.47 of the Revised Code, as amended 12541
by this act, rules specifying minimum requirements for protocols 12542
established by certified nurse-midwives, clinical nurse 12543
specialists, or certified nurse practitioners under which 12544
pharmacists or pharmacy interns may dispense epinephrine without 12545
a prescription. 12546

Section 5. Section 4123.57 of the Revised Code is	12547
presented in this act as a composite of the section as amended	12548
by both H.B. 75 and H.B. 281 of the 134th General Assembly. The	12549
General Assembly, applying the principle stated in division (B)	12550
of section 1.52 of the Revised Code that amendments are to be	12551
harmonized if reasonably capable of simultaneous operation,	12552
finds that the composite is the resulting version of the section	12553
in effect prior to the effective date of the section as	12554
presented in this act.	12555