

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 510

Representative Cera

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

A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

for which the interest charge accrues. 173

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

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

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

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

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

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

(C) For credit purchased under this section: 219

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

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

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

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

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

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

(1) A period of five years; 259

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

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

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

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

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

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

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

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

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

medicine in the subspecialty of medical oncology. 290

(E) "Board-certified pathologist" means a medical doctor 291
who is currently certified by the American board of pathology. 292

(F) "Board-certified pulmonary specialist" means a medical 293
doctor who is currently certified by the American board of 294
internal medicine in the subspecialty of pulmonary medicine. 295

(G) "Certified B-reader" means an individual qualified as 296
a "final" or "B-reader" as defined in 42 C.F.R. section 297
37.51(b), as amended. 298

(H) "Civil action" means all suits or claims of a civil 299
nature in a state or federal court, whether cognizable as cases 300
at law or in equity or admiralty. "Civil action" does not 301
include any of the following: 302

(1) A civil action relating to any workers' compensation 303
law; 304

(2) A civil action alleging any claim or demand made 305
against a trust established pursuant to 11 U.S.C. section 306
524(g); 307

(3) A civil action alleging any claim or demand made 308
against a trust established pursuant to a plan of reorganization 309
confirmed under Chapter 11 of the United States Bankruptcy Code, 310
11 U.S.C. Chapter 11. 311

(I) "Competent medical authority" means a medical doctor 312
who is providing a diagnosis for purposes of constituting prima- 313
facie evidence of an exposed person's physical impairment that 314
meets the requirements specified in section 2307.85 or 2307.86 315
of the Revised Code, whichever is applicable, and who meets the 316
following requirements: 317

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

cristobalite, and trydymite. 434

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

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

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

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

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

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

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

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

(1) Handled silica; 467

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

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

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

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

(1) Handled mixed dust; 482

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

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

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

basis to mixed dust. 491

(EE) "Tort action" means a civil action for damages for 492
injury, death, or loss to person. "Tort action" includes a 493
product liability claim that is subject to sections 2307.71 to 494
2307.80 of the Revised Code. "Tort action" does not include a 495
civil action for damages for a breach of contract or another 496
agreement between persons. 497

(FF) "Veterans' benefit program" means any program for 498
benefits in connection with military service administered by the 499
veterans' administration under ~~title~~ Title 38 of the United 500
States Code. 501

(GG) "Workers' compensation law" means Chapters 4121., 502
4123., 4127., ~~and 4131.~~ and 4133. of the Revised Code. 503

Sec. 2307.91. As used in sections 2307.91 to 2307.96 of 504
the Revised Code: 505

(A) "AMA guides to the evaluation of permanent impairment" 506
means the American medical association's guides to the 507
evaluation of permanent impairment (fifth edition 2000) as may 508
be modified by the American medical association. 509

(B) "Asbestos" means chrysotile, amosite, crocidolite, 510
tremolite asbestos, anthophyllite asbestos, actinolite asbestos, 511
and any of these minerals that have been chemically treated or 512
altered. 513

(C) "Asbestos claim" means any claim for damages, losses, 514
indemnification, contribution, or other relief arising out of, 515
based on, or in any way related to asbestos. "Asbestos claim" 516
includes a claim made by or on behalf of any person who has been 517
exposed to asbestos, or any representative, spouse, parent, 518
child, or other relative of that person, for injury, including 519

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

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

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

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

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

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

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

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

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

industrial hygiene. 548

(L) "Certified safety professional" means a safety 549
professional who has met and continues to meet all requirements 550
established by the board of certified safety professionals and 551
is authorized by that board to use the certified safety 552
professional title or the CSP designation. 553

(M) "Civil action" means all suits or claims of a civil 554
nature in a state or federal court, whether cognizable as cases 555
at law or in equity or admiralty. "Civil action" does not 556
include any of the following: 557

(1) A civil action relating to any workers' compensation 558
law; 559

(2) A civil action alleging any claim or demand made 560
against a trust established pursuant to 11 U.S.C. section 561
524(g); 562

(3) A civil action alleging any claim or demand made 563
against a trust established pursuant to a plan of reorganization 564
confirmed under Chapter 11 of the United States Bankruptcy Code, 565
11 U.S.C. Chapter 11. 566

(N) "Exposed person" means any person whose exposure to 567
asbestos or to asbestos-containing products is the basis for an 568
asbestos claim under section 2307.92 of the Revised Code. 569

(O) "FEV1" means forced expiratory volume in the first 570
second, which is the maximal volume of air expelled in one 571
second during performance of simple spirometric tests. 572

(P) "FVC" means forced vital capacity that is maximal 573
volume of air expired with maximum effort from a position of 574
full inspiration. 575

(Q) "ILO scale" means the system for the classification of 576
chest x-rays set forth in the international labour office's 577
guidelines for the use of ILO international classification of 578
radiographs of pneumoconioses (2000), as amended. 579

(R) "Lung cancer" means a malignant tumor in which the 580
primary site of origin of the cancer is inside the lungs, but 581
that term does not include mesothelioma. 582

(S) "Mesothelioma" means a malignant tumor with a primary 583
site of origin in the pleura or the peritoneum, which has been 584
diagnosed by a board-certified pathologist, using standardized 585
and accepted criteria of microscopic morphology and appropriate 586
staining techniques. 587

(T) "Nonmalignant condition" means a condition that is 588
caused or may be caused by asbestos other than a diagnosed 589
cancer. 590

(U) "Pathological evidence of asbestosis" means a 591
statement by a board-certified pathologist that more than one 592
representative section of lung tissue uninvolved with any other 593
disease process demonstrates a pattern of peribronchiolar or 594
parenchymal scarring in the presence of characteristic asbestos 595
bodies and that there is no other more likely explanation for 596
the presence of the fibrosis. 597

(V) "Physical impairment" means a nonmalignant condition 598
that meets the minimum requirements specified in division (B) of 599
section 2307.92 of the Revised Code, lung cancer of an exposed 600
person who is a smoker that meets the minimum requirements 601
specified in division (C) of section 2307.92 of the Revised 602
Code, or a condition of a deceased exposed person that meets the 603
minimum requirements specified in division (D) of section 604

2307.92 of the Revised Code. 605

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

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

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

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

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

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

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

(a) The reports or opinions of any doctor, clinic, 634
laboratory, or testing company that performed an examination, 635
test, or screening of the claimant's medical condition in 636
violation of any law, regulation, licensing requirement, or 637
medical code of practice of the state in which that examination, 638
test, or screening was conducted; 639

(b) The reports or opinions of any doctor, clinic, 640
laboratory, or testing company that performed an examination, 641
test, or screening of the claimant's medical condition that was 642
conducted without clearly establishing a doctor-patient 643
relationship with the claimant or medical personnel involved in 644
the examination, test, or screening process; 645

(c) The reports or opinions of any doctor, clinic, 646
laboratory, or testing company that performed an examination, 647
test, or screening of the claimant's medical condition that 648
required the claimant to agree to retain the legal services of 649
the law firm sponsoring the examination, test, or screening. 650

(4) The medical doctor spends not more than twenty-five 651
per cent of the medical doctor's professional practice time in 652
providing consulting or expert services in connection with 653
actual or potential tort actions, and the medical doctor's 654
medical group, professional corporation, clinic, or other 655
affiliated group earns not more than twenty per cent of its 656
revenues from providing those services. 657

(AA) "Radiological evidence of asbestosis" means a chest 658
x-ray showing small, irregular opacities (s, t) graded by a 659
certified B-reader as at least 1/1 on the ILO scale. 660

(BB) "Radiological evidence of diffuse pleural thickening" 661
means a chest x-ray showing bilateral pleural thickening graded 662

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

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

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

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

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

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

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

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

(1) Handled raw asbestos fibers; 686

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

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

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

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

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

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

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

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

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

(1) "Asbestos" means chrysotile, amosite, crocidolite, 718
tremolite asbestos, anthophyllite asbestos, actinolite asbestos, 719
and any of these minerals that have been chemically treated or 720
altered. 721

(2) "Asbestos claim" means any claim, wherever or whenever 722
made, for damages, losses, indemnification, contribution, or 723
other relief arising out of, based on, or in any way related to 724
asbestos. "Asbestos claim" includes any of the following: 725

(a) A claim made by or on behalf of any person who has 726
been exposed to asbestos, or any representative, spouse, parent, 727
child, or other relative of that person, for injury, including 728
mental or emotional injury, death, or loss to person, risk of 729
disease or other injury, costs of medical monitoring or 730
surveillance, or any other effects on the person's health that 731
are caused by the person's exposure to asbestos; 732

(b) A claim for damage or loss to property that is caused 733
by the installation, presence, or removal of asbestos. 734

(3) "Corporation" means a corporation for profit, 735
including the following: 736

(a) A domestic corporation that is organized under the 737
laws of this state; 738

(b) A foreign corporation that is organized under laws 739
other than the laws of this state and that has had a certificate 740
of authority to transact business in this state or has done 741
business in this state. 742

(4) "Successor" means a corporation or a subsidiary of a 743
corporation that assumes or incurs, or had assumed or incurred, 744
successor asbestos-related liabilities or had successor 745
asbestos-related liabilities imposed on it by court order. 746

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

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

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

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

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

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

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

1, 1972, if either of the following applies: 776

(a) In the case of a successor in a stock purchase or an 777
asset purchase, the successor paid less than fifteen million 778
dollars for the stock or assets of the transferor. 779

(b) In the case of a successor in a merger or 780
consolidation, the fair market value of the total gross assets 781
of the transferor, at the time of the merger or consolidation, 782
excluding any insurance of the transferor, was less than fifty 783
million dollars. 784

(2) Any successor to a prior successor if the prior 785
successor met the requirements of division (B) (1) (a) or (b) of 786
this section, whichever is applicable. 787

(C) (1) Except as otherwise provided in division (C) (2) of 788
this section, the cumulative successor asbestos-related 789
liabilities of a corporation shall be limited to either of the 790
following: 791

(a) In the case of a corporation that is a successor in a 792
stock purchase or an asset purchase, the fair market value of 793
the acquired stock or assets of the transferor, as determined on 794
the effective date of the stock or asset purchase; 795

(b) In the case of a corporation that is a successor in a 796
merger or consolidation, the fair market value of the total 797
gross assets of the transferor, as determined on the effective 798
date of the merger or consolidation. 799

(2) (a) If a transferor had assumed or incurred successor 800
asbestos-related liabilities in connection with a prior purchase 801
of assets or stock involving a prior transferor, the fair market 802
value of the assets or stock purchased from the prior 803
transferor, determined as of the effective date of the prior 804

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

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

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

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

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

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

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

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

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

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

(ii) One per cent. 868

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

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

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

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

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

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

applies. 894

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

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

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

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

(d) Any contractual rights to indemnification. 907

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

patient's guardian or other legal representative. 981

(b) In any civil action concerning court-ordered treatment 982
or services received by a patient, if the court-ordered 983
treatment or services were ordered as part of a case plan 984
journalized under section 2151.412 of the Revised Code or the 985
court-ordered treatment or services are necessary or relevant to 986
dependency, neglect, or abuse or temporary or permanent custody 987
proceedings under Chapter 2151. of the Revised Code. 988

(c) In any criminal action concerning any test or the 989
results of any test that determines the presence or 990
concentration of alcohol, a drug of abuse, a combination of 991
them, a controlled substance, or a metabolite of a controlled 992
substance in the patient's whole blood, blood serum or plasma, 993
breath, urine, or other bodily substance at any time relevant to 994
the criminal offense in question. 995

(d) In any criminal action against a physician or dentist. 996
In such an action, the testimonial privilege established under 997
this division does not prohibit the admission into evidence, in 998
accordance with the Rules of Evidence, of a patient's medical or 999
dental records or other communications between a patient and the 1000
physician or dentist that are related to the action and obtained 1001
by subpoena, search warrant, or other lawful means. A court that 1002
permits or compels a physician or dentist to testify in such an 1003
action or permits the introduction into evidence of patient 1004
records or other communications in such an action shall require 1005
that appropriate measures be taken to ensure that the 1006
confidentiality of any patient named or otherwise identified in 1007
the records is maintained. Measures to ensure confidentiality 1008
that may be taken by the court include sealing its records or 1009
deleting specific information from its records. 1010

(e) (i) If the communication was between a patient who has 1011
since died and the deceased patient's physician or dentist, the 1012
communication is relevant to a dispute between parties who claim 1013
through that deceased patient, regardless of whether the claims 1014
are by testate or intestate succession or by inter vivos 1015
transaction, and the dispute addresses the competency of the 1016
deceased patient when the deceased patient executed a document 1017
that is the basis of the dispute or whether the deceased patient 1018
was a victim of fraud, undue influence, or duress when the 1019
deceased patient executed a document that is the basis of the 1020
dispute. 1021

(ii) If neither the spouse of a patient nor the executor 1022
or administrator of that patient's estate gives consent under 1023
division (B) (1) (a) (ii) of this section, testimony or the 1024
disclosure of the patient's medical records by a physician, 1025
dentist, or other health care provider under division (B) (1) (e) 1026
(i) of this section is a permitted use or disclosure of 1027
protected health information, as defined in 45 C.F.R. 160.103, 1028
and an authorization or opportunity to be heard shall not be 1029
required. 1030

(iii) Division (B) (1) (e) (i) of this section does not 1031
require a mental health professional to disclose psychotherapy 1032
notes, as defined in 45 C.F.R. 164.501. 1033

(iv) An interested person who objects to testimony or 1034
disclosure under division (B) (1) (e) (i) of this section may seek 1035
a protective order pursuant to Civil Rule 26. 1036

(v) A person to whom protected health information is 1037
disclosed under division (B) (1) (e) (i) of this section shall not 1038
use or disclose the protected health information for any purpose 1039
other than the litigation or proceeding for which the 1040

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the Revised Code. 1161

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

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

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

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

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

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

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

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

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

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

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

or thing. 1219

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance; 1393
1394
1395
1396

(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues; 1397
1398
1399
1400

(iv) Selecting and evaluating available community resources; 1401
1402

(v) Making appropriate referrals; 1403

(vi) Local and national employee assistance agreements; 1404

(vii) Client confidentiality. 1405

(3) Division (L)(1) of this section does not apply to any of the following: 1406
1407

(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense; 1408
1409
1410
1411
1412

(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act; 1413
1414
1415

(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse; 1416
1417
1418
1419

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) As used in this section: 1493

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

accordance with this section. 1565

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and the rules adopted under those chapters; 1621

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The basic hourly rate of pay; 1755

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

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

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

(2) Any person acting as a subcontractor of a person 1790
described in division (F)(1) of this section; 1791

(3) Any bona fide organization of labor which has as 1792
members or is authorized to represent employees of a person 1793
described in division (F)(1) or (2) of this section and which 1794
exists, in whole or in part, for the purpose of negotiating with 1795
employers concerning the wages, hours, or terms and conditions 1796
of employment of employees; 1797

(4) Any association having as members any of the persons 1798
described in division (F)(1) or (2) of this section. 1799

(G) Except as used in division (A) of this section, 1800
"officer" means an individual who has an ownership interest or 1801
holds an office of trust, command, or authority in a 1802
corporation, business trust, partnership, or association. 1803

Sec. 4121.03. (A) The governor shall appoint from among 1804
the members of the industrial commission the chairperson of the 1805
industrial commission. The chairperson shall serve as 1806
chairperson at the pleasure of the governor. The chairperson is 1807
the head of the commission and its chief executive officer. 1808

(B) The chairperson shall appoint, after consultation with 1809
other commission members and obtaining the approval of at least 1810
one other commission member, an executive director of the 1811
commission. The executive director shall serve at the pleasure 1812
of the chairperson. The executive director, under the direction 1813
of the chairperson, shall perform all of the following duties: 1814

(1) Act as chief administrative officer for the 1815
commission; 1816

(2) Ensure that all commission personnel follow the rules 1817
of the commission; 1818

(3) Ensure that all orders, awards, and determinations are 1819
properly heard and signed, prior to attesting to the documents; 1820

(4) Coordinate, to the fullest extent possible, commission 1821
activities with the bureau of workers' compensation activities; 1822

(5) Do all things necessary for the efficient and 1823
effective implementation of the duties of the commission. 1824

The responsibilities assigned to the executive director of 1825
the commission do not relieve the chairperson from final 1826
responsibility for the proper performance of the acts specified 1827
in this division. 1828

(C) The chairperson shall do all of the following: 1829

(1) Except as otherwise provided in this division, employ, 1830
promote, supervise, remove, and establish the compensation of 1831
all employees as needed in connection with the performance of 1832
the commission's duties under this chapter and Chapters 4123., 1833
4127., ~~and 4131.~~, and 4133. of the Revised Code and may assign 1834
to them their duties to the extent necessary to achieve the most 1835
efficient performance of its functions, and to that end may 1836
establish, change, or abolish positions, and assign and reassign 1837
duties and responsibilities of every employee of the commission. 1838
The civil service status of any person employed by the 1839
commission prior to November 3, 1989, is not affected by this 1840
section. Personnel employed by the bureau or the commission who 1841
are subject to Chapter 4117. of the Revised Code shall retain 1842
all of their rights and benefits conferred pursuant to that 1843
chapter as it presently exists or is hereafter amended and 1844
nothing in this chapter or Chapter 4123. of the Revised Code 1845
shall be construed as eliminating or interfering with Chapter 1846
4117. of the Revised Code or the rights and benefits conferred 1847

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

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

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

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

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

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

(7) Approve all contracts for special services. 1869

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

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

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

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

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

Revised Code; 1907

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) The board shall:

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

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

Revised Code; 2057

(3) Submit an annual report to the president of the 2058
senate, the speaker of the house of representatives, and the 2059
governor and include all of the following in that report: 2060

(a) An evaluation of the cost and quality objectives of 2061
the bureau; 2062

(b) A statement of the net assets available for the 2063
provision of compensation and benefits under this chapter and 2064
Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the Revised Code 2065
as of the last day of the fiscal year; 2066

(c) A statement of any changes that occurred in the net 2067
assets available, including employer premiums and net investment 2068
income, for the provision of compensation and benefits and 2069
payment of administrative expenses, between the first and last 2070
day of the fiscal year immediately preceding the date of the 2071
report; 2072

(d) The following information for each of the six 2073
consecutive fiscal years occurring previous to the report: 2074

(i) A schedule of the net assets available for 2075
compensation and benefits; 2076

(ii) The annual cost of the payment of compensation and 2077
benefits; 2078

(iii) Annual administrative expenses incurred; 2079

(iv) Annual employer premiums allocated for the provision 2080
of compensation and benefits. 2081

(e) A description of any significant changes that occurred 2082
during the six years for which the board provided the 2083

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

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

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

(6) Contract with all of the following: 2092

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"exposure incident" have the same meanings as in section 4167.25 2139
of the Revised Code. 2140

(14) Perform all duties required under this chapter and 2141
Chapters 4123., 4125., 4127., 4131., 4133., and 4167. of the 2142
Revised Code; 2143

(15) Meet with the governor on an annual basis to discuss 2144
the administrator's performance of the duties specified in this 2145
chapter and Chapters 4123., 4125., 4127., 4131., 4133., and 2146
4167. of the Revised Code; 2147

(16) Develop and participate in a bureau of workers' 2148
compensation board of directors education program that consists 2149
of all of the following: 2150

(a) An orientation component for newly appointed members; 2151

(b) A continuing education component for board members who 2152
have served for at least one year; 2153

(c) A curriculum that includes education about each of the 2154
following topics: 2155

(i) Board member duties and responsibilities; 2156

(ii) Compensation and benefits paid pursuant to this 2157
chapter and Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the 2158
Revised Code; 2159

(iii) Ethics; 2160

(iv) Governance processes and procedures; 2161

(v) Actuarial soundness; 2162

(vi) Investments; 2163

(vii) Any other subject matter the board believes is 2164

reasonably related to the duties of a board member. 2165

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

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

(1) Vote to close any investment class; 2170

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

examiners for employees of the bureau; 2438

(c) Audit fee bill payments; 2439

(d) Implement a program to utilize, to the maximum extent 2440
possible, electronic data processing equipment for storage of 2441
information to facilitate authorizations of compensation 2442
payments for medical, hospital, drug, and nursing services; 2443

(e) Perform other duties assigned to it by the 2444
administrator. 2445

(16) Appoint, as the administrator determines necessary, 2446
panels to review and advise the administrator on disputes 2447
arising over a determination that a health care service or 2448
supply provided to a claimant is not covered under this chapter 2449
or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code 2450
or is medically unnecessary. If an individual health care 2451
provider is involved in the dispute, the panel shall consist of 2452
individuals licensed pursuant to the same section of the Revised 2453
Code as such health care provider. 2454

(17) Pursuant to section 4123.65 of the Revised Code, 2455
approve applications for the final settlement of claims for 2456
compensation or benefits under this chapter and Chapters 4123., 2457
4127., ~~and 4131.~~ and 4133. of the Revised Code as the 2458
administrator determines appropriate, except in regard to the 2459
applications of self-insuring employers and their employees. 2460

(18) Comply with section 3517.13 of the Revised Code, and 2461
except in regard to contracts entered into pursuant to the 2462
authority contained in section 4121.44 of the Revised Code, 2463
comply with the competitive bidding procedures set forth in the 2464
Revised Code for all contracts into which the administrator 2465
enters provided that those contracts fall within the type of 2466

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

include all of the following information in the report: 2585

(1) A summary of relevant decrement and economic 2586
assumption experience; 2587

(2) Recommended changes in actuarial assumptions to be 2588
used in subsequent actuarial valuations required by division (C) 2589
(1) of this section; 2590

(3) A measurement of the financial effect of the 2591
recommended changes in actuarial assumptions. 2592

(G) The actuary or person whom the board designates to 2593
conduct the actuarial analysis under division (C) (6) of this 2594
section shall prepare a report of the actuarial analysis and 2595
shall submit that report to the board. The actuary or person 2596
shall complete the analysis in accordance with the actuarial 2597
standards of practice promulgated by the actuarial standards 2598
board of the American academy of actuaries. The actuary or 2599
person shall include all of the following information in the 2600
report: 2601

(1) A summary of the statutory changes being evaluated; 2602

(2) A description of or reference to the actuarial 2603
assumptions and actuarial cost method used in the report; 2604

(3) A description of the participant group or groups 2605
included in the report; 2606

(4) A statement of the financial impact of the 2607
legislation, including the resulting increase, if any, in 2608
employer premiums, in actuarial accrued liabilities, and, if an 2609
increase in actuarial accrued liabilities is predicted, the per 2610
cent of premium increase that would be required to amortize the 2611
increase in those liabilities as a level per cent of employer 2612

premiums over a period not to exceed thirty years. 2613

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

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

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

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

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

operating expenses of the bureau. 2642

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

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

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

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

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

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

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

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

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

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

(1) Deal with the assets of the bureau in the fiduciary's 2669
own interest or for the fiduciary's own account; 2670

(2) In the fiduciary's individual capacity or in any other 2671
capacity, act in any transaction involving the bureau on behalf 2672
of a party, or represent a party, whose interests are adverse to 2673
the interests of the bureau or to the injured employees served 2674
by the bureau; 2675

(3) Receive any consideration for the fiduciary's own 2676
personal account from any party dealing with the bureau in 2677
connection with a transaction involving the assets of the 2678
bureau. 2679

(D) In addition to any liability that a fiduciary may have 2680
under any other provision, a fiduciary, with respect to the 2681
bureau, shall be liable for a breach of fiduciary responsibility 2682
in any of the following circumstances: 2683

(1) If the fiduciary knowingly participates in or 2684
knowingly undertakes to conceal an act or omission of another 2685
fiduciary, knowing such act or omission is a breach; 2686

(2) If, by the fiduciary's failure to comply with this 2687
chapter or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the 2688
Revised Code, the fiduciary has enabled another fiduciary to 2689
commit a breach; 2690

(3) If the fiduciary has knowledge of a breach by another 2691
fiduciary of that fiduciary's duties under this chapter and 2692
Chapters 4123., 4127., ~~and 4131.~~ and 4133. of the Revised Code, 2693
unless the fiduciary makes reasonable efforts under the 2694
circumstances to remedy the breach. 2695

(E) Every fiduciary of the bureau shall be bonded or 2696
insured for an amount of not less than one million dollars for 2697

loss by reason of acts of fraud or dishonesty. 2698

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

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

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

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

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

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

of the Revised Code; 2727

(2) Recommend an auditing firm for the board to use when 2728
conducting audits under section 4121.125 of the Revised Code; 2729

(3) Review the results of each annual audit and management 2730
review and, if any problems exist, assess the appropriate course 2731
of action to correct those problems and develop an action plan 2732
to correct those problems; 2733

(4) Monitor the implementation of any action plans created 2734
pursuant to division (A) (3) of this section; 2735

(5) Review all internal audit reports on a regular basis. 2736

(B) There is hereby created the workers' compensation 2737
actuarial committee consisting of at least three members. One 2738
member shall be the member of the board who is an actuary. The 2739
board, by majority vote, shall appoint two additional members of 2740
the board to serve on the actuarial committee and may appoint 2741
additional members who are not board members, as the board 2742
determines necessary. Members of the actuarial committee serve 2743
at the pleasure of the board and the board, by majority vote, 2744
may remove any member except the member of the committee who is 2745
the actuary member of the board. The board, by majority vote, 2746
shall determine how often the actuarial committee shall meet and 2747
report to the board. If the actuarial committee meets on the 2748
same day as the board holds a meeting, no member shall be 2749
compensated for more than one meeting held on that day. The 2750
actuarial committee shall do both of the following: 2751

(1) Recommend actuarial consultants for the board to use 2752
for the funds specified in this chapter and Chapters 4123., 2753
4127., ~~and 4131.~~, and 4133. of the Revised Code; 2754

(2) Review and approve the various rate schedules prepared 2755

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

principal operating procedures of the bureau of workers' 2843
compensation or commission, including but not limited to: 2844

(a) Assignment to various operational units of any duties 2845
placed upon the administrator or the commission by statute; 2846

(b) Procedures for decision-making; 2847

(c) Procedures governing the appearances of a claimant, 2848
employer, or their representatives before the agency in a 2849
hearing; 2850

(d) Procedures that inform claimants, on request, of the 2851
status of a claim and any actions necessary to maintain the 2852
claim; 2853

(e) Time goals for activities of the bureau or commission; 2854

(f) Designation of the person or persons authorized to 2855
issue directives with directives numbered and distributed from a 2856
central distribution point to persons on a list maintained for 2857
that purpose. 2858

(2) A rule barring any employee of the bureau or 2859
commission from having a workers' compensation claims file in 2860
the employee's possession unless the file is necessary to the 2861
performance of the employee's duties. 2862

(3) All claims, whether of a state fund or self-insuring 2863
employer, be processed in an orderly, uniform, and timely 2864
fashion. 2865

(4) Rules governing the submission and sending of 2866
applications, notices, evidence, and other documents by 2867
electronic means. The rules shall provide that where this 2868
chapter or Chapter 4123., 4127., ~~or 4131.~~, or 4133. of the 2869
Revised Code requires that a document be in writing or requires 2870

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

(B) As used in this section: 2875

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

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

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

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

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

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

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

(1) Reasonable ambulance services; 2913

(2) Relationship of drugs to injury; 2914

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

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

(5) Placing a claimant into rehabilitation; 2917

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

(7) Utilization of physician specialist reports; 2921

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

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

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

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

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

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

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

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

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

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

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

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

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

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

all parties have the opportunity to be present and to present 2986
evidence and arguments in support of their positions or in 2987
rebuttal to the evidence or arguments of other parties; 2988

(2) A public hearing; 2989

(3) Written decisions; 2990

(4) Impartial assignment of staff and district hearing 2991
officers and assignment of appeals from a decision of the 2992
administrator of workers' compensation to a district hearing 2993
officer located at the commission service office that is the 2994
closest in geographic proximity to the claimant's residence; 2995

(5) Publication of a docket; 2996

(6) The securing of the attendance or testimony of 2997
witnesses; 2998

(7) Prehearing rules, including rules relative to 2999
discovery, the taking of depositions, and exchange of 3000
information relevant to a claim prior to the conduct of a 3001
hearing; 3002

(8) The issuance of orders by the district or staff 3003
hearing officer who renders the decision. 3004

(B) Every decision by a staff or district hearing officer 3005
or the commission shall be in writing and contain all of the 3006
following elements: 3007

(1) A concise statement of the order or award; 3008

(2) A notation as to notice provided and as to appearance 3009
of parties; 3010

(3) Signatures of each commissioner or appropriate hearing 3011
officer on the original copy of the decision only, verifying the 3012

commissioner's or hearing officer's vote; 3013

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

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

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

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

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

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

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

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

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

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

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

shall undergo the training courses developed by the hearing 3071
officer trainer, the cost of which the commission shall pay. The 3072
commission shall make the hearing officer manual and all 3073
revisions thereto available to the public at cost. 3074

The commission shall have the final right of approval over 3075
all training manuals, courses, and other materials the hearing 3076
officer trainer develops and updates. 3077

(2) Appoint a hearing administrator, who shall be in the 3078
classified civil service of the state, for each bureau service 3079
office, and sufficient support personnel for each hearing 3080
administrator, which support personnel shall be under the direct 3081
supervision of the hearing administrator. The hearing 3082
administrator shall do all of the following: 3083

(a) Assist the commission in ensuring that district 3084
hearing officers comply with the time limitations for the 3085
holding of hearings and issuance of orders under section 3086
4123.511 of the Revised Code. For that purpose, each hearing 3087
administrator shall prepare a monthly report identifying the 3088
status of all claims in its office and identifying specifically 3089
the claims which have not been decided within the time limits 3090
set forth in section 4123.511 of the Revised Code. The 3091
commission shall submit an annual report of all such reports to 3092
the standing committees of the house of representatives and of 3093
the state to which matters concerning workers' compensation are 3094
normally referred. 3095

(b) Provide information to requesting parties or their 3096
representatives on the status of their claim; 3097

(c) Issue compliance letters, upon a finding of good cause 3098
and without a formal hearing in all of the following areas: 3099

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

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

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

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

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

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

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

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

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

appealed by a party; 3156

(e) A certification by the commission that the alternative 3157
dispute resolution process did not delay any hearing timelines 3158
as set forth in section 4123.511 of the Revised Code for any 3159
disputed issue. 3160

(4) The commission may adopt rules in accordance with 3161
Chapter 119. of the Revised Code for the administration of any 3162
alternative dispute resolution process that the commission 3163
establishes. 3164

Sec. 4121.41. (A) The administrator of workers' 3165
compensation shall operate a program designed to inform 3166
employees and employers of their rights and responsibilities 3167
under ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code and 3168
as part of that program prepare and distribute pamphlets, which 3169
clearly and simply explain at least all of the following: 3170

(1) The rights and responsibilities of claimants and 3171
employers; 3172

(2) The procedures for processing claims; 3173

(3) The procedure for fulfilling employer responsibility; 3174

(4) All applicable statutes of limitation; 3175

(5) The availability of services and benefits; 3176

(6) The claimant's right to representation in the 3177
processing of a claim or to elect no representation. 3178

The administrator shall ensure that the provisions of this 3179
section are faithfully and speedily implemented. 3180

(B) The bureau of workers' compensation shall maintain an 3181
ongoing program to identify employers subject to Chapter 4123. 3182

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Capacity to store, retrieve, array, simulate, and 3270
model in a relational mode all of the detailed medical bill data 3271
so that analysis can be performed in a variety of ways and so 3272
that the bureau and its governing authority can make informed 3273
decisions. 3274

(8) Wide variety of software programs which translate 3275
medical terminology into standard codes, and which reveal if a 3276
provider is manipulating the procedures codes, commonly called 3277
"unbundling." 3278

(9) Necessary professional staff to conduct, at a minimum, 3279
authorizations for treatment, medical necessity, utilization 3280
review, concurrent review, post-utilization review, and have the 3281
attendant computer system which supports such activity and 3282
measures the outcomes and the savings. 3283

(10) Management experience and flexibility to be able to 3284
react quickly to the needs of the bureau in the case of required 3285
change in federal or state requirements. 3286

(G) (1) The administrator may decertify a managed care 3287
organization if the managed care organization does any of the 3288
following: 3289

(a) Fails to maintain any of the requirements set forth in 3290
division (F) of this section; 3291

(b) Fails to reasonably comply with or to perform in 3292
accordance with the terms of a contract entered into under 3293
division (B) (4) of this section; 3294

(c) Violates a rule adopted under section 4121.441 of the 3295
Revised Code. 3296

(2) The administrator shall provide each managed care 3297

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) Antifraud mechanisms; 3463

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

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

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

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

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

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

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

(2) Adequate plan structure and financial stability; 3497

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

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

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

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

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

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

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

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

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

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

(12) Provide for standardized data and reporting 3531

requirements; 3532

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

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

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

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

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

to the person, owner, health care provider, or managed care 3561
organization through the date upon which repayment is made to 3562
the bureau or the self-insuring employer. 3563

(2) Payment of an amount equal to three times the amount 3564
of any excess payments; 3565

(3) Payment of a sum of not less than five thousand 3566
dollars and not more than ten thousand dollars for each act of 3567
deception; 3568

(4) All reasonable and necessary expenses that the court 3569
determines have been incurred by the bureau or the self-insuring 3570
employer in the enforcement of this section. 3571

All moneys collected by the bureau pursuant to this 3572
section shall be deposited into the state insurance fund created 3573
in section 4123.30 of the Revised Code. All moneys collected by 3574
a self-insuring employer pursuant to this section shall be 3575
awarded to the self-insuring employer. 3576

(C) (1) In addition to the monetary penalties provided in 3577
division (B) of this section and except as provided in division 3578
(C) (3) of this section, the administrator may terminate any 3579
agreement between the bureau and a person or a health care 3580
provider or managed care organization or its owner and cease 3581
reimbursement to that person, provider, organization, or owner 3582
for services rendered if any of the following apply: 3583

(a) The person, health care provider, managed care 3584
organization, or its owner, or an officer, authorized agent, 3585
associate, manager, or employee of a person, provider, or 3586
organization is convicted of or pleads guilty to a violation of 3587
sections 2913.48 or 2923.31 to 2923.36 of the Revised Code or 3588
any other criminal offense related to the delivery of or billing 3589

for health care benefits. 3590

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

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

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

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

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

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

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

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

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

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

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

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

(F) As used in this section: 3654

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

(a) A false or misleading representation; 3658

(b) The withholding of information; 3659

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

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

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

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

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

(B) The ombudsperson system staff shall: 3696

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

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

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

charged in connection with the employer's account; 3707

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

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

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

(C) The chief ombudsperson shall: 3724

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

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

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

(D) No ombudsperson or assistant ombudsperson shall: 3739

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

transfer or combination of risk experience; 4005

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

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

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

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

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

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

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

(3) Contract with an agent to do both of the following: 4033

(a) Supply debit cards for claimants to access payments 4034
made to them pursuant to this chapter and Chapters 4121., 4127., 4035
~~and 4131., and 4133.~~ of the Revised Code; 4036

(b) Credit the debit cards described in division (A) (3) (a) 4037
of this section with the amounts specified by the administrator 4038
pursuant to this chapter and Chapters 4121., 4127., ~~and 4131.,~~ 4039
and 4133. of the Revised Code by utilizing direct deposit of 4040
funds by electronic transfer. 4041

(4) Enter into agreements with financial institutions to 4042
credit the debit cards described in division (A) (3) (a) of this 4043
section with the amounts specified by the administrator pursuant 4044
to this chapter and Chapters 4121., 4127., ~~and 4131., and 4133.~~ 4045
of the Revised Code by utilizing direct deposit of funds by 4046
electronic transfer. 4047

(B) The administrator shall inform claimants about the 4048
administrator's utilization of direct deposit of funds by 4049
electronic transfer under this section and section 9.37 of the 4050
Revised Code, furnish debit cards to claimants as appropriate, 4051
and provide claimants with instructions regarding use of those 4052
debit cards. 4053

(C) The administrator, with the advice and consent of the 4054
bureau of workers' compensation board of directors, shall adopt 4055
rules in accordance with Chapter 119. of the Revised Code 4056
regarding utilization of the direct deposit of funds by 4057
electronic transfer under this section and section 9.37 of the 4058
Revised Code. 4059

Sec. 4123.32. The administrator of workers' compensation, 4060
with the advice and consent of the bureau of workers' 4061

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

first notified by the administrator of the amount due. 4149

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

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

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

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

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

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

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

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

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

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

(3) "State hospital" means the Ohio state university 4208
hospital and its ancillary facilities and the medical university 4209
of Ohio at Toledo hospital. 4210

Sec. 4123.324. (A) The administrator of workers' 4211
compensation shall adopt rules, for the purpose of encouraging 4212
economic development, that establish conditions under which any 4213
negative experience to be transferred to the account of an 4214
employer who is successor in interest under division (B) of 4215
section 4123.32 of the Revised Code may be reduced or waived. 4216

(B) The administrator, in adopting rules under division 4217
(A) of this section, may not permit a waiver or reduction in 4218
experience transfer if the succession transaction is entered 4219
into for the purpose of escaping obligations under this chapter 4220
or Chapter 4121., 4127., ~~or 4131.~~, or 4133. of the Revised Code. 4221

Sec. 4123.34. It shall be the duty of the bureau of 4222
workers' compensation board of directors and the administrator 4223
of workers' compensation to safeguard and maintain the solvency 4224
of the state insurance fund and all other funds specified in 4225
this chapter and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of 4226
the Revised Code. The administrator, in the exercise of the 4227
powers and discretion conferred upon the administrator in 4228
section 4123.29 of the Revised Code, shall fix and maintain, 4229
with the advice and consent of the board, for each class of 4230
occupation or industry, the lowest possible rates of premium 4231
consistent with the maintenance of a solvent state insurance 4232
fund and the creation and maintenance of a reasonable surplus, 4233
after the payment of legitimate claims for injury, occupational 4234
disease, and death that the administrator authorizes to be paid 4235
from the state insurance fund for the benefit of injured, 4236
diseased, and the dependents of killed employees. In 4237

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Epilepsy; 4380

(2) Diabetes; 4381

(3) Cardiac disease; 4382

(4) Arthritis; 4383

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

constituted police department or fire department; 4408

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

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

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

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

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

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

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

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

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

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

insurance with the state fund. 4467

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

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

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

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

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

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

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

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

A private employer who has contracted with a subcontractor 4526

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

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

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

upon timely receipt of payment under this division. 4558

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) When considering the application of a public employer, 4643
except for a board of county commissioners described in division 4644
(G) of section 4123.01 of the Revised Code, a board of a county 4645

hospital, or a publicly owned utility, the administrator shall 4646
verify that the public employer satisfies all of the following 4647
requirements as the requirements apply to that public employer: 4648

(a) For the two-year period preceding application under 4649
this section, the public employer has maintained an unvoted debt 4650
capacity equal to at least two times the amount of the current 4651
annual premium established by the administrator under this 4652
chapter for that public employer for the year immediately 4653
preceding the year in which the public employer makes 4654
application under this section. 4655

(b) For each of the two fiscal years preceding application 4656
under this section, the unreserved and undesignated year-end 4657
fund balance in the public employer's general fund is equal to 4658
at least five per cent of the public employer's general fund 4659
revenues for the fiscal year computed in accordance with 4660
generally accepted accounting principles. 4661

(c) For the five-year period preceding application under 4662
this section, the public employer, to the extent applicable, has 4663
complied fully with the continuing disclosure requirements 4664
established in rules adopted by the United States securities and 4665
exchange commission under 17 C.F.R. 240.15c 2-12. 4666

(d) For the five-year period preceding application under 4667
this section, the public employer has not had its local 4668
government fund distribution withheld on account of the public 4669
employer being indebted or otherwise obligated to the state. 4670

(e) For the five-year period preceding application under 4671
this section, the public employer has not been under a fiscal 4672
watch or fiscal emergency pursuant to section 118.023, 118.04, 4673
or 3316.03 of the Revised Code. 4674

(f) For the public employer's fiscal year preceding 4675
application under this section, the public employer has obtained 4676
an annual financial audit as required under section 117.10 of 4677
the Revised Code, which has been released by the auditor of 4678
state within seven months after the end of the public employer's 4679
fiscal year. 4680

(g) On the date of application, the public employer holds 4681
a debt rating of Aa3 or higher according to Moody's investors 4682
service, inc., or a comparable rating by an independent rating 4683
agency similar to Moody's investors service, inc. 4684

(h) The public employer agrees to generate an annual 4685
accumulating book reserve in its financial statements reflecting 4686
an actuarially generated reserve adequate to pay projected 4687
claims under this chapter for the applicable period of time, as 4688
determined by the administrator. 4689

(i) For a public employer that is a hospital, the public 4690
employer shall submit audited financial statements showing the 4691
hospital's overall liquidity characteristics, and the 4692
administrator shall determine, on an individual basis, whether 4693
the public employer satisfies liquidity standards equivalent to 4694
the liquidity standards of other public employers. 4695

(j) Any additional criteria that the administrator adopts 4696
by rule pursuant to division (E) of this section. 4697

The administrator may adopt rules establishing the 4698
criteria that a public employer shall satisfy in order for the 4699
administrator to waive any of the requirements listed in 4700
divisions (B) (2) (a) to (j) of this section. The rules may 4701
require additional security from that employer pursuant to 4702
division (E) of section 4123.351 of the Revised Code. The 4703

administrator shall not waive any of the requirements listed in 4704
divisions (B) (2) (a) to (j) of this section for a public employer 4705
who does not satisfy the criteria established in the rules the 4706
administrator adopts. 4707

(C) A board of county commissioners described in division 4708
(G) of section 4123.01 of the Revised Code, as an employer, that 4709
will abide by the rules of the administrator and that may be of 4710
sufficient financial ability to render certain the payment of 4711
compensation to injured employees or the dependents of killed 4712
employees, and the furnishing of medical, surgical, nursing, and 4713
hospital attention and services and medicines, and funeral 4714
expenses, equal to or greater than is provided for in sections 4715
4123.52, 4123.55 to 4123.62, ~~and 4123.64 to 4123.67, 4133.12,~~ 4716
4133.13, and 4133.14 of the Revised Code, and that does not 4717
desire to insure the payment thereof or indemnify itself against 4718
loss sustained by the direct payment thereof, upon a finding of 4719
such facts by the administrator, may be granted the privilege to 4720
pay individually compensation, and furnish medical, surgical, 4721
nursing, and hospital services and attention and funeral 4722
expenses directly to injured employees or the dependents of 4723
killed employees, thereby being granted status as a self- 4724
insuring employer. The administrator may charge a board of 4725
county commissioners described in division (G) of section 4726
4123.01 of the Revised Code that applies for the status as a 4727
self-insuring employer a reasonable application fee to cover the 4728
bureau's costs in connection with processing and making a 4729
determination with respect to an application. All employers 4730
granted such status shall demonstrate sufficient financial and 4731
administrative ability to assure that all obligations under this 4732
section are promptly met. The administrator shall deny the 4733
privilege where the employer is unable to demonstrate the 4734

employer's ability to promptly meet all the obligations imposed 4735
on the employer by this section. The administrator shall 4736
consider, but is not limited to, the following factors, where 4737
applicable, in determining the employer's ability to meet all of 4738
the obligations imposed on the board as an employer by this 4739
section: 4740

(1) The board as an employer employs a minimum of five 4741
hundred employees in this state; 4742

(2) The board has operated in this state for a minimum of 4743
two years; 4744

(3) Where the board previously contributed to the state 4745
insurance fund or is a successor employer as defined by bureau 4746
rules, the amount of the buyout, as defined by bureau rules; 4747

(4) The sufficiency of the board's assets located in this 4748
state to insure the board's solvency in paying compensation 4749
directly; 4750

(5) The financial records, documents, and data, certified 4751
by a certified public accountant, necessary to provide the 4752
board's full financial disclosure. The records, documents, and 4753
data include, but are not limited to, balance sheets and profit 4754
and loss history for the current year and previous four years. 4755

(6) The board's organizational plan for the administration 4756
of the workers' compensation law; 4757

(7) The board's proposed plan to inform employees of the 4758
proposed self-insurance, the procedures the board will follow as 4759
a self-insuring employer, and the employees' rights to 4760
compensation and benefits; 4761

(8) The board has either an account in a financial 4762

institution in this state, or if the board maintains an account 4763
with a financial institution outside this state, ensures that 4764
workers' compensation checks are drawn from the same account as 4765
payroll checks or the board clearly indicates that payment will 4766
be honored by a financial institution in this state; 4767

(9) The board shall provide the administrator a surety 4768
bond in an amount equal to one hundred twenty-five per cent of 4769
the projected losses as determined by the administrator. 4770

(D) The administrator shall require a surety bond from all 4771
self-insuring employers, issued pursuant to section 4123.351 of 4772
the Revised Code, that is sufficient to compel, or secure to 4773
injured employees, or to the dependents of employees killed, the 4774
payment of compensation and expenses, which shall in no event be 4775
less than that paid or furnished out of the state insurance fund 4776
in similar cases to injured employees or to dependents of killed 4777
employees whose employers contribute to the fund, except when an 4778
employee of the employer, who has suffered the loss of a hand, 4779
arm, foot, leg, or eye prior to the injury for which 4780
compensation is to be paid, and thereafter suffers the loss of 4781
any other of the members as the result of any injury sustained 4782
in the course of and arising out of the employee's employment, 4783
the compensation to be paid by the self-insuring employer is 4784
limited to the disability suffered in the subsequent injury, 4785
additional compensation, if any, to be paid by the bureau out of 4786
the surplus created by section 4123.34 of the Revised Code. 4787

(E) In addition to the requirements of this section, the 4788
administrator shall make and publish rules governing the manner 4789
of making application and the nature and extent of the proof 4790
required to justify a finding of fact by the administrator as to 4791
granting the status of a self-insuring employer, which rules 4792

shall be general in their application, one of which rules shall 4793
provide that all self-insuring employers shall pay into the 4794
state insurance fund such amounts as are required to be credited 4795
to the surplus fund in division (B) of section 4123.34 of the 4796
Revised Code. The administrator may adopt rules establishing 4797
requirements in addition to the requirements described in 4798
division (B) (2) of this section that a public employer shall 4799
meet in order to qualify for self-insuring status. 4800

Employers shall secure directly from the bureau central 4801
offices application forms upon which the bureau shall stamp a 4802
designating number. Prior to submission of an application, an 4803
employer shall make available to the bureau, and the bureau 4804
shall review, the information described in division (B) (1) of 4805
this section, and public employers shall make available, and the 4806
bureau shall review, the information necessary to verify whether 4807
the public employer meets the requirements listed in division 4808
(B) (2) of this section. An employer shall file the completed 4809
application forms with an application fee, which shall cover the 4810
costs of processing the application, as established by the 4811
administrator, by rule, with the bureau at least ninety days 4812
prior to the effective date of the employer's new status as a 4813
self-insuring employer. The application form is not deemed 4814
complete until all the required information is attached thereto. 4815
The bureau shall only accept applications that contain the 4816
required information. 4817

(F) The bureau shall review completed applications within 4818
a reasonable time. If the bureau determines to grant an employer 4819
the status as a self-insuring employer, the bureau shall issue a 4820
statement, containing its findings of fact, that is prepared by 4821
the bureau and signed by the administrator. If the bureau 4822
determines not to grant the status as a self-insuring employer, 4823

the bureau shall notify the employer of the determination and 4824
require the employer to continue to pay its full premium into 4825
the state insurance fund. The administrator also shall adopt 4826
rules establishing a minimum level of performance as a criterion 4827
for granting and maintaining the status as a self-insuring 4828
employer and fixing time limits beyond which failure of the 4829
self-insuring employer to provide for the necessary medical 4830
examinations and evaluations may not delay a decision on a 4831
claim. 4832

(G) The administrator shall adopt rules setting forth 4833
procedures for auditing the program of self-insuring employers. 4834
The bureau shall conduct the audit upon a random basis or 4835
whenever the bureau has grounds for believing that a self- 4836
insuring employer is not in full compliance with bureau rules or 4837
this chapter. 4838

The administrator shall monitor the programs conducted by 4839
self-insuring employers, to ensure compliance with bureau 4840
requirements and for that purpose, shall develop and issue to 4841
self-insuring employers standardized forms for use by the self- 4842
insuring employer in all aspects of the self-insuring employers' 4843
direct compensation program and for reporting of information to 4844
the bureau. 4845

The bureau shall receive and transmit to the self-insuring 4846
employer all complaints concerning any self-insuring employer. 4847
In the case of a complaint against a self-insuring employer, the 4848
administrator shall handle the complaint through the self- 4849
insurance division of the bureau. The bureau shall maintain a 4850
file by employer of all complaints received that relate to the 4851
employer. The bureau shall evaluate each complaint and take 4852
appropriate action. 4853

The administrator shall adopt as a rule a prohibition 4854
against any self-insuring employer from harassing, dismissing, 4855
or otherwise disciplining any employee making a complaint, which 4856
rule shall provide for a financial penalty to be levied by the 4857
administrator payable by the offending self-insuring employer. 4858

(H) For the purpose of making determinations as to whether 4859
to grant status as a self-insuring employer, the administrator 4860
may subscribe to and pay for a credit reporting service that 4861
offers financial and other business information about individual 4862
employers. The costs in connection with the bureau's 4863
subscription or individual reports from the service about an 4864
applicant may be included in the application fee charged 4865
employers under this section. 4866

(I) The administrator, notwithstanding other provisions of 4867
this chapter, may permit a self-insuring employer to resume 4868
payment of premiums to the state insurance fund with appropriate 4869
credit modifications to the employer's basic premium rate as 4870
such rate is determined pursuant to section 4123.29 of the 4871
Revised Code. 4872

(J) On the first day of July of each year, the 4873
administrator shall calculate separately each self-insuring 4874
employer's assessments for the safety and hygiene fund, 4875
administrative costs pursuant to section 4123.342 of the Revised 4876
Code, and for the surplus fund under division (B) of section 4877
4123.34 of the Revised Code, on the basis of the paid 4878
compensation attributable to the individual self-insuring 4879
employer according to the following calculation: 4880

(1) The total assessment against all self-insuring 4881
employers as a class for each fund and for the administrative 4882
costs for the year that the assessment is being made, as 4883

determined by the administrator, divided by the total amount of 4884
paid compensation for the previous calendar year attributable to 4885
all amenable self-insuring employers; 4886

(2) Multiply the quotient in division (J)(1) of this 4887
section by the total amount of paid compensation for the 4888
previous calendar year that is attributable to the individual 4889
self-insuring employer for whom the assessment is being 4890
determined. Each self-insuring employer shall pay the assessment 4891
that results from this calculation, unless the assessment 4892
resulting from this calculation falls below a minimum 4893
assessment, which minimum assessment the administrator shall 4894
determine on the first day of July of each year with the advice 4895
and consent of the bureau of workers' compensation board of 4896
directors, in which event, the self-insuring employer shall pay 4897
the minimum assessment. 4898

In determining the total amount due for the total 4899
assessment against all self-insuring employers as a class for 4900
each fund and the administrative assessment, the administrator 4901
shall reduce proportionately the total for each fund and 4902
assessment by the amount of money in the self-insurance 4903
assessment fund as of the date of the computation of the 4904
assessment. 4905

The administrator shall calculate the assessment for the 4906
portion of the surplus fund under division (B) of section 4907
4123.34 of the Revised Code that is used for reimbursement to a 4908
self-insuring employer under division (H) of section 4123.512 of 4909
the Revised Code in the same manner as set forth in divisions 4910
(J)(1) and (2) of this section except that the administrator 4911
shall calculate the total assessment for this portion of the 4912
surplus fund only on the basis of those self-insuring employers 4913

that retain participation in reimbursement to the self-insuring 4914
employer under division (H) of section 4123.512 of the Revised 4915
Code and the individual self-insuring employer's proportion of 4916
paid compensation shall be calculated only for those self- 4917
insuring employers who retain participation in reimbursement to 4918
the self-insuring employer under division (H) of section 4919
4123.512 of the Revised Code. 4920

An employer who no longer is a self-insuring employer in 4921
this state or who no longer is operating in this state, shall 4922
continue to pay assessments for administrative costs and for the 4923
surplus fund under division (B) of section 4123.34 of the 4924
Revised Code based upon paid compensation attributable to claims 4925
that occurred while the employer was a self-insuring employer 4926
within this state. 4927

(K) There is hereby created in the state treasury the 4928
self-insurance assessment fund. All investment earnings of the 4929
fund shall be deposited in the fund. The administrator shall use 4930
the money in the self-insurance assessment fund only for 4931
administrative costs as specified in section 4123.341 of the 4932
Revised Code. 4933

(L) Every self-insuring employer shall certify, in 4934
affidavit form subject to the penalty for perjury, to the bureau 4935
the amount of the self-insuring employer's paid compensation for 4936
the previous calendar year. In reporting paid compensation paid 4937
for the previous year, a self-insuring employer shall exclude 4938
from the total amount of paid compensation any reimbursement the 4939
self-insuring employer receives in the previous calendar year 4940
from the surplus fund pursuant to section 4123.512 of the 4941
Revised Code for any paid compensation. The self-insuring 4942
employer also shall exclude from the paid compensation reported 4943

any amount recovered under section 4123.931 of the Revised Code 4944
and any amount that is determined not to have been payable to or 4945
on behalf of a claimant in any final administrative or judicial 4946
proceeding. The self-insuring employer shall exclude such 4947
amounts from the paid compensation reported in the reporting 4948
period subsequent to the date the determination is made. The 4949
administrator shall adopt rules, in accordance with Chapter 119. 4950
of the Revised Code, that provide for all of the following: 4951

(1) Establishing the date by which self-insuring employers 4952
must submit such information and the amount of the assessments 4953
provided for in division (J) of this section for employers who 4954
have been granted self-insuring status within the last calendar 4955
year; 4956

(2) If an employer fails to pay the assessment when due, 4957
the administrator may add a late fee penalty of not more than 4958
five hundred dollars to the assessment plus an additional 4959
penalty amount as follows: 4960

(a) For an assessment from sixty-one to ninety days past 4961
due, the prime interest rate, multiplied by the assessment due; 4962

(b) For an assessment from ninety-one to one hundred 4963
twenty days past due, the prime interest rate plus two per cent, 4964
multiplied by the assessment due; 4965

(c) For an assessment from one hundred twenty-one to one 4966
hundred fifty days past due, the prime interest rate plus four 4967
per cent, multiplied by the assessment due; 4968

(d) For an assessment from one hundred fifty-one to one 4969
hundred eighty days past due, the prime interest rate plus six 4970
per cent, multiplied by the assessment due; 4971

(e) For an assessment from one hundred eighty-one to two 4972

hundred ten days past due, the prime interest rate plus eight 4973
per cent, multiplied by the assessment due; 4974

(f) For each additional thirty-day period or portion 4975
thereof that an assessment remains past due after it has 4976
remained past due for more than two hundred ten days, the prime 4977
interest rate plus eight per cent, multiplied by the assessment 4978
due. 4979

(3) An employer may appeal a late fee penalty and penalty 4980
assessment to the administrator. 4981

For purposes of division (L) (2) of this section, "prime 4982
interest rate" means the average bank prime rate, and the 4983
administrator shall determine the prime interest rate in the 4984
same manner as a county auditor determines the average bank 4985
prime rate under section 929.02 of the Revised Code. 4986

The administrator shall include any assessment and 4987
penalties that remain unpaid for previous assessment periods in 4988
the calculation and collection of any assessments due under this 4989
division or division (J) of this section. 4990

(M) As used in this section, "paid compensation" means all 4991
amounts paid by a self-insuring employer for living maintenance 4992
benefits, all amounts for compensation paid pursuant to sections 4993
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, 4994
~~and 4123.64, 4133.12, 4133.13, and 4133.14~~ of the Revised Code, 4995
all amounts paid as wages in lieu of such compensation, all 4996
amounts paid in lieu of such compensation under a 4997
nonoccupational accident and sickness program fully funded by 4998
the self-insuring employer, and all amounts paid by a self- 4999
insuring employer for a violation of a specific safety standard 5000
pursuant to Section 35 of Article II, Ohio Constitution and 5001

section 4121.47 of the Revised Code. 5002

(N) Should any section of this chapter or Chapter 4121. of 5003
the Revised Code providing for self-insuring employers' 5004
assessments based upon compensation paid be declared 5005
unconstitutional by a final decision of any court, then that 5006
section of the Revised Code declared unconstitutional shall 5007
revert back to the section in existence prior to November 3, 5008
1989, providing for assessments based upon payroll. 5009

(O) The administrator may grant a self-insuring employer 5010
the privilege to self-insure a construction project entered into 5011
by the self-insuring employer that is scheduled for completion 5012
within six years after the date the project begins, and the 5013
total cost of which is estimated to exceed one hundred million 5014
dollars or, for employers described in division (R) of this 5015
section, if the construction project is estimated to exceed 5016
twenty-five million dollars. The administrator may waive such 5017
cost and time criteria and grant a self-insuring employer the 5018
privilege to self-insure a construction project regardless of 5019
the time needed to complete the construction project and 5020
provided that the cost of the construction project is estimated 5021
to exceed fifty million dollars. A self-insuring employer who 5022
desires to self-insure a construction project shall submit to 5023
the administrator an application listing the dates the 5024
construction project is scheduled to begin and end, the 5025
estimated cost of the construction project, the contractors and 5026
subcontractors whose employees are to be self-insured by the 5027
self-insuring employer, the provisions of a safety program that 5028
is specifically designed for the construction project, and a 5029
statement as to whether a collective bargaining agreement 5030
governing the rights, duties, and obligations of each of the 5031
parties to the agreement with respect to the construction 5032

project exists between the self-insuring employer and a labor 5033
organization. 5034

A self-insuring employer may apply to self-insure the 5035
employees of either of the following: 5036

(1) All contractors and subcontractors who perform labor 5037
or work or provide materials for the construction project; 5038

(2) All contractors and, at the administrator's 5039
discretion, a substantial number of all the subcontractors who 5040
perform labor or work or provide materials for the construction 5041
project. 5042

Upon approval of the application, the administrator shall 5043
mail a certificate granting the privilege to self-insure the 5044
construction project to the self-insuring employer. The 5045
certificate shall contain the name of the self-insuring employer 5046
and the name, address, and telephone number of the self-insuring 5047
employer's representatives who are responsible for administering 5048
workers' compensation claims for the construction project. The 5049
self-insuring employer shall post the certificate in a 5050
conspicuous place at the site of the construction project. 5051

The administrator shall maintain a record of the 5052
contractors and subcontractors whose employees are covered under 5053
the certificate issued to the self-insured employer. A self- 5054
insuring employer immediately shall notify the administrator 5055
when any contractor or subcontractor is added or eliminated from 5056
inclusion under the certificate. 5057

Upon approval of the application, the self-insuring 5058
employer is responsible for the administration and payment of 5059
all claims under this chapter and ~~Chapter~~ Chapters 4121. and 5060
4133. of the Revised Code for the employees of the contractor 5061

and subcontractors covered under the certificate who receive 5062
injuries or are killed in the course of and arising out of 5063
employment on the construction project, or who contract an 5064
occupational disease in the course of employment on the 5065
construction project. For purposes of this chapter and ~~Chapter~~ 5066
Chapters 4121. and 4133. of the Revised Code, a claim that is 5067
administered and paid in accordance with this division is 5068
considered a claim against the self-insuring employer listed in 5069
the certificate. A contractor or subcontractor included under 5070
the certificate shall report to the self-insuring employer 5071
listed in the certificate, all claims that arise under this 5072
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised Code 5073
in connection with the construction project for which the 5074
certificate is issued. 5075

A self-insuring employer who complies with this division 5076
is entitled to the protections provided under this chapter and 5077
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code with 5078
respect to the employees of the contractors and subcontractors 5079
covered under a certificate issued under this division for death 5080
or injuries that arise out of, or death, injuries, or 5081
occupational diseases that arise in the course of, those 5082
employees' employment on that construction project, as if the 5083
employees were employees of the self-insuring employer, provided 5084
that the self-insuring employer also complies with this section. 5085
No employee of the contractors and subcontractors covered under 5086
a certificate issued under this division shall be considered the 5087
employee of the self-insuring employer listed in that 5088
certificate for any purposes other than this chapter and ~~Chapter~~ 5089
Chapters 4121. and 4133. of the Revised Code. Nothing in this 5090
division gives a self-insuring employer authority to control the 5091
means, manner, or method of employment of the employees of the 5092

contractors and subcontractors covered under a certificate 5093
issued under this division. 5094

The contractors and subcontractors included under a 5095
certificate issued under this division are entitled to the 5096
protections provided under this chapter and ~~Chapter~~ Chapters 5097
4121. and 4133. of the Revised Code with respect to the 5098
contractor's or subcontractor's employees who are employed on 5099
the construction project which is the subject of the 5100
certificate, for death or injuries that arise out of, or death, 5101
injuries, or occupational diseases that arise in the course of, 5102
those employees' employment on that construction project. 5103

The contractors and subcontractors included under a 5104
certificate issued under this division shall identify in their 5105
payroll records the employees who are considered the employees 5106
of the self-insuring employer listed in that certificate for 5107
purposes of this chapter and Chapter 4121. and 4133. of the 5108
Revised Code, and the amount that those employees earned for 5109
employment on the construction project that is the subject of 5110
that certificate. Notwithstanding any provision to the contrary 5111
under this chapter and Chapter 4121. of the Revised Code, the 5112
administrator shall exclude the payroll that is reported for 5113
employees who are considered the employees of the self-insuring 5114
employer listed in that certificate, and that the employees 5115
earned for employment on the construction project that is the 5116
subject of that certificate, when determining those contractors' 5117
or subcontractors' premiums or assessments required under this 5118
chapter and Chapter 4121. and 4133. of the Revised Code. A self- 5119
insuring employer issued a certificate under this division shall 5120
include in the amount of paid compensation it reports pursuant 5121
to division (L) of this section, the amount of paid compensation 5122
the self-insuring employer paid pursuant to this division for 5123

the previous calendar year. 5124

Nothing in this division shall be construed as altering 5125
the rights of employees under this chapter and Chapter 4121. of 5126
the Revised Code as those rights existed prior to September 17, 5127
1996. Nothing in this division shall be construed as altering 5128
the rights devolved under sections 2305.31 and 4123.82 of the 5129
Revised Code as those rights existed prior to September 17, 5130
1996. 5131

As used in this division, "privilege to self-insure a 5132
construction project" means privilege to pay individually 5133
compensation, and to furnish medical, surgical, nursing, and 5134
hospital services and attention and funeral expenses directly to 5135
injured employees or the dependents of killed employees. 5136

(P) A self-insuring employer whose application is granted 5137
under division (O) of this section shall designate a safety 5138
professional to be responsible for the administration and 5139
enforcement of the safety program that is specifically designed 5140
for the construction project that is the subject of the 5141
application. 5142

A self-insuring employer whose application is granted 5143
under division (O) of this section shall employ an ombudsperson 5144
for the construction project that is the subject of the 5145
application. The ombudsperson shall have experience in workers' 5146
compensation or the construction industry, or both. The 5147
ombudsperson shall perform all of the following duties: 5148

(1) Communicate with and provide information to employees 5149
who are injured in the course of, or whose injury arises out of 5150
employment on the construction project, or who contract an 5151
occupational disease in the course of employment on the 5152

construction project; 5153

(2) Investigate the status of a claim upon the request of 5154
an employee to do so; 5155

(3) Provide information to claimants, third party 5156
administrators, employers, and other persons to assist those 5157
persons in protecting their rights under this chapter and 5158
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code. 5159

A self-insuring employer whose application is granted 5160
under division (O) of this section shall post the name of the 5161
safety professional and the ombudsperson and instructions for 5162
contacting the safety professional and the ombudsperson in a 5163
conspicuous place at the site of the construction project. 5164

(Q) The administrator may consider all of the following 5165
when deciding whether to grant a self-insuring employer the 5166
privilege to self-insure a construction project as provided 5167
under division (O) of this section: 5168

(1) Whether the self-insuring employer has an 5169
organizational plan for the administration of the workers' 5170
compensation law; 5171

(2) Whether the safety program that is specifically 5172
designed for the construction project provides for the safety of 5173
employees employed on the construction project, is applicable to 5174
all contractors and subcontractors who perform labor or work or 5175
provide materials for the construction project, and has as a 5176
component, a safety training program that complies with 5177
standards adopted pursuant to the "Occupational Safety and 5178
Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and 5179
provides for continuing management and employee involvement; 5180

(3) Whether granting the privilege to self-insure the 5181

construction project will reduce the costs of the construction 5182
project; 5183

(4) Whether the self-insuring employer has employed an 5184
ombudsperson as required under division (P) of this section; 5185

(5) Whether the self-insuring employer has sufficient 5186
surety to secure the payment of claims for which the self- 5187
insuring employer would be responsible pursuant to the granting 5188
of the privilege to self-insure a construction project under 5189
division (O) of this section. 5190

(R) As used in divisions (O), (P), and (Q), "self-insuring 5191
employer" includes the following employers, whether or not they 5192
have been granted the status of being a self-insuring employer 5193
under division (B) of this section: 5194

(1) A state institution of higher education; 5195

(2) A school district; 5196

(3) A county school financing district; 5197

(4) An educational service center; 5198

(5) A community school established under Chapter 3314. of 5199
the Revised Code; 5200

(6) A municipal power agency as defined in section 5201
3734.058 of the Revised Code. 5202

(S) As used in this section: 5203

(1) "Unvoted debt capacity" means the amount of money that 5204
a public employer may borrow without voter approval of a tax 5205
levy; 5206

(2) "State institution of higher education" means the 5207
state universities listed in section 3345.011 of the Revised 5208

Code, community colleges created pursuant to Chapter 3354. of 5209
the Revised Code, university branches created pursuant to 5210
Chapter 3355. of the Revised Code, technical colleges created 5211
pursuant to Chapter 3357. of the Revised Code, and state 5212
community colleges created pursuant to Chapter 3358. of the 5213
Revised Code. 5214

Sec. 4123.351. (A) The administrator of workers' 5215
compensation shall require every self-insuring employer, 5216
including any self-insuring employer that is indemnified by a 5217
captive insurance company granted a certificate of authority 5218
under Chapter 3964. of the Revised Code, to pay a contribution, 5219
calculated under this section, to the self-insuring employers' 5220
guaranty fund established pursuant to this section. The fund 5221
shall provide for payment of compensation and benefits to 5222
employees of the self-insuring employer in order to cover any 5223
default in payment by that employer. 5224

(B) The bureau of workers' compensation shall operate the 5225
self-insuring employers' guaranty fund for self-insuring 5226
employers. The administrator annually shall establish the 5227
contributions due from self-insuring employers for the fund at 5228
rates as low as possible but such as will assure sufficient 5229
moneys to guarantee the payment of any claims against the fund. 5230
The bureau's operation of the fund is not subject to sections 5231
3929.10 to 3929.18 of the Revised Code or to regulation by the 5232
superintendent of insurance. 5233

(C) If a self-insuring employer defaults, the bureau shall 5234
recover the amounts paid as a result of the default from the 5235
self-insuring employers' guaranty fund. If a self-insuring 5236
employer defaults and is in compliance with this section for the 5237
payment of contributions to the fund, such self-insuring 5238

employer is entitled to the immunity conferred by section 5239
4123.74 of the Revised Code for any claim arising during any 5240
period the employer is in compliance with this section. 5241

(D) (1) There is hereby established a self-insuring 5242
employers' guaranty fund, which shall be in the custody of the 5243
treasurer of state and which shall be separate from the other 5244
funds established and administered pursuant to this chapter. The 5245
fund shall consist of contributions and other payments made by 5246
self-insuring employers under this section. All investment 5247
earnings of the fund shall be credited to the fund. The bureau 5248
shall make disbursements from the fund pursuant to this section. 5249

(2) The administrator has the same powers to invest any of 5250
the surplus or reserve belonging to the fund as are delegated to 5251
the administrator under section 4123.44 of the Revised Code with 5252
respect to the state insurance fund. The administrator shall 5253
apply interest earned solely to the reduction of assessments for 5254
contributions from self-insuring employers and to the payments 5255
required due to defaults. 5256

(3) If the bureau of workers' compensation board of 5257
directors determines that reinsurance of the risks of the fund 5258
is necessary to assure solvency of the fund, the board may: 5259

(a) Enter into contracts for the purchase of reinsurance 5260
coverage of the risks of the fund with any company or agency 5261
authorized by law to issue contracts of reinsurance; 5262

(b) Require the administrator to pay the cost of 5263
reinsurance from the fund; 5264

(c) Include the costs of reinsurance as a liability and 5265
estimated liability of the fund. 5266

(E) The administrator, with the advice and consent of the 5267

board, may adopt rules pursuant to Chapter 119. of the Revised 5268
Code for the implementation of this section, including a rule, 5269
notwithstanding division (C) of this section, requiring self- 5270
insuring employers to provide security in addition to the 5271
contribution to the self-insuring employers' guaranty fund 5272
required by this section. The additional security required by 5273
the rule, as the administrator determines appropriate, shall be 5274
sufficient and adequate to provide for financial assurance to 5275
meet the obligations of self-insuring employers under this 5276
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 5277
Code. 5278

(F) The purchase of coverage under this section by self- 5279
insuring employers is valid notwithstanding the prohibitions 5280
contained in division (A) of section 4123.82 of the Revised Code 5281
and is in addition to the indemnity contracts that self-insuring 5282
employers may purchase pursuant to division (B) of section 5283
4123.82 of the Revised Code. 5284

(G) The administrator, on behalf of the self-insuring 5285
employers' guaranty fund, has the rights of reimbursement and 5286
subrogation and shall collect from a defaulting self-insuring 5287
employer or other liable person all amounts the administrator 5288
has paid or reasonably expects to pay from the fund on account 5289
of the defaulting self-insuring employer. 5290

(H) The assessments for contributions, the administration 5291
of the self-insuring employers' guaranty fund, the investment of 5292
the money in the fund, and the payment of liabilities incurred 5293
by the fund do not create any liability upon the state. 5294

Except for a gross abuse of discretion, neither the board, 5295
nor the individual members thereof, nor the administrator shall 5296
incur any obligation or liability respecting the assessments for 5297

contributions, the administration of the self-insuring 5298
employers' guaranty fund, the investment of the fund, or the 5299
payment of liabilities therefrom. 5300

Sec. 4123.353. (A) A public employer, except for a board 5301
of county commissioners described in division (G) of section 5302
4123.01 of the Revised Code, a board of a county hospital, or a 5303
publicly owned utility, who is granted the status of self- 5304
insuring employer pursuant to section 4123.35 of the Revised 5305
Code shall do all of the following: 5306

(1) Reserve funds as necessary, in accordance with sound 5307
and prudent actuarial judgment, to cover the costs the public 5308
employer may potentially incur to remain in compliance with this 5309
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 5310
Code; 5311

(2) Include all activity under this chapter and ~~Chapter~~ 5312
Chapters 4121. and 4133. of the Revised Code in a single fund on 5313
the public employer's accounting records; 5314

(3) Within ninety days after the last day of each fiscal 5315
year, prepare and maintain a report of the reserved funds 5316
described in division (A) (1) of this section and disbursements 5317
made from those reserved funds. 5318

(B) A public employer who is subject to division (A) of 5319
this section shall make the reports required by that division 5320
available for inspection by the administrator of workers' 5321
compensation and any other person at all reasonable times during 5322
regular business hours. 5323

Sec. 4123.402. The department of administrative services 5324
shall act as employer for workers' compensation claims arising 5325
under this chapter and Chapters 4121., 4127., ~~and 4131.~~ and 5326

4133. of the Revised Code for all state agencies, offices, 5327
institutions, boards, or commissions except for public colleges 5328
and universities. The department shall review, process, certify 5329
or contest, and administer workers' compensation claims for each 5330
state agency, office, institution, board, and commission, except 5331
for a public college or university, unless otherwise agreed to 5332
between the department and a state agency, office, institution, 5333
board, or commission. 5334

The department may enter into a contract with one or more 5335
third party administrators for claims management of a state 5336
agency, office, institution, board, or commission, except for a 5337
public college or university, for workers' compensation claims 5338
and for claims covered by the occupational injury leave program 5339
adopted pursuant to section 124.381 of the Revised Code. 5340

Sec. 4123.441. (A) The administrator of workers' 5341
compensation, with the advice and consent of the bureau of 5342
workers' compensation board of directors shall employ a person 5343
or designate an employee of the bureau of workers' compensation 5344
who is designated as a chartered financial analyst by the CFA 5345
institute and who is licensed by the division of securities in 5346
the department of commerce as a bureau of workers' compensation 5347
chief investment officer to be the chief investment officer for 5348
the bureau of workers' compensation. After ninety days after 5349
September 29, 2005, the bureau of workers' compensation may not 5350
employ a bureau of workers' compensation chief investment 5351
officer, as defined in section 1707.01 of the Revised Code, who 5352
does not hold a valid bureau of workers' compensation chief 5353
investment officer license issued by the division of securities 5354
in the department of commerce. The board shall notify the 5355
division of securities of the department of commerce in writing 5356
of its designation and of any change in its designation within 5357

ten calendar days after the designation or change. 5358

(B) The bureau of workers' compensation chief investment 5359
officer shall reasonably supervise employees of the bureau who 5360
handle investment of assets of funds specified in this chapter 5361
and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the Revised 5362
Code with a view toward preventing violations of Chapter 1707. 5363
of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 5364
7 U.S.C. 1, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 5365
77a, the "Securities Exchange Act of 1934," 48 Stat. 881, 15 5366
U.S.C. 78a, and the rules and regulations adopted under those 5367
statutes. This duty of reasonable supervision shall include the 5368
adoption, implementation, and enforcement of written policies 5369
and procedures reasonably designed to prevent employees of the 5370
bureau who handle investment of assets of the funds specified in 5371
this chapter and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of 5372
the Revised Code, from misusing material, nonpublic information 5373
in violation of those laws, rules, and regulations. 5374

For purposes of this division, no bureau of workers' 5375
compensation chief investment officer shall be considered to 5376
have failed to satisfy the officer's duty of reasonable 5377
supervision if the officer has done all of the following: 5378

(1) Adopted and implemented written procedures, and a 5379
system for applying the procedures, that would reasonably be 5380
expected to prevent and detect, insofar as practicable, any 5381
violation by employees handling investments of assets of the 5382
funds specified in this chapter and Chapters 4121., 4127., ~~and~~ 5383
4131., and 4133. of the Revised Code; 5384

(2) Reasonably discharged the duties and obligations 5385
incumbent on the bureau of workers' compensation chief 5386
investment officer by reason of the established procedures and 5387

the system for applying the procedures when the officer had no 5388
reasonable cause to believe that there was a failure to comply 5389
with the procedures and systems; 5390

(3) Reviewed, at least annually, the adequacy of the 5391
policies and procedures established pursuant to this section and 5392
the effectiveness of their implementation. 5393

(C) The bureau of workers' compensation chief investment 5394
officer shall establish and maintain a policy to monitor and 5395
evaluate the effectiveness of securities transactions executed 5396
on behalf of the bureau. 5397

Sec. 4123.442. When developing the investment policy for 5398
the investment of the assets of the funds specified in this 5399
chapter and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the 5400
Revised Code, the workers' compensation investment committee 5401
shall do all of the following: 5402

(A) Specify the asset allocation targets and ranges, risk 5403
factors, asset class benchmarks, time horizons, total return 5404
objectives, and performance evaluation guidelines; 5405

(B) Prohibit investing the assets of those funds, directly 5406
or indirectly, in vehicles that target any of the following: 5407

(1) Coins; 5408

(2) Artwork; 5409

(3) Horses; 5410

(4) Jewelry or gems; 5411

(5) Stamps; 5412

(6) Antiques; 5413

(7) Artifacts; 5414

(8) Collectibles; 5415

(9) Memorabilia; 5416

(10) Similar unregulated investments that are not commonly 5417
part of an institutional portfolio, that lack liquidity, and 5418
that lack readily determinable valuation. 5419

(C) Specify that the administrator of workers' 5420
compensation may invest in an investment class only if the 5421
bureau of workers' compensation board of directors, by a 5422
majority vote, opens that class; 5423

(D) Prohibit investing the assets of those funds in any 5424
class of investments the board, by majority vote, closed, or any 5425
specific investment in which the board prohibits the 5426
administrator from investing; 5427

(E) Not specify in the investment policy that the 5428
administrator or employees of the bureau of workers' 5429
compensation are prohibited from conducting business with an 5430
investment management firm, any investment management 5431
professional associated with that firm, any third party 5432
solicitor associated with that firm, or any political action 5433
committee controlled by that firm or controlled by an investment 5434
management professional of that firm based on criteria that are 5435
more restrictive than the restrictions described in divisions 5436
(Y) and (Z) of section 3517.13 of the Revised Code. 5437

Sec. 4123.444. (A) As used in this section and section 5438
4123.445 of the Revised Code: 5439

(1) "Bureau of workers' compensation funds" means any fund 5440
specified in Chapter 4121., 4123., 4127., ~~or 4131.,~~ or 4133. of 5441
the Revised Code that the administrator of workers' compensation 5442
has the authority to invest, in accordance with the 5443

administrator's investment authority under section 4123.44 of 5444
the Revised Code. 5445

(2) "Investment manager" means any person with whom the 5446
administrator of workers' compensation contracts pursuant to 5447
section 4123.44 of the Revised Code to facilitate the investment 5448
of assets of bureau of workers' compensation funds. 5449

(3) "Business entity" means any person with whom an 5450
investment manager contracts for the investment of assets of 5451
bureau of workers' compensation funds. 5452

(4) "Financial or investment crime" means any criminal 5453
offense involving theft, receiving stolen property, 5454
embezzlement, forgery, fraud, passing bad checks, money 5455
laundering, drug trafficking, or any criminal offense involving 5456
money or securities, as set forth in Chapters 2909., 2911., 5457
2913., 2915., 2921., 2923., and 2925. of the Revised Code or 5458
other law of this state, or the laws of any other state or the 5459
United States that are substantially equivalent to those 5460
offenses. 5461

(B) (1) Before entering into a contract with an investment 5462
manager to invest bureau of workers' compensation funds, the 5463
administrator shall do both of the following: 5464

(a) Request from any investment manager with whom the 5465
administrator wishes to contract for those investments a list of 5466
all employees who will be investing assets of bureau of workers' 5467
compensation funds. The list shall specify each employee's state 5468
of residence for the five years prior to the date of the 5469
administrator's request. 5470

(b) Request that the superintendent of the bureau of 5471
criminal investigation and identification conduct a criminal 5472

records check in accordance with this section and section 5473
109.579 of the Revised Code with respect to every employee the 5474
investment manager names in that list. 5475

(2) After an investment manager enters into a contract 5476
with the administrator to invest bureau of workers' compensation 5477
funds and before an investment manager enters into a contract 5478
with a business entity to facilitate those investments, the 5479
investment manager shall request from any business entity with 5480
whom the investment manager wishes to contract to make those 5481
investments a list of all employees who will be investing assets 5482
of the bureau of workers' compensation funds. The list shall 5483
specify each employee's state of residence for the five years 5484
prior to the investment manager's request. The investment 5485
manager shall forward to the administrator the list received 5486
from the business entity. The administrator shall request the 5487
superintendent to conduct a criminal records check in accordance 5488
with this section and section 109.579 of the Revised Code with 5489
respect to every employee the business entity names in that 5490
list. Upon receipt of the results of the criminal records check, 5491
the administrator shall advise the investment manager whether 5492
the results were favorable or unfavorable. 5493

(3) If, after a contract has been entered into between the 5494
administrator and an investment manager or between an investment 5495
manager and a business entity for the investment of assets of 5496
bureau of workers' compensation funds, the investment manager or 5497
business entity wishes to have an employee who was not the 5498
subject of a criminal records check under division (B) (1) or (B) 5499
(2) of this section invest assets of the bureau of workers' 5500
compensation funds, that employee shall be the subject of a 5501
criminal records check pursuant to this section and section 5502
109.579 of the Revised Code prior to handling the investment of 5503

assets of those funds. The investment manager shall submit to 5504
the administrator the name of that employee along with the 5505
employee's state of residence for the five years prior to the 5506
date in which the administrator requests the criminal records 5507
check. The administrator shall request that the superintendent 5508
conduct a criminal records check on that employee pursuant to 5509
this section and section 109.579 of the Revised Code. 5510

(C) (1) If an employee who is the subject of a criminal 5511
records check pursuant to division (B) of this section has not 5512
been a resident of this state for the five-year period 5513
immediately prior to the time the criminal records check is 5514
requested or does not provide evidence that within that five- 5515
year period the superintendent has requested information about 5516
the employee from the federal bureau of investigation in a 5517
criminal records check, the administrator shall request that the 5518
superintendent obtain information from the federal bureau of 5519
investigation as a part of the criminal records check for the 5520
employee. If the employee has been a resident of this state for 5521
at least that five-year period, the administrator may, but is 5522
not required to, request that the superintendent request and 5523
include in the criminal records check information about that 5524
employee from the federal bureau of investigation. 5525

(2) The administrator shall provide to an investment 5526
manager a copy of the form prescribed pursuant to division (C) 5527
(1) of section 109.579 of the Revised Code and a standard 5528
impression sheet for each employee for whom a criminal records 5529
check must be performed, to obtain fingerprint impressions as 5530
prescribed pursuant to division (C) (2) of section 109.579 of the 5531
Revised Code. The investment manager shall obtain the completed 5532
form and impression sheet either directly from each employee or 5533
from a business entity and shall forward the completed form and 5534

sheet to the administrator, who shall forward these forms and 5535
sheets to the superintendent. 5536

(3) Any employee who receives a copy of the form and the 5537
impression sheet pursuant to division (C)(2) of this section and 5538
who is requested to complete the form and provide a set of 5539
fingerprint impressions shall complete the form or provide all 5540
the information necessary to complete the form and shall 5541
complete the impression sheets in the manner prescribed in 5542
division (C)(2) of section 109.579 of the Revised Code. 5543

(D) For each criminal records check the administrator 5544
requests under this section, at the time the administrator makes 5545
a request the administrator shall pay to the superintendent the 5546
fee the superintendent prescribes pursuant to division (E) of 5547
section 109.579 of the Revised Code. 5548

Sec. 4123.47. (A) The administrator of workers' 5549
compensation shall have an actuarial analysis of the state 5550
insurance fund and all other funds specified in this chapter and 5551
Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the Revised Code 5552
made at least once each year. The analysis shall be made and 5553
certified by recognized, credentialed property or casualty 5554
actuaries who shall be selected by the bureau of workers' 5555
compensation board of directors. The expense of the analysis 5556
shall be paid from the state insurance fund. The administrator 5557
shall make copies of the analysis available to the workers' 5558
compensation audit committee at no charge and to the public at 5559
cost. 5560

(B) The auditor of state annually shall conduct an audit 5561
of the administration of this chapter by the industrial 5562
commission and the bureau of workers' compensation and the 5563
safety and hygiene fund. The cost of the audit shall be charged 5564

to the administrative costs of the bureau as defined in section 5565
4123.341 of the Revised Code. The audit shall include audits of 5566
all fiscal activities, claims processing and handling, and 5567
employer premium collections. The auditor shall prepare a report 5568
of the audit together with recommendations and transmit copies 5569
of the report to the industrial commission, the board, the 5570
administrator, the governor, and to the general assembly. The 5571
auditor shall make copies of the report available to the public 5572
at cost. 5573

(C) The administrator may retain the services of a 5574
recognized actuary on a consulting basis for the purpose of 5575
evaluating the actuarial soundness of premium rates and 5576
classifications and all other matters involving the 5577
administration of the state insurance fund. The expense of 5578
services provided by the actuary shall be paid from the state 5579
insurance fund. 5580

Sec. 4123.51. The administrator of workers' compensation 5581
shall by published notices and other appropriate means endeavor 5582
to cause claims to be filed in the service office of the bureau 5583
of workers' compensation from which the investigation and 5584
determination of the claim may be made most expeditiously. A 5585
claim or appeal under this chapter or Chapter 4121., 4127., ~~or~~ 5586
4131., or 4133. of the Revised Code may be filed with any office 5587
of the bureau of workers' compensation or the industrial 5588
commission, within the required statutory period, and is 5589
considered received for the purpose of processing the claims or 5590
appeals. 5591

The administrator, on the form an employee or an 5592
individual acting on behalf of the employee files with the 5593
administrator or a self-insuring employer to initiate a claim 5594

under this chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. 5595
of the Revised Code, shall include a statement that is 5596
substantially similar to the following statement in bold font 5597
and set apart from all other text in the form: 5598

"By signing this form, I elect to only receive 5599
compensation, benefits, or both that are provided for in this 5600
claim under Ohio's workers' compensation laws. I understand and 5601
I hereby waive and release my right to receive compensation and 5602
benefits under the workers' compensation laws of another state 5603
for the injury or occupational disease, or the death resulting 5604
from an injury or occupational disease, for which I am filing 5605
this claim. I have not received compensation and benefits under 5606
the workers' compensation laws of another state for this claim, 5607
and I will not file and have not filed a claim in another state 5608
for the injury or occupational disease or death resulting from 5609
an injury or occupational disease for which I am filing this 5610
claim." 5611

Sec. 4123.511. (A) Within seven days after receipt of any 5612
claim under this chapter, the bureau of workers' compensation 5613
shall notify the claimant and the employer of the claimant of 5614
the receipt of the claim and of the facts alleged therein. If 5615
the bureau receives from a person other than the claimant 5616
written or facsimile information or information communicated 5617
verbally over the telephone indicating that an injury or 5618
occupational disease has occurred or been contracted which may 5619
be compensable under this chapter, the bureau shall notify the 5620
employee and the employer of the information. If the information 5621
is provided verbally over the telephone, the person providing 5622
the information shall provide written verification of the 5623
information to the bureau according to division (E) of section 5624
4123.84 of the Revised Code. The receipt of the information in 5625

writing or facsimile, or if initially by telephone, the 5626
subsequent written verification, and the notice by the bureau 5627
shall be considered an application for compensation under 5628
section 4123.84 or 4123.85 of the Revised Code, provided that 5629
the conditions of division (E) of section 4123.84 of the Revised 5630
Code apply to information provided verbally over the telephone. 5631
Upon receipt of a claim, the bureau shall advise the claimant of 5632
the claim number assigned and the claimant's right to 5633
representation in the processing of a claim or to elect no 5634
representation. If the bureau determines that a claim is 5635
determined to be a compensable lost-time claim, the bureau shall 5636
notify the claimant and the employer of the availability of 5637
rehabilitation services. No bureau or industrial commission 5638
employee shall directly or indirectly convey any information in 5639
derogation of this right. This section shall in no way abrogate 5640
the bureau's responsibility to aid and assist a claimant in the 5641
filing of a claim and to advise the claimant of the claimant's 5642
rights under the law. 5643

The administrator of workers' compensation shall assign 5644
all claims and investigations to the bureau service office from 5645
which investigation and determination may be made most 5646
expeditiously. 5647

The bureau shall investigate the facts concerning an 5648
injury or occupational disease and ascertain such facts in 5649
whatever manner is most appropriate and may obtain statements of 5650
the employee, employer, attending physician, and witnesses in 5651
whatever manner is most appropriate. 5652

The administrator, with the advice and consent of the 5653
bureau of workers' compensation board of directors, may adopt 5654
rules that identify specified medical conditions that have a 5655

historical record of being allowed whenever included in a claim. 5656
The administrator may grant immediate allowance of any medical 5657
condition identified in those rules upon the filing of a claim 5658
involving that medical condition and may make immediate payment 5659
of medical bills for any medical condition identified in those 5660
rules that is included in a claim. If an employer contests the 5661
allowance of a claim involving any medical condition identified 5662
in those rules, and the claim is disallowed, payment for the 5663
medical condition included in that claim shall be charged to and 5664
paid from the surplus fund created under section 4123.34 of the 5665
Revised Code. 5666

(B) (1) Except as provided in division (B) (2) of this 5667
section, in claims other than those in which the employer is a 5668
self-insuring employer, if the administrator determines under 5669
division (A) of this section that a claimant is or is not 5670
entitled to an award of compensation or benefits, the 5671
administrator shall issue an order no later than twenty-eight 5672
days after the sending of the notice under division (A) of this 5673
section, granting or denying the payment of the compensation or 5674
benefits, or both as is appropriate to the claimant. 5675
Notwithstanding the time limitation specified in this division 5676
for the issuance of an order, if a medical examination of the 5677
claimant is required by statute, the administrator promptly 5678
shall schedule the claimant for that examination and shall issue 5679
an order no later than twenty-eight days after receipt of the 5680
report of the examination. The administrator shall notify the 5681
claimant and the employer of the claimant and their respective 5682
representatives in writing of the nature of the order and the 5683
amounts of compensation and benefit payments involved. The 5684
employer or claimant may appeal the order pursuant to division 5685
(C) of this section within fourteen days after the date of the 5686

receipt of the order. The employer and claimant may waive, in 5687
writing, their rights to an appeal under this division. 5688

(2) Notwithstanding the time limitation specified in 5689
division (B)(1) of this section for the issuance of an order, if 5690
the employer certifies a claim for payment of compensation or 5691
benefits, or both, to a claimant, and the administrator has 5692
completed the investigation of the claim, the payment of 5693
benefits or compensation, or both, as is appropriate, shall 5694
commence upon the later of the date of the certification or 5695
completion of the investigation and issuance of the order by the 5696
administrator, provided that the administrator shall issue the 5697
order no later than the time limitation specified in division 5698
(B)(1) of this section. 5699

(3) If an appeal is made under division (B)(1) or (2) of 5700
this section, the administrator shall forward the claim file to 5701
the appropriate district hearing officer within seven days of 5702
the appeal. In contested claims other than state fund claims, 5703
the administrator shall forward the claim within seven days of 5704
the administrator's receipt of the claim to the industrial 5705
commission, which shall refer the claim to an appropriate 5706
district hearing officer for a hearing in accordance with 5707
division (C) of this section. 5708

~~(C) If an employer or claimant timely appeals the order of~~ 5709
~~the administrator issued under division (B) of this section or~~ 5710
~~in the case of other contested claims other than state fund~~ 5711
~~claims, (1) Except as provided in division (C)(2) of this~~ 5712
section, the commission shall refer the a claim to an 5713
appropriate district hearing officer according to rules the 5714
commission adopts under section 4121.36 of the Revised Code if 5715
an employer or claimant timely appeals any of the following: 5716

(a) An order or determination of the administrator issued 5717
under division (B) of this section or section 4133.06 of the 5718
Revised Code; 5719

(b) A determination of the occupational pneumoconiosis 5720
board issued under section 4133.09 of the Revised Code; 5721

(c) Other contested claims other than state fund claims. 5722

(2) Division (C)(1) of this section does not apply to a 5723
claim that has been referred to the occupational pneumoconiosis 5724
board under section 4133.08 of the Revised Code. 5725

The district hearing officer shall notify the parties and 5726
their respective representatives of the time and place of the 5727
hearing. 5728

The district hearing officer shall hold a hearing on a 5729
disputed issue or claim within forty-five days after the filing 5730
of the appeal under this division and issue a decision within 5731
seven days after holding the hearing. The district hearing 5732
officer shall notify the parties and their respective 5733
representatives in writing of the order. Any party may appeal an 5734
order issued under this division pursuant to division (D) of 5735
this section within fourteen days after receipt of the order 5736
under this division. 5737

(D) Upon the timely filing of an appeal of the order of 5738
the district hearing officer issued under division (C) of this 5739
section, the commission shall refer the claim file to an 5740
appropriate staff hearing officer according to its rules adopted 5741
under section 4121.36 of the Revised Code. The staff hearing 5742
officer shall hold a hearing within forty-five days after the 5743
filing of an appeal under this division and issue a decision 5744
within seven days after holding the hearing under this division. 5745

The staff hearing officer shall notify the parties and their
respective representatives in writing of the staff hearing
officer's order. Any party may appeal an order issued under this
division pursuant to division (E) of this section within
fourteen days after receipt of the order under this division.

(E) Upon the filing of a timely appeal of the order of the
staff hearing officer issued under division (D) of this section,
the commission or a designated staff hearing officer, on behalf
of the commission, shall determine whether the commission will
hear the appeal. If the commission or the designated staff
hearing officer decides to hear the appeal, the commission or
the designated staff hearing officer shall notify the parties
and their respective representatives in writing of the time and
place of the hearing. The commission shall hold the hearing
within forty-five days after the filing of the notice of appeal
and, within seven days after the conclusion of the hearing, the
commission shall issue its order affirming, modifying, or
reversing the order issued under division (D) of this section.
The commission shall notify the parties and their respective
representatives in writing of the order. If the commission or
the designated staff hearing officer determines not to hear the
appeal, within fourteen days after the expiration of the period
in which an appeal of the order of the staff hearing officer may
be filed as provided in division (D) of this section, the
commission or the designated staff hearing officer shall issue
an order to that effect and notify the parties and their
respective representatives in writing of that order.

Except as otherwise provided in this chapter and Chapters
4121., 4127., ~~and 4131.~~, and 4133. of the Revised Code, any
party may appeal an order issued under this division to the
court pursuant to section 4123.512 of the Revised Code within

sixty days after receipt of the order, subject to the 5777
limitations contained in that section. 5778

(F) Every notice of an appeal from an order issued under 5779
divisions (B), (C), (D), and (E) of this section shall state the 5780
names of the claimant and employer, the number of the claim, the 5781
date of the decision appealed from, and the fact that the 5782
appellant appeals therefrom. 5783

(G) All of the following apply to the proceedings under 5784
divisions (C), (D), and (E) of this section: 5785

(1) The parties shall proceed promptly and without 5786
continuances except for good cause; 5787

(2) The parties, in good faith, shall engage in the free 5788
exchange of information relevant to the claim prior to the 5789
conduct of a hearing according to the rules the commission 5790
adopts under section 4121.36 of the Revised Code; 5791

(3) The administrator is a party and may appear and 5792
participate at all administrative proceedings on behalf of the 5793
state insurance fund. However, in cases in which the employer is 5794
represented, the administrator shall neither present arguments 5795
nor introduce testimony that is cumulative to that presented or 5796
introduced by the employer or the employer's representative. The 5797
administrator may file an appeal under this section on behalf of 5798
the state insurance fund; however, except in cases arising under 5799
section 4123.343 of the Revised Code, the administrator only may 5800
appeal questions of law or issues of fraud when the employer 5801
appears in person or by representative. 5802

(H) Except as provided in section 4121.63 of the Revised 5803
Code and division (K) of this section, payments of compensation 5804
to a claimant or on behalf of a claimant as a result of any 5805

order issued under this chapter or Chapter 4133. of the Revised 5806
Code shall commence upon the earlier of the following: 5807

(1) Fourteen days after the date the administrator issues 5808
an order under division (B) of this section or section 4133.06 5809
of the Revised Code, unless that order is appealed or the claim 5810
has been referred to the occupational pneumoconiosis board, as 5811
applicable; 5812

(2) Fourteen days after the date the occupational 5813
pneumoconiosis board makes a determination under section 4133.09 5814
of the Revised Code; 5815

(3) The date when the employer has waived the right to 5816
appeal a decision issued under division (B) of this section or 5817
Chapter 4133. of the Revised Code; 5818

~~(3)~~ (4) If no appeal of an order has been filed under this 5819
section or to a court under section 4123.512 of the Revised 5820
Code, the expiration of the time limitations for the filing of 5821
an appeal of an order; 5822

~~(4)~~ (5) The date of receipt by the employer of an order of 5823
a district hearing officer, a staff hearing officer, or the 5824
industrial commission issued under division (C), (D), or (E) of 5825
this section. 5826

(I) Except as otherwise provided in division (B) of 5827
section 4123.66 of the Revised Code, payments of medical 5828
benefits payable under this chapter or Chapter 4121., 4127., ~~or~~ 5829
4131., or 4133. of the Revised Code shall commence upon the 5830
earlier of the following: 5831

(1) The date of the issuance of the staff hearing 5832
officer's order under division (D) of this section; 5833

(2) The date of the final administrative or judicial 5834
determination. 5835

(J) The administrator shall charge the compensation 5836
payments made in accordance with division (H) of this section or 5837
medical benefits payments made in accordance with division (I) 5838
of this section to an employer's experience immediately after 5839
the employer has exhausted the employer's administrative appeals 5840
as provided in this section or section 4133.06 of the Revised 5841
Code or has waived the employer's right to an administrative 5842
appeal under division (B) of this section or Chapter 4133. of 5843
the Revised Code, subject to the adjustment specified in 5844
division (H) of section 4123.512 of the Revised Code. 5845

(K) Upon the final administrative or judicial 5846
determination under this section or section 4123.512 of the 5847
Revised Code of an appeal of an order to pay compensation, if a 5848
claimant is found to have received compensation pursuant to a 5849
prior order which is reversed upon subsequent appeal, the 5850
claimant's employer, if a self-insuring employer, or the bureau, 5851
shall withhold from any amount to which the claimant becomes 5852
entitled pursuant to any claim, past, present, or future, under 5853
Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised 5854
Code, the amount of previously paid compensation to the claimant 5855
which, due to reversal upon appeal, the claimant is not 5856
entitled, pursuant to the following criteria: 5857

(1) No withholding for the first twelve weeks of temporary 5858
total disability compensation pursuant to ~~section~~ sections 5859
4123.56 and 4133.12 of the Revised Code shall be made; 5860

(2) Forty per cent of all awards of compensation paid 5861
pursuant to sections 4123.56 ~~and~~ , 4123.57, 4133.12, and 4133.13 5862
of the Revised Code, until the amount overpaid is refunded; 5863

(3) Twenty-five per cent of any compensation paid pursuant 5864
to ~~section~~ sections 4123.58 and 4133.14 of the Revised Code 5865
until the amount overpaid is refunded; 5866

(4) If, pursuant to an appeal under section 4123.512 of 5867
the Revised Code, the court of appeals or the supreme court 5868
reverses the allowance of the claim, then no amount of any 5869
compensation will be withheld. 5870

The administrator and self-insuring employers, as 5871
appropriate, are subject to the repayment schedule of this 5872
division only with respect to an order to pay compensation that 5873
was properly paid under a previous order, but which is 5874
subsequently reversed upon an administrative or judicial appeal. 5875
The administrator and self-insuring employers are not subject 5876
to, but may utilize, the repayment schedule of this division, or 5877
any other lawful means, to collect payment of compensation made 5878
to a person who was not entitled to the compensation due to 5879
fraud as determined by the administrator or the industrial 5880
commission. 5881

(L) If a staff hearing officer or the commission fails to 5882
issue a decision or the commission fails to refuse to hear an 5883
appeal within the time periods required by this section, 5884
payments to a claimant shall cease until the staff hearing 5885
officer or commission issues a decision or hears the appeal, 5886
unless the failure was due to the fault or neglect of the 5887
employer or the employer agrees that the payments should 5888
continue for a longer period of time. 5889

(M) Except as otherwise provided in this section or 5890
section 4123.522 of the Revised Code, no appeal is timely filed 5891
under this section unless the appeal is filed with the time 5892
limits set forth in this section. 5893

(N) No person who is not an employee of the bureau or 5894
commission or who is not by law given access to the contents of 5895
a claims file shall have a file in the person's possession. 5896

(O) Upon application of a party who resides in an area in 5897
which an emergency or disaster is declared, the industrial 5898
commission and hearing officers of the commission may waive the 5899
time frame within which claims and appeals of claims set forth 5900
in this section must be filed upon a finding that the applicant 5901
was unable to comply with a filing deadline due to an emergency 5902
or a disaster. 5903

As used in this division: 5904

(1) "Emergency" means any occasion or instance for which 5905
the governor of Ohio or the president of the United States 5906
publicly declares an emergency and orders state or federal 5907
assistance to save lives and protect property, the public health 5908
and safety, or to lessen or avert the threat of a catastrophe. 5909

(2) "Disaster" means any natural catastrophe or fire, 5910
flood, or explosion, regardless of the cause, that causes damage 5911
of sufficient magnitude that the governor of Ohio or the 5912
president of the United States, through a public declaration, 5913
orders state or federal assistance to alleviate damage, loss, 5914
hardship, or suffering that results from the occurrence. 5915

Sec. 4123.512. (A) The claimant or the employer may appeal 5916
an order of the industrial commission made under division (E) of 5917
section 4123.511 of the Revised Code in any injury or 5918
occupational disease case, other than a decision as to the 5919
extent of disability to the court of common pleas of the county 5920
in which the injury was inflicted or in which the contract of 5921
employment was made if the injury occurred outside the state, or 5922

in which the contract of employment was made if the exposure 5923
occurred outside the state. If no common pleas court has 5924
jurisdiction for the purposes of an appeal by the use of the 5925
jurisdictional requirements described in this division, the 5926
appellant may use the venue provisions in the Rules of Civil 5927
Procedure to vest jurisdiction in a court. If the claim is for 5928
an occupational disease, the appeal shall be to the court of 5929
common pleas of the county in which the exposure which caused 5930
the disease occurred. Like appeal may be taken from an order of 5931
a staff hearing officer made under division (D) of section 5932
4123.511 of the Revised Code from which the commission has 5933
refused to hear an appeal. The appellant shall file the notice 5934
of appeal with a court of common pleas within sixty days after 5935
the date of the receipt of the order appealed from or the date 5936
of receipt of the order of the commission refusing to hear an 5937
appeal of a staff hearing officer's decision under division (D) 5938
of section 4123.511 of the Revised Code. The filing of the 5939
notice of the appeal with the court is the only act required to 5940
perfect the appeal. 5941

If an action has been commenced in a court of a county 5942
other than a court of a county having jurisdiction over the 5943
action, the court, upon notice by any party or upon its own 5944
motion, shall transfer the action to a court of a county having 5945
jurisdiction. 5946

Notwithstanding anything to the contrary in this section, 5947
if the commission determines under section 4123.522 of the 5948
Revised Code that an employee, employer, or their respective 5949
representatives have not received written notice of an order or 5950
decision which is appealable to a court under this section and 5951
which grants relief pursuant to section 4123.522 of the Revised 5952
Code, the party granted the relief has sixty days from receipt 5953

of the order under section 4123.522 of the Revised Code to file 5954
a notice of appeal under this section. 5955

(B) The notice of appeal shall state the names of the 5956
administrator of workers' compensation, the claimant, and the 5957
employer; the number of the claim; the date of the order 5958
appealed from; and the fact that the appellant appeals 5959
therefrom. 5960

The administrator, the claimant, and the employer shall be 5961
parties to the appeal and the court, upon the application of the 5962
commission, shall make the commission a party. The party filing 5963
the appeal shall serve a copy of the notice of appeal on the 5964
administrator at the central office of the bureau of workers' 5965
compensation in Columbus. The administrator shall notify the 5966
employer that if the employer fails to become an active party to 5967
the appeal, then the administrator may act on behalf of the 5968
employer and the results of the appeal could have an adverse 5969
effect upon the employer's premium rates or may result in a 5970
recovery from the employer if the employer is determined to be a 5971
noncomplying employer under section 4123.75 of the Revised Code. 5972

(C) The attorney general or one or more of the attorney 5973
general's assistants or special counsel designated by the 5974
attorney general shall represent the administrator and the 5975
commission. In the event the attorney general or the attorney 5976
general's designated assistants or special counsel are absent, 5977
the administrator or the commission shall select one or more of 5978
the attorneys in the employ of the administrator or the 5979
commission as the administrator's attorney or the commission's 5980
attorney in the appeal. Any attorney so employed shall continue 5981
the representation during the entire period of the appeal and in 5982
all hearings thereof except where the continued representation 5983

becomes impractical. 5984

(D) Upon receipt of notice of appeal, the clerk of courts 5985
shall provide notice to all parties who are appellees and to the 5986
commission. 5987

The claimant shall, within thirty days after the filing of 5988
the notice of appeal, file a petition containing a statement of 5989
facts in ordinary and concise language showing a cause of action 5990
to participate or to continue to participate in the fund and 5991
setting forth the basis for the jurisdiction of the court over 5992
the action. Further pleadings shall be had in accordance with 5993
the Rules of Civil Procedure, provided that service of summons 5994
on such petition shall not be required and provided that the 5995
claimant may not dismiss the complaint without the employer's 5996
consent if the employer is the party that filed the notice of 5997
appeal to court pursuant to this section. The clerk of the court 5998
shall, upon receipt thereof, transmit by certified mail a copy 5999
thereof to each party named in the notice of appeal other than 6000
the claimant. Any party may file with the clerk prior to the 6001
trial of the action a deposition of any physician taken in 6002
accordance with the provisions of the Revised Code, which 6003
deposition may be read in the trial of the action even though 6004
the physician is a resident of or subject to service in the 6005
county in which the trial is had. The bureau of workers' 6006
compensation shall pay the cost of the stenographic deposition 6007
filed in court and of copies of the stenographic deposition for 6008
each party from the surplus fund and charge the costs thereof 6009
against the unsuccessful party if the claimant's right to 6010
participate or continue to participate is finally sustained or 6011
established in the appeal. In the event the deposition is taken 6012
and filed, the physician whose deposition is taken is not 6013
required to respond to any subpoena issued in the trial of the 6014

action. The court, or the jury under the instructions of the 6015
court, if a jury is demanded, shall determine the right of the 6016
claimant to participate or to continue to participate in the 6017
fund upon the evidence adduced at the hearing of the action. 6018

(E) The court shall certify its decision to the commission 6019
and the certificate shall be entered in the records of the 6020
court. Appeals from the judgment are governed by the law 6021
applicable to the appeal of civil actions. 6022

(F) The cost of any legal proceedings authorized by this 6023
section, including an attorney's fee to the claimant's attorney 6024
to be fixed by the trial judge, based upon the effort expended, 6025
in the event the claimant's right to participate or to continue 6026
to participate in the fund is established upon the final 6027
determination of an appeal, shall be taxed against the employer 6028
or the commission if the commission or the administrator rather 6029
than the employer contested the right of the claimant to 6030
participate in the fund. The attorney's fee shall not exceed 6031
forty-two hundred dollars. 6032

(G) If the finding of the court or the verdict of the jury 6033
is in favor of the claimant's right to participate in the fund, 6034
the commission and the administrator shall thereafter proceed in 6035
the matter of the claim as if the judgment were the decision of 6036
the commission, subject to the power of modification provided by 6037
section 4123.52 of the Revised Code. 6038

(H) (1) An appeal from an order issued under division (E) 6039
of section 4123.511 of the Revised Code or any action filed in 6040
court in a case in which an award of compensation or medical 6041
benefits has been made shall not stay the payment of 6042
compensation or medical benefits under the award, or payment for 6043
subsequent periods of total disability or medical benefits 6044

during the pendency of the appeal. If, in a final administrative 6045
or judicial action, it is determined that payments of 6046
compensation or benefits, or both, made to or on behalf of a 6047
claimant should not have been made, the amount thereof shall be 6048
charged to the surplus fund account under division (B) of 6049
section 4123.34 of the Revised Code. In the event the employer 6050
is a state risk, the amount shall not be charged to the 6051
employer's experience, and the administrator shall adjust the 6052
employer's account accordingly. In the event the employer is a 6053
self-insuring employer, the self-insuring employer shall deduct 6054
the amount from the paid compensation the self-insuring employer 6055
reports to the administrator under division (L) of section 6056
4123.35 of the Revised Code. If an employer is a state risk and 6057
has paid an assessment for a violation of a specific safety 6058
requirement, and, in a final administrative or judicial action, 6059
it is determined that the employer did not violate the specific 6060
safety requirement, the administrator shall reimburse the 6061
employer from the surplus fund account under division (B) of 6062
section 4123.34 of the Revised Code for the amount of the 6063
assessment the employer paid for the violation. 6064

(2) (a) Notwithstanding a final determination that payments 6065
of benefits made to or on behalf of a claimant should not have 6066
been made, the administrator or self-insuring employer shall 6067
award payment of medical or vocational rehabilitation services 6068
submitted for payment after the date of the final determination 6069
if all of the following apply: 6070

(i) The services were approved and were rendered by the 6071
provider in good faith prior to the date of the final 6072
determination. 6073

(ii) The services were payable under division (I) of 6074

section 4123.511 of the Revised Code prior to the date of the 6075
final determination. 6076

(iii) The request for payment is submitted within the time 6077
limit set forth in section 4123.52 of the Revised Code. 6078

(b) Payments made under division (H) (1) of this section 6079
shall be charged to the surplus fund account under division (B) 6080
of section 4123.34 of the Revised Code. If the employer of the 6081
employee who is the subject of a claim described in division (H) 6082
(2) (a) of this section is a state fund employer, the payments 6083
made under that division shall not be charged to the employer's 6084
experience. If that employer is a self-insuring employer, the 6085
self-insuring employer shall deduct the amount from the paid 6086
compensation the self-insuring employer reports to the 6087
administrator under division (L) of section 4123.35 of the 6088
Revised Code. 6089

(c) Division (H) (2) of this section shall apply only to a 6090
claim under this chapter or Chapter 4121., 4127., or 4131. of 6091
the Revised Code arising on or after July 29, 2011, and in the 6092
case of Chapter 4133. of the Revised Code, a claim arising on or 6093
after the effective date of this amendment. 6094

(3) A self-insuring employer may elect to pay compensation 6095
and benefits under this section directly to an employee or an 6096
employee's dependents by filing an application with the bureau 6097
of workers' compensation not more than one hundred eighty days 6098
and not less than ninety days before the first day of the 6099
employer's next six-month coverage period. If the self-insuring 6100
employer timely files the application, the application is 6101
effective on the first day of the employer's next six-month 6102
coverage period, provided that the administrator shall compute 6103
the employer's assessment for the surplus fund account due with 6104

respect to the period during which that application was filed 6105
without regard to the filing of the application. On and after 6106
the effective date of the employer's election, the self-insuring 6107
employer shall pay directly to an employee or to an employee's 6108
dependents compensation and benefits under this section 6109
regardless of the date of the injury or occupational disease, 6110
and the employer shall receive no money or credits from the 6111
surplus fund account on account of those payments and shall not 6112
be required to pay any amounts into the surplus fund account on 6113
account of this section. The election made under this division 6114
is irrevocable. 6115

(I) All actions and proceedings under this section which 6116
are the subject of an appeal to the court of common pleas or the 6117
court of appeals shall be preferred over all other civil actions 6118
except election causes, irrespective of position on the 6119
calendar. 6120

This section applies to all decisions of the commission or 6121
the administrator on November 2, 1959, and all claims filed 6122
thereafter are governed by sections 4123.511 and 4123.512 of the 6123
Revised Code. 6124

Any action pending in common pleas court or any other 6125
court on January 1, 1986, under this section is governed by 6126
former sections 4123.514, 4123.515, 4123.516, and 4123.519 and 6127
section 4123.522 of the Revised Code. 6128

Sec. 4123.53. (A) The administrator of workers' 6129
compensation or the industrial commission may require any 6130
employee claiming the right to receive compensation to submit to 6131
a medical examination, vocational evaluation, or vocational 6132
questionnaire at any time, and from time to time, at a place 6133
reasonably convenient for the employee, and as provided by the 6134

rules of the commission or the administrator of workers' 6135
compensation. A claimant required by the commission or 6136
administrator to submit to a medical examination or vocational 6137
evaluation, at a point outside of the place of permanent or 6138
temporary residence of the claimant, as provided in this 6139
section, is entitled to have paid to the claimant by the bureau 6140
of workers' compensation the necessary and actual expenses on 6141
account of the attendance for the medical examination or 6142
vocational evaluation after approval of the expense statement by 6143
the bureau. Under extraordinary circumstances and with the 6144
unanimous approval of the commission, if the commission requires 6145
the medical examination or vocational evaluation, or with the 6146
approval of the administrator, if the administrator requires the 6147
medical examination or vocational evaluation, the bureau shall 6148
pay an injured or diseased employee the necessary, actual, and 6149
authorized expenses of treatment at a point outside the place of 6150
permanent or temporary residence of the claimant. 6151

(B) When an employee initially receives temporary total 6152
disability compensation pursuant to section 4123.56 of the 6153
Revised Code for a consecutive ninety-day period, the 6154
administrator shall refer the employee to the bureau medical 6155
section for a medical examination to determine the employee's 6156
continued entitlement to such compensation, the employee's 6157
rehabilitation potential, and the appropriateness of the medical 6158
treatment the employee is receiving. The bureau medical section 6159
shall conduct the examination not later than thirty days 6160
following the end of the initial ninety-day period. If the 6161
medical examiner, upon an initial or any subsequent examination 6162
recommended by the medical examiner under this division, 6163
determines that the employee is temporarily and totally 6164
impaired, the medical examiner shall recommend a date when the 6165

employee should be reexamined. Upon the issuance of the medical 6166
examination report containing a recommendation for 6167
reexamination, the administrator shall schedule an examination 6168
and, if at the date of reexamination the employee is receiving 6169
temporary total disability compensation, the employee shall be 6170
examined. The administrator shall adopt a rule, pursuant to 6171
Chapter 119. of the Revised Code, permitting employers to waive 6172
the administrator's scheduling of any such examinations. 6173

(C) If an employee refuses to submit to any medical 6174
examination or vocational evaluation scheduled pursuant to this 6175
section or obstructs the same, or refuses to complete and submit 6176
to the bureau or commission a vocational questionnaire within 6177
thirty days after the bureau or commission mails the request to 6178
complete and submit the questionnaire the employee's right to 6179
have ~~his or her~~ the employee's claim for compensation 6180
considered, if the claim is pending before the bureau or 6181
commission, or to receive any payment for compensation 6182
theretofore granted, is suspended during the period of the 6183
refusal or obstruction. Notwithstanding this section, an 6184
employee's failure to submit to a medical examination or 6185
vocational evaluation, or to complete and submit a vocational 6186
questionnaire, shall not result in the dismissal of the 6187
employee's claim. 6188

(D) Medical examinations scheduled under this section do 6189
not limit medical examinations provided for in other provisions 6190
of this chapter or Chapter 4121. or 4133. of the Revised Code. 6191

Sec. 4123.54. (A) Except as otherwise provided in 6192
divisions (I) and (K) of this section, every employee, who is 6193
injured or who contracts an occupational disease, and the 6194
dependents of each employee who is killed, or dies as the result 6195

of an occupational disease contracted in the course of 6196
employment, wherever such injury has occurred or occupational 6197
disease has been contracted, provided the same were not: 6198

(1) Purposely self-inflicted; or 6199

(2) Caused by the employee being intoxicated or under the 6200
influence of a controlled substance not prescribed by a 6201
physician where the intoxication or being under the influence of 6202
the controlled substance not prescribed by a physician was the 6203
proximate cause of the injury, is entitled to receive, either 6204
directly from the employee's self-insuring employer as provided 6205
in section 4123.35 of the Revised Code, or from the state 6206
insurance fund, the compensation for loss sustained on account 6207
of the injury, occupational disease, or death, and the medical, 6208
nurse, and hospital services and medicines, and the amount of 6209
funeral expenses in case of death, as are provided by this 6210
chapter and Chapter 4133. of the Revised Code. 6211

(B) For the purpose of this section, provided that an 6212
employer has posted written notice to employees that the results 6213
of, or the employee's refusal to submit to, any chemical test 6214
described under this division may affect the employee's 6215
eligibility for compensation and benefits pursuant to this 6216
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 6217
Code, there is a rebuttable presumption that an employee is 6218
intoxicated or under the influence of a controlled substance not 6219
prescribed by the employee's physician and that being 6220
intoxicated or under the influence of a controlled substance not 6221
prescribed by the employee's physician is the proximate cause of 6222
an injury under either of the following conditions: 6223

(1) When any one or more of the following is true: 6224

(a) The employee, through a qualifying chemical test 6225
administered within eight hours of an injury, is determined to 6226
have an alcohol concentration level equal to or in excess of the 6227
levels established in divisions (A) (1) (b) to (i) of section 6228
4511.19 of the Revised Code; 6229

(b) The employee, through a qualifying chemical test 6230
administered within thirty-two hours of an injury, is determined 6231
to have one of the following controlled substances not 6232
prescribed by the employee's physician in the employee's system 6233
that tests above the following levels in an enzyme multiplied 6234
immunoassay technique screening test and above the levels 6235
established in division (B) (1) (c) of this section in a gas 6236
chromatography mass spectrometry test: 6237

(i) For amphetamines, one thousand nanograms per 6238
milliliter of urine; 6239

(ii) For cannabinoids, fifty nanograms per milliliter of 6240
urine; 6241

(iii) For cocaine, including crack cocaine, three hundred 6242
nanograms per milliliter of urine; 6243

(iv) For opiates, two thousand nanograms per milliliter of 6244
urine; 6245

(v) For phencyclidine, twenty-five nanograms per 6246
milliliter of urine. 6247

(c) The employee, through a qualifying chemical test 6248
administered within thirty-two hours of an injury, is determined 6249
to have one of the following controlled substances not 6250
prescribed by the employee's physician in the employee's system 6251
that tests above the following levels by a gas chromatography 6252
mass spectrometry test: 6253

(i) For amphetamines, five hundred nanograms per 6254
milliliter of urine; 6255

(ii) For cannabinoids, fifteen nanograms per milliliter of 6256
urine; 6257

(iii) For cocaine, including crack cocaine, one hundred 6258
fifty nanograms per milliliter of urine; 6259

(iv) For opiates, two thousand nanograms per milliliter of 6260
urine; 6261

(v) For phencyclidine, twenty-five nanograms per 6262
milliliter of urine. 6263

(d) The employee, through a qualifying chemical test 6264
administered within thirty-two hours of an injury, is determined 6265
to have barbiturates, benzodiazepines, methadone, or 6266
propoxyphene in the employee's system that tests above levels 6267
established by laboratories certified by the United States 6268
department of health and human services. 6269

(2) When the employee refuses to submit to a requested 6270
chemical test, on the condition that that employee is or was 6271
given notice that the refusal to submit to any chemical test 6272
described in division (B) (1) of this section may affect the 6273
employee's eligibility for compensation and benefits under this 6274
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 6275
Code. 6276

(C) (1) For purposes of division (B) of this section, a 6277
chemical test is a qualifying chemical test if it is 6278
administered to an employee after an injury under at least one 6279
of the following conditions: 6280

(a) When the employee's employer had reasonable cause to 6281

suspect that the employee may be intoxicated or under the 6282
influence of a controlled substance not prescribed by the 6283
employee's physician; 6284

(b) At the request of a police officer pursuant to section 6285
4511.191 of the Revised Code, and not at the request of the 6286
employee's employer; 6287

(c) At the request of a licensed physician who is not 6288
employed by the employee's employer, and not at the request of 6289
the employee's employer. 6290

(2) As used in division (C)(1)(a) of this section, 6291
"reasonable cause" means, but is not limited to, evidence that 6292
an employee is or was using alcohol or a controlled substance 6293
drawn from specific, objective facts and reasonable inferences 6294
drawn from these facts in light of experience and training. 6295
These facts and inferences may be based on, but are not limited 6296
to, any of the following: 6297

(a) Observable phenomena, such as direct observation of 6298
use, possession, or distribution of alcohol or a controlled 6299
substance, or of the physical symptoms of being under the 6300
influence of alcohol or a controlled substance, such as but not 6301
limited to slurred speech, dilated pupils, odor of alcohol or a 6302
controlled substance, changes in affect, or dynamic mood swings; 6303

(b) A pattern of abnormal conduct, erratic or aberrant 6304
behavior, or deteriorating work performance such as frequent 6305
absenteeism, excessive tardiness, or recurrent accidents, that 6306
appears to be related to the use of alcohol or a controlled 6307
substance, and does not appear to be attributable to other 6308
factors; 6309

(c) The identification of an employee as the focus of a 6310

criminal investigation into unauthorized possession, use, or 6311
trafficking of a controlled substance; 6312

(d) A report of use of alcohol or a controlled substance 6313
provided by a reliable and credible source; 6314

(e) Repeated or flagrant violations of the safety or work 6315
rules of the employee's employer, that are determined by the 6316
employee's supervisor to pose a substantial risk of physical 6317
injury or property damage and that appear to be related to the 6318
use of alcohol or a controlled substance and that do not appear 6319
attributable to other factors. 6320

(D) Nothing in this section shall be construed to affect 6321
the rights of an employer to test employees for alcohol or 6322
controlled substance abuse. 6323

(E) For the purpose of this section, laboratories 6324
certified by the United States department of health and human 6325
services or laboratories that meet or exceed the standards of 6326
that department for laboratory certification shall be used for 6327
processing the test results of a qualifying chemical test. 6328

(F) The written notice required by division (B) of this 6329
section shall be the same size or larger than the proof of 6330
workers' compensation coverage furnished by the bureau of 6331
workers' compensation and shall be posted by the employer in the 6332
same location as the proof of workers' compensation coverage or 6333
the certificate of self-insurance. 6334

(G) If a condition that pre-existed an injury is 6335
substantially aggravated by the injury, and that substantial 6336
aggravation is documented by objective diagnostic findings, 6337
objective clinical findings, or objective test results, no 6338
compensation or benefits are payable because of the pre-existing 6339

condition once that condition has returned to a level that would 6340
have existed without the injury. 6341

(H) (1) Whenever, with respect to an employee of an 6342
employer who is subject to and has complied with this chapter 6343
and Chapter 4133. of the Revised Code, there is possibility of 6344
conflict with respect to the application of workers' 6345
compensation laws because the contract of employment is entered 6346
into and all or some portion of the work is or is to be 6347
performed in a state or states other than Ohio, the employer and 6348
the employee may agree to be bound by the laws of this state or 6349
by the laws of some other state in which all or some portion of 6350
the work of the employee is to be performed. The agreement shall 6351
be in writing and shall be filed with the bureau of workers' 6352
compensation within ten days after it is executed and shall 6353
remain in force until terminated or modified by agreement of the 6354
parties similarly filed. If the agreement is to be bound by the 6355
laws of this state and the employer has complied with this 6356
chapter and Chapter 4133. of the Revised Code, then the employee 6357
is entitled to compensation and benefits regardless of where the 6358
injury occurs or the disease is contracted and the rights of the 6359
employee and the employee's dependents under the laws of this 6360
state are the exclusive remedy against the employer on account 6361
of injury, disease, or death in the course of and arising out of 6362
the employee's employment. If the agreement is to be bound by 6363
the laws of another state and the employer has complied with the 6364
laws of that state, the rights of the employee and the 6365
employee's dependents under the laws of that state are the 6366
exclusive remedy against the employer on account of injury, 6367
disease, or death in the course of and arising out of the 6368
employee's employment without regard to the place where the 6369
injury was sustained or the disease contracted. If an employer 6370

and an employee enter into an agreement under this division, the 6371
fact that the employer and the employee entered into that 6372
agreement shall not be construed to change the status of an 6373
employee whose continued employment is subject to the will of 6374
the employer or the employee, unless the agreement contains a 6375
provision that expressly changes that status. 6376

(2) If an employee or the employee's dependents receive an 6377
award of compensation or benefits under this chapter or Chapter 6378
4121., 4127., ~~or~~ 4131., or 4133. of the Revised Code for the 6379
same injury, occupational disease, or death for which the 6380
employee or the employee's dependents previously pursued or 6381
otherwise elected to accept workers' compensation benefits and 6382
received a decision on the merits as defined in section 4123.542 6383
of the Revised Code under the laws of another state or recovered 6384
damages under the laws of another state, the claim shall be 6385
disallowed and the administrator or any self-insuring employer, 6386
by any lawful means, may collect from the employee or the 6387
employee's dependents any of the following: 6388

~~(i)~~ (a) The amount of compensation or benefits paid to or 6389
on behalf of the employee or the employee's dependents by the 6390
administrator or a self-insuring employer pursuant to this 6391
chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4133. of the 6392
Revised Code for that award; 6393

~~(ii)~~ (b) Any interest, attorney's fees, and costs the 6394
administrator or the self-insuring employer incurs in collecting 6395
that payment. 6396

(3) If an employee or the employee's dependents receive an 6397
award of compensation or benefits under this chapter or Chapter 6398
4121., 4127., ~~or~~ 4131., or 4133. of the Revised Code and 6399
subsequently pursue or otherwise elect to accept workers' 6400

compensation benefits or damages under the laws of another state 6401
for the same injury, occupational disease, or death the claim 6402
under this chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. 6403
of the Revised Code shall be disallowed. The administrator or a 6404
self-insuring employer, by any lawful means, may collect from 6405
the employee or the employee's dependents or other-states' 6406
insurer any of the following: 6407

~~(i)~~ (a) The amount of compensation or benefits paid to or 6408
on behalf of the employee or the employee's dependents by the 6409
administrator or the self-insuring employer pursuant to this 6410
chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. of the 6411
Revised Code for that award; 6412

~~(ii)~~ (b) Any interest, costs, and attorney's fees the 6413
administrator or the self-insuring employer incurs in collecting 6414
that payment; 6415

~~(iii)~~ (c) Any costs incurred by an employer in contesting 6416
or responding to any claim filed by the employee or the 6417
employee's dependents for the same injury, occupational disease, 6418
or death that was filed after the original claim for which the 6419
employee or the employee's dependents received a decision on the 6420
merits as described in section 4123.542 of the Revised Code. 6421

(4) If the employee's employer pays premiums into the 6422
state insurance fund, the administrator shall not charge the 6423
amount of compensation or benefits the administrator collects 6424
pursuant to division (H) (2) or (3) of this section to the 6425
employer's experience. If the administrator collects any costs 6426
incurred by an employer in contesting or responding to any claim 6427
pursuant to division (H) (2) or (3) of this section, the 6428
administrator shall forward the amount collected to that 6429
employer. If the employee's employer is a self-insuring 6430

employer, the self-insuring employer shall deduct the amount of 6431
compensation or benefits the self-insuring employer collects 6432
pursuant to this division from the paid compensation the self- 6433
insuring employer reports to the administrator under division 6434
(L) of section 4123.35 of the Revised Code. 6435

(5) If an employee is a resident of a state other than 6436
this state and is insured under the workers' compensation law or 6437
similar laws of a state other than this state, the employee and 6438
the employee's dependents are not entitled to receive 6439
compensation or benefits under this chapter or Chapter 4133. of 6440
the Revised Code, on account of injury, disease, or death 6441
arising out of or in the course of employment while temporarily 6442
within this state, and the rights of the employee and the 6443
employee's dependents under the laws of the other state are the 6444
exclusive remedy against the employer on account of the injury, 6445
disease, or death. 6446

(6) An employee, or the dependent of an employee, who 6447
elects to receive compensation and benefits under this chapter 6448
or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code 6449
for a claim may not receive compensation and benefits under the 6450
workers' compensation laws of any state other than this state 6451
for that same claim. For each claim submitted by or on behalf of 6452
an employee, the administrator or, if the employee is employed 6453
by a self-insuring employer, the self-insuring employer, shall 6454
request the employee or the employee's dependent to sign an 6455
election that affirms the employee's or employee's dependent's 6456
acceptance of electing to receive compensation and benefits 6457
under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. 6458
of the Revised Code for that claim that also affirmatively 6459
waives and releases the employee's or the employee's dependent's 6460
right to file for and receive compensation and benefits under 6461

the laws of any state other than this state for that claim. The 6462
employee or employee's dependent shall sign the election form 6463
within twenty-eight days after the administrator or self- 6464
insuring employer submits the request or the administrator or 6465
self-insuring employer shall dismiss that claim. 6466

In the event a workers' compensation claim has been filed 6467
in another jurisdiction on behalf of an employee or the 6468
dependents of an employee, and the employee or dependents 6469
subsequently elect to receive compensation, benefits, or both 6470
under this chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. 6471
of the Revised Code, the employee or dependent shall withdraw or 6472
refuse acceptance of the workers' compensation claim filed in 6473
the other jurisdiction in order to pursue compensation or 6474
benefits under the laws of this state. If the employee or 6475
dependents were awarded workers' compensation benefits or had 6476
recovered damages under the laws of the other state, any 6477
compensation and benefits awarded under this chapter or ~~Chapters~~ 6478
Chapter 4121., 4127., ~~or 4131.~~, or 4133. of the Revised Code 6479
shall be paid only to the extent to which those payments exceed 6480
the amounts paid under the laws of the other state. If the 6481
employee or dependent fails to withdraw or to refuse acceptance 6482
of the workers' compensation claim in the other jurisdiction 6483
within twenty-eight days after a request made by the 6484
administrator or a self-insuring employer, the administrator or 6485
self-insuring employer shall dismiss the employee's or 6486
employee's dependents' claim made in this state. 6487

(I) If an employee who is covered under the federal 6488
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 6489
33 U.S.C. 901 et seq., is injured or contracts an occupational 6490
disease or dies as a result of an injury or occupational 6491
disease, and if that employee's or that employee's dependents' 6492

claim for compensation or benefits for that injury, occupational 6493
disease, or death is subject to the jurisdiction of that act, 6494
the employee or the employee's dependents are not entitled to 6495
apply for and shall not receive compensation or benefits under 6496
this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 6497
Code. The rights of such an employee and the employee's 6498
dependents under the federal "Longshore and Harbor Workers' 6499
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the 6500
exclusive remedy against the employer for that injury, 6501
occupational disease, or death. 6502

(J) Compensation or benefits are not payable to a claimant 6503
during the period of confinement of the claimant in any state or 6504
federal correctional institution, or in any county jail in lieu 6505
of incarceration in a state or federal correctional institution, 6506
whether in this or any other state for conviction of violation 6507
of any state or federal criminal law. 6508

(K) An employer, upon the approval of the administrator, 6509
may provide for workers' compensation coverage for the 6510
employer's employees who are professional athletes and coaches 6511
by submitting to the administrator proof of coverage under a 6512
league policy issued under the laws of another state under 6513
either of the following circumstances: 6514

(1) The employer administers the payroll and workers' 6515
compensation insurance for a professional sports team subject to 6516
a collective bargaining agreement, and the collective bargaining 6517
agreement provides for the uniform administration of workers' 6518
compensation benefits and compensation for professional 6519
athletes. 6520

(2) The employer is a professional sports league, or is a 6521
member team of a professional sports league, and all of the 6522

following apply: 6523

(a) The professional sports league operates as a single 6524
entity, whereby all of the players and coaches of the sports 6525
league are employees of the sports league and not of the 6526
individual member teams. 6527

(b) The professional sports league at all times maintains 6528
workers' compensation insurance that provides coverage for the 6529
players and coaches of the sports league. 6530

(c) Each individual member team of the professional sports 6531
league, pursuant to the organizational or operating documents of 6532
the sports league, is obligated to the sports league to pay to 6533
the sports league any workers' compensation claims that are not 6534
covered by the workers' compensation insurance maintained by the 6535
sports league. 6536

If the administrator approves the employer's proof of 6537
coverage submitted under division (K) of this section, a 6538
professional athlete or coach who is an employee of the employer 6539
and the dependents of the professional athlete or coach are not 6540
entitled to apply for and shall not receive compensation or 6541
benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4133. 6542
of the Revised Code. The rights of such an athlete or coach and 6543
the dependents of such an athlete or coach under the laws of the 6544
state where the policy was issued are the exclusive remedy 6545
against the employer for the athlete or coach if the athlete or 6546
coach suffers an injury or contracts an occupational disease in 6547
the course of employment, or for the dependents of the athlete 6548
or the coach if the athlete or coach is killed as a result of an 6549
injury or dies as a result of an occupational disease, 6550
regardless of the location where the injury was suffered or the 6551
occupational disease was contracted. 6552

Sec. 4123.542. An employee or the dependents of an 6553
employee who receive a decision on the merits of a claim for 6554
compensation or benefits under this chapter or Chapter 4121., 6555
4127., ~~or 4131.~~, or 4133. of the Revised Code shall not file a 6556
claim for the same injury, occupational disease, or death in 6557
another state under the workers' compensation laws of that 6558
state. Except as otherwise provided in division (H) of section 6559
4123.54 of the Revised Code, an employee or the employee's 6560
dependents who receive a decision on the merits of a claim for 6561
compensation or benefits under the workers' compensation laws of 6562
another state shall not file a claim for compensation and 6563
benefits under this chapter or Chapter 4121., 4127., ~~or 4131.~~, 6564
or 4133. of the Revised Code for the same injury, occupational 6565
disease, or death. 6566

As used in this section, "a decision on the merits" means 6567
a decision determined or adjudicated for compensability of a 6568
claim and not on jurisdictional grounds. 6569

Sec. 4123.57. Partial disability compensation shall be 6570
paid as follows. 6571

Except as provided in this section, not earlier than 6572
twenty-six weeks after the date of termination of the latest 6573
period of payments under section 4123.56 of the Revised Code, or 6574
not earlier than twenty-six weeks after the date of the injury 6575
or contraction of an occupational disease in the absence of 6576
payments under section 4123.56 of the Revised Code, the employee 6577
may file an application with the bureau of workers' compensation 6578
for the determination of the percentage of the employee's 6579
permanent partial disability resulting from an injury or 6580
occupational disease. 6581

Whenever the application is filed, the bureau shall send a 6582

copy of the application to the employee's employer or the 6583
employer's representative and shall schedule the employee for a 6584
medical examination by the bureau medical section. The bureau 6585
shall send a copy of the report of the medical examination to 6586
the employee, the employer, and their representatives. 6587
Thereafter, the administrator of workers' compensation shall 6588
review the employee's claim file and make a tentative order as 6589
the evidence before the administrator at the time of the making 6590
of the order warrants. If the administrator determines that 6591
there is a conflict of evidence, the administrator shall send 6592
the application, along with the claimant's file, to the district 6593
hearing officer who shall set the application for a hearing. 6594

The administrator shall notify the employee, the employer, 6595
and their representatives, in writing, of the tentative order 6596
and of the parties' right to request a hearing. Unless the 6597
employee, the employer, or their representative notifies the 6598
administrator, in writing, of an objection to the tentative 6599
order within twenty days after receipt of the notice thereof, 6600
the tentative order shall go into effect and the employee shall 6601
receive the compensation provided in the order. In no event 6602
shall there be a reconsideration of a tentative order issued 6603
under this division. 6604

If the employee, the employer, or their representatives 6605
timely notify the administrator of an objection to the tentative 6606
order, the matter shall be referred to a district hearing 6607
officer who shall set the application for hearing with written 6608
notices to all interested persons. Upon referral to a district 6609
hearing officer, the employer may obtain a medical examination 6610
of the employee, pursuant to rules of the industrial commission. 6611

(A) The district hearing officer, upon the application, 6612

shall determine the percentage of the employee's permanent disability, except as is subject to division (B) of this section, based upon that condition of the employee resulting from the injury or occupational disease and causing permanent impairment evidenced by medical or clinical findings reasonably demonstrable. The employee shall receive sixty-six and two-thirds per cent of the employee's average weekly wage, but not more than a maximum of thirty-three and one-third per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, per week regardless of the average weekly wage, for the number of weeks which equals the percentage of two hundred weeks. Except on application for reconsideration, review, or modification, which is filed within ten days after the date of receipt of the decision of the district hearing officer, in no instance shall the former award be modified unless it is found from medical or clinical findings that the condition of the claimant resulting from the injury has so progressed as to have increased the percentage of permanent partial disability. A staff hearing officer shall hear an application for reconsideration filed and the staff hearing officer's decision is final. An employee may file an application for a subsequent determination of the percentage of the employee's permanent disability. If such an application is filed, the bureau shall send a copy of the application to the employer or the employer's representative. No sooner than sixty days from the date of the mailing of the application to the employer or the employer's representative, the administrator shall review the application. The administrator may require a medical examination or medical review of the employee. The administrator shall issue a tentative order based upon the evidence before the administrator, provided that if the administrator requires a medical examination or medical review,

the administrator shall not issue the tentative order until the 6645
completion of the examination or review. 6646

The employer may obtain a medical examination of the 6647
employee and may submit medical evidence at any stage of the 6648
process up to a hearing before the district hearing officer, 6649
pursuant to rules of the commission. The administrator shall 6650
notify the employee, the employer, and their representatives, in 6651
writing, of the nature and amount of any tentative order issued 6652
on an application requesting a subsequent determination of the 6653
percentage of an employee's permanent disability. An employee, 6654
employer, or their representatives may object to the tentative 6655
order within twenty days after the receipt of the notice 6656
thereof. If no timely objection is made, the tentative order 6657
shall go into effect. In no event shall there be a 6658
reconsideration of a tentative order issued under this division. 6659
If an objection is timely made, the application for a subsequent 6660
determination shall be referred to a district hearing officer 6661
who shall set the application for a hearing with written notice 6662
to all interested persons. No application for subsequent 6663
percentage determinations on the same claim for injury or 6664
occupational disease shall be accepted for review by the 6665
district hearing officer unless supported by substantial 6666
evidence of new and changed circumstances developing since the 6667
time of the hearing on the original or last determination. 6668

No award shall be made under this division based upon a 6669
percentage of disability which, when taken with all other 6670
percentages of permanent disability, exceeds one hundred per 6671
cent. If the percentage of the permanent disability of the 6672
employee equals or exceeds ninety per cent, compensation for 6673
permanent partial disability shall be paid for two hundred 6674
weeks. 6675

Compensation payable under this division accrues and is 6676
payable to the employee from the date of last payment of 6677
compensation, or, in cases where no previous compensation has 6678
been paid, from the date of the injury or the date of the 6679
diagnosis of the occupational disease. 6680

When an award under this division has been made prior to 6681
the death of an employee, all unpaid installments accrued or to 6682
accrue under the provisions of the award are payable to the 6683
surviving spouse, or if there is no surviving spouse, to the 6684
dependent children of the employee, and if there are no children 6685
surviving, then to other dependents as the administrator 6686
determines. 6687

(B) For purposes of this division, "payable per week" 6688
means the seven-consecutive-day period in which compensation is 6689
paid in installments according to the schedule associated with 6690
the applicable injury as set forth in this division. 6691

Compensation paid in weekly installments according to the 6692
schedule described in this division may only be commuted to one 6693
or more lump sum payments pursuant to the procedure set forth in 6694
section 4123.64 of the Revised Code. 6695

In cases included in the following schedule the 6696
compensation payable per week to the employee is the statewide 6697
average weekly wage as defined in division (C) of section 6698
4123.62 of the Revised Code per week and shall be paid in 6699
installments according to the following schedule: 6700

For the loss of a first finger, commonly known as a thumb, 6701
sixty weeks. 6702

For the loss of a second finger, commonly called index 6703
finger, thirty-five weeks. 6704

For the loss of a third finger, thirty weeks.	6705
For the loss of a fourth finger, twenty weeks.	6706
For the loss of a fifth finger, commonly known as the	6707
little finger, fifteen weeks.	6708
The loss of a second, or distal, phalange of the thumb is	6709
considered equal to the loss of one half of such thumb; the loss	6710
of more than one half of such thumb is considered equal to the	6711
loss of the whole thumb.	6712
The loss of the third, or distal, phalange of any finger	6713
is considered equal to the loss of one-third of the finger.	6714
The loss of the middle, or second, phalange of any finger	6715
is considered equal to the loss of two-thirds of the finger.	6716
The loss of more than the middle and distal phalanges of	6717
any finger is considered equal to the loss of the whole finger.	6718
In no case shall the amount received for more than one finger	6719
exceed the amount provided in this schedule for the loss of a	6720
hand.	6721
For the loss of the metacarpal bone (bones of the palm)	6722
for the corresponding thumb, or fingers, add ten weeks to the	6723
number of weeks under this division.	6724
For ankylosis (total stiffness of) or contractures (due to	6725
scars or injuries) which makes any of the fingers, thumbs, or	6726
parts of either useless, the same number of weeks apply to the	6727
members or parts thereof as given for the loss thereof.	6728
If the claimant has suffered the loss of two or more	6729
fingers by amputation or ankylosis and the nature of the	6730
claimant's employment in the course of which the claimant was	6731
working at the time of the injury or occupational disease is	6732

such that the handicap or disability resulting from the loss of 6733
fingers, or loss of use of fingers, exceeds the normal handicap 6734
or disability resulting from the loss of fingers, or loss of use 6735
of fingers, the administrator may take that fact into 6736
consideration and increase the award of compensation 6737
accordingly, but the award made shall not exceed the amount of 6738
compensation for loss of a hand. 6739

For the loss of a hand, one hundred seventy-five weeks. 6740

For the loss of an arm, two hundred twenty-five weeks. 6741

For the loss of a great toe, thirty weeks. 6742

For the loss of one of the toes other than the great toe, 6743
ten weeks. 6744

The loss of more than two-thirds of any toe is considered 6745
equal to the loss of the whole toe. 6746

The loss of less than two-thirds of any toe is considered 6747
no loss, except as to the great toe; the loss of the great toe 6748
up to the interphalangeal joint is co-equal to the loss of one- 6749
half of the great toe; the loss of the great toe beyond the 6750
interphalangeal joint is considered equal to the loss of the 6751
whole great toe. 6752

For the loss of a foot, one hundred fifty weeks. 6753

For the loss of a leg, two hundred weeks. 6754

For the loss of the sight of an eye, one hundred twenty- 6755
five weeks. 6756

For the permanent partial loss of sight of an eye, the 6757
portion of one hundred twenty-five weeks as the administrator in 6758
each case determines, based upon the percentage of vision 6759

actually lost as a result of the injury or occupational disease, 6760
but, in no case shall an award of compensation be made for less 6761
than twenty-five per cent loss of uncorrected vision. "Loss of 6762
uncorrected vision" means the percentage of vision actually lost 6763
as the result of the injury or occupational disease. 6764

For the permanent and total loss of hearing of one ear, 6765
twenty-five weeks; but in no case shall an award of compensation 6766
be made for less than permanent and total loss of hearing of one 6767
ear. 6768

For the permanent and total loss of hearing, one hundred 6769
twenty-five weeks; but, except pursuant to the next preceding 6770
paragraph, in no case shall an award of compensation be made for 6771
less than permanent and total loss of hearing. 6772

In case an injury or occupational disease results in 6773
serious facial or head disfigurement which either impairs or may 6774
in the future impair the opportunities to secure or retain 6775
employment, the administrator shall make an award of 6776
compensation as it deems proper and equitable, in view of the 6777
nature of the disfigurement, and not to exceed the sum of ten 6778
thousand dollars. For the purpose of making the award, it is not 6779
material whether the employee is gainfully employed in any 6780
occupation or trade at the time of the administrator's 6781
determination. 6782

When an award under this division has been made prior to 6783
the death of an employee all unpaid installments accrued or to 6784
accrue under the provisions of the award shall be payable to the 6785
surviving spouse, or if there is no surviving spouse, to the 6786
dependent children of the employee and if there are no such 6787
children, then to such dependents as the administrator 6788
determines. 6789

When an employee has sustained the loss of a member by
severance, but no award has been made on account thereof prior
to the employee's death, the administrator shall make an award
in accordance with this division for the loss which shall be
payable to the surviving spouse, or if there is no surviving
spouse, to the dependent children of the employee and if there
are no such children, then to such dependents as the
administrator determines.

(C) Compensation for partial impairment under divisions
(A) and (B) of this section is in addition to the compensation
paid the employee pursuant to section 4123.56 of the Revised
Code. A claimant may receive compensation under divisions (A)
and (B) of this section.

In all cases arising under division (B) of this section,
if it is determined by any one of the following: (1) the amputee
clinic at University hospital, Ohio state university; (2) the
opportunities for Ohioans with disabilities agency; (3) an
amputee clinic or prescribing physician approved by the
administrator or the administrator's designee, that an injured
or disabled employee is in need of an artificial appliance, or
in need of a repair thereof, regardless of whether the appliance
or its repair will be serviceable in the vocational
rehabilitation of the injured employee, and regardless of
whether the employee has returned to or can ever again return to
any gainful employment, the bureau shall pay the cost of the
artificial appliance or its repair out of the surplus created by
division (B) of section 4123.34 of the Revised Code.

In those cases where an opportunities for Ohioans with
disabilities ~~agency~~ agency's recommendation that an injured or
disabled employee is in need of an artificial appliance would

conflict with their state plan, adopted pursuant to the 6820
"Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the 6821
administrator or the administrator's designee or the bureau may 6822
obtain a recommendation from an amputee clinic or prescribing 6823
physician that they determine appropriate. 6824

~~(D) If an employee of a state fund employer makes 6825
application for a finding and the administrator finds that the 6826
employee has contracted silicosis as defined in division (X), or 6827
coal miners' pneumoconiosis as defined in division (Y), or 6828
asbestosis as defined in division (AA) of section 4123.68 of the 6829
Revised Code, and that a change of such employee's occupation is 6830
medically advisable in order to decrease substantially further 6831
exposure to silica dust, asbestos, or coal dust and if the 6832
employee, after the finding, has changed or shall change the 6833
employee's occupation to an occupation in which the exposure to 6834
silica dust, asbestos, or coal dust is substantially decreased, 6835
the administrator shall allow to the employee an amount equal to 6836
fifty per cent of the statewide average weekly wage per week for 6837
a period of thirty weeks, commencing as of the date of the 6838
discontinuance or change, and for a period of one hundred weeks 6839
immediately following the expiration of the period of thirty 6840
weeks, the employee shall receive sixty six and two thirds per 6841
cent of the loss of wages resulting directly and solely from the 6842
change of occupation but not to exceed a maximum of an amount 6843
equal to fifty per cent of the statewide average weekly wage per 6844
week. No such employee is entitled to receive more than one 6845
allowance on account of discontinuance of employment or change 6846
of occupation and benefits shall cease for any period during 6847
which the employee is employed in an occupation in which the 6848
exposure to silica dust, asbestos, or coal dust is not 6849
substantially less than the exposure in the occupation in which 6850~~

~~the employee was formerly employed or for any period during~~ 6851
~~which the employee may be entitled to receive compensation or~~ 6852
~~benefits under section 4123.68 of the Revised Code on account of~~ 6853
~~disability from silicosis, asbestosis, or coal miners'~~ 6854
~~pneumoconiosis. An award for change of occupation for a coal~~ 6855
~~miner who has contracted coal miners' pneumoconiosis may be~~ 6856
~~granted under this division even though the coal miner continues~~ 6857
~~employment with the same employer, so long as the coal miner's~~ 6858
~~employment subsequent to the change is such that the coal~~ 6859
~~miner's exposure to coal dust is substantially decreased and a~~ 6860
~~change of occupation is certified by the claimant as permanent.~~ 6861
~~The administrator may accord to the employee medical and other~~ 6862
~~benefits in accordance with section 4123.66 of the Revised Code.~~ 6863

~~(E)~~ If a firefighter or police officer makes application 6864
for a finding and the administrator finds that the firefighter 6865
or police officer has contracted a cardiovascular and pulmonary 6866
disease as defined in division (W) of section 4123.68 of the 6867
Revised Code, and that a change of the firefighter's or police 6868
officer's occupation is medically advisable in order to decrease 6869
substantially further exposure to smoke, toxic gases, chemical 6870
fumes, and other toxic vapors, and if the firefighter, or police 6871
officer, after the finding, has changed or changes occupation to 6872
an occupation in which the exposure to smoke, toxic gases, 6873
chemical fumes, and other toxic vapors is substantially 6874
decreased, the administrator shall allow to the firefighter or 6875
police officer an amount equal to fifty per cent of the 6876
statewide average weekly wage per week for a period of thirty 6877
weeks, commencing as of the date of the discontinuance or 6878
change, and for a period of seventy-five weeks immediately 6879
following the expiration of the period of thirty weeks the 6880
administrator shall allow the firefighter or police officer 6881

sixty-six and two-thirds per cent of the loss of wages resulting 6882
directly and solely from the change of occupation but not to 6883
exceed a maximum of an amount equal to fifty per cent of the 6884
statewide average weekly wage per week. No such firefighter or 6885
police officer is entitled to receive more than one allowance on 6886
account of discontinuance of employment or change of occupation 6887
and benefits shall cease for any period during which the 6888
firefighter or police officer is employed in an occupation in 6889
which the exposure to smoke, toxic gases, chemical fumes, and 6890
other toxic vapors is not substantially less than the exposure 6891
in the occupation in which the firefighter or police officer was 6892
formerly employed or for any period during which the firefighter 6893
or police officer may be entitled to receive compensation or 6894
benefits under section 4123.68 of the Revised Code on account of 6895
disability from a cardiovascular and pulmonary disease. The 6896
administrator may accord to the firefighter or police officer 6897
medical and other benefits in accordance with section 4123.66 of 6898
the Revised Code. 6899

~~(F)~~ (E) An order issued under this section is appealable 6900
pursuant to section 4123.511 of the Revised Code but is not 6901
appealable to court under section 4123.512 of the Revised Code. 6902

Sec. 4123.571. In connection with the procedural and 6903
remedial rights of employees, all claims which have accrued 6904
prior to ~~the effective date of this act~~ November 2, 1959, 6905
whether or not an application for claim has been filed, or 6906
whether or not jurisdiction has been established or whether or 6907
not an application for an award under divisions (A), (B), or 6908
(C), ~~or (D)~~ of section 4123.57 of the Revised Code has been 6909
filed shall be governed by the provisions of section 4123.57 of 6910
the Revised Code, as amended by this act. 6911

Sec. 4123.65. (A) A state fund employer or the employee of 6912
such an employer may file an application with the administrator 6913
of workers' compensation for approval of a final settlement of a 6914
claim under this chapter or Chapter 4133. of the Revised Code. 6915
The application shall include the settlement agreement, and 6916
except as otherwise specified in this division, be signed by the 6917
claimant and employer, and clearly set forth the circumstances 6918
by reason of which the proposed settlement is deemed desirable 6919
and that the parties agree to the terms of the settlement 6920
agreement. A claimant may file an application without an 6921
employer's signature in the following situations: 6922

(1) The employer is no longer doing business in Ohio; 6923

(2) The claim no longer is in the employer's industrial 6924
accident or occupational disease experience as provided in 6925
division (B) of section 4123.34 of the Revised Code and the 6926
claimant no longer is employed with that employer; 6927

(3) The employer has failed to comply with section 4123.35 6928
of the Revised Code. 6929

If a claimant files an application without an employer's 6930
signature, and the employer still is doing business in this 6931
state, the administrator shall send written notice of the 6932
application to the employer immediately upon receipt of the 6933
application. If the employer fails to respond to the notice 6934
within thirty days after the notice is sent, the application 6935
need not contain the employer's signature. 6936

If a state fund employer or an employee of such an 6937
employer has not filed an application for a final settlement 6938
under this division, the administrator may file an application 6939
on behalf of the employer or the employee, provided that the 6940

administrator gives notice of the filing to the employer and the 6941
employee and to the representative of record of the employer and 6942
of the employee immediately upon the filing. An application 6943
filed by the administrator shall contain all of the information 6944
and signatures required of an employer or an employee who files 6945
an application under this division. Every self-insuring employer 6946
that enters into a final settlement agreement with an employee 6947
shall mail, within seven days of executing the agreement, a copy 6948
of the agreement to the administrator and the employee's 6949
representative. The administrator shall place the agreement into 6950
the claimant's file. 6951

(B) Except as provided in divisions (C) and (D) of this 6952
section, a settlement agreed to under this section is binding 6953
upon all parties thereto and as to items, injuries, and 6954
occupational diseases to which the settlement applies. 6955

(C) No settlement agreed to under division (A) of this 6956
section or agreed to by a self-insuring employer and the self- 6957
insuring employer's employee shall take effect until thirty days 6958
after the administrator approves the settlement for state fund 6959
employees and employers, or after the self-insuring employer and 6960
employee sign the final settlement agreement. During the thirty- 6961
day period, the employer, employee, or administrator, for state 6962
fund settlements, and the employer or employee, for self- 6963
insuring settlements, may withdraw consent to the settlement by 6964
an employer providing written notice to the employer's employee 6965
and the administrator or by an employee providing written notice 6966
to the employee's employer and the administrator, or by the 6967
administrator providing written notice to the state fund 6968
employer and employee. If an employee dies during the thirty-day 6969
waiting period following the approval of a settlement, the 6970
settlement can be voided by any party for good cause shown. 6971

(D) At the time of agreement to any final settlement 6972
agreement under division (A) of this section or agreement 6973
between a self-insuring employer and the self-insuring 6974
employer's employee, the administrator, for state fund 6975
settlements, and the self-insuring employer, for self-insuring 6976
settlements, immediately shall send a copy of the agreement to 6977
the industrial commission who shall assign the matter to a staff 6978
hearing officer. The staff hearing officer shall determine, 6979
within the time limitations specified in division (C) of this 6980
section, whether the settlement agreement is or is not a gross 6981
miscarriage of justice. If the staff hearing officer determines 6982
within that time period that the settlement agreement is clearly 6983
unfair, the staff hearing officer shall issue an order 6984
disapproving the settlement agreement. If the staff hearing 6985
officer determines that the settlement agreement is not clearly 6986
unfair or fails to act within those time limits, the settlement 6987
agreement is approved. 6988

(E) A settlement entered into under this section may 6989
pertain to one or more claims of a claimant, or one or more 6990
parts of a claim, or the compensation or benefits pertaining to 6991
either, or any combination thereof, provided that nothing in 6992
this section shall be interpreted to require a claimant to enter 6993
into a settlement agreement for every claim that has been filed 6994
with the bureau of workers' compensation by that claimant under 6995
Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. of the Revised 6996
Code. 6997

(F) A settlement entered into under this section is not 6998
appealable under section 4123.511 or 4123.512 of the Revised 6999
Code. 7000

Sec. 4123.68. Every employee who is disabled because of 7001

the contraction of an occupational disease or the dependent of 7002
an employee whose death is caused by an occupational disease, is 7003
entitled to the compensation provided by sections 4123.55 to 7004
4123.59 and 4123.66 of the Revised Code subject to the 7005
modifications relating to occupational diseases contained in 7006
this chapter. An order of the administrator issued under this 7007
section is appealable pursuant to sections 4123.511 and 4123.512 7008
of the Revised Code. 7009

The following diseases are occupational diseases and 7010
compensable as such when contracted by an employee in the course 7011
of the employment in which such employee was engaged and due to 7012
the nature of any process described in this section. A disease 7013
which meets the definition of an occupational disease is 7014
compensable pursuant to this chapter though it is not 7015
specifically listed in this section. 7016

A disease that is occupational pneumoconiosis as defined 7017
in section 4133.01 of the Revised Code is subject to the 7018
requirements and procedures specified in Chapter 4133. of the 7019
Revised Code. 7020

SCHEDULE 7021

Description of disease or injury and description of 7022
process: 7023

(A) Anthrax: Handling of wool, hair, bristles, hides, and 7024
skins. 7025

(B) Glanders: Care of any equine animal suffering from 7026
glanders; handling carcass of such animal. 7027

(C) Lead poisoning: Any industrial process involving the 7028
use of lead or its preparations or compounds. 7029

(D) Mercury poisoning: Any industrial process involving	7030
the use of mercury or its preparations or compounds.	7031
(E) Phosphorous poisoning: Any industrial process	7032
involving the use of phosphorous or its preparations or	7033
compounds.	7034
(F) Arsenic poisoning: Any industrial process involving	7035
the use of arsenic or its preparations or compounds.	7036
(G) Poisoning by benzol or by nitro-derivatives and amido-	7037
derivatives of benzol (dinitro-benzol, anilin, and others): Any	7038
industrial process involving the use of benzol or nitro-	7039
derivatives or amido-derivatives of benzol or its preparations	7040
or compounds.	7041
(H) Poisoning by gasoline, benzine, naphtha, or other	7042
volatile petroleum products: Any industrial process involving	7043
the use of gasoline, benzine, naphtha, or other volatile	7044
petroleum products.	7045
(I) Poisoning by carbon bisulphide: Any industrial process	7046
involving the use of carbon bisulphide or its preparations or	7047
compounds.	7048
(J) Poisoning by wood alcohol: Any industrial process	7049
involving the use of wood alcohol or its preparations.	7050
(K) Infection or inflammation of the skin on contact	7051
surfaces due to oils, cutting compounds or lubricants, dust,	7052
liquids, fumes, gases, or vapors: Any industrial process	7053
involving the handling or use of oils, cutting compounds or	7054
lubricants, or involving contact with dust, liquids, fumes,	7055
gases, or vapors.	7056
(L) Epithelion cancer or ulceration of the skin or of the	7057

corneal surface of the eye due to carbon, pitch, tar, or tarry	7058
compounds: Handling or industrial use of carbon, pitch, or tarry	7059
compounds.	7060
(M) Compressed air illness: Any industrial process carried	7061
on in compressed air.	7062
(N) Carbon dioxide poisoning: Any process involving the	7063
evolution or resulting in the escape of carbon dioxide.	7064
(O) Brass or zinc poisoning: Any process involving the	7065
manufacture, founding, or refining of brass or the melting or	7066
smelting of zinc.	7067
(P) Manganese dioxide poisoning: Any process involving the	7068
grinding or milling of manganese dioxide or the escape of	7069
manganese dioxide dust.	7070
(Q) Radium poisoning: Any industrial process involving the	7071
use of radium and other radioactive substances in luminous	7072
paint.	7073
(R) Tenosynovitis and prepatellar bursitis: Primary	7074
tenosynovitis characterized by a passive effusion or crepitus	7075
into the tendon sheath of the flexor or extensor muscles of the	7076
hand, due to frequently repetitive motions or vibrations, or	7077
prepatellar bursitis due to continued pressure.	7078
(S) Chrome ulceration of the skin or nasal passages: Any	7079
industrial process involving the use of or direct contact with	7080
chromic acid or bichromates of ammonium, potassium, or sodium or	7081
their preparations.	7082
(T) Potassium cyanide poisoning: Any industrial process	7083
involving the use of or direct contact with potassium cyanide.	7084
(U) Sulphur dioxide poisoning: Any industrial process in	7085

which sulphur dioxide gas is evolved by the expansion of liquid sulphur dioxide. 7086
7087

(V) Berylliosis: Berylliosis means a disease of the lungs 7088
caused by breathing beryllium in the form of dust or fumes, 7089
producing characteristic changes in the lungs and, if caused by 7090
breathing beryllium in the form of fumes, demonstrated by x-ray 7091
examination, by biopsy or by autopsy. 7092

This chapter does not entitle an employee or ~~his~~ the 7093
employee's dependents to compensation, medical treatment, or 7094
payment of funeral expenses for disability or death from 7095
berylliosis unless the employee has been subjected to injurious 7096
exposure to beryllium dust or fumes in ~~his~~ the employee's 7097
employment in this state preceding ~~his~~ the employee's 7098
disablement and only in the event of such disability or death 7099
resulting within eight years after the last injurious exposure; 7100
provided that such eight-year limitation does not apply to 7101
disability or death from exposure occurring after January 1, 7102
1976. In the event of death following continuous total 7103
disability commencing within eight years after the last 7104
injurious exposure, the requirement of death within eight years 7105
after the last injurious exposure does not apply. 7106

Before awarding compensation for partial or total 7107
disability or death due to berylliosis, the administrator of 7108
workers' compensation shall refer the claim to a qualified 7109
medical specialist for examination and recommendation with 7110
regard to the diagnosis, the extent of the disability, the 7111
nature of the disability, whether permanent or temporary, the 7112
cause of death, and other medical questions connected with the 7113
claim. An employee shall submit to such examinations, including 7114
clinical and x-ray examinations, as the administrator requires. 7115

In the event that an employee refuses to submit to examinations, 7116
including clinical and x-ray examinations, after notice from the 7117
administrator, or in the event that a claimant for compensation 7118
for death due to berylliosis fails to produce necessary consents 7119
and permits, after notice from the administrator, so that such 7120
autopsy examination and tests may be performed, then all rights 7121
for compensation are forfeited. The reasonable compensation of 7122
such specialist and the expenses of examinations and tests shall 7123
be paid, if the claim is allowed, as part of the expenses of the 7124
claim, otherwise they shall be paid from the surplus fund. 7125

(W) Cardiovascular, pulmonary, or respiratory diseases 7126
incurred by ~~fire fighters~~ firefighters or police officers 7127
following exposure to heat, smoke, toxic gases, chemical fumes 7128
and other toxic substances: Any cardiovascular, pulmonary, or 7129
respiratory disease of a ~~fire fighter~~ firefighter or police 7130
officer caused or induced by the cumulative effect of exposure 7131
to heat, the inhalation of smoke, toxic gases, chemical fumes 7132
and other toxic substances in the performance of ~~his~~ the 7133
firefighter's or police officer's duty constitutes a 7134
presumption, which may be refuted by affirmative evidence, that 7135
such occurred in the course of and arising out of ~~his~~ the 7136
firefighter's or police officer's employment. For the purpose of 7137
this section, "~~fire fighter~~firefighter" means any regular member 7138
of a lawfully constituted fire department of a municipal 7139
corporation or township, whether paid or volunteer, and "police 7140
officer" means any regular member of a lawfully constituted 7141
police department of a municipal corporation, township or 7142
county, whether paid or volunteer. 7143

This chapter does not entitle a ~~fire fighter~~ firefighter, 7144
or police officer, or ~~his~~ the firefighter's or police officer's 7145
dependents to compensation, medical treatment, or payment of 7146

funeral expenses for disability or death from a cardiovascular, 7147
pulmonary, or respiratory disease, unless the ~~fire fighter~~ 7148
firefighter or police officer has been subject to injurious 7149
exposure to heat, smoke, toxic gases, chemical fumes, and other 7150
toxic substances in ~~his~~ the firefighter's or police officer's 7151
employment in this state preceding ~~his~~ the firefighter's or 7152
police officer's disablement, some portion of which has been 7153
after January 1, 1967, except as provided in division ~~(E)~~ (D) of 7154
section 4123.57 of the Revised Code. 7155

Compensation on account of cardiovascular, pulmonary, or 7156
respiratory diseases of ~~fire fighters~~ firefighters and police 7157
officers is payable only in the event of temporary total 7158
disability, permanent total disability, or death, in accordance 7159
with section 4123.56, 4123.58, or 4123.59 of the Revised Code. 7160
Medical, hospital, and nursing expenses are payable in 7161
accordance with this chapter. Compensation, medical, hospital, 7162
and nursing expenses are payable only in the event of such 7163
disability or death resulting within eight years after the last 7164
injurious exposure; provided that such eight-year limitation 7165
does not apply to disability or death from exposure occurring 7166
after January 1, 1976. In the event of death following 7167
continuous total disability commencing within eight years after 7168
the last injurious exposure, the requirement of death within 7169
eight years after the last injurious exposure does not apply. 7170

This chapter does not entitle a ~~fire fighter~~ firefighter 7171
or police officer, or ~~his~~ the firefighter's or police officer's 7172
dependents, to compensation, medical, hospital, and nursing 7173
expenses, or payment of funeral expenses for disability or death 7174
due to a cardiovascular, pulmonary, or respiratory disease in 7175
the event of failure or omission on the part of the ~~fire fighter~~ 7176
firefighter or police officer truthfully to state, when seeking 7177

employment, the place, duration, and nature of previous 7178
employment in answer to an inquiry made by the employer. 7179

Before awarding compensation for disability or death under 7180
this division, the administrator shall refer the claim to a 7181
qualified medical specialist for examination and recommendation 7182
with regard to the diagnosis, the extent of disability, the 7183
cause of death, and other medical questions connected with the 7184
claim. A ~~fire fighter~~ firefighter or police officer shall submit 7185
to such examinations, including clinical and x-ray examinations, 7186
as the administrator requires. In the event that a ~~fire fighter~~ 7187
firefighter or police officer refuses to submit to examinations, 7188
including clinical and x-ray examinations, after notice from the 7189
administrator, or in the event that a claimant for compensation 7190
for death under this division fails to produce necessary 7191
consents and permits, after notice from the administrator, so 7192
that such autopsy examination and tests may be performed, then 7193
all rights for compensation are forfeited. The reasonable 7194
compensation of such specialists and the expenses of examination 7195
and tests shall be paid, if the claim is allowed, as part of the 7196
expenses of the claim, otherwise they shall be paid from the 7197
surplus fund. 7198

(X) Silicosis: Silicosis means a disease of the lungs 7199
caused by breathing silica dust (silicon dioxide) producing 7200
fibrous nodules distributed through the lungs ~~and demonstrated~~ 7201
~~by x-ray examination, by biopsy or by autopsy.~~ 7202

(Y) Coal miners' pneumoconiosis: Coal miners' 7203
pneumoconiosis, commonly referred to as "black lung disease," 7204
resulting from working in the coal mine industry and due to 7205
exposure to the breathing of coal dust, ~~and demonstrated by x-~~ 7206
~~ray examination, biopsy, autopsy or other medical or clinical~~ 7207

tests. 7208

This chapter does not entitle an employee or ~~his~~ the 7209
employee's dependents to compensation, medical treatment, or 7210
payment of funeral expenses for disability or death from 7211
silicosis, asbestosis, or coal miners' pneumoconiosis unless the 7212
employee has been subject to injurious exposure to silica dust 7213
(silicon dioxide), asbestos, or coal dust in ~~his~~ the employee's 7214
employment in this state preceding ~~his~~ the employee's 7215
disablement, some portion of which has been after October 12, 7216
1945, except as provided in division ~~(E)~~ (D) of section 4123.57 7217
of the Revised Code. 7218

Compensation on account of silicosis, asbestosis, or coal 7219
miners' pneumoconiosis are payable only in the event of 7220
temporary total disability, permanent partial disability, 7221
permanent total disability, or death, in accordance with 7222
~~sections 4123.56, 4123.58, and section 4123.59 and Chapter 4133.~~ 7223
of the Revised Code. Medical, hospital, and nursing expenses are 7224
payable in accordance with this chapter. ~~Compensation,~~ 7225
~~medical,~~ Medical, hospital, and nursing expenses are payable only 7226
in the event of such disability or death resulting within eight 7227
years after the last injurious exposure; provided that such 7228
eight-year limitation does not apply to ~~disability or~~ death 7229
occurring after January 1, 1976, and further provided that such 7230
eight-year limitation does not apply to any asbestosis cases. In 7231
the event of death following continuous total disability 7232
commencing within eight years after the last injurious exposure, 7233
the requirement of death within eight years after the last 7234
injurious exposure does not apply. 7235

~~This chapter does not entitle an employee or his~~ 7236
~~dependents to compensation, medical, hospital and nursing~~ 7237

~~expenses, or payment of funeral expenses for disability or death~~ 7238
~~due to silicosis, asbestosis, or coal miners' pneumoconiosis in~~ 7239
~~the event of the failure or omission on the part of the employee~~ 7240
~~truthfully to state, when seeking employment, the place,~~ 7241
~~duration, and nature of previous employment in answer to an~~ 7242
~~inquiry made by the employer.~~ 7243

~~Before awarding compensation for disability or death due~~ 7244
~~to silicosis, asbestosis, or coal miners' pneumoconiosis, the~~ 7245
~~administrator shall refer the claim to a qualified medical~~ 7246
~~specialist for examination and recommendation with regard to the~~ 7247
~~diagnosis, the extent of disability, the cause of death, and~~ 7248
~~other medical questions connected with the claim. An employee~~ 7249
~~shall submit to such examinations, including clinical and x-ray~~ 7250
~~examinations, as the administrator requires. In the event that~~ 7251
~~an employee refuses to submit to examinations, including~~ 7252
~~clinical and x-ray examinations, after notice from the~~ 7253
~~administrator, or in the event that a claimant for compensation~~ 7254
~~for death due to silicosis, asbestosis, or coal miners'~~ 7255
~~pneumoconiosis fails to produce necessary consents and permits,~~ 7256
~~after notice from the commission, so that such autopsy~~ 7257
~~examination and tests may be performed, then all rights for~~ 7258
~~compensation are forfeited. The reasonable compensation of such~~ 7259
~~specialist and the expenses of examinations and tests shall be~~ 7260
~~paid, if the claim is allowed, as a part of the expenses of the~~ 7261
~~claim, otherwise they shall be paid from the surplus fund.~~ 7262

(Z) Radiation illness: Any industrial process involving 7263
the use of radioactive materials. 7264

Claims for compensation and benefits due to radiation 7265
illness are payable only in the event death or disability 7266
occurred within eight years after the last injurious exposure 7267

provided that such eight-year limitation does not apply to 7268
disability or death from exposure occurring after January 1, 7269
1976. In the event of death following continuous disability 7270
which commenced within eight years of the last injurious 7271
exposure the requirement of death within eight years after the 7272
last injurious exposure does not apply. 7273

(AA) Asbestosis: Asbestosis means a disease caused by 7274
inhalation or ingestion of asbestos, ~~demonstrated by x-ray~~ 7275
~~examination, biopsy, autopsy, or other objective medical or~~ 7276
~~clinical tests.~~ 7277

All conditions, restrictions, limitations, and other 7278
provisions of this section, with reference to the payment of 7279
compensation or benefits on account of silicosis or coal miners' 7280
pneumoconiosis apply to the payment of compensation or benefits 7281
on account of any other occupational disease of the respiratory 7282
tract resulting from injurious exposures to dust. 7283

The refusal to produce the necessary consents and permits 7284
for autopsy examination and testing shall not result in 7285
forfeiture of compensation provided the administrator finds that 7286
such refusal was the result of bona fide religious convictions 7287
or teachings to which the claimant for compensation adhered 7288
prior to the death of the decedent. 7289

Sec. 4123.93. As used in sections 4123.93 and 4123.931 of 7290
the Revised Code: 7291

(A) "Claimant" means a person who is eligible to receive 7292
compensation, medical benefits, or death benefits under this 7293
chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the 7294
Revised Code. 7295

(B) "Statutory subrogee" means the administrator of 7296

workers' compensation, a self-insuring employer, or an employer 7297
that contracts for the direct payment of medical services 7298
pursuant to division (P) of section 4121.44 of the Revised Code. 7299

(C) "Third party" means an individual, private insurer, 7300
public or private entity, or public or private program that is 7301
or may be liable to make payments to a person without regard to 7302
any statutory duty contained in this chapter or Chapter 4121., 7303
4127., ~~or~~ 4131., or 4133. of the Revised Code. 7304

(D) "Subrogation interest" includes past, present, and 7305
estimated future payments of compensation, medical benefits, 7306
rehabilitation costs, or death benefits, and any other costs or 7307
expenses paid to or on behalf of the claimant by the statutory 7308
subrogee pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 7309
4131., or 4133. of the Revised Code. 7310

(E) "Net amount recovered" means the amount of any award, 7311
settlement, compromise, or recovery by a claimant against a 7312
third party, minus the attorney's fees, costs, or other expenses 7313
incurred by the claimant in securing the award, settlement, 7314
compromise, or recovery. "Net amount recovered" does not include 7315
any punitive damages that may be awarded by a judge or jury. 7316

(F) "Uncompensated damages" means the claimant's 7317
demonstrated or proven damages minus the statutory subrogee's 7318
subrogation interest. 7319

Sec. 4123.931. (A) The payment of compensation or benefits 7320
pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 7321
4133. of the Revised Code creates a right of recovery in favor 7322
of a statutory subrogee against a third party, and the statutory 7323
subrogee is subrogated to the rights of a claimant against that 7324
third party. The net amount recovered is subject to a statutory 7325

subrogee's right of recovery. 7326

(B) If a claimant, statutory subrogee, and third party 7327
settle or attempt to settle a claimant's claim against a third 7328
party, the claimant shall receive an amount equal to the 7329
uncompensated damages divided by the sum of the subrogation 7330
interest plus the uncompensated damages, multiplied by the net 7331
amount recovered, and the statutory subrogee shall receive an 7332
amount equal to the subrogation interest divided by the sum of 7333
the subrogation interest plus the uncompensated damages, 7334
multiplied by the net amount recovered, except that the net 7335
amount recovered may instead be divided and paid on a more fair 7336
and reasonable basis that is agreed to by the claimant and 7337
statutory subrogee. If while attempting to settle, the claimant 7338
and statutory subrogee cannot agree to the allocation of the net 7339
amount recovered, the claimant and statutory subrogee may file a 7340
request with the administrator of workers' compensation for a 7341
conference to be conducted by a designee appointed by the 7342
administrator, or the claimant and statutory subrogee may agree 7343
to utilize any other binding or non-binding alternative dispute 7344
resolution process. 7345

The claimant and statutory subrogee shall pay equal shares 7346
of the fees and expenses of utilizing an alternative dispute 7347
resolution process, unless they agree to pay those fees and 7348
expenses in another manner. The administrator shall not assess 7349
any fees to a claimant or statutory subrogee for a conference 7350
conducted by the administrator's designee. 7351

(C) If a claimant and statutory subrogee request that a 7352
conference be conducted by the administrator's designee pursuant 7353
to division (B) of this section, both of the following apply: 7354

(1) The administrator's designee shall schedule a 7355

conference on or before sixty days after the date that the 7356
claimant and statutory subrogee filed a request for the 7357
conference. 7358

(2) The determination made by the administrator's designee 7359
is not subject to Chapter 119. of the Revised Code. 7360

(D) When a claimant's action against a third party 7361
proceeds to trial and damages are awarded, both of the following 7362
apply: 7363

(1) The claimant shall receive an amount equal to the 7364
uncompensated damages divided by the sum of the subrogation 7365
interest plus the uncompensated damages, multiplied by the net 7366
amount recovered, and the statutory subrogee shall receive an 7367
amount equal to the subrogation interest divided by the sum of 7368
the subrogation interest plus the uncompensated damages, 7369
multiplied by the net amount recovered. 7370

(2) The court in a nonjury action shall make findings of 7371
fact, and the jury in a jury action shall return a general 7372
verdict accompanied by answers to interrogatories that specify 7373
the following: 7374

(a) The total amount of the compensatory damages; 7375

(b) The portion of the compensatory damages specified 7376
pursuant to division (D) (2) (a) of this section that represents 7377
economic loss; 7378

(c) The portion of the compensatory damages specified 7379
pursuant to division (D) (2) (a) of this section that represents 7380
noneconomic loss. 7381

(E) (1) After a claimant and statutory subrogee know the 7382
net amount recovered, and after the means for dividing it has 7383

been determined under division (B) or (D) of this section, a 7384
claimant may establish an interest-bearing trust account for the 7385
full amount of the subrogation interest that represents 7386
estimated future payments of compensation, medical benefits, 7387
rehabilitation costs, or death benefits, reduced to present 7388
value, from which the claimant shall make reimbursement payments 7389
to the statutory subrogee for the future payments of 7390
compensation, medical benefits, rehabilitation costs, or death 7391
benefits. If the workers' compensation claim associated with the 7392
subrogation interest is settled, or if the claimant dies, or if 7393
any other circumstance occurs that would preclude any future 7394
payments of compensation, medical benefits, rehabilitation 7395
costs, and death benefits by the statutory subrogee, any amount 7396
remaining in the trust account after final reimbursement is paid 7397
to the statutory subrogee for all payments made by the statutory 7398
subrogee before the ending of future payments shall be paid to 7399
the claimant or the claimant's estate. 7400

(2) A claimant may use interest that accrues on the trust 7401
account to pay the expenses of establishing and maintaining the 7402
trust account, and all remaining interest shall be credited to 7403
the trust account. 7404

(3) If a claimant establishes a trust account, the 7405
statutory subrogee shall provide payment notices to the claimant 7406
on or before the thirtieth day of June and the thirty-first day 7407
of December every year listing the total amount that the 7408
statutory subrogee has paid for compensation, medical benefits, 7409
rehabilitation costs, or death benefits during the half of the 7410
year preceding the notice. The claimant shall make reimbursement 7411
payments to the statutory subrogee from the trust account on or 7412
before the thirty-first day of July every year for a notice 7413
provided by the thirtieth day of June, and on or before the 7414

thirty-first day of January every year for a notice provided by 7415
the thirty-first day of December. The claimant's reimbursement 7416
payment shall be in an amount that equals the total amount 7417
listed on the notice the claimant receives from the statutory 7418
subrogee. 7419

(F) If a claimant does not establish a trust account as 7420
described in division (E)(1) of this section, the claimant shall 7421
pay to the statutory subrogee, on or before thirty days after 7422
receipt of funds from the third party, the full amount of the 7423
subrogation interest that represents estimated future payments 7424
of compensation, medical benefits, rehabilitation costs, or 7425
death benefits. 7426

(G) A claimant shall notify a statutory subrogee and the 7427
attorney general of the identity of all third parties against 7428
whom the claimant has or may have a right of recovery, except 7429
that when the statutory subrogee is a self-insuring employer, 7430
the claimant need not notify the attorney general. No 7431
settlement, compromise, judgment, award, or other recovery in 7432
any action or claim by a claimant shall be final unless the 7433
claimant provides the statutory subrogee and, when required, the 7434
attorney general, with prior notice and a reasonable opportunity 7435
to assert its subrogation rights. If a statutory subrogee and, 7436
when required, the attorney general are not given that notice, 7437
or if a settlement or compromise excludes any amount paid by the 7438
statutory subrogee, the third party and the claimant shall be 7439
jointly and severally liable to pay the statutory subrogee the 7440
full amount of the subrogation interest. 7441

(H) The right of subrogation under this chapter is 7442
automatic, regardless of whether a statutory subrogee is joined 7443
as a party in an action by a claimant against a third party. A 7444

statutory subrogee may assert its subrogation rights through 7445
correspondence with the claimant and the third party or their 7446
legal representatives. A statutory subrogee may institute and 7447
pursue legal proceedings against a third party either by itself 7448
or in conjunction with a claimant. If a statutory subrogee 7449
institutes legal proceedings against a third party, the 7450
statutory subrogee shall provide notice of that fact to the 7451
claimant. If the statutory subrogee joins the claimant as a 7452
necessary party, or if the claimant elects to participate in the 7453
proceedings as a party, the claimant may present the claimant's 7454
case first if the matter proceeds to trial. If a claimant 7455
disputes the validity or amount of an asserted subrogation 7456
interest, the claimant shall join the statutory subrogee as a 7457
necessary party to the action against the third party. 7458

(I) The statutory subrogation right of recovery applies 7459
to, but is not limited to, all of the following: 7460

(1) Amounts recoverable from a claimant's insurer in 7461
connection with underinsured or uninsured motorist coverage, 7462
notwithstanding any limitation contained in Chapter 3937. of the 7463
Revised Code; 7464

(2) Amounts that a claimant would be entitled to recover 7465
from a political subdivision, notwithstanding any limitations 7466
contained in Chapter 2744. of the Revised Code; 7467

(3) Amounts recoverable from an intentional tort action. 7468

(J) If a claimant's claim against a third party is for 7469
wrongful death or the claim involves any minor beneficiaries, 7470
amounts allocated under this section are subject to the approval 7471
of probate court. 7472

(K) The administrator shall deposit any money collected 7473

under this section into the public fund or the private fund of 7474
the state insurance fund, as appropriate. If a self-insuring 7475
employer collects money under this section of the Revised Code, 7476
the self-insuring employer shall deduct the amount collected, in 7477
the year collected, from the amount of paid compensation the 7478
self-insured employer is required to report under section 7479
4123.35 of the Revised Code. 7480

Sec. 4125.03. (A) The professional employer organization 7481
with whom a shared employee is coemployed shall do all of the 7482
following: 7483

(1) Pay wages associated with a shared employee pursuant 7484
to the terms and conditions of compensation in the professional 7485
employer organization agreement between the professional 7486
employer organization and the client employer; 7487

(2) Pay all related payroll taxes associated with a shared 7488
employee independent of the terms and conditions contained in 7489
the professional employer organization agreement between the 7490
professional employer organization and the client employer; 7491

(3) Maintain workers' compensation coverage, pay all 7492
workers' compensation premiums and manage all workers' 7493
compensation claims, filings, and related procedures associated 7494
with a shared employee in compliance with Chapters 4121. ~~and~~, 7495
4123., and 4133. of the Revised Code, except that when shared 7496
employees include family farm officers, ordained ministers, or 7497
corporate officers of the client employer, payroll reports shall 7498
include the entire amount of payroll associated with those 7499
persons; 7500

(4) Provide written notice to each shared employee it 7501
assigns to perform services to a client employer of the 7502

relationship between and the responsibilities of the 7503
professional employer organization and the client employer; 7504

(5) Maintain complete records separately listing the 7505
manual classifications of each client employer and the payroll 7506
reported to each manual classification for each client employer 7507
for each payroll reporting period during the time period covered 7508
in the professional employer organization agreement; 7509

(6) Maintain a record of workers' compensation claims for 7510
each client employer; 7511

(7) Make periodic reports, as determined by the 7512
administrator of workers' compensation, of client employers and 7513
total workforce to the administrator; 7514

(8) Report individual client employer payroll, claims, and 7515
classification data under a separate and unique subaccount to 7516
the administrator; 7517

(9) Within fourteen days after receiving notice from the 7518
bureau of workers' compensation that a refund or rebate will be 7519
applied to workers' compensation premiums, provide a copy of 7520
that notice to any client employer to whom that notice is 7521
relevant. 7522

(B) The professional employer organization with whom a 7523
shared employee is coemployed shall provide a list of all of the 7524
following information to the client employer upon the written 7525
request of the client employer: 7526

(1) All workers' compensation claims, premiums, and 7527
payroll associated with that client employer; 7528

(2) Compensation and benefits paid and reserves 7529
established for each claim listed under division (B)(1) of this 7530

section; 7531

(3) Any other information available to the professional 7532
employer organization from the bureau of workers' compensation 7533
regarding that client employer. 7534

(C) (1) A professional employer organization shall provide 7535
the information required under division (B) of this section in 7536
writing to the requesting client employer within forty-five days 7537
after receiving a written request from the client employer. 7538

(2) For purposes of division (C) of this section, a 7539
professional employer organization has provided the required 7540
information to the client employer when the information is 7541
received by the United States postal service or when the 7542
information is personally delivered, in writing, directly to the 7543
client employer. 7544

(D) Except as provided in section 4125.08 of the Revised 7545
Code and unless otherwise agreed to in the professional employer 7546
organization agreement, the professional employer organization 7547
with whom a shared employee is coemployed has a right of 7548
direction and control over each shared employee assigned to a 7549
client employer's location. However, a client employer shall 7550
retain sufficient direction and control over a shared employee 7551
as is necessary to do any of the following: 7552

(1) Conduct the client employer's business, including 7553
training and supervising shared employees; 7554

(2) Ensure the quality, adequacy, and safety of the goods 7555
or services produced or sold in the client employer's business; 7556

(3) Discharge any fiduciary responsibility that the client 7557
employer may have; 7558

(4) Comply with any applicable licensure, regulatory, or 7559
statutory requirement of the client employer. 7560

(E) Unless otherwise agreed to in the professional 7561
employer organization agreement, liability for acts, errors, and 7562
omissions shall be determined as follows: 7563

(1) A professional employer organization shall not be 7564
liable for the acts, errors, and omissions of a client employer 7565
or a shared employee when those acts, errors, and omissions 7566
occur under the direction and control of the client employer. 7567

(2) A client employer shall not be liable for the acts, 7568
errors, and omissions of a professional employer organization or 7569
a shared employee when those acts, errors, and omissions occur 7570
under the direction and control of the professional employer 7571
organization. 7572

(F) Nothing in divisions (D) and (E) of this section shall 7573
be construed to limit any liability or obligation specifically 7574
agreed to in the professional employer organization agreement. 7575

Sec. 4125.04. (A) When a client employer enters into a 7576
professional employer organization agreement with a professional 7577
employer organization, the professional employer organization is 7578
the employer of record and the succeeding employer for the 7579
purposes of determining a workers' compensation experience 7580
rating pursuant to Chapter 4123. of the Revised Code. 7581

(B) Pursuant to Section 35 of Article II, Ohio 7582
Constitution, and section 4123.74 of the Revised Code, the 7583
exclusive remedy for a shared employee to recover for injuries, 7584
diseases, or death incurred in the course of and arising out of 7585
the employment relationship against either the professional 7586
employer organization or the client employer are those benefits 7587

provided under Chapters 4121. ~~and~~, 4123., and 4133. of the 7588
Revised Code. 7589

Sec. 4131.01. As used in sections 4131.01 to 4131.06 of 7590
the Revised Code: 7591

(A) "Federal act" means Title IV of the "Federal Coal Mine 7592
Health and Safety Act of 1969," 83 Stat. 742, 30 U.S.C.A. 801, 7593
as now or hereafter amended. 7594

(B) "Coal-workers pneumoconiosis fund" means the fund 7595
created and administered pursuant to sections 4131.01 to 4131.06 7596
of the Revised Code and does not refer, directly or indirectly, 7597
to any fund created and administered pursuant to Chapter 4123. 7598
or 4133. of the Revised Code. 7599

(C) "Premium" means payment by or on behalf of an operator 7600
of a coal mine in Ohio who is required by the federal act to 7601
secure the payment of benefits for which ~~he~~ the operator is 7602
liable under that act, which payments are to be credited to the 7603
coal-workers pneumoconiosis fund and does not refer, directly or 7604
indirectly, to premiums or contributions paid or required to be 7605
paid pursuant to Chapter 4123. of the Revised Code. 7606

(D) "Subscriber" means an operator who has elected to 7607
subscribe to the coal-workers pneumoconiosis fund and whose 7608
election has been approved by the bureau of workers' 7609
compensation. 7610

Sec. 4133.01. As used in this chapter: 7611

(A) "Board-certified internist," "board-certified 7612
pathologist," and "board-certified pulmonary specialist" have 7613
the same meanings as in section 2307.84 of the Revised Code. 7614

(B) "Occupational pneumoconiosis" means a disease of the 7615

lungs caused by the inhalation of minute particles of dust over 7616
a period of time due to causes and conditions arising out of and 7617
in the course of employment. "Occupational pneumoconiosis" 7618
includes all of the following diseases: 7619

(1) Silicosis; 7620

(2) Anthracosilicosis; 7621

(3) Coal worker's pneumoconiosis, commonly known as black 7622
lung or miner's asthma; 7623

(4) Silico-tuberculosis (silicosis accompanied by active 7624
tuberculosis of the lungs); 7625

(5) Coal worker's pneumoconiosis accompanied by active 7626
tuberculosis of the lungs; 7627

(6) Asbestosis; 7628

(7) Siderosis; 7629

(8) Anthrax; 7630

(9) Any other dust diseases of the lungs and conditions 7631
and diseases caused by occupational pneumoconiosis not 7632
specifically designated in division (B) of this section. 7633

(C) "Statewide average weekly wage" has the same meaning 7634
as in section 4123.62 of the Revised Code. 7635

Sec. 4133.02. Except as otherwise provided in this 7636
chapter, Chapters 4121. and 4123. of the Revised Code apply to 7637
all claims arising under this chapter. 7638

Sec. 4133.03. Except as provided in section 4133.05 of the 7639
Revised Code, all claims for compensation and benefits for 7640
disability or death due to occupational pneumoconiosis are 7641
forever barred unless an employee or an individual on behalf of 7642

an employee applies to the industrial commission or the bureau 7643
of workers' compensation or to the employer if the employer is a 7644
self-insuring employer not later than the following dates, as 7645
applicable: 7646

(A) In the case of disability, not later than three years 7647
after the occurrence of either of the following, whichever is 7648
later: 7649

(1) The last day of the last continuous period of sixty 7650
days or more during which the employee was exposed to the 7651
hazards of occupational pneumoconiosis; 7652

(2) A diagnosed impairment due to occupational 7653
pneumoconiosis was made known to the employee by a physician. 7654

(B) In the case of death, not later than two years after 7655
the date of the employee's death. 7656

Sec. 4133.04. (A) When filing a claim for compensation and 7657
benefits for occupational pneumoconiosis, an employee or, if the 7658
employee is deceased, a dependent of the employee, shall submit 7659
to the administrator of workers' compensation or a self-insuring 7660
employer a written certification by a board-certified pulmonary 7661
specialist stating both of the following: 7662

(1) That the employee is or was suffering from complicated 7663
pneumoconiosis or pulmonary massive fibrosis; 7664

(2) That the occupational pneumoconiosis has or had 7665
resulted in pulmonary impairment as measured by the standards or 7666
methods used by the occupational pneumoconiosis board of at 7667
least fifteen per cent, as confirmed by valid and reproducible 7668
ventilatory testing. 7669

(B) The pulmonary specialist shall disclose all evidence 7670

upon which the written certification is based, including all 7671
radiographic, pathologic, or other diagnostic test results the 7672
pulmonary specialist reviewed. 7673

Sec. 4133.05. (A) (1) For a claim filed not later than 7674
three years after the last date of exposure to the hazards of 7675
occupational pneumoconiosis, the administrator of workers' 7676
compensation or a self-insuring employer shall determine all of 7677
the following: 7678

(a) Whether the employee who is the subject of the claim 7679
was exposed to the hazards of occupational pneumoconiosis for a 7680
continuous period of not less than sixty days in the course of 7681
the employee's employment not later than three years before 7682
filing the claim; 7683

(b) Whether the employee was exposed to the hazard in this 7684
state over a continuous period of not less than two years during 7685
the ten years immediately preceding the date of last exposure to 7686
the hazard; 7687

(c) Whether the employee was exposed to the hazard over a 7688
period of not less than ten years during the fifteen years 7689
immediately preceding the date of last exposure to the hazard. 7690

(2) For a claim filed not later than three years after the 7691
date of diagnosis of occupational pneumoconiosis, the 7692
administrator or self-insuring employer shall determine whether 7693
the employee satisfies the requirements of divisions (A) (1) (b) 7694
and (c) of this section. 7695

(B) For a claim filed by a dependent of an employee whose 7696
death is caused by occupational pneumoconiosis, the 7697
administrator or self-insuring employer shall determine all of 7698
the following: 7699

(1) Whether the deceased employee was exposed to the 7700
hazards of occupational pneumoconiosis for a continuous period 7701
of not less than sixty days in the course of the employee's 7702
employment within ten years before filing the claim; 7703

(2) Whether the deceased employee was exposed to the 7704
hazard in this state over a continuous period of not less than 7705
two years during the ten years immediately preceding the date of 7706
last exposure to the hazard; 7707

(3) Whether the deceased employee was exposed to the 7708
hazard over a period of not less than ten years during the 7709
fifteen years immediately preceding the date of last exposure to 7710
the hazard. 7711

(C) The administrator or self-insuring employer shall 7712
determine other nonmedical facts that, in the opinion of the 7713
administrator or self-insuring employer, are pertinent to a 7714
decision on the validity of a claim. 7715

(D) The administrator may allocate to and divide any 7716
charges resulting from an occupational pneumoconiosis claim 7717
among the employers for whom the employee who is the subject of 7718
the claim was employed up to sixty days during the period of 7719
three years immediately preceding the date of last exposure to 7720
the hazards of occupational pneumoconiosis. The administrator 7721
shall base the allocation on the time and degree of exposure the 7722
employee had with each employer. 7723

Sec. 4133.06. (A) The administrator of workers' 7724
compensation or a self-insuring employer shall determine the 7725
nonmedical findings for an occupational pneumoconiosis claim 7726
filed under section 4133.05 of the Revised Code not later than 7727
ninety days after the administrator or self-insuring employer 7728

receives the claimant's application and the pulmonary 7729
specialist's written certification specified in section 4133.04 7730
of the Revised Code. The administrator or self-insuring employer 7731
shall provide each interested party written notice of the 7732
determination. 7733

(B) The administrator's or self-insuring employer's 7734
determination under this chapter is final unless the employer or 7735
claimant objects to the determination not later than sixty days 7736
after receipt of the notice described in division (A) of this 7737
section. 7738

(C) If a claimant objects to the administrator's 7739
determination regarding the occupational pneumoconiosis claim 7740
for compensation and benefits, the claimant may appeal the claim 7741
in accordance with section 4123.511 or 4123.512 of the Revised 7742
Code. If an employer objects to the determination under this 7743
section, the administrator shall refer the claim to the 7744
occupational pneumoconiosis board as if the objection had not 7745
been filed. 7746

Sec. 4133.07. There is hereby created the occupational 7747
pneumoconiosis board within the bureau of workers' compensation 7748
to determine, under the direction and supervision of the 7749
administrator of workers' compensation, all medical questions 7750
relating to claims for compensation and benefits for 7751
occupational pneumoconiosis. 7752

The board consists of five physicians in good professional 7753
standing holding a certificate issued under Chapter 4731. of the 7754
Revised Code to practice medicine and surgery or osteopathic 7755
medicine and surgery. Members shall be board-certified 7756
internists or board-certified pulmonary specialists. The 7757
administrator shall appoint the members to the board. 7758

Not later than ninety days after the effective date of 7759
this section, the administrator shall appoint the initial 7760
members to the board. The administrator shall appoint three 7761
members to terms ending one year after the effective date of 7762
this section, two members to terms ending two years after that 7763
date, and one member to a term ending three years after that 7764
date. Thereafter, terms of office for all members are six years, 7765
with each term ending on the same day of the same month as did 7766
the term that it succeeds. Each member shall hold office from 7767
the date of appointment until the end of the term for which the 7768
member was appointed. Members may be reappointed. 7769

Vacancies shall be filled in the same manner as original 7770
appointments. Any member appointed to fill a vacancy occurring 7771
before the expiration of the term for which the member's 7772
predecessor was appointed shall hold office for the remainder of 7773
the term. Any member shall continue in office subsequent to the 7774
expiration date of the member's term until a successor takes 7775
office, or until a period of sixty days has elapsed, whichever 7776
occurs first. 7777

The administrator annually shall select from among the 7778
board members a chairperson. A majority of board members 7779
constitutes a quorum. 7780

Members of the occupational pneumoconiosis board shall 7781
receive compensation for their service on the board and be 7782
reimbursed for travel and actual and necessary expenses incurred 7783
in the conduct of their official duties. The administrator shall 7784
establish the compensation of members in accordance with section 7785
4121.121 of the Revised Code. 7786

Sections 101.82 to 101.87 of the Revised Code do not apply 7787
to the occupational pneumoconiosis board. 7788

Sec. 4133.08. (A) On referral to the occupational 7789
pneumoconiosis board, the board shall notify the claimant and 7790
administrator or self-insuring employer, as applicable, to 7791
appear before the board at a time and place stated in the 7792
notice. If the claimant is living, the claimant shall appear 7793
before the board at the specified time and place and submit to 7794
any examination, including clinical and x-ray examinations, 7795
required by the board. 7796

If a licensed physician files an affidavit with the board 7797
that the claimant is physically unable to appear at the 7798
specified time and place, the board shall, on notice to the 7799
proper parties, change the time and place as may reasonably 7800
facilitate the hearing or examination of the claimant or may 7801
appoint a qualified specialist in the field of respiratory 7802
disease to examine the claimant on the board's behalf. 7803

(B) The claimant and employer shall produce as evidence to 7804
the board all medical reports and x-ray examinations that are in 7805
the claimant's or employer's possession or control and that show 7806
the employee's past or present condition. 7807

If the employee who is the subject of the claim is 7808
deceased, the notice specified in division (A) of this section 7809
may require the claimant to produce any consents and permits 7810
necessary so that an autopsy may be performed. If the board 7811
determines an autopsy is necessary to accurately and 7812
scientifically determine the cause of death, the board shall 7813
order the autopsy. The board shall designate a physician holding 7814
a certificate issued under Chapter 4731. of the Revised Code, 7815
board-certified pathologist, or any other specialist the board 7816
determines necessary to conduct the examination and tests to 7817
determine the cause of death and certify the findings in writing 7818

to the board. Notwithstanding section 4123.88 of the Revised 7819
Code, the findings are public records under section 149.43 of 7820
the Revised Code. 7821

(C) In determining the presence of occupational 7822
pneumoconiosis, the board may consider x-ray evidence, but the 7823
board shall not give that evidence greater weight than any other 7824
type of evidence demonstrating occupational pneumoconiosis. 7825

(D) If an employee refuses to submit to an examination, 7826
the employee's claim shall be suspended during the period of the 7827
refusal in accordance with section 4123.53 of the Revised Code. 7828
If a claimant fails to produce necessary consents and permits so 7829
that an autopsy may be performed, the claimant forfeits all 7830
rights for compensation and benefits under this chapter. 7831

(E) The claimant and employer are entitled to be present 7832
at all examinations conducted by the board and to be represented 7833
by attorneys and physicians. 7834

Sec. 4133.09. (A) The occupational pneumoconiosis board, 7835
as soon as practicable after completing its investigation under 7836
section 4133.08 of the Revised Code, shall issue a written 7837
report on its determination of every medical question in 7838
controversy to the administrator of workers' compensation or 7839
self-insuring employer. The board shall send one copy of the 7840
report to the claimant and one copy to the claimant's employer 7841
if the employer is not a self-insuring employer. 7842

(B) The board shall return to and file with the 7843
administrator or self-insuring employer all evidence and medical 7844
reports and x-ray examinations produced by or on behalf of the 7845
claimant or employer. 7846

(C) The board shall include all of the following in its 7847

determination: 7848

(1) Whether the employee contracted occupational 7849
pneumoconiosis and, if so, the percentage of permanent 7850
disability resulting from the occupational pneumoconiosis; 7851

(2) Whether the exposure in the employment was sufficient 7852
to have caused the employee's occupational pneumoconiosis or to 7853
have perceptibly aggravated an existing occupational 7854
pneumoconiosis or other occupational disease; 7855

(3) What, if any, physician appeared before the board on 7856
the claimant's or employer's behalf and what, if any, medical 7857
evidence was produced by or on the claimant's or employer's 7858
behalf. 7859

(D)(1) It shall be presumed that the employee is suffering 7860
or if the employee is deceased, the deceased employee was 7861
suffering at the time of the employee's death, from occupational 7862
pneumoconiosis that arose out of and in the course of employment 7863
if both of the following are shown: 7864

(a) The employee has or had been exposed to the hazard of 7865
inhaling minute particles of dust in the course of and arising 7866
from the employee's employment for a period of ten years during 7867
the fifteen years immediately preceding the date of the 7868
employee's last exposure to the hazard; 7869

(b) The employee has or had sustained a chronic 7870
respiratory disability. 7871

(2) The presumption described in division (D)(1) of this 7872
section is not conclusive. 7873

(E) If either party contests the board's determination in 7874
division (C) of this section, the party shall file an appeal 7875

with the industrial commission in accordance with section 7876
4123.511 of the Revised Code. 7877

(F)(1) Except as provided in division (F)(2) of this 7878
section, a claimant who receives a final determination from the 7879
board that the employee who is the subject of the claim has or 7880
had no evidence of occupational pneumoconiosis is barred for a 7881
period of three years from filing a new claim or pursuing a 7882
previously filed, but unruled upon, claim for occupational 7883
pneumoconiosis or requesting a modification of any prior ruling 7884
finding the employee not to be suffering from occupational 7885
pneumoconiosis. 7886

The three-year period described in this division begins on 7887
the date of the board's decision or the date on which the 7888
employee's employment with the employer who employed the 7889
employee at the time designated as the employee's last date of 7890
exposure in the denied claim terminates, whichever is sooner. 7891
For purposes of this division, an employee's employment is 7892
considered terminated if the employee has not worked for that 7893
employer for a period of more than ninety days. 7894

The administrator or a self-insuring employer shall 7895
consolidate any previously filed but unruled upon claim with the 7896
claim in which the board's decision is made and must be denied 7897
together with the decided claim. The administrator or self- 7898
insuring employer shall not apply these limitations to a claim 7899
if doing so would later cause a claimant's claim to be forever 7900
barred for failing to file within the applicable time 7901
limitation. 7902

(2) This division does not apply if the claimant 7903
demonstrates that the occupational pneumoconiosis has 7904
deteriorated. 7905

Sec. 4133.10. The administrator of workers' compensation 7906
or a self-insuring employer may require a claimant to appear for 7907
examination before the occupational pneumoconiosis board. If the 7908
claimant is required to appear for a board examination, the 7909
party that referred the claimant to the board shall reimburse 7910
the claimant for loss of wages and reasonable traveling expenses 7911
and other expenses in connection with the examination. 7912

Sec. 4133.11. An employee filing a claim for compensation 7913
and benefits for occupational pneumoconiosis shall receive 7914
medical, nurse, and hospital services in accordance with section 7915
4123.66 of the Revised Code. 7916

Sec. 4133.12. An employee who is awarded compensation for 7917
temporary total disability for occupational pneumoconiosis shall 7918
receive sixty-six and two-thirds per cent of the employee's 7919
average weekly wage so long as such disability is total. The 7920
employee shall not receive an amount of weekly compensation that 7921
exceeds an amount that is equal to the statewide average weekly 7922
wage or that is less than an amount that is equal to thirty- 7923
three and one-third per cent of the statewide average weekly 7924
wage. In no event, however, shall the minimum weekly 7925
compensation exceed the level of compensation determined by 7926
using the federal minimum hourly wage. 7927

The number of weeks of temporary total disability 7928
compensation an employee may receive for a single occupational 7929
pneumoconiosis claim shall not exceed one hundred four weeks. 7930

Sec. 4133.13. (A) An employee who is awarded compensation 7931
for permanent partial disability for occupational pneumoconiosis 7932
shall receive sixty-six and two-thirds per cent of the 7933
employee's average weekly wage. The employee shall not receive 7934
an amount of weekly compensation that exceeds an amount that is 7935

equal to seventy per cent of the statewide average weekly wage 7936
or that is less than an amount equal to thirty-three and one- 7937
third per cent of the statewide average weekly wage. In no 7938
event, however, shall the minimum weekly compensation exceed the 7939
level of compensation determined by using the federal minimum 7940
hourly wage. 7941

(B) (1) Except as provided in division (B) (2) of this 7942
section, an employee shall receive four weeks of compensation 7943
for each percentage of disability that the administrator of 7944
workers' compensation determines to be permanent. 7945

(2) If an employee is released by the employee's treating 7946
physician to return to work at the position the employee held 7947
before the occupational pneumoconiosis occurred and the 7948
employee's preinjury employer does not offer the preinjury 7949
position or a comparable position to the employee when a 7950
position is available, the award for the percentage of partial 7951
disability shall be computed on the basis of six weeks of 7952
compensation for each percentage of disability. 7953

(C) The degree of permanent partial disability shall be 7954
determined by the degree of whole body medical impairment that 7955
an employee has suffered. Once the degree of an employee's 7956
medical impairment has been determined, that degree of 7957
impairment is the percentage of permanent partial disability 7958
that shall be awarded to the employee. The occupational 7959
pneumoconiosis board shall premise its decision on the degree of 7960
pulmonary function impairment that an employee suffers solely 7961
upon whole body medical impairment. 7962

(D) The administrator shall adopt standards for 7963
determining an employee's degree of whole body medical 7964
impairment. 7965

Sec. 4133.14. An employee who is awarded compensation for 7966
permanent total disability for occupational pneumoconiosis shall 7967
receive sixty-six and two-thirds per cent of the employee's 7968
average weekly wage. The employee shall not receive an amount of 7969
weekly compensation that exceeds an amount that is equal to one 7970
hundred per cent of the statewide average weekly wage or that is 7971
less than an amount that is equal to thirty-three and one-third 7972
per cent of the statewide average weekly wage. In no event, 7973
however, shall the minimum weekly compensation exceed the level 7974
of compensation determined by using the federal minimum hourly 7975
wage. 7976

Permanent total disability compensation for occupational 7977
pneumoconiosis shall cease upon the employee reaching seventy 7978
years of age. 7979

If an employee is determined to be permanently disabled 7980
due to occupational pneumoconiosis, the percentage of permanent 7981
disability shall be determined by the degree of medical 7982
impairment found by the occupational pneumoconiosis board. 7983

In cases of permanent disability or death due to 7984
occupational pneumoconiosis accompanied by active tuberculosis 7985
of the lungs, compensation is payable for disability or death 7986
due to occupational pneumoconiosis alone. 7987

Sec. 4133.15. Benefits in case of death due to 7988
occupational pneumoconiosis shall be paid in accordance with 7989
section 4123.60 of the Revised Code. 7990

Sec. 4133.16. In computing compensation for occupational 7991
pneumoconiosis claims, the administrator of workers' 7992
compensation or a self-insuring employer shall deduct the amount 7993
of all prior compensation or benefits paid to the same claimant 7994

due to silicosis under this chapter or Chapter 4123. of the 7995
Revised Code, but a prior silicosis award shall not, in any 7996
event, preclude an award for occupational pneumoconiosis 7997
otherwise payable under this chapter. 7998

Sec. 4729.80. (A) If the state board of pharmacy 7999
establishes and maintains a drug database pursuant to section 8000
4729.75 of the Revised Code, the board is authorized or required 8001
to provide information from the database in accordance with the 8002
following: 8003

(1) On receipt of a request from a designated 8004
representative of a government entity responsible for the 8005
licensure, regulation, or discipline of health care 8006
professionals with authority to prescribe, administer, or 8007
dispense drugs, the board may provide to the representative 8008
information from the database relating to the professional who 8009
is the subject of an active investigation being conducted by the 8010
government entity. 8011

(2) On receipt of a request from a federal officer, or a 8012
state or local officer of this or any other state, whose duties 8013
include enforcing laws relating to drugs, the board shall 8014
provide to the officer information from the database relating to 8015
the person who is the subject of an active investigation of a 8016
drug abuse offense, as defined in section 2925.01 of the Revised 8017
Code, being conducted by the officer's employing government 8018
entity. 8019

(3) Pursuant to a subpoena issued by a grand jury, the 8020
board shall provide to the grand jury information from the 8021
database relating to the person who is the subject of an 8022
investigation being conducted by the grand jury. 8023

(4) Pursuant to a subpoena, search warrant, or court order 8024
in connection with the investigation or prosecution of a 8025
possible or alleged criminal offense, the board shall provide 8026
information from the database as necessary to comply with the 8027
subpoena, search warrant, or court order. 8028

(5) On receipt of a request from a prescriber or the 8029
prescriber's delegate approved by the board, the board shall 8030
provide to the prescriber a report of information from the 8031
database relating to a patient who is either a current patient 8032
of the prescriber or a potential patient of the prescriber based 8033
on a referral of the patient to the prescriber, if all of the 8034
following conditions are met: 8035

(a) The prescriber certifies in a form specified by the 8036
board that it is for the purpose of providing medical treatment 8037
to the patient who is the subject of the request; 8038

(b) The prescriber has not been denied access to the 8039
database by the board. 8040

(6) On receipt of a request from a pharmacist or the 8041
pharmacist's delegate approved by the board, the board shall 8042
provide to the pharmacist information from the database relating 8043
to a current patient of the pharmacist, if the pharmacist 8044
certifies in a form specified by the board that it is for the 8045
purpose of the pharmacist's practice of pharmacy involving the 8046
patient who is the subject of the request and the pharmacist has 8047
not been denied access to the database by the board. 8048

(7) On receipt of a request from an individual seeking the 8049
individual's own database information in accordance with the 8050
procedure established in rules adopted under section 4729.84 of 8051
the Revised Code, the board may provide to the individual the 8052

individual's own database information. 8053

(8) On receipt of a request from a medical director or a 8054
pharmacy director of a managed care organization that has 8055
entered into a contract with the department of medicaid under 8056
section 5167.10 of the Revised Code and a data security 8057
agreement with the board required by section 5167.14 of the 8058
Revised Code, the board shall provide to the medical director or 8059
the pharmacy director information from the database relating to 8060
a medicaid recipient enrolled in the managed care organization, 8061
including information in the database related to prescriptions 8062
for the recipient that were not covered or reimbursed under a 8063
program administered by the department of medicaid. 8064

(9) On receipt of a request from the medicaid director, 8065
the board shall provide to the director information from the 8066
database relating to a recipient of a program administered by 8067
the department of medicaid, including information in the 8068
database related to prescriptions for the recipient that were 8069
not covered or paid by a program administered by the department. 8070

(10) On receipt of a request from a medical director of a 8071
managed care organization that has entered into a contract with 8072
the administrator of workers' compensation under division (B) (4) 8073
of section 4121.44 of the Revised Code and a data security 8074
agreement with the board required by section 4121.447 of the 8075
Revised Code, the board shall provide to the medical director 8076
information from the database relating to a claimant under 8077
Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised 8078
Code assigned to the managed care organization, including 8079
information in the database related to prescriptions for the 8080
claimant that were not covered or reimbursed under Chapter 8081
4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code, if 8082

the administrator of workers' compensation confirms, upon 8083
request from the board, that the claimant is assigned to the 8084
managed care organization. 8085

(11) On receipt of a request from the administrator of 8086
workers' compensation, the board shall provide to the 8087
administrator information from the database relating to a 8088
claimant under Chapter 4121., 4123., 4127., ~~or~~ 4131., or 4133. 8089
of the Revised Code, including information in the database 8090
related to prescriptions for the claimant that were not covered 8091
or reimbursed under Chapter 4121., 4123., 4127., ~~or~~ 4131., or 8092
4133. of the Revised Code. 8093

(12) On receipt of a request from a prescriber or the 8094
prescriber's delegate approved by the board, the board shall 8095
provide to the prescriber information from the database relating 8096
to a patient's mother, if the prescriber certifies in a form 8097
specified by the board that it is for the purpose of providing 8098
medical treatment to a newborn or infant patient diagnosed as 8099
opioid dependent and the prescriber has not been denied access 8100
to the database by the board. 8101

(13) On receipt of a request from the director of health, 8102
the board shall provide to the director information from the 8103
database relating to the duties of the director or the 8104
department of health in implementing the Ohio violent death 8105
reporting system established under section 3701.93 of the 8106
Revised Code. 8107

(14) On receipt of a request from a requestor described in 8108
division (A)(1), (2), (5), or (6) of this section who is from or 8109
participating with another state's prescription monitoring 8110
program, the board may provide to the requestor information from 8111
the database, but only if there is a written agreement under 8112

which the information is to be used and disseminated according 8113
to the laws of this state. 8114

(B) The state board of pharmacy shall maintain a record of 8115
each individual or entity that requests information from the 8116
database pursuant to this section. In accordance with rules 8117
adopted under section 4729.84 of the Revised Code, the board may 8118
use the records to document and report statistics and law 8119
enforcement outcomes. 8120

The board may provide records of an individual's requests 8121
for database information to the following: 8122

(1) A designated representative of a government entity 8123
that is responsible for the licensure, regulation, or discipline 8124
of health care professionals with authority to prescribe, 8125
administer, or dispense drugs who is involved in an active 8126
investigation being conducted by the government entity of the 8127
individual who submitted the requests for database information; 8128

(2) A federal officer, or a state or local officer of this 8129
or any other state, whose duties include enforcing laws relating 8130
to drugs and who is involved in an active investigation being 8131
conducted by the officer's employing government entity of the 8132
individual who submitted the requests for database information. 8133

(C) Information contained in the database and any 8134
information obtained from it is not a public record. Information 8135
contained in the records of requests for information from the 8136
database is not a public record. Information that does not 8137
identify a person may be released in summary, statistical, or 8138
aggregate form. 8139

(D) A pharmacist or prescriber shall not be held liable in 8140
damages to any person in any civil action for injury, death, or 8141

loss to person or property on the basis that the pharmacist or 8142
prescriber did or did not seek or obtain information from the 8143
database. 8144

Sec. 5145.163. (A) As used in this section: 8145

(1) "Customer model enterprise" means an enterprise 8146
conducted under a federal prison industries enhancement 8147
certification program in which a private party participates in 8148
the enterprise only as a purchaser of goods and services. 8149

(2) "Employer model enterprise" means an enterprise 8150
conducted under a federal prison industries enhancement 8151
certification program in which a private party participates in 8152
the enterprise as an operator of the enterprise. 8153

(3) "Injury" means a diagnosable injury to an inmate 8154
supported by medical findings that it was sustained in the 8155
course of and arose out of authorized work activity that was an 8156
integral part of the inmate's participation in the Ohio penal 8157
industries program. 8158

(4) "Inmate" means any person who is committed to the 8159
custody of the department of rehabilitation and correction and 8160
who is participating in an Ohio penal industries program that is 8161
under the federal prison industries enhancement certification 8162
program. 8163

(5) "Federal prison industries enhancement certification 8164
program" means the program authorized pursuant to 18 U.S.C. 8165
1761. 8166

(6) "Loss of earning capacity" means an impairment of the 8167
body of an inmate to a degree that makes the inmate unable to 8168
return to work activity under the Ohio penal industries program 8169
and results in a reduction of compensation earned by the inmate 8170

at the time the injury occurred. 8171

(B) Every inmate shall be covered by a policy of 8172
disability insurance to provide benefits for loss of earning 8173
capacity due to an injury and for medical treatment of the 8174
injury following the inmate's release from prison. If the 8175
enterprise for which the inmate works is a customer model 8176
enterprise, Ohio penal industries shall purchase the policy. If 8177
the enterprise for which the inmate works is an employer model 8178
enterprise, the private participant shall purchase the policy. 8179
The person required to purchase the policy shall submit proof of 8180
coverage to the prison labor advisory board before the 8181
enterprise begins operation. 8182

(C) Within ninety days after an inmate sustains an injury, 8183
the inmate may file a disability claim with the person required 8184
to purchase the policy of disability insurance. Upon the request 8185
of the insurer, the inmate shall be medically examined, and the 8186
insurer shall determine the inmate's entitlement to disability 8187
benefits based on the medical examination. The inmate shall 8188
accept or reject an award within thirty days after a 8189
determination of the inmate's entitlement to the award. If the 8190
inmate accepts the award, the benefits shall be paid upon the 8191
inmate's release from prison. The amount of disability benefits 8192
payable to the inmate shall be reduced by sick leave benefits or 8193
other compensation for lost pay made by Ohio penal industries to 8194
the inmate due to an injury that rendered the inmate unable to 8195
work. An inmate shall not receive disability benefits for 8196
injuries occurring as the result of a fight, assault, horseplay, 8197
purposely self-inflicted injury, use of alcohol or controlled 8198
substances, misuse of prescription drugs, or other activity that 8199
is prohibited by the department's or institution's inmate 8200
conduct rules or the work rules of the private participant in 8201

the enterprise. 8202

(D) Inmates are not employees of the department of 8203
rehabilitation and correction or the private participant in an 8204
enterprise. 8205

(E) An inmate is ineligible to receive compensation or 8206
benefits under Chapter 4121., 4123., 4127., ~~or 4131., or 4133.~~ 8207
of the Revised Code for any injury, death, or occupational 8208
disease received in the course of, and arising out of, 8209
participation in the Ohio penal industries program. Any claim 8210
for an injury arising from an inmate's participation in the 8211
program is specifically excluded from the jurisdiction of the 8212
Ohio bureau of workers' compensation and the industrial 8213
commission of Ohio. 8214

(F) Any disability benefit award accepted by an inmate 8215
under this section shall be the inmate's exclusive remedy 8216
against the insurer, the private participant in an enterprise, 8217
and the state. If an inmate rejects an award or a disability 8218
claim is denied, the inmate may bring an action in the court of 8219
claims within the appropriate period of limitations. 8220

(G) If any inmate who is paid disability benefits under 8221
this section is reincarcerated, the benefits shall immediately 8222
cease but shall resume upon the inmate's subsequent release from 8223
incarceration. 8224

Sec. 5503.08. Each state highway patrol officer shall, in 8225
addition to the sick leave benefits provided in section 124.38 8226
of the Revised Code, be entitled to occupational injury leave. 8227
Occupational injury leave of one thousand five hundred hours 8228
with pay may, with the approval of the superintendent of the 8229
state highway patrol, be used for absence resulting from each 8230

independent injury incurred in the line of duty, except that 8231
occupational injury leave is not available for injuries incurred 8232
during those times when the patrol officer is actually engaged 8233
in administrative or clerical duties at a patrol facility, when 8234
a patrol officer is on a meal or rest period, or when the patrol 8235
officer is engaged in any personal business. The superintendent 8236
of the state highway patrol shall, by rule, define those 8237
administrative and clerical duties and those situations where 8238
the occurrence of an injury does not entitle the patrol officer 8239
to occupational injury leave. Each injury incurred in the line 8240
of duty which aggravates a previously existing injury, whether 8241
the previously existing injury was so incurred or not, shall be 8242
considered an independent injury. When its use is authorized 8243
under this section, all occupational injury leave shall be 8244
exhausted before any credit is deducted from unused sick leave 8245
accumulated under section 124.38 of the Revised Code, except 8246
that, unless otherwise provided by the superintendent of the 8247
state highway patrol, occupational injury leave shall not be 8248
used for absence occurring within seven calendar days of the 8249
injury. During that seven calendar day period, unused sick leave 8250
may be used for such an absence. 8251

When occupational injury leave is used, it shall be 8252
deducted from the unused balance of the patrol officer's 8253
occupational injury leave for that injury on the basis of one 8254
hour for every one hour of absence from previously scheduled 8255
work. 8256

Before a patrol officer may use occupational injury leave, 8257
the patrol officer shall: 8258

(A) Apply to the superintendent for permission to use 8259
occupational injury leave on a form that requires the patrol 8260

officer to explain the nature of the patrol officer's 8261
independent injury and the circumstances under which it 8262
occurred; and 8263

(B) Submit to a medical examination. The individual who 8264
conducts the examination shall report to the superintendent the 8265
results of the examination and whether or not the independent 8266
injury prevents the patrol officer from attending work. 8267

The superintendent shall, by rule, provide for periodic 8268
medical examinations of patrol officers who are using 8269
occupational injury leave. The individual selected to conduct 8270
the medical examinations shall report to the superintendent the 8271
results of each such examination, including a description of the 8272
progress made by the patrol officer in recovering from the 8273
independent injury, and whether or not the independent injury 8274
continues to prevent the patrol officer from attending work. 8275

The superintendent shall appoint to conduct medical 8276
examinations under this division individuals authorized by the 8277
Revised Code to do so, including any physician assistant, 8278
clinical nurse specialist, certified nurse practitioner, or 8279
certified nurse-midwife. 8280

A patrol officer is not entitled to use or continue to use 8281
occupational injury leave after refusing to submit to a medical 8282
examination or if the individual examining the patrol officer 8283
reports that the independent injury does not prevent the patrol 8284
officer from attending work. 8285

A patrol officer who falsifies an application for 8286
permission to use occupational injury leave or a medical 8287
examination report is subject to disciplinary action, including 8288
dismissal. 8289

The superintendent shall, by rule, prescribe forms for the 8290
application and medical examination report. 8291

Occupational injury leave pay made according to this 8292
section is in lieu of such workers' compensation benefits as 8293
would have been payable directly to a patrol officer pursuant to 8294
sections 4123.56~~and~~, 4123.58, 4133.12, and 4133.14 of the 8295
Revised Code, but all other compensation and benefits pursuant 8296
to ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code are 8297
payable as in any other case. If at the close of the period, the 8298
patrol officer remains disabled, the patrol officer is entitled 8299
to all compensation and benefits, without a waiting period 8300
pursuant to section 4123.55 of the Revised Code based upon the 8301
injury received, for which the patrol officer qualifies pursuant 8302
to ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code. 8303
Compensation shall be paid from the date that the patrol officer 8304
ceases to receive the patrol officer's regular rate of pay 8305
pursuant to this section. 8306

Occupational injury leave shall not be credited to or, 8307
upon use, deducted from, a patrol officer's sick leave. 8308

Section 2. That existing sections 109.84, 126.30, 8309
145.2915, 2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 8310
3701.741, 3963.10, 4115.03, 4121.03, 4121.12, 4121.121, 8311
4121.125, 4121.127, 4121.129, 4121.30, 4121.31, 4121.32, 8312
4121.34, 4121.36, 4121.41, 4121.44, 4121.441, 4121.442, 8313
4121.444, 4121.45, 4121.50, 4121.61, 4123.15, 4123.26, 4123.291, 8314
4123.311, 4123.32, 4123.324, 4123.34, 4123.341, 4123.343, 8315
4123.35, 4123.351, 4123.353, 4123.402, 4123.441, 4123.442, 8316
4123.444, 4123.47, 4123.51, 4123.511, 4123.512, 4123.53, 8317
4123.54, 4123.542, 4123.57, 4123.571, 4123.65, 4123.68, 4123.93, 8318
4123.931, 4125.03, 4125.04, 4131.01, 4729.80, 5145.163, and 8319

5503.08 of the Revised Code are hereby repealed. 8320

Section 3. Sections 1 and 2 of this act apply to claims 8321
for compensation and benefits for disability or death due to 8322
occupational pneumoconiosis arising on or after the effective 8323
date of this act. 8324

Section 4. The General Assembly, applying the principle 8325
stated in division (B) of section 1.52 of the Revised Code that 8326
amendments are to be harmonized if reasonably capable of 8327
simultaneous operation, finds that the following sections, 8328
presented in this act as composites of the sections as amended 8329
by the acts indicated, are the resulting version of the sections 8330
in effect prior to the effective date of the section as 8331
presented in this act: 8332

Section 4121.12 of the Revised Code, as amended by Sub. 8333
H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 8334
General Assembly. 8335

Section 4121.125 of the Revised Code, as amended by Sub. 8336
H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 8337
General Assembly. 8338