

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 167

Representative Cera

Cosponsors: Representatives Rogers, Kelly, Liston, Patterson, Smith, K., Lepore-Hagan

A BILL

To amend sections 109.84, 126.30, 145.2915, 1
715.27, 2307.84, 2307.91, 2307.97, 2317.02, 2
2913.48, 3121.899, 3701.741, 3923.281, 3963.10, 3
4115.03, 4121.03, 4121.12, 4121.121, 4121.125, 4
4121.127, 4121.129, 4121.13, 4121.30, 4121.31, 5
4121.32, 4121.34, 4121.36, 4121.41, 4121.44, 6
4121.441, 4121.442, 4121.444, 4121.45, 4121.50, 7
4121.61, 4123.025, 4123.05, 4123.15, 4123.26, 8
4123.27, 4123.291, 4123.30, 4123.311, 4123.32, 9
4123.324, 4123.34, 4123.341, 4123.342, 4123.343, 10
4123.35, 4123.351, 4123.353, 4123.402, 4123.441, 11
4123.442, 4123.444, 4123.46, 4123.47, 4123.51, 12
4123.511, 4123.512, 4123.522, 4123.53, 4123.54, 13
4123.542, 4123.57, 4123.571, 4123.65, 4123.651, 14
4123.66, 4123.67, 4123.68, 4123.69, 4123.74, 15
4123.741, 4123.85, 4123.89, 4123.93, 4123.931, 16
4125.03, 4125.04, 4125.041, 4125.05, 4131.01, 17
4729.80, 5145.163, 5502.41, 5503.08, and 5505.01 18
and to enact sections 4133.01 to 4133.16 of the 19
Revised Code to modify workers' compensation 20
benefit amounts for occupational pneumoconiosis 21
claims and to create the Occupational 22

Pneumoconiosis Board to determine medical 23
findings for such claims. 24

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

Section 1. That sections 109.84, 126.30, 145.2915, 715.27, 25
2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 3701.741, 26
3923.281, 3963.10, 4115.03, 4121.03, 4121.12, 4121.121, 27
4121.125, 4121.127, 4121.129, 4121.13, 4121.30, 4121.31, 28
4121.32, 4121.34, 4121.36, 4121.41, 4121.44, 4121.441, 4121.442, 29
4121.444, 4121.45, 4121.50, 4121.61, 4123.025, 4123.05, 4123.15, 30
4123.26, 4123.27, 4123.291, 4123.30, 4123.311, 4123.32, 31
4123.324, 4123.34, 4123.341, 4123.342, 4123.343, 4123.35, 32
4123.351, 4123.353, 4123.402, 4123.441, 4123.442, 4123.444, 33
4123.46, 4123.47, 4123.51, 4123.511, 4123.512, 4123.522, 34
4123.53, 4123.54, 4123.542, 4123.57, 4123.571, 4123.65, 35
4123.651, 4123.66, 4123.67, 4123.68, 4123.69, 4123.74, 4123.741, 36
4123.85, 4123.89, 4123.93, 4123.931, 4125.03, 4125.04, 4125.041, 37
4125.05, 4131.01, 4729.80, 5145.163, 5502.41, 5503.08, and 38
5505.01 be amended and sections 4133.01, 4133.02, 4133.03, 39
4133.04, 4133.05, 4133.06, 4133.07, 4133.08, 4133.09, 4133.10, 40
4133.11, 4133.12, 4133.13, 4133.14, 4133.15, and 4133.16 of the 41
Revised Code be enacted to read as follows: 42

Sec. 109.84. (A) Upon the written request of the governor, 43
the industrial commission, the administrator of workers' 44
compensation, or upon the attorney general's becoming aware of 45
criminal or improper activity related to Chapter 4121.~~or,~~ 46
4123., or 4133. of the Revised Code, the attorney general shall 47
investigate any criminal or civil violation of law related to 48
Chapter 4121.~~or,~~ 4123., or 4133. of the Revised Code. 49

(B) When it appears to the attorney general, as a result 50
of an investigation under division (A) of this section, that 51
there is cause to prosecute for the commission of a crime or to 52
pursue a civil remedy, ~~he~~ the attorney general may refer the 53
evidence to the prosecuting attorney having jurisdiction of the 54
matter, or to a regular grand jury drawn and impaneled pursuant 55
to sections 2939.01 to 2939.24 of the Revised Code, or to a 56
special grand jury drawn and impaneled pursuant to section 57
2939.17 of the Revised Code, or ~~he~~ the attorney general may 58
initiate and prosecute any necessary criminal or civil actions 59
in any court or tribunal of competent jurisdiction in this 60
state. When proceeding under this section, the attorney general 61
has all rights, privileges, and powers of prosecuting attorneys, 62
and any assistant or special counsel designated by ~~him~~ the 63
attorney general for that purpose has the same authority. 64

(C) The attorney general shall be reimbursed by the bureau 65
of workers' compensation for all actual and necessary costs 66
incurred in conducting investigations requested by the governor, 67
the commission, or the administrator and all actual and 68
necessary costs in conducting the prosecution arising out of 69
such investigation. 70

Sec. 126.30. (A) Any state agency that purchases, leases, 71
or otherwise acquires any equipment, materials, goods, supplies, 72
or services from any person and fails to make payment for the 73
equipment, materials, goods, supplies, or services by the 74
required payment date shall pay an interest charge to the person 75
in accordance with division (E) of this section, unless the 76
amount of the interest charge is less than ten dollars. Except 77
as otherwise provided in division (B), (C), or (D) of this 78
section, the required payment date shall be the date on which 79
payment is due under the terms of a written agreement between 80

the state agency and the person or, if a specific payment date 81
is not established by such a written agreement, the required 82
payment date shall be thirty days after the state agency 83
receives a proper invoice for the amount of the payment due. 84

(B) If the invoice submitted to the state agency contains 85
a defect or impropriety, the agency shall send written 86
notification to the person within fifteen days after receipt of 87
the invoice. The notice shall contain a description of the 88
defect or impropriety and any additional information necessary 89
to correct the defect or impropriety. If the agency sends such 90
written notification to the person, the required payment date 91
shall be thirty days after the state agency receives a proper 92
invoice. 93

(C) In applying this section to claims submitted to the 94
department of job and family services by providers of equipment, 95
materials, goods, supplies, or services, the required payment 96
date shall be the date on which payment is due under the terms 97
of a written agreement between the department and the provider. 98
If a specific payment date is not established by a written 99
agreement, the required payment date shall be thirty days after 100
the department receives a proper claim. If the department 101
determines that the claim is improperly executed or that 102
additional evidence of the validity of the claim is required, 103
the department shall notify the claimant in writing or by 104
telephone within fifteen days after receipt of the claim. The 105
notice shall state that the claim is improperly executed and 106
needs correction or that additional information is necessary to 107
establish the validity of the claim. If the department makes 108
such notification to the provider, the required payment date 109
shall be thirty days after the department receives the corrected 110
claim or such additional information as may be necessary to 111

establish the validity of the claim. 112

(D) In applying this section to invoices submitted to the 113
bureau of workers' compensation for equipment, materials, goods, 114
supplies, or services provided to employees in connection with 115
an employee's claim against the state insurance fund, the public 116
work-relief employees' compensation fund, the coal-workers 117
pneumoconiosis fund, or the marine industry fund as compensation 118
for injuries or occupational disease pursuant to Chapter 4123., 119
4127., ~~or 4131.~~, or 4133. of the Revised Code, the required 120
payment date shall be the date on which payment is due under the 121
terms of a written agreement between the bureau and the 122
provider. If a specific payment date is not established by a 123
written agreement, the required payment date shall be thirty 124
days after the bureau receives a proper invoice for the amount 125
of the payment due or thirty days after the final adjudication 126
allowing payment of an award to the employee, whichever is 127
later. Nothing in this section shall supersede any faster 128
timetable for payments to health care providers contained in 129
sections 4121.44 and 4123.512 of the Revised Code. 130

For purposes of this division, a "proper invoice" includes 131
the claimant's name, claim number and date of injury, employer's 132
name, the provider's name and address, the provider's assigned 133
payee number, a description of the equipment, materials, goods, 134
supplies, or services provided by the provider to the claimant, 135
the date provided, and the amount of the charge. If more than 136
one item of equipment, materials, goods, supplies, or services 137
is listed by a provider on a single application for payment, 138
each item shall be considered separately in determining if it is 139
a proper invoice. 140

If prior to a final adjudication the bureau determines 141

that the invoice contains a defect, the bureau shall notify the 142
provider in writing at least fifteen days prior to what would be 143
the required payment date if the invoice did not contain a 144
defect. The notice shall contain a description of the defect and 145
any additional information necessary to correct the defect. If 146
the bureau sends a notification to the provider, the required 147
payment date shall be redetermined in accordance with this 148
division after the bureau receives a proper invoice. 149

For purposes of this division, "final adjudication" means 150
the later of the date of the decision or other action by the 151
bureau, the industrial commission, or a court allowing payment 152
of the award to the employee from which there is no further 153
right to reconsideration or appeal that would require the bureau 154
to withhold compensation and benefits, or the date on which the 155
rights to reconsideration or appeal have expired without an 156
application therefor having been filed or, if later, the date on 157
which an application for reconsideration or appeal is withdrawn. 158
If after final adjudication, the administrator of the bureau of 159
workers' compensation or the industrial commission makes a 160
modification with respect to former findings or orders, pursuant 161
to Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code 162
or pursuant to court order, the adjudication process shall no 163
longer be considered final for purposes of determining the 164
required payment date for invoices for equipment, materials, 165
goods, supplies, or services provided after the date of the 166
modification when the propriety of the invoices is affected by 167
the modification. 168

(E) The interest charge on amounts due shall be paid to 169
the person for the period beginning on the day after the 170
required payment date and ending on the day that payment of the 171
amount due is made. The amount of the interest charge that 172

remains unpaid at the end of any thirty-day period after the 173
required payment date, including amounts under ten dollars, 174
shall be added to the principal amount of the debt and 175
thereafter the interest charge shall accrue on the principal 176
amount of the debt plus the added interest charge. The interest 177
charge shall be at the rate per calendar month that equals one- 178
twelfth of the rate per annum prescribed by section 5703.47 of 179
the Revised Code for the calendar year that includes the month 180
for which the interest charge accrues. 181

(F) No appropriations shall be made for the payment of any 182
interest charges required by this section. Any state agency 183
required to pay interest charges under this section shall make 184
the payments from moneys available for the administration of 185
agency programs. 186

If a state agency pays interest charges under this 187
section, but determines that all or part of the interest charges 188
should have been paid by another state agency, the state agency 189
that paid the interest charges may request the attorney general 190
to determine the amount of the interest charges that each state 191
agency should have paid under this section. If the attorney 192
general determines that the state agency that paid the interest 193
charges should have paid none or only a part of the interest 194
charges, the attorney general shall notify the state agency that 195
paid the interest charges, any other state agency that should 196
have paid all or part of the interest charges, and the director 197
of budget and management of the attorney general's decision, 198
stating the amount of interest charges that each state agency 199
should have paid. The director shall transfer from the 200
appropriate funds of any other state agency that should have 201
paid all or part of the interest charges to the appropriate 202
funds of the state agency that paid the interest charges an 203

amount necessary to implement the attorney general's decision. 204

(G) Not later than forty-five days after the end of each 205
fiscal year, each state agency shall file with the director of 206
budget and management a detailed report concerning the interest 207
charges the agency paid under this section during the previous 208
fiscal year. The report shall include the number, amounts, and 209
frequency of interest charges the agency incurred during the 210
previous fiscal year and the reasons why the interest charges 211
were not avoided by payment prior to the required payment date. 212
The director shall compile a summary of all the reports 213
submitted under this division and shall submit a copy of the 214
summary to the president and minority leader of the senate and 215
to the speaker and minority leader of the house of 216
representatives no later than the thirtieth day of September of 217
each year. 218

Sec. 145.2915. (A) As used in this section, "workers' 219
compensation" means benefits paid under Chapter 4121. ~~or, 220
4123., or 4133.~~ of the Revised Code. 221

(B) A member of the public employees retirement system may 222
purchase service credit under this section for any period during 223
which the member was out of service with a public employer and 224
receiving workers' compensation if the member returns to 225
employment covered by this chapter. 226

(C) For credit purchased under this section: 227

(1) If the member is employed by one public employer, for 228
each year of credit, the member shall pay to the system for 229
credit to the employees' savings fund an amount equal to the 230
employee contribution required under section 145.47 of the 231
Revised Code that would have been paid had the member not been 232

out of service based on the salary of the member before the 233
member was out of service. To this amount shall be added an 234
amount equal to compound interest at a rate established by the 235
public employees retirement board from the first date the member 236
was out of service to the final date of payment. 237

(2) If the member is employed by more than one public 238
employer, the member is eligible to purchase credit under this 239
section and make payments under division (C)(1) of this section 240
only for the position for which the member received workers' 241
compensation. For each year of credit, the member shall pay to 242
the system for credit to the employees' savings fund an amount 243
equal to the employee contribution required under section 145.47 244
of the Revised Code that would have been paid had the member not 245
been out of service based on the salary of the member earned for 246
the position for which the member received workers' compensation 247
before the member was out of service. To this amount shall be 248
added an amount equal to compound interest at a rate established 249
by the public employees retirement board from the first date the 250
member was out of service to the final date of payment. 251

(D) The member may choose to purchase only part of such 252
credit in any one payment, subject to board rules. 253

(E) If a member makes a payment under division (C) of this 254
section, the employer to which workers' compensation benefits 255
are attributed shall pay to the system for credit to the 256
employers' accumulation fund an amount equal to the employer 257
contribution required under section 145.48 or 145.49 of the 258
Revised Code corresponding to that payment that would have been 259
paid had the member not been out of service based on the salary 260
of the member before the member was out of service. 261

Compound interest at a rate established by the board from 262

the later of the member's date of re-employment or January 7, 263
2013, to the date of payment shall be added to this amount if 264
the employer pays all or any portion of the amount after the end 265
of the earlier of the following: 266

(1) A period of five years; 267

(2) A period that is three times the period during which 268
the member was out of service and receiving workers' 269
compensation. 270

The period described in division (E) (1) or (2) of this 271
section begins with the later of the member's date of re- 272
employment or January 7, 2013. 273

(F) The number of years purchased under this section shall 274
not exceed three. Credit purchased under this section may be 275
combined pursuant to section 145.37 of the Revised Code with 276
credit purchased or obtained under Chapter 3307. or 3309. of the 277
Revised Code for periods the member was out of service and 278
receiving workers' compensation, but not more than a total of 279
three years of credit may be used in determining retirement 280
eligibility or calculating benefits under section 145.37 of the 281
Revised Code. 282

Sec. 715.27. (A) Any municipal corporation may: 283

(1) Regulate the erection of fences, billboards, signs, 284
and other structures, within the municipal corporation, and 285
provide for the removal and repair of insecure billboards, 286
signs, and other structures; 287

(2) Regulate the construction and repair of wires, poles, 288
plants, and all equipment to be used for the generation and 289
application of electricity; 290

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

(4) Require all specialty contractors other than those who hold a valid license issued pursuant to Chapter 4740. of the Revised Code, to successfully complete an examination, test, or demonstration of technical skills, and may impose a fee and additional requirements for a license or registration to engage in their respective occupations within the jurisdiction of the municipal corporation.

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

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

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

(2) Compliance with Chapters 4121. and , 4123., and 4133.	320
of the Revised Code;	321
(3) Registration with the tax department of the municipal corporation.	322 323
If a municipal corporation requires registration, imposes such a fee, or requires a bond or proof of the items listed in divisions (C) (1), (2), and (3) of this section, the municipal corporation immediately shall permit a contractor who presents proof of holding a valid license issued pursuant to Chapter 4740. of the Revised Code, who registers, pays the fee, obtains a bond, and submits the proof described under divisions (C) (1), (2), and (3) of this section, as required, to engage in the type of contracting for which the license is held, within the municipal corporation.	324 325 326 327 328 329 330 331 332 333
(D) A municipal corporation may revoke the registration of a contractor registered with that municipal corporation for good cause shown. Good cause shown includes the failure of a contractor to maintain a bond or the items listed in divisions (C) (1), (2), and (3) of this section, if the municipal corporation requires those.	334 335 336 337 338 339
(E) A municipal corporation that licenses specialty contractors pursuant to division (A) (3) of this section may accept, for purposes of satisfying its licensing requirements, a valid license issued pursuant to Chapter 4740. of the Revised Code that a specialty contractor holds, for the construction, replacement, maintenance, or repair of one-family, two-family, or three-family dwelling houses or accessory structures incidental to those dwelling houses.	340 341 342 343 344 345 346 347
(F) A municipal corporation shall not register a specialty	348

contractor who is required to hold a license under Chapter 4740. 349
of the Revised Code but does not hold a valid license issued 350
under that chapter. 351

(G) As used in this section, "specialty contractor" means 352
a heating, ventilating, and air conditioning contractor, 353
refrigeration contractor, electrical contractor, plumbing 354
contractor, or hydronics contractor, as those contractors are 355
described in Chapter 4740. of the Revised Code. 356

Sec. 2307.84. As used in sections 2307.84 to 2307.90 and 357
2307.901 of the Revised Code: 358

(A) "AMA guides to the evaluation of permanent impairment" 359
means the American medical association's guides to the 360
evaluation of permanent impairment (fifth edition 2000) as may 361
be modified by the American medical association. 362

(B) "Board-certified internist" means a medical doctor who 363
is currently certified by the American board of internal 364
medicine. 365

(C) "Board-certified occupational medicine specialist" 366
means a medical doctor who is currently certified by the 367
American board of preventive medicine in the specialty of 368
occupational medicine. 369

(D) "Board-certified oncologist" means a medical doctor 370
who is currently certified by the American board of internal 371
medicine in the subspecialty of medical oncology. 372

(E) "Board-certified pathologist" means a medical doctor 373
who is currently certified by the American board of pathology. 374

(F) "Board-certified pulmonary specialist" means a medical 375
doctor who is currently certified by the American board of 376

internal medicine in the subspecialty of pulmonary medicine.	377
(G) "Certified B-reader" means an individual qualified as	378
a "final" or "B-reader" as defined in 42 C.F.R. section	379
37.51(b), as amended.	380
(H) "Civil action" means all suits or claims of a civil	381
nature in a state or federal court, whether cognizable as cases	382
at law or in equity or admiralty. "Civil action" does not	383
include any of the following:	384
(1) A civil action relating to any workers' compensation	385
law;	386
(2) A civil action alleging any claim or demand made	387
against a trust established pursuant to 11 U.S.C. section	388
524(g);	389
(3) A civil action alleging any claim or demand made	390
against a trust established pursuant to a plan of reorganization	391
confirmed under Chapter 11 of the United States Bankruptcy Code,	392
11 U.S.C. Chapter 11.	393
(I) "Competent medical authority" means a medical doctor	394
who is providing a diagnosis for purposes of constituting prima-	395
facie evidence of an exposed person's physical impairment that	396
meets the requirements specified in section 2307.85 or 2307.86	397
of the Revised Code, whichever is applicable, and who meets the	398
following requirements:	399
(1) The medical doctor is a board-certified internist,	400
pulmonary specialist, oncologist, pathologist, or occupational	401
medicine specialist.	402
(2) The medical doctor is actually treating or has treated	403
the exposed person and has or had a doctor-patient relationship	404

with the person. 405

(3) As the basis for the diagnosis, the medical doctor has 406
not relied, in whole or in part, on any of the following: 407

(a) The reports or opinions of any doctor, clinic, 408
laboratory, or testing company that performed an examination, 409
test, or screening of the claimant's medical condition in 410
violation of any law, regulation, licensing requirement, or 411
medical code of practice of the state in which that examination, 412
test, or screening was conducted; 413

(b) The reports or opinions of any doctor, clinic, 414
laboratory, or testing company that performed an examination, 415
test, or screening of the claimant's medical condition that was 416
conducted without clearly establishing a doctor-patient 417
relationship with the claimant or medical personnel involved in 418
the examination, test, or screening process; 419

(c) The reports or opinions of any doctor, clinic, 420
laboratory, or testing company that performed an examination, 421
test, or screening of the claimant's medical condition that 422
required the claimant to agree to retain the legal services of 423
the law firm sponsoring the examination, test, or screening. 424

(4) The medical doctor spends not more than twenty-five 425
per cent of the medical doctor's professional practice time in 426
providing consulting or expert services in connection with 427
actual or potential tort actions, and the medical doctor's 428
medical group, professional corporation, clinic, or other 429
affiliated group earns not more than twenty per cent of its 430
revenues from providing those services. 431

(J) "Exposed person" means either of the following, 432
whichever is applicable: 433

- (1) A person whose exposure to silica is the basis for a
silicosis claim under section 2307.85 of the Revised Code; 434
435
- (2) A person whose exposure to mixed dust is the basis for 436
a mixed dust disease claim under section 2307.86 of the Revised 437
Code. 438
- (K) "ILO scale" means the system for the classification of 439
chest x-rays set forth in the international labour office's 440
guidelines for the use of ILO international classification of 441
radiographs of pneumoconioses (2000), as amended. 442
- (L) "Lung cancer" means a malignant tumor in which the 443
primary site of origin of the cancer is inside the lungs. 444
- (M) "Mixed dust" means a mixture of dusts composed of 445
silica and one or more other fibrogenic dusts capable of 446
inducing pulmonary fibrosis if inhaled in sufficient quantity. 447
- (N) "Mixed dust disease claim" means any claim for 448
damages, losses, indemnification, contribution, or other relief 449
arising out of, based on, or in any way related to inhalation 450
of, exposure to, or contact with mixed dust. "Mixed dust disease 451
claim" includes a claim made by or on behalf of any person who 452
has been exposed to mixed dust, or any representative, spouse, 453
parent, child, or other relative of that person, for injury, 454
including mental or emotional injury, death, or loss to person, 455
risk of disease or other injury, costs of medical monitoring or 456
surveillance, or any other effects on the person's health that 457
are caused by the person's exposure to mixed dust. 458
- (O) "Mixed dust pneumoconiosis" means the interstitial 459
lung disease caused by the pulmonary response to inhaled mixed 460
dusts. 461
- (P) "Nonmalignant condition" means a condition, other than 462

a diagnosed cancer, that is caused or may be caused by either of 463
the following, whichever is applicable: 464

(1) Silica, as provided in section 2307.85 of the Revised 465
Code; 466

(2) Mixed dust, as provided in section 2307.86 of the 467
Revised Code. 468

(Q) "Pathological evidence of mixed dust pneumoconiosis" 469
means a statement by a board-certified pathologist that more 470
than one representative section of lung tissue uninvolved with 471
any other disease process demonstrates a pattern of 472
peribronchiolar and parenchymal stellate (star-shaped) nodular 473
scarring and that there is no other more likely explanation for 474
the presence of the fibrosis. 475

(R) "Pathological evidence of silicosis" means a statement 476
by a board-certified pathologist that more than one 477
representative section of lung tissue uninvolved with any other 478
disease process demonstrates a pattern of round silica nodules 479
and birefringent crystals or other demonstration of crystal 480
structures consistent with silica (well-organized concentric 481
whorls of collagen surrounded by inflammatory cells) in the lung 482
parenchyma and that there is no other more likely explanation 483
for the presence of the fibrosis. 484

(S) "Physical impairment" means any of the following, 485
whichever is applicable: 486

(1) A nonmalignant condition that meets the minimum 487
requirements of division (B) of section 2307.85 of the Revised 488
Code or lung cancer of an exposed person who is a smoker that 489
meets the minimum requirements of division (C) of section 490
2307.85 of the Revised Code; 491

(2) A nonmalignant condition that meets the minimum 492
requirements of division (B) of section 2307.86 of the Revised 493
Code or lung cancer of an exposed person who is a smoker that 494
meets the minimum requirements of division (C) of section 495
2307.86 of the Revised Code. 496

(T) "Premises owner" means a person who owns, in whole or 497
in part, leases, rents, maintains, or controls privately owned 498
lands, ways, or waters, or any buildings and structures on those 499
lands, ways, or waters, and all privately owned and state-owned 500
lands, ways, or waters leased to a private person, firm, or 501
organization, including any buildings and structures on those 502
lands, ways, or waters. 503

(U) "Radiological evidence of mixed dust pneumoconiosis" 504
means a chest x-ray showing bilateral rounded or irregular 505
opacities in the upper lung fields graded by a certified B- 506
reader as at least 1/1 on the ILO scale. 507

(V) "Radiological evidence of silicosis" means a chest x- 508
ray showing bilateral small rounded opacities (p, q, or r) in 509
the upper lung fields graded by a certified B-reader as at least 510
1/1 on the ILO scale. 511

(W) "Regular basis" means on a frequent or recurring 512
basis. 513

(X) "Silica" means a respirable crystalline form of 514
silicon dioxide, including, but not limited to, alpha quartz, 515
cristobalite, and trydmite. 516

(Y) "Silicosis claim" means any claim for damages, losses, 517
indemnification, contribution, or other relief arising out of, 518
based on, or in any way related to inhalation of, exposure to, 519
or contact with silica. "Silicosis claim" includes a claim made 520

by or on behalf of any person who has been exposed to silica, or 521
any representative, spouse, parent, child, or other relative of 522
that person, for injury, including mental or emotional injury, 523
death, or loss to person, risk of disease or other injury, costs 524
of medical monitoring or surveillance, or any other effects on 525
the person's health that are caused by the person's exposure to 526
silica. 527

(Z) "Silicosis" means an interstitial lung disease caused 528
by the pulmonary response to inhaled silica. 529

(AA) "Smoker" means a person who has smoked the equivalent 530
of one-pack year, as specified in the written report of a 531
competent medical authority pursuant to section 2307.85 or 532
2307.86 and section 2307.87 of the Revised Code, during the last 533
fifteen years. 534

(BB) "Substantial contributing factor" means both of the 535
following: 536

(1) Exposure to silica or mixed dust is the predominate 537
cause of the physical impairment alleged in the silicosis claim 538
or mixed dust disease claim, whichever is applicable. 539

(2) A competent medical authority has determined with a 540
reasonable degree of medical certainty that without the silica 541
or mixed dust exposures the physical impairment of the exposed 542
person would not have occurred. 543

(CC) "Substantial occupational exposure to silica" means 544
employment for a cumulative period of at least five years in an 545
industry and an occupation in which, for a substantial portion 546
of a normal work year for that occupation, the exposed person 547
did any of the following: 548

(1) Handled silica; 549

(2) Fabricated silica-containing products so that the person was exposed to silica in the fabrication process;	550 551
(3) Altered, repaired, or otherwise worked with a silica-containing product in a manner that exposed the person on a regular basis to silica;	552 553 554
(4) Worked in close proximity to other workers engaged in any of the activities described in division (CC) (1), (2), or (3) of this section in a manner that exposed the person on a regular basis to silica.	555 556 557 558
(DD) "Substantial occupational exposure to mixed dust" means employment for a cumulative period of at least five years in an industry and an occupation in which, for a substantial portion of a normal work year for that occupation, the exposed person did any of the following:	559 560 561 562 563
(1) Handled mixed dust;	564
(2) Fabricated mixed dust-containing products so that the person was exposed to mixed dust in the fabrication process;	565 566
(3) Altered, repaired, or otherwise worked with a mixed dust-containing product in a manner that exposed the person on a regular basis to mixed dust;	567 568 569
(4) Worked in close proximity to other workers engaged in any of the activities described in division (DD) (1), (2), or (3) of this section in a manner that exposed the person on a regular basis to mixed dust.	570 571 572 573
(EE) "Tort action" means a civil action for damages for injury, death, or loss to person. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code. "Tort action" does not include a	574 575 576 577

civil action for damages for a breach of contract or another agreement between persons.	578 579
(FF) "Veterans' benefit program" means any program for benefits in connection with military service administered by the veterans' administration under title <u>Title</u> 38 of the United States Code.	580 581 582 583
(GG) "Workers' compensation law" means Chapters 4121., 4123., 4127., and 4131., and 4133. of the Revised Code.	584 585
Sec. 2307.91. As used in sections 2307.91 to 2307.96 of the Revised Code:	586 587
(A) "AMA guides to the evaluation of permanent impairment" means the American medical association's guides to the evaluation of permanent impairment (fifth edition 2000) as may be modified by the American medical association.	588 589 590 591
(B) "Asbestos" means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated or altered.	592 593 594 595
(C) "Asbestos claim" means any claim for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos. "Asbestos claim" includes a claim made by or on behalf of any person who has been exposed to asbestos, or any representative, spouse, parent, child, or other relative of that person, for injury, including mental or emotional injury, death, or loss to person, risk of disease or other injury, costs of medical monitoring or surveillance, or any other effects on the person's health that are caused by the person's exposure to asbestos.	596 597 598 599 600 601 602 603 604 605
(D) "Asbestosis" means bilateral diffuse interstitial	606

fibrosis of the lungs caused by inhalation of asbestos fibers. 607

(E) "Board-certified internist" means a medical doctor who 608
is currently certified by the American board of internal 609
medicine. 610

(F) "Board-certified occupational medicine specialist" 611
means a medical doctor who is currently certified by the 612
American board of preventive medicine in the specialty of 613
occupational medicine. 614

(G) "Board-certified oncologist" means a medical doctor 615
who is currently certified by the American board of internal 616
medicine in the subspecialty of medical oncology. 617

(H) "Board-certified pathologist" means a medical doctor 618
who is currently certified by the American board of pathology. 619

(I) "Board-certified pulmonary specialist" means a medical 620
doctor who is currently certified by the American board of 621
internal medicine in the subspecialty of pulmonary medicine. 622

(J) "Certified B-reader" means an individual qualified as 623
a "final" or "B-reader" as defined in 42 C.F.R. section 624
37.51(b), as amended. 625

(K) "Certified industrial hygienist" means an industrial 626
hygienist who has attained the status of diplomate of the 627
American academy of industrial hygiene subject to compliance 628
with requirements established by the American board of 629
industrial hygiene. 630

(L) "Certified safety professional" means a safety 631
professional who has met and continues to meet all requirements 632
established by the board of certified safety professionals and 633
is authorized by that board to use the certified safety 634

professional title or the CSP designation. 635

(M) "Civil action" means all suits or claims of a civil 636
nature in a state or federal court, whether cognizable as cases 637
at law or in equity or admiralty. "Civil action" does not 638
include any of the following: 639

(1) A civil action relating to any workers' compensation 640
law; 641

(2) A civil action alleging any claim or demand made 642
against a trust established pursuant to 11 U.S.C. section 643
524(g); 644

(3) A civil action alleging any claim or demand made 645
against a trust established pursuant to a plan of reorganization 646
confirmed under Chapter 11 of the United States Bankruptcy Code, 647
11 U.S.C. Chapter 11. 648

(N) "Exposed person" means any person whose exposure to 649
asbestos or to asbestos-containing products is the basis for an 650
asbestos claim under section 2307.92 of the Revised Code. 651

(O) "FEV1" means forced expiratory volume in the first 652
second, which is the maximal volume of air expelled in one 653
second during performance of simple spirometric tests. 654

(P) "FVC" means forced vital capacity that is maximal 655
volume of air expired with maximum effort from a position of 656
full inspiration. 657

(Q) "ILO scale" means the system for the classification of 658
chest x-rays set forth in the international labour office's 659
guidelines for the use of ILO international classification of 660
radiographs of pneumoconioses (2000), as amended. 661

(R) "Lung cancer" means a malignant tumor in which the 662

primary site of origin of the cancer is inside the lungs, but 663
that term does not include mesothelioma. 664

(S) "Mesothelioma" means a malignant tumor with a primary 665
site of origin in the pleura or the peritoneum, which has been 666
diagnosed by a board-certified pathologist, using standardized 667
and accepted criteria of microscopic morphology and appropriate 668
staining techniques. 669

(T) "Nonmalignant condition" means a condition that is 670
caused or may be caused by asbestos other than a diagnosed 671
cancer. 672

(U) "Pathological evidence of asbestosis" means a 673
statement by a board-certified pathologist that more than one 674
representative section of lung tissue uninvolved with any other 675
disease process demonstrates a pattern of peribronchiolar or 676
parenchymal scarring in the presence of characteristic asbestos 677
bodies and that there is no other more likely explanation for 678
the presence of the fibrosis. 679

(V) "Physical impairment" means a nonmalignant condition 680
that meets the minimum requirements specified in division (B) of 681
section 2307.92 of the Revised Code, lung cancer of an exposed 682
person who is a smoker that meets the minimum requirements 683
specified in division (C) of section 2307.92 of the Revised 684
Code, or a condition of a deceased exposed person that meets the 685
minimum requirements specified in division (D) of section 686
2307.92 of the Revised Code. 687

(W) "Plethysmography" means a test for determining lung 688
volume, also known as "body plethysmography," in which the 689
subject of the test is enclosed in a chamber that is equipped to 690
measure pressure, flow, or volume changes. 691

(X) "Predicted lower limit of normal" means the fifth 692
percentile of healthy populations based on age, height, and 693
gender, as referenced in the AMA guides to the evaluation of 694
permanent impairment. 695

(Y) "Premises owner" means a person who owns, in whole or 696
in part, leases, rents, maintains, or controls privately owned 697
lands, ways, or waters, or any buildings and structures on those 698
lands, ways, or waters, and all privately owned and state-owned 699
lands, ways, or waters leased to a private person, firm, or 700
organization, including any buildings and structures on those 701
lands, ways, or waters. 702

(Z) "Competent medical authority" means a medical doctor 703
who is providing a diagnosis for purposes of constituting prima- 704
facie evidence of an exposed person's physical impairment that 705
meets the requirements specified in section 2307.92 of the 706
Revised Code and who meets the following requirements: 707

(1) The medical doctor is a board-certified internist, 708
pulmonary specialist, oncologist, pathologist, or occupational 709
medicine specialist. 710

(2) The medical doctor is actually treating or has treated 711
the exposed person and has or had a doctor-patient relationship 712
with the person. 713

(3) As the basis for the diagnosis, the medical doctor has 714
not relied, in whole or in part, on any of the following: 715

(a) The reports or opinions of any doctor, clinic, 716
laboratory, or testing company that performed an examination, 717
test, or screening of the claimant's medical condition in 718
violation of any law, regulation, licensing requirement, or 719
medical code of practice of the state in which that examination, 720

test, or screening was conducted;	721
(b) The reports or opinions of any doctor, clinic,	722
laboratory, or testing company that performed an examination,	723
test, or screening of the claimant's medical condition that was	724
conducted without clearly establishing a doctor-patient	725
relationship with the claimant or medical personnel involved in	726
the examination, test, or screening process;	727
(c) The reports or opinions of any doctor, clinic,	728
laboratory, or testing company that performed an examination,	729
test, or screening of the claimant's medical condition that	730
required the claimant to agree to retain the legal services of	731
the law firm sponsoring the examination, test, or screening.	732
(4) The medical doctor spends not more than twenty-five	733
per cent of the medical doctor's professional practice time in	734
providing consulting or expert services in connection with	735
actual or potential tort actions, and the medical doctor's	736
medical group, professional corporation, clinic, or other	737
affiliated group earns not more than twenty per cent of its	738
revenues from providing those services.	739
(AA) "Radiological evidence of asbestosis" means a chest	740
x-ray showing small, irregular opacities (s, t) graded by a	741
certified B-reader as at least 1/1 on the ILO scale.	742
(BB) "Radiological evidence of diffuse pleural thickening"	743
means a chest x-ray showing bilateral pleural thickening graded	744
by a certified B-reader as at least B2 on the ILO scale and	745
blunting of at least one costophrenic angle.	746
(CC) "Regular basis" means on a frequent or recurring	747
basis.	748
(DD) "Smoker" means a person who has smoked the equivalent	749

of one-pack year, as specified in the written report of a 750
competent medical authority pursuant to sections 2307.92 and 751
2307.93 of the Revised Code, during the last fifteen years. 752

(EE) "Spirometry" means the measurement of volume of air 753
inhaled or exhaled by the lung. 754

(FF) "Substantial contributing factor" means both of the 755
following: 756

(1) Exposure to asbestos is the predominate cause of the 757
physical impairment alleged in the asbestos claim. 758

(2) A competent medical authority has determined with a 759
reasonable degree of medical certainty that without the asbestos 760
exposures the physical impairment of the exposed person would 761
not have occurred. 762

(GG) "Substantial occupational exposure to asbestos" means 763
employment for a cumulative period of at least five years in an 764
industry and an occupation in which, for a substantial portion 765
of a normal work year for that occupation, the exposed person 766
did any of the following: 767

(1) Handled raw asbestos fibers; 768

(2) Fabricated asbestos-containing products so that the 769
person was exposed to raw asbestos fibers in the fabrication 770
process; 771

(3) Altered, repaired, or otherwise worked with an 772
asbestos-containing product in a manner that exposed the person 773
on a regular basis to asbestos fibers; 774

(4) Worked in close proximity to other workers engaged in 775
any of the activities described in division (GG) (1), (2), or (3) 776
of this section in a manner that exposed the person on a regular 777

basis to asbestos fibers. 778

(HH) "Timed gas dilution" means a method for measuring 779
total lung capacity in which the subject breathes into a 780
spirometer containing a known concentration of an inert and 781
insoluble gas for a specific time, and the concentration of the 782
inert and insoluble gas in the lung is then compared to the 783
concentration of that type of gas in the spirometer. 784

(II) "Tort action" means a civil action for damages for 785
injury, death, or loss to person. "Tort action" includes a 786
product liability claim that is subject to sections 2307.71 to 787
2307.80 of the Revised Code. "Tort action" does not include a 788
civil action for damages for a breach of contract or another 789
agreement between persons. 790

(JJ) "Total lung capacity" means the volume of air 791
contained in the lungs at the end of a maximal inspiration. 792

(KK) "Veterans' benefit program" means any program for 793
benefits in connection with military service administered by the 794
veterans' administration under ~~title~~ Title 38 of the United 795
States Code. 796

(LL) "Workers' compensation law" means Chapters 4121., 797
4123., 4127., ~~and~~ 4131., and 4133. of the Revised Code. 798

Sec. 2307.97. (A) As used in this section: 799

(1) "Asbestos" means chrysotile, amosite, crocidolite, 800
tremolite asbestos, anthophyllite asbestos, actinolite asbestos, 801
and any of these minerals that have been chemically treated or 802
altered. 803

(2) "Asbestos claim" means any claim, wherever or whenever 804
made, for damages, losses, indemnification, contribution, or 805

other relief arising out of, based on, or in any way related to 806
asbestos. "Asbestos claim" includes any of the following: 807

(a) A claim made by or on behalf of any person who has 808
been exposed to asbestos, or any representative, spouse, parent, 809
child, or other relative of that person, for injury, including 810
mental or emotional injury, death, or loss to person, risk of 811
disease or other injury, costs of medical monitoring or 812
surveillance, or any other effects on the person's health that 813
are caused by the person's exposure to asbestos; 814

(b) A claim for damage or loss to property that is caused 815
by the installation, presence, or removal of asbestos. 816

(3) "Corporation" means a corporation for profit, 817
including the following: 818

(a) A domestic corporation that is organized under the 819
laws of this state; 820

(b) A foreign corporation that is organized under laws 821
other than the laws of this state and that has had a certificate 822
of authority to transact business in this state or has done 823
business in this state. 824

(4) "Successor" means a corporation or a subsidiary of a 825
corporation that assumes or incurs, or had assumed or incurred, 826
successor asbestos-related liabilities or had successor 827
asbestos-related liabilities imposed on it by court order. 828

(5) (a) "Successor asbestos-related liabilities" means any 829
liabilities, whether known or unknown, asserted or unasserted, 830
absolute or contingent, accrued or unaccrued, liquidated or 831
unliquidated, or due or to become due, if the liabilities are 832
related in any way to asbestos claims and either of the 833
following applies: 834

(i) The liabilities are assumed or incurred by a successor 835
as a result of or in connection with an asset purchase, stock 836
purchase, merger, consolidation, or agreement providing for an 837
asset purchase, stock purchase, merger, or consolidation, 838
including a plan of merger. 839

(ii) The liabilities were imposed by court order on a 840
successor. 841

(b) "Successor asbestos-related liabilities" includes any 842
liabilities described in division (A) (5) (a) (i) of this section 843
that, after the effective date of the asset purchase, stock 844
purchase, merger, or consolidation, are paid, otherwise 845
discharged, committed to be paid, or committed to be otherwise 846
discharged by or on behalf of the successor, or by or on behalf 847
of a transferor, in connection with any judgment, settlement, or 848
other discharge of those liabilities in this state or another 849
jurisdiction. 850

(6) "Transferor" means a corporation or its shareholders 851
from which successor asbestos-related liabilities are or were 852
assumed or incurred by a successor or were imposed by court 853
order on a successor. 854

(B) The limitations set forth in division (C) of this 855
section apply to a corporation that is either of the following: 856

(1) A successor that became a successor prior to January 857
1, 1972, if either of the following applies: 858

(a) In the case of a successor in a stock purchase or an 859
asset purchase, the successor paid less than fifteen million 860
dollars for the stock or assets of the transferor. 861

(b) In the case of a successor in a merger or 862
consolidation, the fair market value of the total gross assets 863

of the transferor, at the time of the merger or consolidation, 864
excluding any insurance of the transferor, was less than fifty 865
million dollars. 866

(2) Any successor to a prior successor if the prior 867
successor met the requirements of division (B) (1) (a) or (b) of 868
this section, whichever is applicable. 869

(C) (1) Except as otherwise provided in division (C) (2) of 870
this section, the cumulative successor asbestos-related 871
liabilities of a corporation shall be limited to either of the 872
following: 873

(a) In the case of a corporation that is a successor in a 874
stock purchase or an asset purchase, the fair market value of 875
the acquired stock or assets of the transferor, as determined on 876
the effective date of the stock or asset purchase; 877

(b) In the case of a corporation that is a successor in a 878
merger or consolidation, the fair market value of the total 879
gross assets of the transferor, as determined on the effective 880
date of the merger or consolidation. 881

(2) (a) If a transferor had assumed or incurred successor 882
asbestos-related liabilities in connection with a prior purchase 883
of assets or stock involving a prior transferor, the fair market 884
value of the assets or stock purchased from the prior 885
transferor, determined as of the effective date of the prior 886
purchase of the assets or stock, shall be substituted for the 887
limitation set forth in division (C) (1) (a) of this section for 888
the purpose of determining the limitation of the liability of a 889
corporation. 890

(b) If a transferor had assumed or incurred successor 891
asbestos-related liabilities in connection with a merger or 892

consolidation involving a prior transferor, the fair market 893
value of the total gross assets of the prior transferor, 894
determined as of the effective date of the prior merger or 895
consolidation, shall be substituted for the limitation set forth 896
in division (C) (1) (b) of this section for the purpose of 897
determining the limitation of the liability of a corporation. 898

(3) A corporation described in division (C) (1) or (2) of 899
this section shall have no responsibility for any successor 900
asbestos-related liabilities in excess of the limitation of 901
those liabilities as described in the applicable division. 902

(D) (1) A corporation may establish the fair market value 903
of assets, stock, or total gross assets under division (C) of 904
this section by means of any method that is reasonable under the 905
circumstances, including by reference to their going-concern 906
value, to the purchase price attributable to or paid for them in 907
an arm's length transaction, or, in the absence of other readily 908
available information from which fair market value can be 909
determined, to their value recorded on a balance sheet. Assets 910
and total gross assets shall include intangible assets. A 911
showing by the successor of a reasonable determination of the 912
fair market value of assets, stock, or total gross assets is 913
prima-facie evidence of their fair market value. 914

(2) For purposes of establishing the fair market value of 915
total gross assets under division (D) (1) of this section, the 916
total gross assets include the aggregate coverage under any 917
applicable liability insurance that was issued to the transferor 918
the assets of which are being valued for purposes of the 919
limitations set forth in division (C) of this section, if the 920
insurance has been collected or is collectable to cover the 921
successor asbestos-related liabilities involved. Those successor 922

asbestos-related liabilities do not include any compensation for 923
any liabilities arising from the exposure of workers to asbestos 924
solely during the course of their employment by the transferor. 925
Any settlement of a dispute concerning the insurance coverage 926
described in this division that is entered into by a transferor 927
or successor with the insurer of the transferor before ~~the~~ 928
~~effective date of this section~~ April 7, 2005, is determinative 929
of the aggregate coverage of the liability insurance that is 930
included in the determination of the transferor's total gross 931
assets. 932

(3) After a successor has established a reasonable 933
determination of the fair market value of assets, stock, or 934
total gross assets under divisions (D) (1) and (2) of this 935
section, a claimant that disputes that determination of the fair 936
market value has the burden of establishing a different fair 937
market value. 938

(4) (a) Subject to divisions (D) (4) (b), (c), and (d) of 939
this section, the fair market value of assets, stock, or total 940
gross assets at the time of the asset purchase, stock purchase, 941
merger, or consolidation increases annually, at a rate equal to 942
the sum of the following: 943

(i) The prime rate as listed in the first edition of the 944
wall street journal published for each calendar year since the 945
effective date of the asset purchase, stock purchase, merger, or 946
consolidation, or, if the prime rate is not published in that 947
edition of the wall street journal, the prime rate as reasonably 948
determined on the first business day of the year; 949

(ii) One per cent. 950

(b) The rate that is determined pursuant to division (D) 951

(4) (a) of this section shall not be compounded. 952

(c) The adjustment of the fair market value of assets, 953
stock, or total gross assets shall continue in the manner 954
described in division (D) (4) (a) of this section until the 955
adjusted fair market value is first exceeded by the cumulative 956
amounts of successor asbestos-related liabilities that are paid 957
or committed to be paid by or on behalf of a successor or prior 958
transferor, or by or on behalf of a transferor, after the time 959
of the asset purchase, stock purchase, merger, or consolidation 960
for which the fair market value of assets, stock, or total gross 961
assets is determined. 962

(d) No adjustment of the fair market value of total gross 963
assets as provided in division (D) (4) (a) of this section shall 964
be applied to any liability insurance that is otherwise included 965
in total gross assets as provided in division (D) (2) of this 966
section. 967

(E) (1) The limitations set forth in division (C) of this 968
section shall apply to the following: 969

(a) All asbestos claims, including asbestos claims that 970
are pending on ~~the effective date of this section~~ April 7, 2005, 971
and all litigation involving asbestos claims, including 972
litigation that is pending on ~~the effective date of this section~~ 973
April 7, 2005; 974

(b) Successors of a corporation to which this section 975
applies. 976

(2) The limitations set forth in division (C) of this 977
section do not apply to any of the following: 978

(a) Workers' compensation benefits that are paid by or on 979
behalf of an employer to an employee pursuant to any provision 980

of Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the 981
Revised Code or comparable workers' compensation law of another 982
jurisdiction; 983

(b) Any claim against a successor that does not constitute 984
a claim for a successor asbestos-related liability; 985

(c) Any obligations arising under the "National Labor 986
Relations Act," 49 Stat. 449, 29 U.S.C. 151 et seq., as amended, 987
or under any collective bargaining agreement; 988

(d) Any contractual rights to indemnification. 989

(F) The courts in this state shall apply, to the fullest 990
extent permissible under the Constitution of the United States, 991
this state's substantive law, including the provisions of this 992
section, to the issue of successor asbestos-related liabilities. 993

Sec. 2317.02. The following persons shall not testify in 994
certain respects: 995

(A) (1) An attorney, concerning a communication made to the 996
attorney by a client in that relation or concerning the 997
attorney's advice to a client, except that the attorney may 998
testify by express consent of the client or, if the client is 999
deceased, by the express consent of the surviving spouse or the 1000
executor or administrator of the estate of the deceased client. 1001
However, if the client voluntarily reveals the substance of 1002
attorney-client communications in a nonprivileged context or is 1003
deemed by section 2151.421 of the Revised Code to have waived 1004
any testimonial privilege under this division, the attorney may 1005
be compelled to testify on the same subject. 1006

The testimonial privilege established under this division 1007
does not apply concerning either of the following: 1008

(a) A communication between a client in a capital case, as 1009
defined in section 2901.02 of the Revised Code, and the client's 1010
attorney if the communication is relevant to a subsequent 1011
ineffective assistance of counsel claim by the client alleging 1012
that the attorney did not effectively represent the client in 1013
the case; 1014

(b) A communication between a client who has since died 1015
and the deceased client's attorney if the communication is 1016
relevant to a dispute between parties who claim through that 1017
deceased client, regardless of whether the claims are by testate 1018
or intestate succession or by inter vivos transaction, and the 1019
dispute addresses the competency of the deceased client when the 1020
deceased client executed a document that is the basis of the 1021
dispute or whether the deceased client was a victim of fraud, 1022
undue influence, or duress when the deceased client executed a 1023
document that is the basis of the dispute. 1024

(2) An attorney, concerning a communication made to the 1025
attorney by a client in that relationship or the attorney's 1026
advice to a client, except that if the client is an insurance 1027
company, the attorney may be compelled to testify, subject to an 1028
in camera inspection by a court, about communications made by 1029
the client to the attorney or by the attorney to the client that 1030
are related to the attorney's aiding or furthering an ongoing or 1031
future commission of bad faith by the client, if the party 1032
seeking disclosure of the communications has made a prima-facie 1033
showing of bad faith, fraud, or criminal misconduct by the 1034
client. 1035

(B) (1) A physician, advanced practice registered nurse, or 1036
dentist concerning a communication made to the physician, 1037
advanced practice registered nurse, or dentist by a patient in 1038

that relation or the advice of a physician, advanced practice 1039
registered nurse, or dentist given to a patient, except as 1040
otherwise provided in this division, division (B) (2), and 1041
division (B) (3) of this section, and except that, if the patient 1042
is deemed by section 2151.421 of the Revised Code to have waived 1043
any testimonial privilege under this division, the physician or 1044
advanced practice registered nurse may be compelled to testify 1045
on the same subject. 1046

The testimonial privilege established under this division 1047
does not apply, and a physician, advanced practice registered 1048
nurse, or dentist may testify or may be compelled to testify, in 1049
any of the following circumstances: 1050

(a) In any civil action, in accordance with the discovery 1051
provisions of the Rules of Civil Procedure in connection with a 1052
civil action, or in connection with a claim under Chapter 4123. 1053
or 4133. of the Revised Code, under any of the following 1054
circumstances: 1055

(i) If the patient or the guardian or other legal 1056
representative of the patient gives express consent; 1057

(ii) If the patient is deceased, the spouse of the patient 1058
or the executor or administrator of the patient's estate gives 1059
express consent; 1060

(iii) If a medical claim, dental claim, chiropractic 1061
claim, or optometric claim, as defined in section 2305.113 of 1062
the Revised Code, an action for wrongful death, any other type 1063
of civil action, or a claim under Chapter 4123. or 4133. of the 1064
Revised Code is filed by the patient, the personal 1065
representative of the estate of the patient if deceased, or the 1066
patient's guardian or other legal representative. 1067

(b) In any civil action concerning court-ordered treatment 1068
or services received by a patient, if the court-ordered 1069
treatment or services were ordered as part of a case plan 1070
journalized under section 2151.412 of the Revised Code or the 1071
court-ordered treatment or services are necessary or relevant to 1072
dependency, neglect, or abuse or temporary or permanent custody 1073
proceedings under Chapter 2151. of the Revised Code. 1074

(c) In any criminal action concerning any test or the 1075
results of any test that determines the presence or 1076
concentration of alcohol, a drug of abuse, a combination of 1077
them, a controlled substance, or a metabolite of a controlled 1078
substance in the patient's whole blood, blood serum or plasma, 1079
breath, urine, or other bodily substance at any time relevant to 1080
the criminal offense in question. 1081

(d) In any criminal action against a physician, advanced 1082
practice registered nurse, or dentist. In such an action, the 1083
testimonial privilege established under this division does not 1084
prohibit the admission into evidence, in accordance with the 1085
Rules of Evidence, of a patient's medical or dental records or 1086
other communications between a patient and the physician, 1087
advanced practice registered nurse, or dentist that are related 1088
to the action and obtained by subpoena, search warrant, or other 1089
lawful means. A court that permits or compels a physician, 1090
advanced practice registered nurse, or dentist to testify in 1091
such an action or permits the introduction into evidence of 1092
patient records or other communications in such an action shall 1093
require that appropriate measures be taken to ensure that the 1094
confidentiality of any patient named or otherwise identified in 1095
the records is maintained. Measures to ensure confidentiality 1096
that may be taken by the court include sealing its records or 1097
deleting specific information from its records. 1098

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

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

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

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

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

information was requested and shall return the protected health 1129
information to the covered entity or destroy the protected 1130
health information, including all copies made, at the conclusion 1131
of the litigation or proceeding. 1132

(2) (a) If any law enforcement officer submits a written 1133
statement to a health care provider that states that an official 1134
criminal investigation has begun regarding a specified person or 1135
that a criminal action or proceeding has been commenced against 1136
a specified person, that requests the provider to supply to the 1137
officer copies of any records the provider possesses that 1138
pertain to any test or the results of any test administered to 1139
the specified person to determine the presence or concentration 1140
of alcohol, a drug of abuse, a combination of them, a controlled 1141
substance, or a metabolite of a controlled substance in the 1142
person's whole blood, blood serum or plasma, breath, or urine at 1143
any time relevant to the criminal offense in question, and that 1144
conforms to section 2317.022 of the Revised Code, the provider, 1145
except to the extent specifically prohibited by any law of this 1146
state or of the United States, shall supply to the officer a 1147
copy of any of the requested records the provider possesses. If 1148
the health care provider does not possess any of the requested 1149
records, the provider shall give the officer a written statement 1150
that indicates that the provider does not possess any of the 1151
requested records. 1152

(b) If a health care provider possesses any records of the 1153
type described in division (B) (2) (a) of this section regarding 1154
the person in question at any time relevant to the criminal 1155
offense in question, in lieu of personally testifying as to the 1156
results of the test in question, the custodian of the records 1157
may submit a certified copy of the records, and, upon its 1158
submission, the certified copy is qualified as authentic 1159

evidence and may be admitted as evidence in accordance with the 1160
Rules of Evidence. Division (A) of section 2317.422 of the 1161
Revised Code does not apply to any certified copy of records 1162
submitted in accordance with this division. Nothing in this 1163
division shall be construed to limit the right of any party to 1164
call as a witness the person who administered the test to which 1165
the records pertain, the person under whose supervision the test 1166
was administered, the custodian of the records, the person who 1167
made the records, or the person under whose supervision the 1168
records were made. 1169

(3) (a) If the testimonial privilege described in division 1170
(B) (1) of this section does not apply as provided in division 1171
(B) (1) (a) (iii) of this section, a physician, advanced practice 1172
registered nurse, or dentist may be compelled to testify or to 1173
submit to discovery under the Rules of Civil Procedure only as 1174
to a communication made to the physician, advanced practice 1175
registered nurse, or dentist by the patient in question in that 1176
relation, or the advice of the physician, advanced practice 1177
registered nurse, or dentist given to the patient in question, 1178
that related causally or historically to physical or mental 1179
injuries that are relevant to issues in the medical claim, 1180
dental claim, chiropractic claim, or optometric claim, action 1181
for wrongful death, other civil action, or claim under Chapter 1182
4123. or 4133. of the Revised Code. 1183

(b) If the testimonial privilege described in division (B) 1184
(1) of this section does not apply to a physician, advanced 1185
practice registered nurse, or dentist as provided in division 1186
(B) (1) (c) of this section, the physician, advanced practice 1187
registered nurse, or dentist, in lieu of personally testifying 1188
as to the results of the test in question, may submit a 1189
certified copy of those results, and, upon its submission, the 1190

certified copy is qualified as authentic evidence and may be 1191
admitted as evidence in accordance with the Rules of Evidence. 1192
Division (A) of section 2317.422 of the Revised Code does not 1193
apply to any certified copy of results submitted in accordance 1194
with this division. Nothing in this division shall be construed 1195
to limit the right of any party to call as a witness the person 1196
who administered the test in question, the person under whose 1197
supervision the test was administered, the custodian of the 1198
results of the test, the person who compiled the results, or the 1199
person under whose supervision the results were compiled. 1200

(4) The testimonial privilege described in division (B)(1) 1201
of this section is not waived when a communication is made by a 1202
physician or advanced practice registered nurse to a pharmacist 1203
or when there is communication between a patient and a 1204
pharmacist in furtherance of the physician-patient or advanced 1205
practice registered nurse-patient relation. 1206

(5) (a) As used in divisions (B)(1) to (4) of this section, 1207
"communication" means acquiring, recording, or transmitting any 1208
information, in any manner, concerning any facts, opinions, or 1209
statements necessary to enable a physician, advanced practice 1210
registered nurse, or dentist to diagnose, treat, prescribe, or 1211
act for a patient. A "communication" may include, but is not 1212
limited to, any medical or dental, office, or hospital 1213
communication such as a record, chart, letter, memorandum, 1214
laboratory test and results, x-ray, photograph, financial 1215
statement, diagnosis, or prognosis. 1216

(b) As used in division (B)(2) of this section, "health 1217
care provider" means a hospital, ambulatory care facility, long- 1218
term care facility, pharmacy, emergency facility, or health care 1219
practitioner. 1220

- (c) As used in division (B) (5) (b) of this section: 1221
- (i) "Ambulatory care facility" means a facility that 1222
provides medical, diagnostic, or surgical treatment to patients 1223
who do not require hospitalization, including a dialysis center, 1224
ambulatory surgical facility, cardiac catheterization facility, 1225
diagnostic imaging center, extracorporeal shock wave lithotripsy 1226
center, home health agency, inpatient hospice, birthing center, 1227
radiation therapy center, emergency facility, and an urgent care 1228
center. "Ambulatory health care facility" does not include the 1229
private office of a physician, advanced practice registered 1230
nurse, or dentist, whether the office is for an individual or 1231
group practice. 1232
- (ii) "Emergency facility" means a hospital emergency 1233
department or any other facility that provides emergency medical 1234
services. 1235
- (iii) "Health care practitioner" has the same meaning as 1236
in section 4769.01 of the Revised Code. 1237
- (iv) "Hospital" has the same meaning as in section 3727.01 1238
of the Revised Code. 1239
- (v) "Long-term care facility" means a nursing home, 1240
residential care facility, or home for the aging, as those terms 1241
are defined in section 3721.01 of the Revised Code; a 1242
residential facility licensed under section 5119.34 of the 1243
Revised Code that provides accommodations, supervision, and 1244
personal care services for three to sixteen unrelated adults; a 1245
nursing facility, as defined in section 5165.01 of the Revised 1246
Code; a skilled nursing facility, as defined in section 5165.01 1247
of the Revised Code; and an intermediate care facility for 1248
individuals with intellectual disabilities, as defined in 1249

section 5124.01 of the Revised Code. 1250

(vi) "Pharmacy" has the same meaning as in section 4729.01 1251
of the Revised Code. 1252

(d) As used in divisions (B)(1) and (2) of this section, 1253
"drug of abuse" has the same meaning as in section 4506.01 of 1254
the Revised Code. 1255

(6) Divisions (B)(1), (2), (3), (4), and (5) of this 1256
section apply to doctors of medicine, doctors of osteopathic 1257
medicine, doctors of podiatry, advanced practice registered 1258
nurses, and dentists. 1259

(7) Nothing in divisions (B)(1) to (6) of this section 1260
affects, or shall be construed as affecting, the immunity from 1261
civil liability conferred by section 307.628 of the Revised Code 1262
or the immunity from civil liability conferred by section 1263
2305.33 of the Revised Code upon physicians or advanced practice 1264
registered nurses who report an employee's use of a drug of 1265
abuse, or a condition of an employee other than one involving 1266
the use of a drug of abuse, to the employer of the employee in 1267
accordance with division (B) of that section. As used in 1268
division (B)(7) of this section, "employee," "employer," and 1269
"physician" have the same meanings as in section 2305.33 of the 1270
Revised Code and "advanced practice registered nurse" has the 1271
same meaning as in section 4723.01 of the Revised Code. 1272

(C)(1) A cleric, when the cleric remains accountable to 1273
the authority of that cleric's church, denomination, or sect, 1274
concerning a confession made, or any information confidentially 1275
communicated, to the cleric for a religious counseling purpose 1276
in the cleric's professional character. The cleric may testify 1277
by express consent of the person making the communication, 1278

except when the disclosure of the information is in violation of 1279
a sacred trust and except that, if the person voluntarily 1280
testifies or is deemed by division (A) (4) (c) of section 2151.421 1281
of the Revised Code to have waived any testimonial privilege 1282
under this division, the cleric may be compelled to testify on 1283
the same subject except when disclosure of the information is in 1284
violation of a sacred trust. 1285

(2) As used in division (C) of this section: 1286

(a) "Cleric" means a member of the clergy, rabbi, priest, 1287
Christian Science practitioner, or regularly ordained, 1288
accredited, or licensed minister of an established and legally 1289
cognizable church, denomination, or sect. 1290

(b) "Sacred trust" means a confession or confidential 1291
communication made to a cleric in the cleric's ecclesiastical 1292
capacity in the course of discipline enjoined by the church to 1293
which the cleric belongs, including, but not limited to, the 1294
Catholic Church, if both of the following apply: 1295

(i) The confession or confidential communication was made 1296
directly to the cleric. 1297

(ii) The confession or confidential communication was made 1298
in the manner and context that places the cleric specifically 1299
and strictly under a level of confidentiality that is considered 1300
inviolable by canon law or church doctrine. 1301

(D) Husband or wife, concerning any communication made by 1302
one to the other, or an act done by either in the presence of 1303
the other, during coverture, unless the communication was made, 1304
or act done, in the known presence or hearing of a third person 1305
competent to be a witness; and such rule is the same if the 1306
marital relation has ceased to exist; 1307

(E) A person who assigns a claim or interest, concerning 1308
any matter in respect to which the person would not, if a party, 1309
be permitted to testify; 1310

(F) A person who, if a party, would be restricted under 1311
section 2317.03 of the Revised Code, when the property or thing 1312
is sold or transferred by an executor, administrator, guardian, 1313
trustee, heir, devisee, or legatee, shall be restricted in the 1314
same manner in any action or proceeding concerning the property 1315
or thing. 1316

(G) (1) A school guidance counselor who holds a valid 1317
educator license from the state board of education as provided 1318
for in section 3319.22 of the Revised Code, a person licensed 1319
under Chapter 4757. of the Revised Code as a licensed 1320
professional clinical counselor, licensed professional 1321
counselor, social worker, independent social worker, marriage 1322
and family therapist or independent marriage and family 1323
therapist, or registered under Chapter 4757. of the Revised Code 1324
as a social work assistant concerning a confidential 1325
communication received from a client in that relation or the 1326
person's advice to a client unless any of the following applies: 1327

(a) The communication or advice indicates clear and 1328
present danger to the client or other persons. For the purposes 1329
of this division, cases in which there are indications of 1330
present or past child abuse or neglect of the client constitute 1331
a clear and present danger. 1332

(b) The client gives express consent to the testimony. 1333

(c) If the client is deceased, the surviving spouse or the 1334
executor or administrator of the estate of the deceased client 1335
gives express consent. 1336

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

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

(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 1366
abuse, child neglect, or dependent child action or proceeding, 1367
that is brought by or against either parent who takes part in 1368
mediation in accordance with the order and that pertains to the 1369
mediation process, to any information discussed or presented in 1370
the mediation process, to the allocation of parental rights and 1371
responsibilities for the care of the parents' children, or to 1372
the awarding of parenting time rights in relation to their 1373
children; 1374

(I) A communications assistant, acting within the scope of 1375
the communication assistant's authority, when providing 1376
telecommunications relay service pursuant to section 4931.06 of 1377
the Revised Code or Title II of the "Communications Act of 1378
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 1379
communication made through a telecommunications relay service. 1380
Nothing in this section shall limit the obligation of a 1381
communications assistant to divulge information or testify when 1382
mandated by federal law or regulation or pursuant to subpoena in 1383
a criminal proceeding. 1384

Nothing in this section shall limit any immunity or 1385
privilege granted under federal law or regulation. 1386

(J) (1) A chiropractor in a civil proceeding concerning a 1387
communication made to the chiropractor by a patient in that 1388
relation or the chiropractor's advice to a patient, except as 1389
otherwise provided in this division. The testimonial privilege 1390
established under this division does not apply, and a 1391
chiropractor may testify or may be compelled to testify, in any 1392
civil action, in accordance with the discovery provisions of the 1393
Rules of Civil Procedure in connection with a civil action, or 1394
in connection with a claim under Chapter 4123. or 4133. of the 1395

Revised Code, under any of the following circumstances:	1396
(a) If the patient or the guardian or other legal representative of the patient gives express consent.	1397 1398
(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent.	1399 1400 1401
(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. <u>or 4133.</u> of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.	1402 1403 1404 1405 1406 1407 1408
(2) If the testimonial privilege described in division (J) (1) of this section does not apply as provided in division (J) (1) (c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. <u>or 4133.</u> of the Revised Code.	1409 1410 1411 1412 1413 1414 1415 1416 1417 1418 1419 1420
(3) The testimonial privilege established under this division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.	1421 1422 1423 1424

(4) As used in this division, "communication" means 1425
acquiring, recording, or transmitting any information, in any 1426
manner, concerning any facts, opinions, or statements necessary 1427
to enable a chiropractor to diagnose, treat, or act for a 1428
patient. A communication may include, but is not limited to, any 1429
chiropractic, office, or hospital communication such as a 1430
record, chart, letter, memorandum, laboratory test and results, 1431
x-ray, photograph, financial statement, diagnosis, or prognosis. 1432

(K) (1) Except as provided under division (K) (2) of this 1433
section, a critical incident stress management team member 1434
concerning a communication received from an individual who 1435
receives crisis response services from the team member, or the 1436
team member's advice to the individual, during a debriefing 1437
session. 1438

(2) The testimonial privilege established under division 1439
(K) (1) of this section does not apply if any of the following 1440
are true: 1441

(a) The communication or advice indicates clear and 1442
present danger to the individual who receives crisis response 1443
services or to other persons. For purposes of this division, 1444
cases in which there are indications of present or past child 1445
abuse or neglect of the individual constitute a clear and 1446
present danger. 1447

(b) The individual who received crisis response services 1448
gives express consent to the testimony. 1449

(c) If the individual who received crisis response 1450
services is deceased, the surviving spouse or the executor or 1451
administrator of the estate of the deceased individual gives 1452
express consent. 1453

(d) The individual who received crisis response services 1454
voluntarily testifies, in which case the team member may be 1455
compelled to testify on the same subject. 1456

(e) The court in camera determines that the information 1457
communicated by the individual who received crisis response 1458
services is not germane to the relationship between the 1459
individual and the team member. 1460

(f) The communication or advice pertains or is related to 1461
any criminal act. 1462

(3) As used in division (K) of this section: 1463

(a) "Crisis response services" means consultation, risk 1464
assessment, referral, and on-site crisis intervention services 1465
provided by a critical incident stress management team to 1466
individuals affected by crisis or disaster. 1467

(b) "Critical incident stress management team member" or 1468
"team member" means an individual specially trained to provide 1469
crisis response services as a member of an organized community 1470
or local crisis response team that holds membership in the Ohio 1471
critical incident stress management network. 1472

(c) "Debriefing session" means a session at which crisis 1473
response services are rendered by a critical incident stress 1474
management team member during or after a crisis or disaster. 1475

(L) (1) Subject to division (L) (2) of this section and 1476
except as provided in division (L) (3) of this section, an 1477
employee assistance professional, concerning a communication 1478
made to the employee assistance professional by a client in the 1479
employee assistance professional's official capacity as an 1480
employee assistance professional. 1481

(2) Division (L)(1) of this section applies to an employee	1482
assistance professional who meets either or both of the	1483
following requirements:	1484
(a) Is certified by the employee assistance certification	1485
commission to engage in the employee assistance profession;	1486
(b) Has education, training, and experience in all of the	1487
following:	1488
(i) Providing workplace-based services designed to address	1489
employer and employee productivity issues;	1490
(ii) Providing assistance to employees and employees'	1491
dependents in identifying and finding the means to resolve	1492
personal problems that affect the employees or the employees'	1493
performance;	1494
(iii) Identifying and resolving productivity problems	1495
associated with an employee's concerns about any of the	1496
following matters: health, marriage, family, finances, substance	1497
abuse or other addiction, workplace, law, and emotional issues;	1498
(iv) Selecting and evaluating available community	1499
resources;	1500
(v) Making appropriate referrals;	1501
(vi) Local and national employee assistance agreements;	1502
(vii) Client confidentiality.	1503
(3) Division (L)(1) of this section does not apply to any	1504
of the following:	1505
(a) A criminal action or proceeding involving an offense	1506
under sections 2903.01 to 2903.06 of the Revised Code if the	1507
employee assistance professional's disclosure or testimony	1508

relates directly to the facts or immediate circumstances of the offense; 1509
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(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; 1511
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(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; 1514
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(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered; 1518
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(e) A civil or criminal malpractice action brought against the employee assistance professional; 1521
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(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative; 1523
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(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law. 1526
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Sec. 2913.48. (A) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following: 1528
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(1) Receive workers' compensation benefits to which the person is not entitled; 1531
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(2) Make or present or cause to be made or presented a false or misleading statement with the purpose to secure payment for goods or services rendered under Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code or to secure 1533
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workers' compensation benefits;	1537
(3) Alter, falsify, destroy, conceal, or remove any record	1538
or document that is necessary to fully establish the validity of	1539
any claim filed with, or necessary to establish the nature and	1540
validity of all goods and services for which reimbursement or	1541
payment was received or is requested from, the bureau of	1542
workers' compensation, or a self-insuring employer under Chapter	1543
4121., 4123., 4127., or 4131. , <u>or 4133.</u> of the Revised Code;	1544
(4) Enter into an agreement or conspiracy to defraud the	1545
bureau or a self-insuring employer by making or presenting or	1546
causing to be made or presented a false claim for workers'	1547
compensation benefits;	1548
(5) Make or present or cause to be made or presented a	1549
false statement concerning manual codes, classification of	1550
employees, payroll, paid compensation, or number of personnel,	1551
when information of that nature is necessary to determine the	1552
actual workers' compensation premium or assessment owed to the	1553
bureau by an employer;	1554
(6) Alter, forge, or create a workers' compensation	1555
certificate to falsely show current or correct workers'	1556
compensation coverage;	1557
(7) Fail to secure or maintain workers' compensation	1558
coverage as required by Chapter 4123. of the Revised Code with	1559
the intent to defraud the bureau of workers' compensation.	1560
(B) Whoever violates this section is guilty of workers'	1561
compensation fraud. Except as otherwise provided in this	1562
division, a violation of this section is a misdemeanor of the	1563
first degree. If the value of premiums and assessments unpaid	1564
pursuant to actions described in division (A) (5), (6), or (7) of	1565

this section, or of goods, services, property, or money stolen 1566
is one thousand dollars or more and is less than seven thousand 1567
five hundred dollars, a violation of this section is a felony of 1568
the fifth degree. If the value of premiums and assessments 1569
unpaid pursuant to actions described in division (A) (5), (6), or 1570
(7) of this section, or of goods, services, property, or money 1571
stolen is seven thousand five hundred dollars or more and is 1572
less than one hundred fifty thousand dollars, a violation of 1573
this section is a felony of the fourth degree. If the value of 1574
premiums and assessments unpaid pursuant to actions described in 1575
division (A) (5), (6), or (7) of this section, or of goods, 1576
services, property, or money stolen is one hundred fifty 1577
thousand dollars or more, a violation of this section is a 1578
felony of the third degree. 1579

(C) Upon application of the governmental body that 1580
conducted the investigation and prosecution of a violation of 1581
this section, the court shall order the person who is convicted 1582
of the violation to pay the governmental body its costs of 1583
investigating and prosecuting the case. These costs are in 1584
addition to any other costs or penalty provided in the Revised 1585
Code or any other section of law. 1586

(D) The remedies and penalties provided in this section 1587
are not exclusive remedies and penalties and do not preclude the 1588
use of any other criminal or civil remedy or penalty for any act 1589
that is in violation of this section. 1590

(E) As used in this section: 1591

(1) "False" means wholly or partially untrue or deceptive. 1592

(2) "Goods" includes, but is not limited to, medical 1593
supplies, appliances, rehabilitative equipment, and any other 1594

apparatus or furnishing provided or used in the care, treatment, 1595
or rehabilitation of a claimant for workers' compensation 1596
benefits. 1597

(3) "Services" includes, but is not limited to, any 1598
service provided by any health care provider to a claimant for 1599
workers' compensation benefits and any and all services provided 1600
by the bureau as part of workers' compensation insurance 1601
coverage. 1602

(4) "Claim" means any attempt to cause the bureau, an 1603
independent third party with whom the administrator or an 1604
employer contracts under section 4121.44 of the Revised Code, or 1605
a self-insuring employer to make payment or reimbursement for 1606
workers' compensation benefits. 1607

(5) "Employment" means participating in any trade, 1608
occupation, business, service, or profession for substantial 1609
gainful remuneration. 1610

(6) "Employer," "employee," and "self-insuring employer" 1611
have the same meanings as in section 4123.01 of the Revised 1612
Code. 1613

(7) "Remuneration" includes, but is not limited to, wages, 1614
commissions, rebates, and any other reward or consideration. 1615

(8) "Statement" includes, but is not limited to, any oral, 1616
written, electronic, electronic impulse, or magnetic 1617
communication notice, letter, memorandum, receipt for payment, 1618
invoice, account, financial statement, or bill for services; a 1619
diagnosis, prognosis, prescription, hospital, medical, or dental 1620
chart or other record; and a computer generated document. 1621

(9) "Records" means any medical, professional, financial, 1622
or business record relating to the treatment or care of any 1623

person, to goods or services provided to any person, or to rates 1624
paid for goods or services provided to any person, or any record 1625
that the administrator of workers' compensation requires 1626
pursuant to rule. 1627

(10) "Workers' compensation benefits" means any 1628
compensation or benefits payable under Chapter 4121., 4123., 1629
4127., ~~or 4131.~~, or 4133. of the Revised Code. 1630

Sec. 3121.899. (A) The new hire reports filed with the 1631
department of job and family services pursuant to section 1632
3121.891 of the Revised Code shall not be considered public 1633
records for purposes of section 149.43 of the Revised Code. The 1634
director of job and family services may adopt rules under 1635
section 3125.51 of the Revised Code governing access to, and use 1636
and disclosure of, information contained in the new hire 1637
reports. 1638

(B) The department of job and family services may disclose 1639
information in the new hire reports to all of the following: 1640

(1) Any child support enforcement agency and any agent 1641
under contract with a child support enforcement agency for the 1642
purposes listed in division (A) of section 3121.898 of the 1643
Revised Code; 1644

(2) Any county department of job and family services and 1645
any agent under contract with a county department of job and 1646
family services for the purposes listed in division (B) of 1647
section 3121.898 of the Revised Code; 1648

(3) Employees of the department of job and family services 1649
and any agent under contract with the department of job and 1650
family services for the purposes listed in divisions (B) and (C) 1651
of section 3121.898 of the Revised Code; 1652

(4) The administrator of workers' compensation for the 1653
purpose of administering the workers' compensation system 1654
pursuant to Chapters 4121., 4123., 4127., ~~and 4131.~~, and 4133. 1655
of the Revised Code; 1656

(5) To state agencies operating employment security and 1657
workers compensation programs for the purpose of administering 1658
those programs, pursuant to division (D) of section 3121.898 of 1659
the Revised Code. 1660

Sec. 3701.741. (A) Each health care provider and medical 1661
records company shall provide copies of medical records in 1662
accordance with this section. 1663

(B) Except as provided in divisions (C) and (E) of this 1664
section, a health care provider or medical records company that 1665
receives a request for a copy of a patient's medical record 1666
shall charge not more than the amounts set forth in this 1667
section. 1668

(1) If the request is made by the patient or the patient's 1669
personal representative, total costs for copies and all services 1670
related to those copies shall not exceed the sum of the 1671
following: 1672

(a) Except as provided in division (B) (1) (b) of this 1673
section, with respect to data recorded on paper or 1674
electronically, the following amounts adjusted in accordance 1675
with section 3701.742 of the Revised Code: 1676

(i) Two dollars and seventy-four cents per page for the 1677
first ten pages; 1678

(ii) Fifty-seven cents per page for pages eleven through 1679
fifty; 1680

(iii) Twenty-three cents per page for pages fifty-one and higher; 1681
1682

(b) With respect to data resulting from an x-ray, magnetic resonance imaging (MRI), or computed axial tomography (CAT) scan and recorded on paper or film, one dollar and eighty-seven cents per page; 1683
1684
1685
1686

(c) The actual cost of any related postage incurred by the health care provider or medical records company. 1687
1688

(2) If the request is made other than by the patient or the patient's personal representative, total costs for copies and all services related to those copies shall not exceed the sum of the following: 1689
1690
1691
1692

(a) An initial fee of sixteen dollars and eighty-four cents adjusted in accordance with section 3701.742 of the Revised Code, which shall compensate for the records search; 1693
1694
1695

(b) Except as provided in division (B) (2) (c) of this section, with respect to data recorded on paper or electronically, the following amounts adjusted in accordance with section 3701.742 of the Revised Code: 1696
1697
1698
1699

(i) One dollar and eleven cents per page for the first ten pages; 1700
1701

(ii) Fifty-seven cents per page for pages eleven through fifty; 1702
1703

(iii) Twenty-three cents per page for pages fifty-one and higher. 1704
1705

(c) With respect to data resulting from an x-ray, magnetic resonance imaging (MRI), or computed axial tomography (CAT) scan and recorded on paper or film, one dollar and eighty-seven cents 1706
1707
1708

per page; 1709

(d) The actual cost of any related postage incurred by the 1710
health care provider or medical records company. 1711

(C) (1) On request, a health care provider or medical 1712
records company shall provide one copy of the patient's medical 1713
record and one copy of any records regarding treatment performed 1714
subsequent to the original request, not including copies of 1715
records already provided, without charge to the following: 1716

(a) The bureau of workers' compensation, in accordance 1717
with Chapters 4121. ~~and~~ 4123., and 4133. of the Revised Code 1718
and the rules adopted under those chapters; 1719

(b) The industrial commission, in accordance with Chapters 1720
4121. ~~and~~ 4123., and 4133. of the Revised Code and the rules 1721
adopted under those chapters; 1722

(c) The occupational pneumoconiosis board, in accordance 1723
with Chapter 4133. of the Revised Code; 1724

(d) The department of medicaid or a county department of 1725
job and family services, in accordance with Chapters 5160., 1726
5161., 5162., 5163., 5164., 5165., 5166., and 5167. of the 1727
Revised Code and the rules adopted under those chapters; 1728

~~(d)~~ (e) The attorney general, in accordance with sections 1729
2743.51 to 2743.72 of the Revised Code and any rules that may be 1730
adopted under those sections; 1731

~~(e)~~ (f) A patient, patient's personal representative, or 1732
authorized person if the medical record is necessary to support 1733
a claim under Title II or Title XVI of the "Social Security 1734
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended, 1735
and the request is accompanied by documentation that a claim has 1736

been filed. 1737

(2) Nothing in division (C) (1) of this section requires a 1738
health care provider or medical records company to provide a 1739
copy without charge to any person or entity not listed in 1740
division (C) (1) of this section. 1741

(D) Division (C) of this section shall not be construed to 1742
supersede any rule of the bureau of workers' compensation, the 1743
industrial commission, or the department of medicaid. 1744

(E) A health care provider or medical records company may 1745
enter into a contract with either of the following for the 1746
copying of medical records at a fee other than as provided in 1747
division (B) of this section: 1748

(1) A patient, a patient's personal representative, or an 1749
authorized person; 1750

(2) An insurer authorized under Title XXXIX of the Revised 1751
Code to do the business of sickness and accident insurance in 1752
this state or health insuring corporations holding a certificate 1753
of authority under Chapter 1751. of the Revised Code. 1754

(F) This section does not apply to medical records the 1755
copying of which is covered by section 173.20 of the Revised 1756
Code or by 42 C.F.R. 483.10. 1757

Sec. 3923.281. (A) As used in this section: 1758

(1) "Biologically based mental illness" means 1759
schizophrenia, schizoaffective disorder, major depressive 1760
disorder, bipolar disorder, paranoia and other psychotic 1761
disorders, obsessive-compulsive disorder, and panic disorder, as 1762
these terms are defined in the most recent edition of the 1763
diagnostic and statistical manual of mental disorders published 1764

by the American psychiatric association. 1765

(2) "Policy of sickness and accident insurance" has the 1766
same meaning as in section 3923.01 of the Revised Code, but 1767
excludes any hospital indemnity, medicare supplement, long-term 1768
care, disability income, one-time-limited-duration policy that 1769
is less than twelve months, supplemental benefit, or other 1770
policy that provides coverage for specific diseases or accidents 1771
only; any policy that provides coverage for workers' 1772
compensation claims compensable pursuant to Chapters 4121.~~and~~, 1773
4123., and 4133. of the Revised Code; and any policy that 1774
provides coverage to medicaid recipients. 1775

(B) Notwithstanding section 3901.71 of the Revised Code, 1776
and subject to division (E) of this section, every policy of 1777
sickness and accident insurance shall provide benefits for the 1778
diagnosis and treatment of biologically based mental illnesses 1779
on the same terms and conditions as, and shall provide benefits 1780
no less extensive than, those provided under the policy of 1781
sickness and accident insurance for the treatment and diagnosis 1782
of all other physical diseases and disorders, if both of the 1783
following apply: 1784

(1) The biologically based mental illness is clinically 1785
diagnosed by a physician authorized under Chapter 4731. of the 1786
Revised Code to practice medicine and surgery or osteopathic 1787
medicine and surgery; a psychologist licensed under Chapter 1788
4732. of the Revised Code; a licensed professional clinical 1789
counselor, licensed professional counselor, independent social 1790
worker, or independent marriage and family therapist licensed 1791
under Chapter 4757. of the Revised Code; or a clinical nurse 1792
specialist or certified nurse practitioner licensed under 1793
Chapter 4723. of the Revised Code whose nursing specialty is 1794

mental health. 1795

(2) The prescribed treatment is not experimental or 1796
investigational, having proven its clinical effectiveness in 1797
accordance with generally accepted medical standards. 1798

(C) Division (B) of this section applies to all coverages 1799
and terms and conditions of the policy of sickness and accident 1800
insurance, including, but not limited to, coverage of inpatient 1801
hospital services, outpatient services, and medication; maximum 1802
lifetime benefits; copayments; and individual and family 1803
deductibles. 1804

(D) Nothing in this section shall be construed as 1805
prohibiting a sickness and accident insurance company from 1806
taking any of the following actions: 1807

(1) Negotiating separately with mental health care 1808
providers with regard to reimbursement rates and the delivery of 1809
health care services; 1810

(2) Offering policies that provide benefits solely for the 1811
diagnosis and treatment of biologically based mental illnesses; 1812

(3) Managing the provision of benefits for the diagnosis 1813
or treatment of biologically based mental illnesses through the 1814
use of pre-admission screening, by requiring beneficiaries to 1815
obtain authorization prior to treatment, or through the use of 1816
any other mechanism designed to limit coverage to that treatment 1817
determined to be necessary; 1818

(4) Enforcing the terms and conditions of a policy of 1819
sickness and accident insurance. 1820

(E) An insurer that offers any policy of sickness and 1821
accident insurance is not required to provide benefits for the 1822

diagnosis and treatment of biologically based mental illnesses 1823
pursuant to division (B) of this section if all of the following 1824
apply: 1825

(1) The insurer submits documentation certified by an 1826
independent member of the American academy of actuaries to the 1827
superintendent of insurance showing that incurred claims for 1828
diagnostic and treatment services for biologically based mental 1829
illnesses for a period of at least six months independently 1830
caused the insurer's costs for claims and administrative 1831
expenses for the coverage of all other physical diseases and 1832
disorders to increase by more than one per cent per year. 1833

(2) The insurer submits a signed letter from an 1834
independent member of the American academy of actuaries to the 1835
superintendent of insurance opining that the increase described 1836
in division (E) (1) of this section could reasonably justify an 1837
increase of more than one per cent in the annual premiums or 1838
rates charged by the insurer for the coverage of all other 1839
physical diseases and disorders. 1840

(3) The superintendent of insurance makes the following 1841
determinations from the documentation and opinion submitted 1842
pursuant to divisions (E) (1) and (2) of this section: 1843

(a) Incurred claims for diagnostic and treatment services 1844
for biologically based mental illnesses for a period of at least 1845
six months independently caused the insurer's costs for claims 1846
and administrative expenses for the coverage of all other 1847
physical diseases and disorders to increase by more than one per 1848
cent per year. 1849

(b) The increase in costs reasonably justifies an increase 1850
of more than one per cent in the annual premiums or rates 1851

charged by the insurer for the coverage of all other physical 1852
diseases and disorders. 1853

Any determination made by the superintendent under this 1854
division is subject to Chapter 119. of the Revised Code. 1855

Sec. 3963.10. This chapter does not apply with respect to 1856
any of the following: 1857

(A) A contract or provider agreement between a provider 1858
and the state or federal government, a state agency, or federal 1859
agency for health care services provided through a program for 1860
medicaid or medicare; 1861

(B) A contract for payments made to providers for 1862
rendering health care services to claimants pursuant to claims 1863
made under Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of 1864
the Revised Code; 1865

(C) An exclusive contract between a health insuring 1866
corporation and a single group of providers in a specific 1867
geographic area to provide or arrange for the provision of 1868
health care services. 1869

Sec. 4115.03. As used in sections 4115.03 to 4115.16 of 1870
the Revised Code: 1871

(A) "Public authority" means any officer, board, or 1872
commission of the state, or any political subdivision of the 1873
state, authorized to enter into a contract for the construction 1874
of a public improvement or to construct the same by the direct 1875
employment of labor, or any institution supported in whole or in 1876
part by public funds and said sections apply to expenditures of 1877
such institutions made in whole or in part from public funds. 1878

(B) "Construction" means any of the following: 1879

(1) Except as provided in division (B) (3) of this section, 1880
any new construction of a public improvement, the total overall 1881
project cost of which is fairly estimated to be more than the 1882
following amounts and performed by other than full-time 1883
employees who have completed their probationary periods in the 1884
classified service of a public authority: 1885

(a) One hundred twenty-five thousand dollars, beginning on 1886
September 29, 2011, and continuing for one year thereafter; 1887

(b) Two hundred thousand dollars, beginning when the time 1888
period described in division (B) (1) (a) of this section expires 1889
and continuing for one year thereafter; 1890

(c) Two hundred fifty thousand dollars, beginning when the 1891
time period described in division (B) (1) (b) of this section 1892
expires. 1893

(2) Except as provided in division (B) (4) of this section, 1894
any reconstruction, enlargement, alteration, repair, remodeling, 1895
renovation, or painting of a public improvement, the total 1896
overall project cost of which is fairly estimated to be more 1897
than the following amounts and performed by other than full-time 1898
employees who have completed their probationary period in the 1899
classified civil service of a public authority: 1900

(a) Thirty-eight thousand dollars, beginning on September 1901
29, 2011, and continuing for one year thereafter; 1902

(b) Sixty thousand dollars, beginning when the time period 1903
described in division (B) (2) (a) of this section expires and 1904
continuing for one year thereafter; 1905

(c) Seventy-five thousand dollars, beginning when the time 1906
period described in division (B) (2) (b) of this section expires. 1907

(3) Any new construction of a public improvement that 1908
involves roads, streets, alleys, sewers, ditches, and other 1909
works connected to road or bridge construction, the total 1910
overall project cost of which is fairly estimated to be more 1911
than seventy-eight thousand two hundred fifty-eight dollars 1912
adjusted biennially by the director of commerce pursuant to 1913
section 4115.034 of the Revised Code and performed by other than 1914
full-time employees who have completed their probationary 1915
periods in the classified service of a public authority; 1916

(4) Any reconstruction, enlargement, alteration, repair, 1917
remodeling, renovation, or painting of a public improvement that 1918
involves roads, streets, alleys, sewers, ditches, and other 1919
works connected to road or bridge construction, the total 1920
overall project cost of which is fairly estimated to be more 1921
than twenty-three thousand four hundred forty-seven dollars 1922
adjusted biennially by the director of commerce pursuant to 1923
section 4115.034 of the Revised Code and performed by other than 1924
full-time employees who have completed their probationary 1925
periods in the classified service of a public authority. 1926

(C) "Public improvement" includes all buildings, roads, 1927
streets, alleys, sewers, ditches, sewage disposal plants, water 1928
works, and all other structures or works constructed by a public 1929
authority of the state or any political subdivision thereof or 1930
by any person who, pursuant to a contract with a public 1931
authority, constructs any structure for a public authority of 1932
the state or a political subdivision thereof. When a public 1933
authority rents or leases a newly constructed structure within 1934
six months after completion of such construction, all work 1935
performed on such structure to suit it for occupancy by a public 1936
authority is a "public improvement." "Public improvement" does 1937
not include an improvement authorized by section 940.06 of the 1938

Revised Code that is constructed pursuant to a contract with a 1939
soil and water conservation district, as defined in section 1940
940.01 of the Revised Code, or performed as a result of a 1941
petition filed pursuant to Chapter 6131., 6133., or 6135. of the 1942
Revised Code, wherein no less than seventy-five per cent of the 1943
project is located on private land and no less than seventy-five 1944
per cent of the cost of the improvement is paid for by private 1945
property owners pursuant to Chapter 940., 6131., 6133., or 6135. 1946
of the Revised Code. 1947

(D) "Locality" means the county wherein the physical work 1948
upon any public improvement is being performed. 1949

(E) "Prevailing wages" means the sum of the following: 1950

(1) The basic hourly rate of pay; 1951

(2) The rate of contribution irrevocably made by a 1952
contractor or subcontractor to a trustee or to a third person 1953
pursuant to a fund, plan, or program; 1954

(3) The rate of costs to the contractor or subcontractor 1955
which may be reasonably anticipated in providing the following 1956
fringe benefits to laborers and mechanics pursuant to an 1957
enforceable commitment to carry out a financially responsible 1958
plan or program which was communicated in writing to the 1959
laborers and mechanics affected: 1960

(a) Medical or hospital care or insurance to provide such; 1961

(b) Pensions on retirement or death or insurance to 1962
provide such; 1963

(c) Compensation for injuries or illnesses resulting from 1964
occupational activities if it is in addition to that coverage 1965
required by Chapters 4121.~~and~~, 4123., and 4133. of the Revised 1966

Code;	1967
(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;	1968 1969
(e) Life insurance;	1970
(f) Disability and sickness insurance;	1971
(g) Accident insurance;	1972
(h) Vacation and holiday pay;	1973
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;	1974 1975 1976
(j) Other bona fide fringe benefits.	1977
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.	1978 1979 1980 1981
(F) "Interested party," with respect to a particular contract for construction of a public improvement, means:	1982 1983
(1) Any person who submits a bid for the purpose of securing the award of the contract;	1984 1985
(2) Any person acting as a subcontractor of a person described in division (F) (1) of this section;	1986 1987
(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person described in division (F) (1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;	1988 1989 1990 1991 1992 1993

(4) Any association having as members any of the persons described in division (F) (1) or (2) of this section. 1994
1995

(G) Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an office of trust, command, or authority in a corporation, business trust, partnership, or association. 1996
1997
1998
1999

Sec. 4121.03. (A) The governor shall appoint from among the members of the industrial commission the chairperson of the industrial commission. The chairperson shall serve as chairperson at the pleasure of the governor. The chairperson is the head of the commission and its chief executive officer. 2000
2001
2002
2003
2004

(B) The chairperson shall appoint, after consultation with other commission members and obtaining the approval of at least one other commission member, an executive director of the commission. The executive director shall serve at the pleasure of the chairperson. The executive director, under the direction of the chairperson, shall perform all of the following duties: 2005
2006
2007
2008
2009
2010

(1) Act as chief administrative officer for the commission; 2011
2012

(2) Ensure that all commission personnel follow the rules of the commission; 2013
2014

(3) Ensure that all orders, awards, and determinations are properly heard and signed, prior to attesting to the documents; 2015
2016

(4) Coordinate, to the fullest extent possible, commission activities with the bureau of workers' compensation activities; 2017
2018

(5) Do all things necessary for the efficient and effective implementation of the duties of the commission. 2019
2020

The responsibilities assigned to the executive director of 2021

the commission do not relieve the chairperson from final 2022
responsibility for the proper performance of the acts specified 2023
in this division. 2024

(C) The chairperson shall do all of the following: 2025

(1) Except as otherwise provided in this division, employ, 2026
promote, supervise, remove, and establish the compensation of 2027
all employees as needed in connection with the performance of 2028
the commission's duties under this chapter and Chapters 4123., 2029
4127., ~~and 4131.~~, and 4133. of the Revised Code and may assign 2030
to them their duties to the extent necessary to achieve the most 2031
efficient performance of its functions, and to that end may 2032
establish, change, or abolish positions, and assign and reassign 2033
duties and responsibilities of every employee of the commission. 2034
The civil service status of any person employed by the 2035
commission prior to November 3, 1989, is not affected by this 2036
section. Personnel employed by the bureau or the commission who 2037
are subject to Chapter 4117. of the Revised Code shall retain 2038
all of their rights and benefits conferred pursuant to that 2039
chapter as it presently exists or is hereafter amended and 2040
nothing in this chapter or Chapter 4123. of the Revised Code 2041
shall be construed as eliminating or interfering with Chapter 2042
4117. of the Revised Code or the rights and benefits conferred 2043
under that chapter to public employees or to any bargaining 2044
unit. 2045

(2) Hire district and staff hearing officers after 2046
consultation with other commission members and obtaining the 2047
approval of at least one other commission member; 2048

(3) Fire staff and district hearing officers when the 2049
chairperson finds appropriate after obtaining the approval of at 2050
least one other commission member; 2051

(4) Maintain the office for the commission in Columbus;	2052
(5) To the maximum extent possible, use electronic data	2053
processing equipment for the issuance of orders immediately	2054
following a hearing, scheduling of hearings and medical	2055
examinations, tracking of claims, retrieval of information, and	2056
any other matter within the commission's jurisdiction, and shall	2057
provide and input information into the electronic data	2058
processing equipment as necessary to effect the success of the	2059
claims tracking system established pursuant to division (B) (14)	2060
of section 4121.121 of the Revised Code;	2061
(6) Exercise all administrative and nonadjudicatory powers	2062
and duties conferred upon the commission by Chapters 4121.,	2063
4123., 4127., and 4131. , <u>and 4133.</u> of the Revised Code;	2064
(7) Approve all contracts for special services.	2065
(D) The chairperson is responsible for all administrative	2066
matters and may secure for the commission facilities, equipment,	2067
and supplies necessary to house the commission, any employees,	2068
and files and records under the commission's control and to	2069
discharge any duty imposed upon the commission by law, the	2070
expense thereof to be audited and paid in the same manner as	2071
other state expenses. For that purpose, the chairperson,	2072
separately from the budget prepared by the administrator of	2073
workers' compensation, shall prepare and submit to the office of	2074
budget and management a budget for each biennium according to	2075
sections 101.532 and 107.03 of the Revised Code. The budget	2076
submitted shall cover the costs of the commission and staff and	2077
district hearing officers in the discharge of any duty imposed	2078
upon the chairperson, the commission, and hearing officers by	2079
law.	2080

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

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

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

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

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

affiliations, can be classed as a representative of employees; 2111
two members shall be individuals who, on account of their 2112
previous vocation, employment, or affiliations, can be classed 2113
as representatives of employee organizations and at least one of 2114
these two individuals shall be a member of the executive 2115
committee of the largest statewide labor federation; three 2116
members shall be individuals who, on account of their previous 2117
vocation, employment, or affiliations, can be classed as 2118
representatives of employers, one of whom represents self- 2119
insuring employers, one of whom is a state fund employer who 2120
employs one hundred or more employees, and one of whom is a 2121
state fund employer who employs less than one hundred employees; 2122
two members shall be individuals who, on account of their 2123
vocation, employment, or affiliations, can be classed as 2124
investment and securities experts who have direct experience in 2125
the management, analysis, supervision, or investment of assets 2126
and are residents of this state; one member who shall be a 2127
certified public accountant; one member who shall be an actuary 2128
who is a member in good standing with the American academy of 2129
actuaries or who is an associate or fellow with the casualty 2130
actuarial society; and one member shall represent the public and 2131
also be an individual who, on account of the individual's 2132
previous vocation, employment, or affiliations, cannot be 2133
classed as either predominantly representative of employees or 2134
of employers. The governor shall select the chairperson of the 2135
board who shall serve as chairperson at the pleasure of the 2136
governor. 2137

None of the members of the board, within one year 2138
immediately preceding the member's appointment, shall have been 2139
employed by the bureau of workers' compensation or by any 2140
person, partnership, or corporation that has provided to the 2141

bureau services of a financial or investment nature, including 2142
the management, analysis, supervision, or investment of assets. 2143

(B) Of the initial appointments made to the board, the 2144
governor shall appoint the member who represents employees, one 2145
member who represents employers, and the member who represents 2146
the public to a term ending one year after June 11, 2007; one 2147
member who represents employers, one member who represents 2148
employee organizations, one member who is an investment and 2149
securities expert, and the member who is a certified public 2150
accountant to a term ending two years after June 11, 2007; and 2151
one member who represents employers, one member who represents 2152
employee organizations, one member who is an investment and 2153
securities expert, and the member who is an actuary to a term 2154
ending three years after June 11, 2007. Thereafter, terms of 2155
office shall be for three years, with each term ending on the 2156
same day of the same month as did the term that it succeeds. 2157
Each member shall hold office from the date of the member's 2158
appointment until the end of the term for which the member was 2159
appointed. 2160

Members may be reappointed. Any member appointed to fill a 2161
vacancy occurring prior to the expiration date of the term for 2162
which the member's predecessor was appointed shall hold office 2163
as a member for the remainder of that term. A member shall 2164
continue in office subsequent to the expiration date of the 2165
member's term until a successor takes office or until a period 2166
of sixty days has elapsed, whichever occurs first. 2167

(C) In making appointments to the board, the governor 2168
shall select the members from the list of names submitted by the 2169
workers' compensation board of directors nominating committee 2170
pursuant to this division. The nominating committee shall submit 2171

to the governor a list containing four separate names for each 2172
of the members on the board. Within fourteen days after the 2173
submission of the list, the governor shall appoint individuals 2174
from the list. 2175

At least thirty days prior to a vacancy occurring as a 2176
result of the expiration of a term and within thirty days after 2177
other vacancies occurring on the board, the nominating committee 2178
shall submit an initial list containing four names for each 2179
vacancy. Within fourteen days after the submission of the 2180
initial list, the governor either shall appoint individuals from 2181
that list or request the nominating committee to submit another 2182
list of four names for each member the governor has not 2183
appointed from the initial list, which list the nominating 2184
committee shall submit to the governor within fourteen days 2185
after the governor's request. The governor then shall appoint, 2186
within seven days after the submission of the second list, one 2187
of the individuals from either list to fill the vacancy for 2188
which the governor has not made an appointment from the initial 2189
list. If the governor appoints an individual to fill a vacancy 2190
occurring as a result of the expiration of a term, the 2191
individual appointed shall begin serving as a member of the 2192
board when the term for which the individual's predecessor was 2193
appointed expires or immediately upon appointment by the 2194
governor, whichever occurs later. With respect to the filling of 2195
vacancies, the nominating committee shall provide the governor 2196
with a list of four individuals who are, in the judgment of the 2197
nominating committee, the most fully qualified to accede to 2198
membership on the board. 2199

In order for the name of an individual to be submitted to 2200
the governor under this division, the nominating committee shall 2201
approve the individual by an affirmative vote of a majority of 2202

its members. 2203

(D) All members of the board shall receive their 2204
reasonable and necessary expenses pursuant to section 126.31 of 2205
the Revised Code while engaged in the performance of their 2206
duties as members and also shall receive an annual salary not to 2207
exceed sixty thousand dollars in total, payable on the following 2208
basis: 2209

(1) Except as provided in division (D)(2) of this section, 2210
a member shall receive two thousand five hundred dollars during 2211
a month in which the member attends one or more meetings of the 2212
board and shall receive no payment during a month in which the 2213
member attends no meeting of the board. 2214

(2) A member may receive no more than thirty thousand 2215
dollars per year to compensate the member for attending meetings 2216
of the board, regardless of the number of meetings held by the 2217
board during a year or the number of meetings in excess of 2218
twelve within a year that the member attends. 2219

(3) Except as provided in division (D)(4) of this section, 2220
if a member serves on the workers' compensation audit committee, 2221
workers' compensation actuarial committee, or the workers' 2222
compensation investment committee, the member shall receive two 2223
thousand five hundred dollars during a month in which the member 2224
attends one or more meetings of the committee on which the 2225
member serves and shall receive no payment during any month in 2226
which the member attends no meeting of that committee. 2227

(4) A member may receive no more than thirty thousand 2228
dollars per year to compensate the member for attending meetings 2229
of any of the committees specified in division (D)(3) of this 2230
section, regardless of the number of meetings held by a 2231

committee during a year or the number of committees on which a member serves. 2232
2233

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. 2234
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(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. 2241
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(F) The board shall: 2246

(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; 2247
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(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; 2250
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(3) Submit an annual report to the president of the senate, the speaker of the house of representatives, and the governor and include all of the following in that report: 2254
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2256

(a) An evaluation of the cost and quality objectives of the bureau; 2257
2258

(b) A statement of the net assets available for the 2259

provision of compensation and benefits under this chapter and	2260
Chapters 4123., 4127., and 4131. , <u>and 4133.</u> of the Revised Code	2261
as of the last day of the fiscal year;	2262
(c) A statement of any changes that occurred in the net	2263
assets available, including employer premiums and net investment	2264
income, for the provision of compensation and benefits and	2265
payment of administrative expenses, between the first and last	2266
day of the fiscal year immediately preceding the date of the	2267
report;	2268
(d) The following information for each of the six	2269
consecutive fiscal years occurring previous to the report:	2270
(i) A schedule of the net assets available for	2271
compensation and benefits;	2272
(ii) The annual cost of the payment of compensation and	2273
benefits;	2274
(iii) Annual administrative expenses incurred;	2275
(iv) Annual employer premiums allocated for the provision	2276
of compensation and benefits.	2277
(e) A description of any significant changes that occurred	2278
during the six years for which the board provided the	2279
information required under division (F) (3) (d) of this section	2280
that affect the ability of the board to compare that information	2281
from year to year.	2282
(4) Review all independent financial audits of the bureau.	2283
The administrator shall provide access to records of the bureau	2284
to facilitate the review required under this division.	2285
(5) Study issues as requested by the administrator or the	2286
governor;	2287

(6) Contract with all of the following:	2288
(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;	2289 2290 2291
(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;	2292 2293
(c) An independent fiduciary counsel to assist the board in the performance of its duties.	2294 2295
(7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code;	2296 2297 2298 2299
(8) Review and publish the investment policy no less than annually and make copies available to interested parties;	2300 2301
(9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board;	2302 2303 2304
(10) Vote to open each investment class and allow the administrator to invest in an investment class only if the board, by a majority vote, opens that class;	2305 2306 2307
(11) After opening a class but prior to the administrator investing in that class, adopt rules establishing due diligence standards for employees of the bureau to follow when investing in that class and establish policies and procedures to review and monitor the performance and value of each investment class;	2308 2309 2310 2311 2312
(12) Submit a report annually on the performance and value of each investment class to the governor, the president and minority leader of the senate, and the speaker and minority	2313 2314 2315

leader of the house of representatives-;	2316
(13) Advise and consent on all of the following:	2317
(a) Administrative rules the administrator submits to it	2318
pursuant to division (B) (5) of section 4121.121 of the Revised	2319
Code for the classification of occupations or industries, for	2320
premium rates and contributions, for the amount to be credited	2321
to the surplus fund, for rules and systems of rating, rate	2322
revisions, and merit rating;	2323
(b) The duties and authority conferred upon the	2324
administrator pursuant to section 4121.37 of the Revised Code;	2325
(c) Rules the administrator adopts for the health	2326
partnership program and the qualified health plan system, as	2327
provided in sections 4121.44, 4121.441, and 4121.442 of the	2328
Revised Code;	2329
(d) Rules the administrator submits to it pursuant to	2330
Chapter 4167. of the Revised Code regarding the public	2331
employment risk reduction program and the protection of public	2332
health care workers from exposure incidents.	2333
As used in this division, "public health care worker" and	2334
"exposure incident" have the same meanings as in section 4167.25	2335
of the Revised Code.	2336
(14) Perform all duties required under this chapter and	2337
Chapters 4123., 4125., 4127., 4131., <u>4133.</u> , and 4167. of the	2338
Revised Code;	2339
(15) Meet with the governor on an annual basis to discuss	2340
the administrator's performance of the duties specified in this	2341
chapter and Chapters 4123., 4125., 4127., 4131., <u>4133.</u> , and	2342
4167. of the Revised Code;	2343

(16) Develop and participate in a bureau of workers' compensation board of directors education program that consists of all of the following:	2344 2345 2346
(a) An orientation component for newly appointed members;	2347
(b) A continuing education component for board members who have served for at least one year;	2348 2349
(c) A curriculum that includes education about each of the following topics:	2350 2351
(i) Board member duties and responsibilities;	2352
(ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. <u>and 4133.</u> of the Revised Code;	2353 2354 2355
(iii) Ethics;	2356
(iv) Governance processes and procedures;	2357
(v) Actuarial soundness;	2358
(vi) Investments;	2359
(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.	2360 2361
(17) Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state.	2362 2363 2364
(G) The board may do both of the following:	2365
(1) Vote to close any investment class;	2366
(2) Create any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment	2367 2368 2369

committee that the board determines are necessary to assist the 2370
board in performing its duties. 2371

(H) The office of a member of the board who is convicted 2372
of or pleads guilty to a felony, a theft offense as defined in 2373
section 2913.01 of the Revised Code, or a violation of section 2374
102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2375
2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall 2376
be deemed vacant. The vacancy shall be filled in the same manner 2377
as the original appointment. A person who has pleaded guilty to 2378
or been convicted of an offense of that nature is ineligible to 2379
be a member of the board. A member who receives a bill of 2380
indictment for any of the offenses specified in this section 2381
shall be automatically suspended from the board pending 2382
resolution of the criminal matter. 2383

(I) For the purposes of division (G) (1) of section 121.22 2384
of the Revised Code, the meeting between the governor and the 2385
board to review the administrator's performance as required 2386
under division (F) (15) of this section shall be considered a 2387
meeting regarding the employment of the administrator. 2388

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

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

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

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

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

Chapters 4123., 4125., 4127., 4131., 4133., and 4167. of the 2430
Revised Code, except the acts and the exercise of authority and 2431
power that is required of and vested in the bureau of workers' 2432
compensation board of directors or the industrial commission 2433
pursuant to those chapters. The treasurer of state shall honor 2434
all warrants signed by the administrator, or by one or more of 2435
the administrator's employees, authorized by the administrator 2436
in writing, or bearing the facsimile signature of the 2437
administrator or such employee under sections 4123.42 and 2438
4123.44 of the Revised Code. 2439

(2) Employ, direct, and supervise all employees required 2440
in connection with the performance of the duties assigned to the 2441
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 2442
4133., and 4167. of the Revised Code, including an actuary, and 2443
may establish job classification plans and compensation for all 2444
employees of the bureau provided that this grant of authority 2445
shall not be construed as affecting any employee for whom the 2446
state employment relations board has established an appropriate 2447
bargaining unit under section 4117.06 of the Revised Code. All 2448
positions of employment in the bureau are in the classified 2449
civil service except those employees the administrator may 2450
appoint to serve at the administrator's pleasure in the 2451
unclassified civil service pursuant to section 124.11 of the 2452
Revised Code. The administrator shall fix the salaries of 2453
employees the administrator appoints to serve at the 2454
administrator's pleasure, including the chief operating officer, 2455
staff physicians, and other senior management personnel of the 2456
bureau ~~and~~. The administrator shall establish the compensation 2457
of staff attorneys of the bureau's legal section and their 2458
immediate supervisors, and take whatever steps are necessary to 2459
provide adequate compensation for other staff attorneys. The 2460

administrator shall establish the compensation of the members of 2461
the occupational pneumoconiosis board created in section 4133.07 2462
of the Revised Code. 2463

The administrator may appoint a person who holds a 2464
certified position in the classified service within the bureau 2465
to a position in the unclassified service within the bureau. A 2466
person appointed pursuant to this division to a position in the 2467
unclassified service shall retain the right to resume the 2468
position and status held by the person in the classified service 2469
immediately prior to the person's appointment in the 2470
unclassified service, regardless of the number of positions the 2471
person held in the unclassified service. An employee's right to 2472
resume a position in the classified service may only be 2473
exercised when the administrator demotes the employee to a pay 2474
range lower than the employee's current pay range or revokes the 2475
employee's appointment to the unclassified service. An employee 2476
who holds a position in the classified service and who is 2477
appointed to a position in the unclassified service on or after 2478
January 1, 2016, shall have the right to resume a position in 2479
the classified service under this division only within five 2480
years after the effective date of the employee's appointment in 2481
the unclassified service. An employee forfeits the right to 2482
resume a position in the classified service when the employee is 2483
removed from the position in the unclassified service due to 2484
incompetence, inefficiency, dishonesty, drunkenness, immoral 2485
conduct, insubordination, discourteous treatment of the public, 2486
neglect of duty, violation of this chapter or Chapter 124., 2487
4123., 4125., 4127., 4131., 4133., or 4167. of the Revised Code, 2488
violation of the rules of the director of administrative 2489
services or the administrator, any other failure of good 2490
behavior, any other acts of misfeasance, malfeasance, or 2491

nonfeasance in office, or conviction of a felony while employed 2492
in the civil service. An employee also forfeits the right to 2493
resume a position in the classified service upon transfer to a 2494
different agency. 2495

Reinstatement to a position in the classified service 2496
shall be to a position substantially equal to that position in 2497
the classified service held previously, as certified by the 2498
department of administrative services. If the position the 2499
person previously held in the classified service has been placed 2500
in the unclassified service or is otherwise unavailable, the 2501
person shall be appointed to a position in the classified 2502
service within the bureau that the director of administrative 2503
services certifies is comparable in compensation to the position 2504
the person previously held in the classified service. Service in 2505
the position in the unclassified service shall be counted as 2506
service in the position in the classified service held by the 2507
person immediately prior to the person's appointment in the 2508
unclassified service. When a person is reinstated to a position 2509
in the classified service as provided in this division, the 2510
person is entitled to all rights, status, and benefits accruing 2511
to the position during the person's time of service in the 2512
position in the unclassified service. 2513

(3) Reorganize the work of the bureau, its sections, 2514
departments, and offices to the extent necessary to achieve the 2515
most efficient performance of its functions and to that end may 2516
establish, change, or abolish positions and assign and reassign 2517
duties and responsibilities of every employee of the bureau. All 2518
persons employed by the commission in positions that, after 2519
November 3, 1989, are supervised and directed by the 2520
administrator under this section are transferred to the bureau 2521
in their respective classifications but subject to reassignment 2522

and reclassification of position and compensation as the 2523
administrator determines to be in the interest of efficient 2524
administration. The civil service status of any person employed 2525
by the commission is not affected by this section. Personnel 2526
employed by the bureau or the commission who are subject to 2527
Chapter 4117. of the Revised Code shall retain all of their 2528
rights and benefits conferred pursuant to that chapter as it 2529
presently exists or is hereafter amended and nothing in this 2530
chapter or Chapter 4123. of the Revised Code shall be construed 2531
as eliminating or interfering with Chapter 4117. of the Revised 2532
Code or the rights and benefits conferred under that chapter to 2533
public employees or to any bargaining unit. 2534

(4) Provide offices, equipment, supplies, and other 2535
facilities for the bureau. 2536

(5) Prepare and submit to the board information the 2537
administrator considers pertinent or the board requires, 2538
together with the administrator's recommendations, in the form 2539
of administrative rules, for the advice and consent of the 2540
board, for classifications of occupations or industries, for 2541
premium rates and contributions, for the amount to be credited 2542
to the surplus fund, for rules and systems of rating, rate 2543
revisions, and merit rating. The administrator shall obtain, 2544
prepare, and submit any other information the board requires for 2545
the prompt and efficient discharge of its duties. 2546

(6) Keep the accounts required by division (A) of section 2547
4123.34 of the Revised Code and all other accounts and records 2548
necessary to the collection, administration, and distribution of 2549
the workers' compensation funds and shall obtain the statistical 2550
and other information required by section 4123.19 of the Revised 2551
Code. 2552

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

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

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

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

the receipt, investigation, determination, and payment of claims 2583
may be undertaken at or near the place of injury or the 2584
residence of the claimant and for that purpose establish 2585
regional offices, in such places as the administrator considers 2586
proper, capable of discharging as many of the functions of the 2587
bureau as is practicable so as to promote prompt and efficient 2588
administration in the processing of claims. All active and 2589
inactive lost-time claims files shall be held at the service 2590
office responsible for the claim. A claimant, at the claimant's 2591
request, shall be provided with information by telephone as to 2592
the location of the file pertaining to the claimant's claim. The 2593
administrator shall ensure that all service office employees 2594
report directly to the director for their service office. 2595

(11) Provide a written binder on new coverage where the 2596
administrator considers it to be in the best interest of the 2597
risk. The administrator, or any other person authorized by the 2598
administrator, shall grant the binder upon submission of a 2599
request for coverage by the employer. A binder is effective for 2600
a period of thirty days from date of issuance and is 2601
nonrenewable. Payroll reports and premium charges shall coincide 2602
with the effective date of the binder. 2603

(12) Set standards for the reasonable and maximum handling 2604
time of claims payment functions, ensure, by rules, the 2605
impartial and prompt treatment of all claims and employer risk 2606
accounts, and establish a secure, accurate method of time 2607
stamping all incoming mail and documents hand delivered to 2608
bureau employees. 2609

(13) Ensure that all employees of the bureau follow the 2610
orders and rules of the commission as such orders and rules 2611
relate to the commission's overall adjudicatory policy-making 2612

and management duties under this chapter and Chapters 4123.,	2613
4127., and 4131. , <u>and 4133.</u> of the Revised Code.	2614
(14) Manage and operate a data processing system with a	2615
common data base for the use of both the bureau and the	2616
commission and, in consultation with the commission, using	2617
electronic data processing equipment, shall develop a claims	2618
tracking system that is sufficient to monitor the status of a	2619
claim at any time and that lists appeals that have been filed	2620
and orders or determinations that have been issued pursuant to	2621
section 4123.511 or 4123.512 of the Revised Code, including the	2622
dates of such filings and issuances.	2623
(15) Establish and maintain a medical section within the	2624
bureau. The medical section shall do all of the following:	2625
(a) Assist the administrator in establishing standard	2626
medical fees, approving medical procedures, and determining	2627
eligibility and reasonableness of the compensation payments for	2628
medical, hospital, and nursing services, and in establishing	2629
guidelines for payment policies which recognize usual,	2630
customary, and reasonable methods of payment for covered	2631
services;	2632
(b) Provide a resource to respond to questions from claims	2633
examiners for employees of the bureau;	2634
(c) Audit fee bill payments;	2635
(d) Implement a program to utilize, to the maximum extent	2636
possible, electronic data processing equipment for storage of	2637
information to facilitate authorizations of compensation	2638
payments for medical, hospital, drug, and nursing services;	2639
(e) Perform other duties assigned to it by the	2640
administrator.	2641

(16) Appoint, as the administrator determines necessary, 2642
panels to review and advise the administrator on disputes 2643
arising over a determination that a health care service or 2644
supply provided to a claimant is not covered under this chapter 2645
or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code 2646
or is medically unnecessary. If an individual health care 2647
provider is involved in the dispute, the panel shall consist of 2648
individuals licensed pursuant to the same section of the Revised 2649
Code as such health care provider. 2650

(17) Pursuant to section 4123.65 of the Revised Code, 2651
approve applications for the final settlement of claims for 2652
compensation or benefits under this chapter and Chapters 4123., 2653
4127., ~~and 4131.~~ and 4133. of the Revised Code as the 2654
administrator determines appropriate, except in regard to the 2655
applications of self-insuring employers and their employees. 2656

(18) Comply with section 3517.13 of the Revised Code, and 2657
except in regard to contracts entered into pursuant to the 2658
authority contained in section 4121.44 of the Revised Code, 2659
comply with the competitive bidding procedures set forth in the 2660
Revised Code for all contracts into which the administrator 2661
enters provided that those contracts fall within the type of 2662
contracts and dollar amounts specified in the Revised Code for 2663
competitive bidding and further provided that those contracts 2664
are not otherwise specifically exempt from the competitive 2665
bidding procedures contained in the Revised Code. 2666

(19) Adopt, with the advice and consent of the board, 2667
rules for the operation of the bureau. 2668

(20) Prepare and submit to the board information the 2669
administrator considers pertinent or the board requires, 2670
together with the administrator's recommendations, in the form 2671

of administrative rules, for the advice and consent of the 2672
board, for the health partnership program and the qualified 2673
health plan system, as provided in sections 4121.44, 4121.441, 2674
and 4121.442 of the Revised Code. 2675

(C) The administrator, with the advice and consent of the 2676
senate, shall appoint a chief operating officer who has a 2677
minimum of five years of experience in the field of workers' 2678
compensation insurance or in another similar insurance industry 2679
if the administrator does not possess such experience. The chief 2680
operating officer shall not commence the chief operating 2681
officer's duties until after the senate consents to the chief 2682
operating officer's appointment. The chief operating officer 2683
shall serve in the unclassified civil service of the state. 2684

Sec. 4121.125. (A) The bureau of workers' compensation 2685
board of directors, based upon recommendations of the workers' 2686
compensation actuarial committee, may contract with one or more 2687
outside actuarial firms and other professional persons, as the 2688
board determines necessary, to assist the board in maintaining 2689
and monitoring the performance of Ohio's workers' compensation 2690
system. The board, actuarial firm or firms, and professional 2691
persons shall perform analyses using accepted insurance industry 2692
standards, including, but not limited to, standards promulgated 2693
by the actuarial standards board of the American academy of 2694
actuaries or techniques used by the National Council on 2695
Compensation Insurance. 2696

(B) The board may contract with one or more outside firms 2697
to conduct management and financial audits of the workers' 2698
compensation system, including analyses of the reserve fund 2699
belonging to the state insurance fund, and to establish 2700
objective quality management principles and methods by which to 2701

review the performance of the workers' compensation system. 2702

(C) The board shall do all of the following: 2703

(1) Contract to have prepared annually by or under the 2704
supervision of an actuary a report that meets the requirements 2705
specified under division (E) of this section and that consists 2706
of an actuarial estimate of the unpaid liabilities of the state 2707
insurance fund and all other funds specified in this chapter and 2708
Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the Revised Code; 2709

(2) Require that the actuary or person supervised by an 2710
actuary referred to in division (C)(1) of this section complete 2711
the estimate of unpaid liabilities in accordance with the 2712
actuarial standards of practice promulgated by the actuarial 2713
standards board of the American academy of actuaries; 2714

(3) Submit the report referred to in division (C)(1) of 2715
this section to the standing committees of the house of 2716
representatives and the senate with primary responsibility for 2717
workers' compensation legislation on or before the first day of 2718
November following the year for which the estimate of unpaid 2719
liabilities was made; 2720

(4) Have an actuary or a person who provides actuarial 2721
services under the supervision of an actuary, at such time as 2722
the board determines, and at least once during the five-year 2723
period that commences on September 10, 2007, and once within 2724
each five-year period thereafter, conduct an actuarial analysis 2725
of the mortality experience used in estimating the future costs 2726
of awards for survivor benefits and permanent total disability 2727
under sections ~~4123.56 to~~, 4123.57, 4123.58, 4133.12, 4133.13, 2728
and 4133.14 of the Revised Code to be used in the experience 2729
rating of an employer for purposes of premium calculation and to 2730

update the claim level reserves used in the report required by	2731
division (C) (1) of this section;	2732
(5) Submit the report required under division (F) of this	2733
section to the standing committees of the house of	2734
representatives and the senate with primary responsibility for	2735
workers' compensation legislation not later than the first day	2736
of November following the fifth year of the period that the	2737
report covers;	2738
(6) Have prepared by or under the supervision of an	2739
actuary an actuarial analysis of any introduced legislation	2740
expected to have a measurable financial impact on the workers'	2741
compensation system;	2742
(7) Submit the report required under division (G) of this	2743
section to the legislative service commission and the standing	2744
committees of the house of representatives and the senate with	2745
primary responsibility for workers' compensation legislation not	2746
later than sixty days after the date of introduction of the	2747
legislation.	2748
(D) The administrator of workers' compensation and the	2749
industrial commission shall compile information and provide	2750
access to records of the bureau and the industrial commission to	2751
the board to the extent necessary for fulfillment of both of the	2752
following requirements:	2753
(1) Conduct of the monitoring described in division (A) of	2754
this section;	2755
(2) Conduct of the management and financial audits and	2756
establishment of the principles and methods described in	2757
division (B) of this section.	2758
(E) The firm or person with whom the board contracts	2759

pursuant to division (C) (1) of this section shall prepare a 2760
report of the analysis of the unpaid liabilities and submit the 2761
report to the board. The firm or person shall include all of the 2762
following information in the report that is required under 2763
division (C) (1) of this section: 2764

(1) A summary of the funds and components evaluated; 2765

(2) A description of the actuarial methods and assumptions 2766
used in the analysis of the unpaid liabilities; 2767

(3) A schedule showing the impact of changes in the 2768
estimates of the unpaid liabilities since the previous annual 2769
actuarial analysis report was submitted to the board. 2770

(F) The actuary or person whom the board designates to 2771
conduct an actuarial investigation under division (C) (4) of this 2772
section shall prepare a report of the actuarial investigation 2773
and shall submit the report to the board. The actuary or person 2774
shall prepare the report and make any recommended changes to the 2775
actuarial mortality assumptions in accordance with the actuarial 2776
standards of practice promulgated by the actuarial standards 2777
board of the American academy of actuaries. 2778

(G) The actuary or person whom the board designates to 2779
conduct the actuarial analysis under division (C) (6) of this 2780
section shall prepare a report of the actuarial analysis and 2781
shall submit that report to the board. The actuary or person 2782
shall complete the analysis in accordance with the actuarial 2783
standards of practice promulgated by the actuarial standards 2784
board of the American academy of actuaries. The actuary or 2785
person shall include all of the following information in the 2786
report: 2787

(1) A summary of the statutory changes being evaluated; 2788

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	2789 2790
(3) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums and in current estimates of unpaid liabilities.	2791 2792 2793 2794
(H) The board may, at any time, request an actuary to perform actuarial analyses to determine the adequacy of the premium rates established by the administrator in accordance with sections 4123.29 and 4123.34 of the Revised Code, and may adjust those rates as recommended by the actuary.	2795 2796 2797 2798 2799
(I) The board shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies approved by the board and investment procedures of the bureau. The board shall submit a copy of that audit to the auditor of state.	2800 2801 2802 2803 2804 2805 2806
(J) The administrator, with the advice and consent of the board, shall employ an internal auditor who shall report findings directly to the board, workers' compensation audit committee, and administrator, except that the internal auditor shall not report findings directly to the administrator when those findings involve malfeasance, misfeasance, or nonfeasance on the part of the administrator. The board and the workers' compensation audit committee may request and review internal audits conducted by the internal auditor.	2807 2808 2809 2810 2811 2812 2813 2814 2815
(K) The administrator shall pay the expenses incurred by the board to effectively fulfill its duties and exercise its	2816 2817

powers under this section as the administrator pays other 2818
operating expenses of the bureau. 2819

Sec. 4121.127. (A) Except as provided in division (B) of 2820
this section, a fiduciary shall not cause the bureau of workers' 2821
compensation to engage in a transaction, if the fiduciary knows 2822
or should know that such transaction constitutes any of the 2823
following, whether directly or indirectly: 2824

(1) The sale, exchange, or leasing of any property between 2825
the bureau and a party in interest; 2826

(2) Lending of money or other extension of credit between 2827
the bureau and a party in interest; 2828

(3) Furnishing of goods, services, or facilities between 2829
the bureau and a party in interest; 2830

(4) Transfer to, or use by or for the benefit of a party 2831
in interest, of any assets of the bureau; 2832

(5) Acquisition, on behalf of the bureau, of any employer 2833
security or employer real property. 2834

(B) Nothing in this section shall prohibit any transaction 2835
between the bureau and any fiduciary or party in interest if 2836
both of the following occur: 2837

(1) All the terms and conditions of the transaction are 2838
comparable to the terms and conditions that might reasonably be 2839
expected in a similar transaction between similar parties who 2840
are not parties in interest. 2841

(2) The transaction is consistent with fiduciary duties 2842
under this chapter and Chapters 4123., 4127., ~~and 4131.~~, and 2843
4133. of the Revised Code. 2844

(C) A fiduciary shall not do any of the following:	2845
(1) Deal with the assets of the bureau in the fiduciary's own interest or for the fiduciary's own account;	2846 2847
(2) In the fiduciary's individual capacity or in any other capacity, act in any transaction involving the bureau on behalf of a party, or represent a party, whose interests are adverse to the interests of the bureau or to the injured employees served by the bureau;	2848 2849 2850 2851 2852
(3) Receive any consideration for the fiduciary's own personal account from any party dealing with the bureau in connection with a transaction involving the assets of the bureau.	2853 2854 2855 2856
(D) In addition to any liability that a fiduciary may have under any other provision, a fiduciary, with respect to <u>the</u> bureau, shall be liable for a breach of fiduciary responsibility in any <u>of</u> the following circumstances:	2857 2858 2859 2860
(1) If the fiduciary knowingly participates in or knowingly undertakes to conceal an act or omission of another fiduciary, knowing such act or omission is a breach;	2861 2862 2863
(2) If, by the fiduciary's failure to comply with this chapter or Chapter 4123., 4127., or 4131. <u>or 4133.</u> of the Revised Code, the fiduciary has enabled another fiduciary to commit a breach;	2864 2865 2866 2867
(3) If the fiduciary has knowledge of a breach by another fiduciary of that fiduciary's duties under this chapter and Chapters 4123., 4127., and 4131. <u>and 4133.</u> of the Revised Code, unless the fiduciary makes reasonable efforts under the circumstances to remedy the breach.	2868 2869 2870 2871 2872

(E) Every fiduciary of the bureau shall be bonded or 2873
insured for an amount of not less than one million dollars for 2874
loss by reason of acts of fraud or dishonesty. 2875

(F) As used in this section, "fiduciary" means a person 2876
who does any of the following: 2877

(1) Exercises discretionary authority or control with 2878
respect to the management of the bureau or with respect to the 2879
management or disposition of its assets; 2880

(2) Renders investment advice for a fee, directly or 2881
indirectly, with respect to money or property of the bureau; 2882

(3) Has discretionary authority or responsibility in the 2883
administration of the bureau. 2884

Sec. 4121.129. (A) There is hereby created the workers' 2885
compensation audit committee consisting of at least three 2886
members. One member shall be the member of the bureau of 2887
workers' compensation board of directors who is a certified 2888
public accountant. The board, by majority vote, shall appoint 2889
two additional members of the board to serve on the audit 2890
committee and may appoint additional members who are not board 2891
members, as the board determines necessary. Members of the audit 2892
committee serve at the pleasure of the board, and the board, by 2893
majority vote, may remove any member except the member of the 2894
committee who is the certified public accountant member of the 2895
board. The board, by majority vote, shall determine how often 2896
the audit committee shall meet and report to the board. If the 2897
audit committee meets on the same day as the board holds a 2898
meeting, no member shall be compensated for more than one 2899
meeting held on that day. The audit committee shall do all of 2900
the following: 2901

(1) Recommend to the board an accounting firm to perform 2902
the annual audits required under division (B) of section 4123.47 2903
of the Revised Code; 2904

(2) Recommend an auditing firm for the board to use when 2905
conducting audits under section 4121.125 of the Revised Code; 2906

(3) Review the results of each annual audit and management 2907
review and, if any problems exist, assess the appropriate course 2908
of action to correct those problems and develop an action plan 2909
to correct those problems; 2910

(4) Monitor the implementation of any action plans created 2911
pursuant to division (A) (3) of this section; 2912

(5) Review all internal audit reports on a regular basis. 2913

(B) There is hereby created the workers' compensation 2914
actuarial committee consisting of at least three members. One 2915
member shall be the member of the board who is an actuary. The 2916
board, by majority vote, shall appoint two additional members of 2917
the board to serve on the actuarial committee and may appoint 2918
additional members who are not board members, as the board 2919
determines necessary. Members of the actuarial committee serve 2920
at the pleasure of the board and the board, by majority vote, 2921
may remove any member except the member of the committee who is 2922
the actuary member of the board. The board, by majority vote, 2923
shall determine how often the actuarial committee shall meet and 2924
report to the board. If the actuarial committee meets on the 2925
same day as the board holds a meeting, no member shall be 2926
compensated for more than one meeting held on that day. The 2927
actuarial committee shall do both of the following: 2928

(1) Recommend actuarial consultants for the board to use 2929
for the funds specified in this chapter and Chapters 4123., 2930

4127., ~~and 4131.~~, and 4133. of the Revised Code; 2931

(2) Review and approve the various rate schedules prepared 2932
and presented by the actuarial division of the bureau or by 2933
actuarial consultants with whom the board enters into a 2934
contract. 2935

(C) (1) There is hereby created the workers' compensation 2936
investment committee consisting of at least four members. Two of 2937
the members shall be the members of the board who serve as the 2938
investment and securities experts on the board. The board, by 2939
majority vote, shall appoint two additional members of the board 2940
to serve on the investment committee and may appoint additional 2941
members who are not board members. Each additional member the 2942
board appoints shall have at least one of the following 2943
qualifications: 2944

(a) Experience managing another state's pension funds or 2945
workers' compensation funds; 2946

(b) Expertise that the board determines is needed to make 2947
investment decisions. 2948

Members of the investment committee serve at the pleasure 2949
of the board and the board, by majority vote, may remove any 2950
member except the members of the committee who are the 2951
investment and securities expert members of the board. The 2952
board, by majority vote, shall determine how often the 2953
investment committee shall meet and report to the board. If the 2954
investment committee meets on the same day as the board holds a 2955
meeting, no member shall be compensated for more than one 2956
meeting held on that day. 2957

(2) The investment committee shall do all of the 2958
following: 2959

(a) Develop the investment policy for the administration 2960
of the investment program for the funds specified in this 2961
chapter and Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the 2962
Revised Code in accordance with the requirements specified in 2963
section 4123.442 of the Revised Code; 2964

(b) Submit the investment policy developed pursuant to 2965
division (C)(2)(a) of this section to the board for approval; 2966

(c) Monitor implementation by the administrator of 2967
workers' compensation and the bureau of workers' compensation 2968
chief investment officer of the investment policy approved by 2969
the board; 2970

(d) Recommend outside investment counsel with whom the 2971
board may contract to assist the investment committee in 2972
fulfilling its duties; 2973

(e) Review the performance of the bureau of workers' 2974
compensation chief investment officer and any investment 2975
consultants retained by the administrator to assure that the 2976
investments of the assets of the funds specified in this chapter 2977
and Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the Revised 2978
Code are made in accordance with the investment policy approved 2979
by the board and to assure compliance with the investment policy 2980
and effective management of the funds. 2981

Sec. 4121.13. The administrator of workers' compensation 2982
shall: 2983

(A) Investigate, ascertain, and declare and prescribe what 2984
hours of labor, safety devices, safeguards, or other means or 2985
methods of protection are best adapted to render the employees 2986
of every employment and place of employment and frequenters of 2987
every place of employment safe, and to protect their welfare as 2988

required by law or lawful orders, and establish and maintain 2989
museums of safety and hygiene in which shall be exhibited safety 2990
devices, safeguards, and other means and methods for the 2991
protection of life, health, safety, and welfare of employees; 2992

(B) Ascertain and fix reasonable standards and prescribe, 2993
modify, and enforce reasonable orders for the adoption of safety 2994
devices, safeguards, and other means or methods of protection to 2995
be as nearly uniform as possible as may be necessary to carry 2996
out all laws and lawful orders relative to the protection of the 2997
life, health, safety, and welfare of employees in employments 2998
and places of employment or frequenters of places of employment; 2999

(C) Ascertain, fix, and order reasonable standards for the 3000
construction, repair, and maintenance of places of employment as 3001
shall render them safe; 3002

(D) Investigate, ascertain, and determine reasonable 3003
classifications of persons, employments, and places of 3004
employment as are necessary to carry out the applicable sections 3005
of sections 4101.01 to 4101.16 and 4121.01 to 4121.29 of the 3006
Revised Code; 3007

(E) Adopt reasonable and proper rules relative to the 3008
exercise of ~~his~~ the administrator's powers and authorities, and 3009
proper rules to govern ~~his~~ the administrator's proceedings and 3010
to regulate the mode and manner of all investigations and 3011
hearings, which rules shall not be effective until ten days 3012
after their publication; a copy of the rules shall be delivered 3013
at cost to every citizen making application therefor; 3014

(F) Investigate all cases of fraud or other illegalities 3015
pertaining to the operation of the workers' compensation system 3016
and its several insurance funds and for that purpose, the 3017

administrator has every power of an inquisitorial nature granted 3018
to the industrial commission in this chapter and ~~Chapter~~ 3019
Chapters 4123. and 4133. of the Revised Code; 3020

(G) Do all things convenient and necessary to accomplish 3021
the purposes directed in sections 4101.01 to 4101.16 and 4121.01 3022
to 4121.28 of the Revised Code; 3023

(H) Nothing in this section shall be construed to 3024
supersede section 4105.011 of the Revised Code in particular, or 3025
Chapter 4105. of the Revised Code in general. 3026

Sec. 4121.30. (A) All rules governing the operating 3027
procedure of the bureau of workers' compensation and the 3028
industrial commission shall be adopted in accordance with 3029
Chapter 119. of the Revised Code, except that determinations of 3030
the bureau, district hearing officers, staff hearing officers, 3031
the occupational pneumoconiosis board, and the commission, with 3032
respect to an individual employee's claim to participate in the 3033
state insurance fund are governed only by ~~Chapter~~ Chapters 4123. 3034
and 4133. of the Revised Code. 3035

The administrator of workers' compensation and commission 3036
shall proceed jointly, in accordance with Chapter 119. of the 3037
Revised Code, including a joint hearing, to adopt joint rules 3038
governing the operating procedures of the bureau and commission. 3039

(B) Upon submission to the bureau or the commission of a 3040
petition containing not less than fifteen hundred signatures of 3041
adult residents of the state, any individual may propose a rule 3042
for adoption, amendment, or rescission by the bureau or the 3043
commission. If, upon investigation, the bureau or commission is 3044
satisfied that the signatures upon the petition are valid, it 3045
shall proceed, in accordance with Chapter 119. of the Revised 3046

Code, to consider adoption, amendment, or rescission of the 3047
rule. 3048

(C) The administrator shall make available electronically 3049
all rules adopted by the bureau and the commission and shall 3050
make available in a timely manner all rules adopted by the 3051
bureau and the commission that are currently in force. 3052

(D) The rule-making authority granted to the administrator 3053
under this section does not limit the commission's rule-making 3054
authority relative to its overall adjudicatory policy-making and 3055
management duties under this chapter and Chapters 4123., 4127., 3056
~~and 4131., and 4133.~~ of the Revised Code. The administrator 3057
shall not disregard any rule adopted by the commission, provided 3058
that the rule is within the commission's rule-making authority. 3059

Sec. 4121.31. (A) The administrator of workers' 3060
compensation and the industrial commission jointly shall adopt 3061
rules covering the following general topics with respect to this 3062
chapter and ~~Chapter~~ Chapters 4123. and 4133. of the Revised 3063
Code: 3064

(1) Rules that set forth any general policy and the 3065
principal operating procedures of the bureau of workers' 3066
compensation or commission, including but not limited to: 3067

(a) Assignment to various operational units of any duties 3068
placed upon the administrator or the commission by statute; 3069

(b) Procedures for decision-making; 3070

(c) Procedures governing the appearances of a claimant, 3071
employer, or their representatives before the agency in a 3072
hearing; 3073

(d) Procedures that inform claimants, on request, of the 3074

status of a claim and any actions necessary to maintain the 3075
claim; 3076

(e) Time goals for activities of the bureau or commission; 3077

(f) Designation of the person or persons authorized to 3078
issue directives with directives numbered and distributed from a 3079
central distribution point to persons on a list maintained for 3080
that purpose. 3081

(2) A rule barring any employee of the bureau or 3082
commission from having a workers' compensation claims file in 3083
the employee's possession unless the file is necessary to the 3084
performance of the employee's duties. 3085

(3) All claims, whether of a state fund or self-insuring 3086
employer, be processed in an orderly, uniform, and timely 3087
fashion. 3088

(4) Rules governing the submission and sending of 3089
applications, notices, evidence, and other documents by 3090
electronic means. The rules shall provide that where this 3091
chapter or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the 3092
Revised Code requires that a document be in writing or requires 3093
a signature, the administrator and the commission, to the extent 3094
of their respective jurisdictions, may approve of and provide 3095
for the electronic submission and sending of those documents, 3096
and the use of an electronic signature on those documents. 3097

(B) As used in this section: 3098

(1) "Electronic" includes electrical, digital, magnetic, 3099
optical, electromagnetic, facsimile, or any other form of 3100
technology that entails capabilities similar to these 3101
technologies. 3102

(2) "Electronic record" means a record generated, 3103
communicated, received, or stored by electronic means for use in 3104
an information system or for transmission from one information 3105
system to another. 3106

(3) "Electronic signature" means a signature in electronic 3107
form attached to or logically associated with an electronic 3108
record. 3109

Sec. 4121.32. (A) The rules covering operating procedure 3110
and criteria for decision-making that the administrator of 3111
workers' compensation and the industrial commission are required 3112
to adopt pursuant to section 4121.31 of the Revised Code shall 3113
be supplemented with operating manuals setting forth the 3114
procedural steps in detail for performing each of the assigned 3115
tasks of each section of the bureau of workers' compensation and 3116
commission. The administrator and commission jointly shall adopt 3117
such manuals. No employee may deviate from manual procedures 3118
without authorization of the section chief. 3119

(B) Manuals shall set forth the procedure for the 3120
assignment and transfer of claims within sections and be 3121
designed to provide performance objectives and may require 3122
employees to record sufficient data to reasonably measure the 3123
efficiency of functions in all sections. The bureau shall 3124
perform periodic cost-effectiveness analyses that shall be made 3125
available to the general assembly, the governor, and to the 3126
public during normal working hours. 3127

(C) The bureau and commission jointly shall develop, 3128
adopt, and use a policy manual setting forth the guidelines and 3129
bases for decision-making for any decision which is the 3130
responsibility of the bureau, district hearing officers, staff 3131
hearing officers, or the commission. Guidelines shall be set 3132

forth in the policy manual by the bureau and commission to the	3133
extent of their respective jurisdictions for deciding at least	3134
the following specific matters:	3135
(1) Reasonable ambulance services;	3136
(2) Relationship of drugs to injury;	3137
(3) Awarding lump-sum advances for creditors;	3138
(4) Awarding lump-sum advances for attorney's fees;	3139
(5) Placing a claimant into rehabilitation;	3140
(6) Transferring costs of a claim from employer costs to	3141
the statutory surplus fund pursuant to section 4123.343 of the	3142
Revised Code;	3143
(7) Utilization of physician specialist reports;	3144
(8) Determining the percentage of permanent partial	3145
disability, temporary partial disability, temporary total	3146
disability, violations of specific safety requirements, an award	3147
under division (B) of section 4123.57 of the Revised Code, and	3148
permanent total disability.	3149
(D) The bureau shall establish, adopt, and implement	3150
policy guidelines and bases for decisions involving	3151
reimbursement issues including, but not limited to, the	3152
adjustment of invoices, the reduction of payments for future	3153
services when an internal audit concludes that a health care	3154
provider was overpaid or improperly paid for past services,	3155
reimbursement fees, or other adjustments to payments. These	3156
policy guidelines and bases for decisions, and any changes to	3157
the guidelines and bases, shall be set forth in a reimbursement	3158
manual and provider bulletins.	3159

Neither the policy guidelines nor the bases set forth in 3160
the reimbursement manual or provider bulletins referred to in 3161
this division is a rule as defined in section 119.01 of the 3162
Revised Code. 3163

(E) With respect to any determination of disability under 3164
Chapter 4123. or 4133. of the Revised Code, when the physician 3165
makes a determination based upon statements or information 3166
furnished by the claimant or upon subjective evidence, the 3167
physician shall clearly indicate this fact in the physician's 3168
report. 3169

(F) The administrator shall publish the manuals and make 3170
copies of all manuals available to interested parties at cost. 3171

Sec. 4121.34. (A) District hearing officers shall hear the 3172
matters listed in division (B) of this section. District hearing 3173
officers are in the classified civil service of the state, are 3174
full-time employees of the industrial commission, and shall be 3175
persons admitted to the practice of law in this state. District 3176
hearing officers shall not engage in any other activity that 3177
interferes with their full-time employment by the commission 3178
during normal working hours. 3179

~~(B) District~~ (1) Except as provided in division (B) (2) of 3180
this section, district hearing officers shall have original 3181
jurisdiction on all of the following matters: 3182

~~(1) (a)~~ Determinations under section 4123.57 of the 3183
Revised Code; 3184

~~(2) (b)~~ All appeals from a decision of the administrator 3185
of workers' compensation under division (B) of section 4123.511 3186
and section 4133.06 of the Revised Code; 3187

~~(3) (c)~~ All other contested claims matters under this 3188

chapter and Chapters 4123., 4127., ~~and 4131.~~, and 4133. of the 3189
Revised Code, except those matters over which staff hearing 3190
officers have original jurisdiction. 3191

(2) Division (B)(1) of this section does not apply to a 3192
claim that has been referred to the occupational pneumoconiosis 3193
board under section 4133.08 of the Revised Code. 3194

(C) The administrator of workers' compensation shall make 3195
available to each district hearing officer the facilities and 3196
assistance of bureau employees and furnish all information 3197
necessary to the performance of the district hearing officer's 3198
duties. 3199

Sec. 4121.36. (A) The industrial commission shall adopt 3200
rules as to the conduct of all hearings before the commission 3201
and its staff and district hearing officers and the rendering of 3202
a decision and shall focus such rules on managing, directing, 3203
and otherwise ensuring a fair, equitable, and uniform hearing 3204
process. These rules shall provide for at least the following 3205
steps and procedures: 3206

(1) Adequate notice to all parties and their 3207
representatives to ensure that no hearing is conducted unless 3208
all parties have the opportunity to be present and to present 3209
evidence and arguments in support of their positions or in 3210
rebuttal to the evidence or arguments of other parties; 3211

(2) A public hearing; 3212

(3) Written decisions; 3213

(4) Impartial assignment of staff and district hearing 3214
officers and assignment of appeals from a decision of the 3215
administrator of workers' compensation to a district hearing 3216
officer located at the commission service office that is the 3217

closest in geographic proximity to the claimant's residence;	3218
(5) Publication of a docket;	3219
(6) The securing of the attendance or testimony of witnesses;	3220 3221
(7) Prehearing rules, including rules relative to discovery, the taking of depositions, and exchange of information relevant to a claim prior to the conduct of a hearing;	3222 3223 3224 3225
(8) The issuance of orders by the district or staff hearing officer who renders the decision.	3226 3227
(B) Every decision by a staff or district hearing officer or the commission shall be in writing and contain all of the following elements:	3228 3229 3230
(1) A concise statement of the order or award;	3231
(2) A notation as to notice provided and as to appearance of parties;	3232 3233
(3) Signatures of each commissioner or appropriate hearing officer on the original copy of the decision only, verifying the commissioner's or hearing officer's vote;	3234 3235 3236
(4) Description of the part of the body and nature of the disability recognized in the claim.	3237 3238
(C) The commission shall adopt rules that require the regular rotation of district hearing officers with respect to the types of matters under consideration and that ensure that no district or staff hearing officer or the commission hears a claim unless all interested and affected parties have the opportunity to be present and to present evidence and arguments	3239 3240 3241 3242 3243 3244

in support of their positions or in rebuttal to the evidence or 3245
arguments of other parties. 3246

(D) All matters which, at the request of one of the 3247
parties or on the initiative of the administrator and any 3248
commissioner, are to be expedited, shall require at least forty- 3249
eight hours' notice, a public hearing, and a statement in any 3250
order of the circumstances that justified such expeditious 3251
hearings. 3252

(E) All meetings of the commission and district and staff 3253
hearing officers shall be public with adequate notice, including 3254
if necessary, to the claimant, the employer, their 3255
representatives, and the administrator. Confidentiality of 3256
medical evidence presented at a hearing does not constitute a 3257
sufficient ground to relieve the requirement of a public 3258
hearing, but the presentation of privileged or confidential 3259
evidence shall not create any greater right of public inspection 3260
of evidence than presently exists. 3261

(F) The commission shall compile all of its original 3262
memorandums, orders, and decisions in a journal and make the 3263
journal available to the public with sufficient indexing to 3264
allow orderly review of documents. The journal shall indicate 3265
the vote of each commissioner. 3266

(G) (1) All original orders, rules, and memoranda, and 3267
decisions of the commission shall contain the signatures of two 3268
of the three commissioners and state whether adopted at a 3269
meeting of the commission or by circulation to individual 3270
commissioners. Any facsimile or secretarial signature, initials 3271
of commissioners, and delegated employees, and any printed 3272
record of the "yes" and "no" vote of a commission member or of a 3273
hearing officer on such original is invalid. 3274

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

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

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

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

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

(2) Appoint a hearing administrator, who shall be in the classified civil service of the state, for each bureau service office, and sufficient support personnel for each hearing

administrator, which support personnel shall be under the direct 3304
supervision of the hearing administrator. The hearing 3305
administrator shall do all of the following: 3306

(a) Assist the commission in ensuring that district 3307
hearing officers comply with the time limitations for the 3308
holding of hearings and issuance of orders under section 3309
4123.511 of the Revised Code. For that purpose, each hearing 3310
administrator shall prepare a monthly report identifying the 3311
status of all claims in its office and identifying specifically 3312
the claims which have not been decided within the time limits 3313
set forth in section 4123.511 of the Revised Code. The 3314
commission shall submit an annual report of all such reports to 3315
the standing committees of the house of representatives and of 3316
the state to which matters concerning workers' compensation are 3317
normally referred. 3318

(b) Provide information to requesting parties or their 3319
representatives on the status of their claim; 3320

(c) Issue compliance letters, upon a finding of good cause 3321
and without a formal hearing in all of the following areas: 3322

(i) Divisions (B) and (C) of section 4123.651 of the 3323
Revised Code; 3324

(ii) Requests for the taking of depositions of bureau and 3325
commission physicians; 3326

(iii) The issuance of subpoenas; 3327

(iv) The granting or denying of requests for continuances; 3328

(v) Matters involving section 4123.522 of the Revised 3329
Code; 3330

(vi) Requests for conducting telephone pre-hearing 3331

conferences; 3332

(vii) Any other matter that will cause a free exchange of 3333
information prior to the formal hearing. 3334

(d) Ensure that claim files are reviewed by the district 3335
hearing officer prior to the hearing to ensure that there is 3336
sufficient information to proceed to a hearing; 3337

(e) Ensure that for occupational disease claims under 3338
section 4123.68 of the Revised Code and for occupational 3339
pneumoconiosis claims under Chapter 4133. of the Revised Code 3340
that require a medical examination the medical examination is 3341
conducted prior to the hearing; 3342

(f) Take the necessary steps to prepare a claim to proceed 3343
to a hearing where the parties agree and advise the hearing 3344
administrator that the claim is not ready for a hearing. 3345

(I) The commission shall permit any person direct access 3346
to information contained in electronic data processing equipment 3347
regarding the status of a claim in the hearing process. The 3348
information shall indicate the number of days that the claim has 3349
been in process, the number of days the claim has been in its 3350
current location, and the number of days in the current point of 3351
the process within that location. 3352

(J) (1) The industrial commission may establish an 3353
alternative dispute resolution process for workers' compensation 3354
claims that are within the commission's jurisdiction under 3355
Chapters 4121., 4123., 4127., ~~and 4131.~~ and 4133. of the 3356
Revised Code when the commission determines that such a process 3357
is necessary. Notwithstanding sections 4121.34 and 4121.35 of 3358
the Revised Code, the commission may enter into personal service 3359
contracts with individuals who are qualified because of their 3360

education and experience to act as facilitators in the 3361
commission's alternative dispute resolution process. 3362

(2) The parties' use of the alternative dispute resolution 3363
process is voluntary, and requires the agreement of all 3364
necessary parties. The use of the alternative dispute resolution 3365
process does not alter the rights or obligations of the parties, 3366
nor does it delay the timelines set forth in section 4123.511 of 3367
the Revised Code. 3368

(3) The commission shall prepare monthly reports and 3369
submit those reports to the governor, the president of the 3370
senate, and the speaker of the house of representatives 3371
describing all of the following: 3372

(a) The names of each facilitator employed under a 3373
personal service contract; 3374

(b) The hourly amount of money and the total amount of 3375
money paid to each facilitator; 3376

(c) The number of disputed issues resolved during that 3377
month by each facilitator; 3378

(d) The number of decisions of each facilitator that were 3379
appealed by a party; 3380

(e) A certification by the commission that the alternative 3381
dispute resolution process did not delay any hearing timelines 3382
as set forth in section 4123.511 of the Revised Code for any 3383
disputed issue. 3384

(4) The commission may adopt rules in accordance with 3385
Chapter 119. of the Revised Code for the administration of any 3386
alternative dispute resolution process that the commission 3387
establishes. 3388

Sec. 4121.41. (A) The administrator of workers'	3389
compensation shall operate a program designed to inform	3390
employees and employers of their rights and responsibilities	3391
under Chapter <u>Chapters 4123. and 4133.</u> of the Revised Code and	3392
as part of that program prepare and distribute pamphlets, which	3393
clearly and simply explain at least all of the following:	3394
(1) The rights and responsibilities of claimants and	3395
employers;	3396
(2) The procedures for processing claims;	3397
(3) The procedure for fulfilling employer responsibility;	3398
(4) All applicable statutes of limitation;	3399
(5) The availability of services and benefits;	3400
(6) The claimant's right to representation in the	3401
processing of a claim or to elect no representation.	3402
The administrator shall ensure that the provisions of this	3403
section are faithfully and speedily implemented.	3404
(B) The bureau of workers' compensation shall maintain an	3405
ongoing program to identify employers subject to Chapter 4123.	3406
of the Revised Code and to audit employers to ensure an optimum	3407
level of premium payment. The bureau shall coordinate such	3408
efforts with other governmental agencies which have information	3409
as to employers who are subject to Chapter 4123. of the Revised	3410
Code.	3411
(C) The administrator shall handle complaints through the	3412
service offices, the claims section, and the ombudsperson	3413
program. The administrator shall provide toll free telephone	3414
lines for employers and claimants in order to expedite the	3415
handling of complaints. The bureau shall monitor complaint	3416

traffic to ensure an adequacy of telephone service to bureau 3417
offices and shall compile statistics on complaint subjects. 3418
Based upon those compilations, the bureau shall revise 3419
procedures and rules to correct major problem areas and submit 3420
data and recommendations annually to the appropriate committees 3421
of the general assembly. 3422

Sec. 4121.44. (A) The administrator of workers' 3423
compensation shall oversee the implementation of the Ohio 3424
workers' compensation qualified health plan system as 3425
established under section 4121.442 of the Revised Code. 3426

(B) The administrator shall direct the implementation of 3427
the health partnership program administered by the bureau as set 3428
forth in section 4121.441 of the Revised Code. To implement the 3429
health partnership program and to ensure the efficiency and 3430
effectiveness of the public services provided through the 3431
program, the bureau: 3432

(1) Shall certify one or more external vendors, which 3433
shall be known as "managed care organizations," to provide 3434
medical management and cost containment services in the health 3435
partnership program for a period of two years beginning on the 3436
date of certification, consistent with the standards established 3437
under this section; 3438

(2) May recertify managed care organizations for 3439
additional periods of two years; and 3440

(3) May integrate the certified managed care organizations 3441
with bureau staff and existing bureau services for purposes of 3442
operation and training to allow the bureau to assume operation 3443
of the health partnership program at the conclusion of the 3444
certification periods set forth in division (B) (1) or (2) of 3445

this section; 3446

(4) May enter into a contract with any managed care 3447
organization that is certified by the bureau, pursuant to 3448
division (B) (1) or (2) of this section, to provide medical 3449
management and cost containment services in the health 3450
partnership program. 3451

(C) A contract entered into pursuant to division (B) (4) of 3452
this section shall include both of the following: 3453

(1) Incentives that may be awarded by the administrator, 3454
at the administrator's discretion, based on compliance and 3455
performance of the managed care organization; 3456

(2) Penalties that may be imposed by the administrator, at 3457
the administrator's discretion, based on the failure of the 3458
managed care organization to reasonably comply with or perform 3459
terms of the contract, which may include termination of the 3460
contract. 3461

(D) Notwithstanding section 119.061 of the Revised Code, a 3462
contract entered into pursuant to division (B) (4) of this 3463
section may include provisions limiting, restricting, or 3464
regulating any marketing or advertising by the managed care 3465
organization, or by any individual or entity that is affiliated 3466
with or acting on behalf of the managed care organization, under 3467
the health partnership program. 3468

(E) No managed care organization shall receive 3469
compensation under the health partnership program unless the 3470
managed care organization has entered into a contract with the 3471
bureau pursuant to division (B) (4) of this section. 3472

(F) Any managed care organization selected shall 3473
demonstrate all of the following: 3474

- (1) Arrangements and reimbursement agreements with a substantial number of the medical, professional and pharmacy providers currently being utilized by claimants. 3475
3476
3477
- (2) Ability to accept a common format of medical bill data in an electronic fashion from any provider who wishes to submit medical bill data in that form. 3478
3479
3480
- (3) A computer system able to handle the volume of medical bills and willingness to customize that system to the bureau's needs and to be operated by the managed care organization's staff, bureau staff, or some combination of both staffs. 3481
3482
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3484
- (4) A prescription drug system where pharmacies on a statewide basis have access to the eligibility and pricing, at a discounted rate, of all prescription drugs. 3485
3486
3487
- (5) A tracking system to record all telephone calls from claimants and providers regarding the status of submitted medical bills so as to be able to track each inquiry. 3488
3489
3490
- (6) Data processing capacity to absorb all of the bureau's medical bill processing or at least that part of the processing which the bureau arranges to delegate. 3491
3492
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- (7) Capacity to store, retrieve, array, simulate, and model in a relational mode all of the detailed medical bill data so that analysis can be performed in a variety of ways and so that the bureau and its governing authority can make informed decisions. 3494
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- (8) Wide variety of software programs which translate medical terminology into standard codes, and which reveal if a provider is manipulating the procedures codes, commonly called "unbundling." 3499
3500
3501
3502

(9) Necessary professional staff to conduct, at a minimum, 3503
authorizations for treatment, medical necessity, utilization 3504
review, concurrent review, post-utilization review, and have the 3505
attendant computer system which supports such activity and 3506
measures the outcomes and the savings. 3507

(10) Management experience and flexibility to be able to 3508
react quickly to the needs of the bureau in the case of required 3509
change in federal or state requirements. 3510

(G) (1) The administrator may decertify a managed care 3511
organization if the managed care organization does any of the 3512
following: 3513

(a) Fails to maintain any of the requirements set forth in 3514
division (F) of this section; 3515

(b) Fails to reasonably comply with or to perform in 3516
accordance with the terms of a contract entered into under 3517
division (B) (4) of this section; 3518

(c) Violates a rule adopted under section 4121.441 of the 3519
Revised Code. 3520

(2) The administrator shall provide each managed care 3521
organization that is being decertified pursuant to division (G) 3522
(1) of this section with written notice of the pending 3523
decertification and an opportunity for a hearing pursuant to 3524
rules adopted by the administrator. 3525

(H) (1) Information contained in a managed care 3526
organization's application for certification in the health 3527
partnership program, and other information furnished to the 3528
bureau by a managed care organization for purposes of obtaining 3529
certification or to comply with performance and financial 3530
auditing requirements established by the administrator, is for 3531

the exclusive use and information of the bureau in the discharge 3532
of its official duties, and shall not be open to the public or 3533
be used in any court in any proceeding pending therein, unless 3534
the bureau is a party to the action or proceeding, but the 3535
information may be tabulated and published by the bureau in 3536
statistical form for the use and information of other state 3537
departments and the public. No employee of the bureau, except as 3538
otherwise authorized by the administrator, shall divulge any 3539
information secured by the employee while in the employ of the 3540
bureau in respect to a managed care organization's application 3541
for certification or in respect to the business or other trade 3542
processes of any managed care organization to any person other 3543
than the administrator or to the employee's superior. 3544

(2) Notwithstanding the restrictions imposed by division 3545
(H) (1) of this section, the governor, members of select or 3546
standing committees of the senate or house of representatives, 3547
the auditor of state, the attorney general, or their designees, 3548
pursuant to the authority granted in this chapter and Chapter 3549
4123. of the Revised Code, may examine any managed care 3550
organization application or other information furnished to the 3551
bureau by the managed care organization. None of those 3552
individuals shall divulge any information secured in the 3553
exercise of that authority in respect to a managed care 3554
organization's application for certification or in respect to 3555
the business or other trade processes of any managed care 3556
organization to any person. 3557

(I) On and after January 1, 2001, a managed care 3558
organization shall not be an insurance company holding a 3559
certificate of authority issued pursuant to Title XXXIX of the 3560
Revised Code or a health insuring corporation holding a 3561
certificate of authority under Chapter 1751. of the Revised 3562

Code. 3563

(J) The administrator may limit freedom of choice of 3564
health care provider or supplier by requiring, beginning with 3565
the period set forth in division (B)(1) or (2) of this section, 3566
that claimants shall pay an appropriate out-of-plan copayment 3567
for selecting a medical provider not within the health 3568
partnership program as provided for in this section. 3569

(K) The administrator, six months prior to the expiration 3570
of the bureau's certification or recertification of the managed 3571
care organizations as set forth in division (B)(1) or (2) of 3572
this section, may certify and provide evidence to the governor, 3573
the speaker of the house of representatives, and the president 3574
of the senate that the existing bureau staff is able to match or 3575
exceed the performance and outcomes of the managed care 3576
organizations and that the bureau should be permitted to 3577
internally administer the health partnership program upon the 3578
expiration of the certification or recertification as set forth 3579
in division (B)(1) or (2) of this section. 3580

(L) The administrator shall establish and operate a bureau 3581
of workers' compensation health care data program. The 3582
administrator shall develop reporting requirements from all 3583
employees, employers, medical providers, managed care 3584
organizations, and plans that participate in the workers' 3585
compensation system. The administrator shall do all of the 3586
following: 3587

(1) Utilize the collected data to measure and perform 3588
comparison analyses of costs, quality, appropriateness of 3589
medical care, and effectiveness of medical care delivered by all 3590
components of the workers' compensation system. 3591

(2) Compile data to support activities of the selected 3592
managed care organizations and to measure the outcomes and 3593
savings of the health partnership program. 3594

(3) Publish and report compiled data on the measures of 3595
outcomes and savings of the health partnership program and 3596
submit the report to the president of the senate, the speaker of 3597
the house of representatives, and the governor with the annual 3598
report prepared under division (F) (3) of section 4121.12 of the 3599
Revised Code. The administrator shall protect the 3600
confidentiality of all proprietary pricing data. 3601

(M) Any rehabilitation facility the bureau operates is 3602
eligible for inclusion in the Ohio workers' compensation 3603
qualified health plan system or the health partnership program 3604
under the same terms as other providers within health care plans 3605
or the program. 3606

(N) In areas outside the state or within the state where 3607
no qualified health plan or an inadequate number of providers 3608
within the health partnership program exist, the administrator 3609
shall permit employees to use a nonplan or nonprogram health 3610
care provider and shall pay the provider for the services or 3611
supplies provided to or on behalf of an employee for an injury 3612
or occupational disease that is compensable under this chapter 3613
or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code 3614
on a fee schedule the administrator adopts. 3615

(O) No health care provider, whether certified or not, 3616
shall charge, assess, or otherwise attempt to collect from an 3617
employee, employer, a managed care organization, or the bureau 3618
any amount for covered services or supplies that is in excess of 3619
the allowed amount paid by a managed care organization, the 3620
bureau, or a qualified health plan. 3621

(P) The administrator shall permit any employer or group 3622
of employers who agree to abide by the rules adopted under this 3623
section and sections 4121.441 and 4121.442 of the Revised Code 3624
to provide services or supplies to or on behalf of an employee 3625
for an injury or occupational disease that is compensable under 3626
this chapter or Chapter 4123., 4127., ~~or 4131.~~ or 4133. of the 3627
Revised Code through qualified health plans of the Ohio workers' 3628
compensation qualified health plan system pursuant to section 3629
4121.442 of the Revised Code or through the health partnership 3630
program pursuant to section 4121.441 of the Revised Code. No 3631
amount paid under the qualified health plan system pursuant to 3632
section 4121.442 of the Revised Code by an employer who is a 3633
state fund employer shall be charged to the employer's 3634
experience or otherwise be used in merit-rating or determining 3635
the risk of that employer for the purpose of the payment of 3636
premiums under this chapter, and if the employer is a self- 3637
insuring employer, the employer shall not include that amount in 3638
the paid compensation the employer reports under section 4123.35 3639
of the Revised Code. 3640

(Q) The administrator, in consultation with the health 3641
care quality assurance advisory committee created by the 3642
administrator or its successor committee, shall develop and 3643
periodically revise standards for maintaining an adequate number 3644
of providers certified by the bureau for each service currently 3645
being used by claimants. The standards shall ensure both of the 3646
following: 3647

(1) That a claimant has access to a choice of providers 3648
for similar services within the geographic area that the 3649
claimant resides; 3650

(2) That the providers within a geographic area are 3651

actively accepting new claimants as required in rules adopted by 3652
the administrator. 3653

Sec. 4121.441. (A) The administrator of workers' 3654
compensation, with the advice and consent of the bureau of 3655
workers' compensation board of directors, shall adopt rules 3656
under Chapter 119. of the Revised Code for the health care 3657
partnership program administered by the bureau of workers' 3658
compensation to provide medical, surgical, nursing, drug, 3659
hospital, and rehabilitation services and supplies to an 3660
employee for an injury or occupational disease that is 3661
compensable under this chapter or Chapter 4123., 4127., ~~or~~ 3662
4131., or 4133. of the Revised Code, and to regulate contracts 3663
with managed care organizations pursuant to this chapter. 3664

(1) The rules shall include, but are not limited to, the 3665
following: 3666

(a) Procedures for the resolution of medical disputes 3667
between an employer and an employee, an employee and a provider, 3668
or an employer and a provider, prior to an appeal under section 3669
4123.511 of the Revised Code. Rules the administrator adopts 3670
pursuant to division (A) (1) (a) of this section may specify that 3671
the resolution procedures shall not be used to resolve disputes 3672
concerning medical services rendered that have been approved 3673
through standard treatment guidelines, pathways, or presumptive 3674
authorization guidelines. 3675

(b) Prohibitions against discrimination against any 3676
category of health care providers; 3677

(c) Procedures for reporting injuries to employers and the 3678
bureau by providers; 3679

(d) Appropriate financial incentives to reduce service 3680

cost and insure proper system utilization without sacrificing 3681
the quality of service; 3682

(e) Adequate methods of peer review, utilization review, 3683
quality assurance, and dispute resolution to prevent, and 3684
provide sanctions for, inappropriate, excessive or not medically 3685
necessary treatment; 3686

(f) A timely and accurate method of collection of 3687
necessary information regarding medical and health care service 3688
and supply costs, quality, and utilization to enable the 3689
administrator to determine the effectiveness of the program; 3690

(g) Provisions for necessary emergency medical treatment 3691
for an injury or occupational disease provided by a health care 3692
provider who is not part of the program; 3693

(h) Discounted pricing for all in-patient and out-patient 3694
medical services, all professional services, and all 3695
pharmaceutical services; 3696

(i) Provisions for provider referrals, pre-admission and 3697
post-admission approvals, second surgical opinions, and other 3698
cost management techniques; 3699

(j) Antifraud mechanisms; 3700

(k) Standards and criteria for the bureau to utilize in 3701
certifying or recertifying a health care provider or a managed 3702
care organization for participation in the health partnership 3703
program; 3704

(l) Standards for the bureau to utilize in penalizing or 3705
decertifying a health care provider from participation in the 3706
health partnership program. 3707

(2) Notwithstanding section 119.061 of the Revised Code, 3708

the rules may include provisions limiting, restricting, or 3709
regulating any marketing or advertising by a managed care 3710
organization, or by any individual or entity that is affiliated 3711
with or acting on behalf of the managed care organization, under 3712
the health partnership program. 3713

(B) The administrator shall implement the health 3714
partnership program according to the rules the administrator 3715
adopts under this section for the provision and payment of 3716
medical, surgical, nursing, drug, hospital, and rehabilitation 3717
services and supplies to an employee for an injury or 3718
occupational disease that is compensable under this chapter or 3719
Chapter 4123., 4127., ~~or 4131.~~, or 4133. of the Revised Code." 3720

Sec. 4121.442. (A) The administrator of workers' 3721
compensation shall develop standards for qualification of health 3722
care plans of the Ohio workers' compensation qualified health 3723
plan system to provide medical, surgical, nursing, drug, 3724
hospital, and rehabilitation services and supplies to an 3725
employee for an injury or occupational disease that is 3726
compensable under this chapter or Chapter 4123., 4127., ~~or~~ 3727
4131., or 4133. of the Revised Code. In adopting the standards, 3728
the administrator shall use nationally recognized accreditation 3729
standards. The standards the administrator adopts must provide 3730
that a qualified plan provides for all of the following: 3731

(1) Criteria for selective contracting of health care 3732
providers; 3733

(2) Adequate plan structure and financial stability; 3734

(3) Procedures for the resolution of medical disputes 3735
between an employee and an employer, an employee and a provider, 3736
or an employer and a provider, prior to an appeal under section 3737

4123.511 of the Revised Code;	3738
(4) Authorize employees who are dissatisfied with the health care services of the employer's qualified plan and do not wish to obtain treatment under the provisions of this section, to request the administrator for referral to a health care provider in the bureau's health care partnership program. The administrator must refer all requesting employees into the health care partnership program.	3739 3740 3741 3742 3743 3744 3745
(5) Does not discriminate against any category of health care provider;	3746 3747
(6) Provide a procedure for reporting injuries to the bureau of workers' compensation and to employers by providers within the qualified plan;	3748 3749 3750
(7) Provide appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;	3751 3752 3753
(8) Provide adequate methods of peer review, utilization review, quality assurance, and dispute resolution to prevent and provide sanctions for inappropriate, excessive, or not medically necessary treatment;	3754 3755 3756 3757
(9) Provide a timely and accurate method of reporting to the administrator necessary information regarding medical and health care service and supply costs, quality, and utilization to enable the administrator to determine the effectiveness of the plan;	3758 3759 3760 3761 3762
(10) Authorize necessary emergency medical treatment for an injury or occupational disease provided by a health care provider who is not a part of the qualified health care plan;	3763 3764 3765

(11) Provide an employee the right to change health care providers within the qualified health care plan;	3766 3767
(12) Provide for standardized data and reporting requirements;	3768 3769
(13) Authorize necessary medical treatment for employees who work in Ohio but reside in another state.	3770 3771
(B) Health care plans that meet the approved qualified health plan standards shall be considered qualified plans and are eligible to become part of the Ohio workers' compensation qualified health plan system. Any employer or group of employers may provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. <u>or 4133.</u> of the Revised Code through a qualified health plan.	3772 3773 3774 3775 3776 3777 3778 3779 3780
Sec. 4121.444. (A) No person, health care provider, managed care organization, or owner of a health care provider or managed care organization shall obtain or attempt to obtain payments by deception under Chapter 4121., 4123., 4127., or 4131. <u>or 4133.</u> of the Revised Code to which the person, health care provider, managed care organization, or owner is not entitled under rules of the bureau of workers' compensation adopted pursuant to sections 4121.441 and 4121.442 of the Revised Code.	3781 3782 3783 3784 3785 3786 3787 3788 3789
(B) Any person, health care provider, managed care organization, or owner that violates division (A) of this section is liable, in addition to any other penalties provided by law, for all of the following penalties:	3790 3791 3792 3793
(1) Payment of interest on the amount of the excess	3794

payments at the maximum interest rate allowable for real estate 3795
mortgages under section 1343.01 of the Revised Code. The 3796
interest shall be calculated from the date the payment was made 3797
to the person, owner, health care provider, or managed care 3798
organization through the date upon which repayment is made to 3799
the bureau or the self-insuring employer. 3800

(2) Payment of an amount equal to three times the amount 3801
of any excess payments; 3802

(3) Payment of a sum of not less than five thousand 3803
dollars and not more than ten thousand dollars for each act of 3804
deception; 3805

(4) All reasonable and necessary expenses that the court 3806
determines have been incurred by the bureau or the self-insuring 3807
employer in the enforcement of this section. 3808

All moneys collected by the bureau pursuant to this 3809
section shall be deposited into the state insurance fund created 3810
in section 4123.30 of the Revised Code. All moneys collected by 3811
a self-insuring employer pursuant to this section shall be 3812
awarded to the self-insuring employer. 3813

(C) (1) In addition to the monetary penalties provided in 3814
division (B) of this section and except as provided in division 3815
(C) (3) of this section, the administrator may terminate any 3816
agreement between the bureau and a person or a health care 3817
provider or managed care organization or its owner and cease 3818
reimbursement to that person, provider, organization, or owner 3819
for services rendered if any of the following apply: 3820

(a) The person, health care provider, managed care 3821
organization, or its owner, or an officer, authorized agent, 3822
associate, manager, or employee of a person, provider, or 3823

organization is convicted of or pleads guilty to a violation of 3824
sections 2913.48 or 2923.31 to 2923.36 of the Revised Code or 3825
any other criminal offense related to the delivery of or billing 3826
for health care benefits. 3827

(b) There exists an entry of judgment against the person, 3828
health care provider, managed care organization, or its owner, 3829
or an officer, authorized agent, associate, manager, or employee 3830
of a person, provider, or organization and proof of the specific 3831
intent of the person, health care provider, managed care 3832
organization, or owner to defraud, in a civil action brought 3833
pursuant to this section. 3834

(c) There exists an entry of judgment against the person, 3835
health care provider, managed care organization, or its owner, 3836
or an officer, authorized agent, associate, manager, or employee 3837
of a person, provider, or organization in a civil action brought 3838
pursuant to sections 2923.31 to 2923.36 of the Revised Code. 3839

(2) No person, health care provider, or managed care 3840
organization that has had its agreement with and reimbursement 3841
from the bureau terminated by the administrator pursuant to 3842
division (C)(1) of this section, or an owner, officer, 3843
authorized agent, associate, manager, or employee of that 3844
person, health care provider, or managed care organization shall 3845
do either of the following: 3846

(a) Directly provide services to any other bureau provider 3847
or have an ownership interest in a provider of services that 3848
furnishes services to any other bureau provider; 3849

(b) Arrange for, render, or order services for claimants 3850
during the period that the agreement of the person, health care 3851
provider, managed care organization, or its owner is terminated 3852

as described in division (C) (1) of this section; 3853

(3) The administrator shall not terminate the agreement or 3854
reimbursement if the person, health care provider, managed care 3855
organization, or owner demonstrates that the person, provider, 3856
organization, or owner did not directly or indirectly sanction 3857
the action of the authorized agent, associate, manager, or 3858
employee that resulted in the conviction, plea of guilty, or 3859
entry of judgment as described in division (C) (1) of this 3860
section. 3861

(4) Nothing in division (C) of this section prohibits an 3862
owner, officer, authorized agent, associate, manager, or 3863
employee of a person, health care provider, or managed care 3864
organization from entering into an agreement with the bureau if 3865
the provider, organization, owner, officer, authorized agent, 3866
associate, manager, or employee demonstrates absence of 3867
knowledge of the action of the person, health care provider, or 3868
managed care organization with which that individual or 3869
organization was formerly associated that resulted in a 3870
conviction, plea of guilty, or entry of judgment as described in 3871
division (C) (1) of this section. 3872

(D) The attorney general may bring an action on behalf of 3873
the state and a self-insuring employer may bring an action on 3874
its own behalf to enforce this section in any court of competent 3875
jurisdiction. The attorney general may settle or compromise any 3876
action brought under this section with the approval of the 3877
administrator. 3878

Notwithstanding any other law providing a shorter period 3879
of limitations, the attorney general or a self-insuring employer 3880
may bring an action to enforce this section at any time within 3881
six years after the conduct in violation of this section 3882

terminates. 3883

(E) The availability of remedies under this section and 3884
sections 2913.48 and 2923.31 to 2923.36 of the Revised Code for 3885
recovering benefits paid on behalf of claimants for medical 3886
assistance does not limit the authority of the bureau or a self- 3887
insuring employer to recover excess payments made to an owner, 3888
health care provider, managed care organization, or person under 3889
state and federal law. 3890

(F) As used in this section: 3891

(1) "Deception" means acting with actual knowledge in 3892
order to deceive another or cause another to be deceived by 3893
means of any of the following: 3894

(a) A false or misleading representation; 3895

(b) The withholding of information; 3896

(c) The preventing of another from acquiring information; 3897

(d) Any other conduct, act, or omission that creates, 3898
confirms, or perpetuates a false impression as to a fact, the 3899
law, the value of something, or a person's state of mind. 3900

(2) "Owner" means any person having at least a five per 3901
cent ownership interest in a health care provider or managed 3902
care organization. 3903

Sec. 4121.45. (A) There is hereby created a workers' 3904
compensation ombudsperson system to assist claimants and 3905
employers in matters dealing with the bureau of workers' 3906
compensation and the industrial commission. The industrial 3907
commission nominating council shall appoint a chief 3908
ombudsperson. The chief ombudsperson, with the advice and 3909
consent of the nominating council, may appoint such assistant 3910

ombudspersons as the nominating council deems necessary. The 3911
position of chief ombudsperson is for a term of six years. A 3912
person appointed to the position of chief ombudsperson shall 3913
serve at the pleasure of the nominating council. The chief 3914
ombudsperson may not be transferred, demoted, or suspended 3915
during the person's tenure and may be removed by the nominating 3916
council only upon a vote of not fewer than nine members of the 3917
nominating council. The chief ombudsperson shall devote the 3918
chief ombudsperson's full time and attention to the duties of 3919
the ombudsperson's office. The administrator of workers' 3920
compensation shall furnish the chief ombudsperson with the 3921
office space, supplies, and clerical assistance that will enable 3922
the chief ombudsperson and the ombudsperson system staff to 3923
perform their duties effectively. The ombudsperson program shall 3924
be funded out of the budget of the bureau and the chief 3925
ombudsperson and the ombudsperson system staff shall be carried 3926
on the bureau payroll. The chief ombudsperson and the 3927
ombudsperson system shall be under the direction of the 3928
nominating council. The administrator and all employees of the 3929
bureau and the commission shall give the ~~the~~ ombudsperson system 3930
staff full and prompt cooperation in all matters relating to the 3931
duties of the chief ombudsperson. 3932

(B) The ombudsperson system staff shall: 3933

(1) Answer inquiries or investigate complaints made by 3934
employers or claimants under this chapter and ~~Chapter~~ Chapters 3935
4123. and 4133. of the Revised Code as they relate to the 3936
processing of a claim for workers' compensation benefits; 3937

(2) Provide claimants and employers with information 3938
regarding problems which arise out of the functions of the 3939
bureau, commission hearing officers, and the commission and the 3940

procedures employed in the processing of claims;	3941
(3) Answer inquiries or investigate complaints of an employer as they relate to reserves established and premiums charged in connection with the employer's account;	3942 3943 3944
(4) Comply with Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and the nominating council's human resource and ethics policies;	3945 3946 3947
(5) Not express any opinions as to the merit of a claim or the correctness of a decision by the various officers or agencies as the decision relates to a claim for benefits or compensation.	3948 3949 3950 3951
For the purpose of carrying out the chief ombudsperson's duties, the chief ombudsperson or the ombudsperson system staff, notwithstanding sections 4123.27 and 4123.88 of the Revised Code, has the right at all reasonable times to examine the contents of a claim file and discuss with parties in interest the contents of the file as long as the ombudsperson does not divulge information that would tend to prejudice the case of either party to a claim or that would tend to compromise a privileged attorney-client or doctor-patient relationship.	3952 3953 3954 3955 3956 3957 3958 3959 3960
(C) The chief ombudsperson shall:	3961
(1) Assist any service office in its duties whenever it requires assistance or information that can best be obtained from central office personnel or records;	3962 3963 3964
(2) Annually assemble reports from each assistant ombudsperson as to their activities for the preceding year together with their recommendations as to changes or improvements in the operations of the workers' compensation system. The chief ombudsperson shall prepare a written report	3965 3966 3967 3968 3969

summarizing the activities of the ombudsperson system together 3970
with a digest of recommendations. The chief ombudsperson shall 3971
transmit the report to the nominating council. 3972

(3) Comply with Chapter 102. and sections 2921.42 and 3973
2921.43 of the Revised Code and the nominating council's human 3974
resource and ethics policies. 3975

(D) No ombudsperson or assistant ombudsperson shall: 3976

(1) Represent a claimant or employer in claims pending 3977
before or to be filed with the administrator, a district or 3978
staff hearing officer, the commission, or the courts of the 3979
state, nor shall an ombudsperson or assistant ombudsperson 3980
undertake any such representation for a period of one year after 3981
the ombudsperson's or assistant ombudsperson's employment 3982
terminates or be eligible for employment by the bureau or the 3983
commission or as a district or staff hearing officer for one 3984
year; 3985

(2) Express any opinions as to the merit of a claim or the 3986
correctness of a decision by the various officers or agencies as 3987
the decision relates to a claim for benefits or compensation. 3988

(E) The chief ombudsperson and assistant ombudspersons 3989
shall receive compensation at a level established by the 3990
nominating council commensurate with the individual's 3991
background, education, and experience in workers' compensation 3992
or related fields. The chief ombudsperson and assistant 3993
ombudspersons are full-time permanent employees in the 3994
unclassified service of the state and are entitled to all 3995
benefits that accrue to such employees, including, without 3996
limitation, sick, vacation, and personal leaves. Assistant 3997
ombudspersons serve at the pleasure of the chief ombudsperson. 3998

(F) In the event of a vacancy in the position of chief 3999
ombudsperson, the nominating council may appoint a person to 4000
serve as acting chief ombudsperson until a chief ombudsperson is 4001
appointed. The acting chief ombudsperson shall be under the 4002
direction and control of the nominating council and may be 4003
removed by the nominating council with or without just cause. 4004

Sec. 4121.50. ~~Not later than July 1, 2012, the~~ The 4005
administrator of workers' compensation shall adopt rules in 4006
accordance with Chapter 119. of the Revised Code to implement a 4007
coordinated services program for claimants under this chapter or 4008
Chapter 4123., 4127., ~~or 4131.,~~ or 4133. of the Revised Code who 4009
are found to have obtained prescription drugs that were 4010
reimbursed pursuant to an order of the administrator or of the 4011
industrial commission or by a self-insuring employer but were 4012
obtained at a frequency or in an amount that is not medically 4013
necessary. The program shall be implemented in a manner that is 4014
substantially similar to the coordinated services programs 4015
established for the medicaid program under sections 5164.758 and 4016
5167.13 of the Revised Code. 4017

Sec. 4121.61. (A) As used in sections 4121.61 to 4121.69 4018
of the Revised Code, "self-insuring employer" has the same 4019
meaning as in section 4123.01 of the Revised Code. 4020

(B) The administrator of workers' compensation, with the 4021
advice and consent of the bureau of workers' compensation board 4022
of directors, shall adopt rules, take measures, and make 4023
expenditures as it deems necessary to aid claimants who have 4024
sustained compensable injuries or incurred compensable 4025
occupational diseases pursuant to Chapter 4123., 4127., ~~or~~ 4026
4131., or 4133. of the Revised Code to return to work or to 4027
assist in lessening or removing any resulting handicap. 4028

Sec. 4123.025. Any person, other than those covered by 4029
section 4123.03 of the Revised Code, who is injured, and the 4030
dependents of a deceased employee who is killed as the direct 4031
result of performing any act at the request or order of a duly 4032
authorized public official of the state, or any institution or 4033
agency thereof, or any political subdivision thereof, including 4034
a county, township, or municipal corporation, in time of 4035
emergency shall be entitled to all the benefits of ~~Chapter~~ 4036
Chapters 4123. and 4133. of the Revised Code. Any payments made 4037
from the state insurance fund pursuant to this section shall be 4038
charged to the surplus fund as created by division (B) of 4039
section 4123.34 of the Revised Code, in order to encourage 4040
participation of all persons in times of emergency. 4041

Sec. 4123.05. The bureau of workers' compensation shall 4042
adopt rules to regulate and provide for the kind and character 4043
of notices, and the services thereof, in cases of injury, 4044
occupational disease, or death resulting from either, to 4045
employees, the nature and extent of the proofs and evidence, and 4046
the method of taking and furnishing the same, and to establish 4047
the right to benefits or compensation from the state insurance 4048
fund, the forms of application of those claiming to be entitled 4049
to benefits or compensation, and the method of making 4050
investigations, physical examinations, and inspections. Nothing 4051
in this section shall be interpreted as affecting or limiting 4052
the rule-making authority of the industrial commission under 4053
this chapter or Chapter 4121. or 4133. of the Revised Code. 4054

Sec. 4123.15. (A) An employer who is a member of a 4055
recognized religious sect or division of a recognized religious 4056
sect and who is an adherent of established tenets or teachings 4057
of that sect or division by reason of which the employer is 4058
conscientiously opposed to benefits to employers and employees 4059

from any public or private insurance that makes payment in the 4060
event of death, disability, impairment, old age, or retirement 4061
or makes payments toward the cost of, or provides services in 4062
connection with the payment for, medical services, including the 4063
benefits from any insurance system established by the "Social 4064
Security Act," 42 U.S.C.A. 301, et seq., may apply to the 4065
administrator of workers' compensation to be excepted from 4066
payment of premiums and other charges assessed under this 4067
chapter and Chapter 4121. of the Revised Code with respect to, 4068
or if the employer is a self-insuring employer, from payment of 4069
direct compensation and benefits to and assessments required by 4070
this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 4071
Code on account of, an individual employee who meets the 4072
requirements of this section. The employer shall make an 4073
application on forms provided by the bureau of workers' 4074
compensation which forms may be those used by or similar to 4075
those used by the United States internal revenue service for the 4076
purpose of granting an exemption from payment of social security 4077
taxes under 26 U.S.C.A. 1402(g) of the Internal Revenue Code, 4078
and shall include a written waiver signed by the individual 4079
employee to be excepted from all the benefits and compensation 4080
provided in this chapter and ~~Chapter~~ Chapters 4121. and 4133. of 4081
the Revised Code. 4082

The application also shall include affidavits signed by 4083
the employer and the individual employee that the employer and 4084
the individual employee are members of a recognized religious 4085
sect or division of a recognized religious sect and are 4086
adherents of established tenets or teaching of that sect or 4087
division by reason of which the employer and the individual 4088
employee are conscientiously opposed to benefits to employers 4089
and employees received from any public or private insurance that 4090

makes payments in the event of death, disability, impairment, 4091
old age, or retirement or makes payments toward the cost of, or 4092
provides services in connection with the payment for, medical 4093
services, including the benefits from any insurance system 4094
established by the "Social Security Act," 42 U.S.C.A. 301, et 4095
seq. If the individual is a minor, the guardian of the minor 4096
shall complete the waiver and affidavit required by this 4097
division. 4098

(B) The administrator shall grant the waiver and exception 4099
to the employer for a particular individual employee if the 4100
administrator finds that the employer and the individual 4101
employee are members of a sect or division having the 4102
established tenets or teachings described in division (A) of 4103
this section, that it is the practice, and has been for a 4104
substantial number of years, for members of the sect or division 4105
of the sect to make provision for their dependent members which, 4106
in the administrator's judgment, is reasonable in view of their 4107
general level of hiring, and that the sect or division of the 4108
sect has been in existence at all times since December 31, 1950. 4109

(C) A waiver and exception under division (B) of this 4110
section is effective on the date the administrator grants the 4111
waiver and exception. An employer who complies with this chapter 4112
and the employer's other employees, with respect to an 4113
individual employee for whom the administrator grants the waiver 4114
and exception, are entitled, as to that individual employee and 4115
as to all injuries and occupational diseases of the individual 4116
employee that occurred prior to the effective date of the waiver 4117
and exception, to the protections of sections 4123.74 and 4118
4123.741 of the Revised Code. On and after the effective date of 4119
the waiver and exception, the employer is not liable for the 4120
payment of any premiums or other charges assessed under this 4121

chapter or Chapter 4121. of the Revised Code, or if the 4122
individual is a self-insuring employer, the employer is not 4123
liable for the payment of any compensation or benefits directly 4124
or other charges assessed under this chapter or Chapter 4121. or 4125
4133. of the Revised Code in regard to that individual employee, 4126
and is considered a complying employer under those chapters, and 4127
the employer and the employer's other employees are entitled to 4128
the protections of sections 4123.74 and 4123.741 of the Revised 4129
Code, as to that individual employee, and as to injuries and 4130
occupational diseases of that individual employee that occur on 4131
and after the effective date of the waiver and exception. 4132

(D) A waiver and exception granted in regard to a specific 4133
employer and individual employee are valid for all future years 4134
unless the administrator determines that the employer, 4135
individual employee, or sect or division ceases to meet the 4136
requirements of this section. If the administrator makes this 4137
determination, the employer is liable for the payment of 4138
premiums and other charges assessed under this chapter and 4139
Chapter 4121. of the Revised Code, or if the employer is a self- 4140
insuring employer, the employer is liable for the payment of 4141
compensation and benefits directly and other charges assessed 4142
under those chapters and Chapter 4133. of the Revised Code, in 4143
regard to the individual employee for all injuries and 4144
occupational diseases of that individual that occur on and after 4145
the date of the administrator's determination, and the 4146
individual employee is entitled to all of the benefits and 4147
compensation provided in those chapters for an injury or 4148
occupational disease that occurs on or after the date of the 4149
administrator's determination. 4150

Sec. 4123.26. (A) Every employer shall keep records of, 4151
and furnish to the bureau of workers' compensation upon request, 4152

all information required by the administrator of workers' 4153
compensation to carry out this chapter and Chapter 4133. of the 4154
Revised Code. 4155

(B) Except as otherwise provided in division (C) of this 4156
section, every private employer employing one or more employees 4157
regularly in the same business, or in or about the same 4158
establishment, shall submit a payroll report to the bureau. 4159
Until the policy year commencing July 1, 2015, a private 4160
employer shall submit the payroll report in January of each 4161
year. For a policy year commencing on or after July 1, 2015, the 4162
employer shall submit the payroll report on or before August 4163
fifteenth of each year unless otherwise specified by the 4164
administrator in rules the administrator adopts. The employer 4165
shall include all of the following information in the payroll 4166
report, as applicable: 4167

(1) For payroll reports submitted prior to July 1, 2015, 4168
the number of employees employed during the preceding year from 4169
the first day of January through the thirty-first day of 4170
December who are localized in this state; 4171

(2) For payroll reports submitted on or after July 1, 4172
2015, the number of employees localized in this state employed 4173
during the preceding policy year from the first day of July 4174
through the thirtieth day of June; 4175

(3) The number of such employees localized in this state 4176
employed at each kind of employment and the aggregate amount of 4177
wages paid to such employees; 4178

(4) ~~(a)~~ If an employer elects to secure other-states' 4179
coverage or limited other-states' coverage pursuant to section 4180
4123.292 of the Revised Code through either the administrator, 4181

if the administrator elects to offer such coverage, or an other- 4182
states' insurer the information required under divisions (B) (1) 4183
to (3) of this section and any additional information required 4184
by the administrator in rules the administrator adopts, with the 4185
advice and consent of the bureau of workers' compensation board 4186
of directors, to allow the employer to secure other-states' 4187
coverage or limited other-states' coverage. 4188

(5) (a) In accordance with the rules adopted by the 4189
administrator pursuant to division (C) of section 4123.32 of the 4190
Revised Code, if the employer employs employees who are covered 4191
under the federal "Longshore and Harbor Workers' Compensation 4192
Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and under this 4193
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 4194
Code, both of the following amounts: 4195

(i) The amount of wages the employer pays to those 4196
employees when the employees perform labor and provide services 4197
for which the employees are eligible to receive compensation and 4198
benefits under the federal "Longshore and Harbor Workers' 4199
Compensation Act"; 4200

(ii) The amount of wages the employer pays to those 4201
employees when the employees perform labor and provide services 4202
for which the employees are eligible to receive compensation and 4203
benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4133. 4204
of the Revised Code. 4205

(b) The allocation of wages identified by the employer 4206
pursuant to divisions (B) (5) (a) (i) and (ii) of this section 4207
shall not be presumed to be an indication of the law under which 4208
an employee is eligible to receive compensation and benefits. 4209

(C) Beginning August 1, 2015, each employer that is 4210

recognized by the administrator as a professional employer 4211
organization shall submit a monthly payroll report containing 4212
the number of employees employed during the preceding calendar 4213
month, the number of those employees employed at each kind of 4214
employment, and the aggregate amount of wages paid to those 4215
employees. 4216

(D) An employer described in division (B) of this section 4217
shall submit the payroll report required under this section to 4218
the bureau on a form prescribed by the bureau. The bureau may 4219
require that the information required to be furnished be 4220
verified under oath. The bureau or any person employed by the 4221
bureau for that purpose, may examine, under oath, any employer, 4222
or the officer, agent, or employee thereof, for the purpose of 4223
ascertaining any information which the employer is required to 4224
furnish to the bureau. 4225

(E) No private employer shall fail to furnish to the 4226
bureau the payroll report required by this section, nor shall 4227
any employer fail to keep records of or furnish such other 4228
information as may be required by the bureau under this section. 4229

(F) The administrator may adopt rules setting forth 4230
penalties for failure to submit the payroll report required by 4231
this section, including but not limited to exclusion from 4232
alternative rating plans and discount programs. 4233

Sec. 4123.27. Information contained in the payroll report 4234
provided for in section 4123.26 of the Revised Code, and such 4235
other information as may be furnished to the bureau of workers' 4236
compensation by employers in pursuance of that section, is for 4237
the exclusive use and information of the bureau in the discharge 4238
of its official duties, and shall not be open to the public nor 4239
be used in any court in any action or proceeding pending therein 4240

unless the bureau is a party to the action or proceeding. The 4241
information contained in the payroll report may be tabulated and 4242
published by the bureau in statistical form for the use and 4243
information of other state departments and the public. No person 4244
in the employ of the bureau, except those who are authorized by 4245
the administrator of workers' compensation, shall divulge any 4246
information secured by the person while in the employ of the 4247
bureau in respect to the transactions, property, claim files, 4248
records, or papers of the bureau or in respect to the business 4249
or mechanical, chemical, or other industrial process of any 4250
company, firm, corporation, person, association, partnership, or 4251
public utility to any person other than the administrator or to 4252
the superior of such employee of the bureau. 4253

Notwithstanding the restrictions imposed by this section, 4254
the governor, select or standing committees of the general 4255
assembly, the auditor of state, the attorney general, or their 4256
designees, pursuant to the authority granted in this chapter and 4257
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code, may 4258
examine any records, claim files, or papers in possession of the 4259
industrial commission or the bureau. They also are bound by the 4260
privilege that attaches to these papers. 4261

The administrator shall report to the director of job and 4262
family services or to the county director of job and family 4263
services the name, address, and social security number or other 4264
identification number of any person receiving workers' 4265
compensation whose name or social security number or other 4266
identification number is the same as that of a person required 4267
by a court or child support enforcement agency to provide 4268
support payments to a recipient or participant of public 4269
assistance, as that term is defined in section 5101.181 of the 4270
Revised Code, and whose name is submitted to the administrator 4271

by the director under section 5101.36 of the Revised Code. The 4272
administrator also shall inform the director of the amount of 4273
workers' compensation paid to the person during such period as 4274
the director specifies. 4275

Within fourteen days after receiving from the director of 4276
job and family services a list of the names and social security 4277
numbers of recipients or participants of public assistance 4278
pursuant to section 5101.181 of the Revised Code, the 4279
administrator shall inform the auditor of state of the name, 4280
current or most recent address, and social security number of 4281
each person receiving workers' compensation pursuant to this 4282
chapter whose name and social security number are the same as 4283
that of a person whose name or social security number was 4284
submitted by the director. The administrator also shall inform 4285
the auditor of state of the amount of workers' compensation paid 4286
to the person during such period as the director specifies. 4287

The bureau and its employees, except for purposes of 4288
furnishing the auditor of state with information required by 4289
this section, shall preserve the confidentiality of recipients 4290
or participants of public assistance in compliance with section 4291
5101.181 of the Revised Code. 4292

Sec. 4123.291. (A) An adjudicating committee appointed by 4293
the administrator of workers' compensation to hear any matter 4294
specified in divisions (B)(1) to (7) of this section shall hear 4295
the matter within sixty days of the date on which an employer 4296
files the request, protest, or petition. An employer desiring to 4297
file a request, protest, or petition regarding any matter 4298
specified in divisions (B)(1) to (7) of this section shall file 4299
the request, protest, or petition to the adjudicating committee 4300
on or before twenty-four months after the administrator sends 4301

notice of the determination about which the employer is filing 4302
the request, protest, or petition. 4303

(B) An employer who is adversely affected by a decision of 4304
an adjudicating committee appointed by the administrator may 4305
appeal the decision of the committee to the administrator or the 4306
administrator's designee. The employer shall file the appeal in 4307
writing within thirty days after the employer receives the 4308
decision of the adjudicating committee. Except as otherwise 4309
provided in this division, the administrator or the designee 4310
shall hold a hearing and consider and issue a decision on the 4311
appeal if the decision of the adjudicating committee relates to 4312
one of the following: 4313

(1) An employer request for a waiver of a default in the 4314
payment of premiums pursuant to section 4123.37 of the Revised 4315
Code; 4316

(2) An employer request for the settlement of liability as 4317
a noncomplying employer under section 4123.75 of the Revised 4318
Code; 4319

(3) An employer petition objecting to an assessment made 4320
pursuant to section 4123.37 of the Revised Code and the rules 4321
adopted pursuant to that section; 4322

(4) An employer request for the abatement of penalties 4323
assessed pursuant to section 4123.32 of the Revised Code and the 4324
rules adopted pursuant to that section; 4325

(5) An employer protest relating to an audit finding or a 4326
determination of a manual classification, experience rating, or 4327
transfer or combination of risk experience; 4328

(6) Any decision relating to any other risk premium matter 4329
under Chapters 4121., 4123., ~~and 4131.~~ and 4133. of the Revised 4330

Code; 4331

(7) An employer petition objecting to the amount of 4332
security required under division (D) of section 4125.05 of the 4333
Revised Code and the rules adopted pursuant to that section. 4334

An employer may request, in writing, that the 4335
administrator waive the hearing before the administrator or the 4336
administrator's designee. The administrator shall decide whether 4337
to grant or deny a request to waive a hearing. 4338

(C) The bureau of workers' compensation board of 4339
directors, based upon recommendations of the workers' 4340
compensation actuarial committee, shall establish the policy for 4341
all adjudicating committee procedures, including, but not 4342
limited to, specific criteria for manual premium rate 4343
adjustment. 4344

Sec. 4123.30. Money contributed by public employers 4345
constitutes the "public fund" and the money contributed by 4346
private employers constitutes the "private fund." Each such fund 4347
shall be collected, distributed, and its solvency maintained 4348
without regard to or reliance upon the other. Whenever in this 4349
chapter reference is made to the state insurance fund, the 4350
reference is to such two separate funds but such two separate 4351
funds and the net premiums contributed thereto by employers 4352
after adjustments and dividends, except for the amount thereof 4353
which is set aside for the investigation and prevention of 4354
industrial accidents and diseases pursuant to Section 35 of 4355
Article II, Ohio Constitution, any amounts set aside for 4356
actuarial services authorized or required by sections 4123.44 4357
and 4123.47 of the Revised Code, and any amounts set aside to 4358
reinsure the liability of the respective insurance funds for the 4359
following payments, constitute a trust fund for the benefit of 4360

employers and employees mentioned in sections 4123.01, 4123.03, 4361
and 4123.73 of the Revised Code for the payment of compensation, 4362
medical services, examinations, recommendations and 4363
determinations, nursing and hospital services, medicine, 4364
rehabilitation, death benefits, funeral expenses, and like 4365
benefits for loss sustained on account of injury, disease, or 4366
death provided for by this chapter and Chapter 4133. of the 4367
Revised Code, and for no other purpose. This section does not 4368
prevent the deposit or investment of all such moneys 4369
intermingled for such purpose but such funds shall be separate 4370
and distinct for all other purposes, and the rights and duties 4371
created in this chapter and Chapter 4133. of the Revised Code 4372
shall be construed to have been made with respect to two 4373
separate funds and so as to maintain and continue such funds 4374
separately except for deposit or investment. Disbursements shall 4375
not be made on account of injury, disease, or death of employees 4376
of employers who contribute to one of such funds unless the 4377
moneys to the credit of such fund are sufficient therefor and no 4378
such disbursements shall be made for moneys or credits paid or 4379
credited to the other fund. 4380

Sec. 4123.311. (A) The administrator of workers' 4381
compensation may do all of the following: 4382

(1) Utilize direct deposit of funds by electronic transfer 4383
for all disbursements the administrator is authorized to pay 4384
under this chapter and Chapters 4121., 4127., ~~and 4131.,~~ and 4385
4133. of the Revised Code; 4386

(2) Require any payee to provide a written authorization 4387
designating a financial institution and an account number to 4388
which a payment made according to division (A)(1) of this 4389
section is to be credited, notwithstanding division (B) of 4390

section 9.37 of the Revised Code;	4391
(3) Contract with an agent to do both of the following:	4392
(a) Supply debit cards for claimants to access payments made to them pursuant to this chapter and Chapters 4121., 4127., and 4131., and 4133. of the Revised Code;	4393 4394 4395
(b) Credit the debit cards described in division (A) (3) (a) of this section with the amounts specified by the administrator pursuant to this chapter and Chapters 4121., 4127., and 4131., and 4133. of the Revised Code by utilizing direct deposit of funds by electronic transfer.	4396 4397 4398 4399 4400
(4) Enter into agreements with financial institutions to credit the debit cards described in division (A) (3) (a) of this section with the amounts specified by the administrator pursuant to this chapter and Chapters 4121., 4127., and 4131., and 4133. of the Revised Code by utilizing direct deposit of funds by electronic transfer.	4401 4402 4403 4404 4405 4406
(B) The administrator shall inform claimants about the administrator's utilization of direct deposit of funds by electronic transfer under this section and section 9.37 of the Revised Code, furnish debit cards to claimants as appropriate, and provide claimants with instructions regarding use of those debit cards.	4407 4408 4409 4410 4411 4412
(C) The administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules in accordance with Chapter 119. of the Revised Code regarding utilization of the direct deposit of funds by electronic transfer under this section and section 9.37 of the Revised Code.	4413 4414 4415 4416 4417 4418
Sec. 4123.32. The administrator of workers' compensation,	4419

with the advice and consent of the bureau of workers' 4420
compensation board of directors, shall adopt rules with respect 4421
to the collection, maintenance, and disbursements of the state 4422
insurance fund including all of the following: 4423

(A) A rule providing for ascertaining the correctness of 4424
any employer's report of estimated or actual expenditure of 4425
wages and the determination and adjustment of proper premiums 4426
and the payment of those premiums by the employer; 4427

(B) Such special rules as the administrator considers 4428
necessary to safeguard the fund and that are just in the 4429
circumstances, covering the rates to be applied where one 4430
employer takes over the occupation or industry of another or 4431
where an employer first makes application for state insurance, 4432
and the administrator may require that if any employer transfers 4433
a business in whole or in part or otherwise reorganizes the 4434
business, the successor in interest shall assume, in proportion 4435
to the extent of the transfer, as determined by the 4436
administrator, the employer's account and shall continue the 4437
payment of all contributions due under this chapter; 4438

(C) A rule providing that an employer who employs an 4439
employee covered under the federal "Longshore and Harbor 4440
Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 4441
seq., and this chapter and ~~Chapter~~ Chapters 4121. and 4133. of 4442
the Revised Code shall be assessed a premium in accordance with 4443
the expenditure of wages, payroll, or both attributable to only 4444
labor performed and services provided by such an employee when 4445
the employee performs labor and provides services for which the 4446
employee is not eligible to receive compensation and benefits 4447
under that federal act. 4448

(D) A rule providing for all of the following: 4449

(1) If an employer fails to file a report of the 4450
employer's actual payroll expenditures pursuant to section 4451
4123.26 of the Revised Code for private employers or pursuant to 4452
section 4123.41 of the Revised Code for public employers, the 4453
premium and assessments due from the employer for the period 4454
shall be calculated based on the estimated payroll of the 4455
employer used in calculating the estimated premium due, 4456
increased by ten per cent; 4457

(2) (a) If an employer fails to pay the premium or 4458
assessments when due for a policy year commencing prior to July 4459
1, 2015, the administrator may add a late fee penalty of not 4460
more than thirty dollars to the premium plus an additional 4461
penalty amount as follows: 4462

(i) For a premium from sixty-one to ninety days past due, 4463
the prime interest rate, multiplied by the premium due; 4464

(ii) For a premium from ninety-one to one hundred twenty 4465
days past due, the prime interest rate plus two per cent, 4466
multiplied by the premium due; 4467

(iii) For a premium from one hundred twenty-one to one 4468
hundred fifty days past due, the prime interest rate plus four 4469
per cent, multiplied by the premium due; 4470

(iv) For a premium from one hundred fifty-one to one 4471
hundred eighty days past due, the prime interest rate plus six 4472
per cent, multiplied by the premium due; 4473

(v) For a premium from one hundred eighty-one to two 4474
hundred ten days past due, the prime interest rate plus eight 4475
per cent, multiplied by the premium due; 4476

(vi) For each additional thirty-day period or portion 4477
thereof that a premium remains past due after it has remained 4478

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

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

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

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

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

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

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

first notified by the administrator of the amount due. 4508

(7) Any deficiencies in the amounts of the premium 4509
security deposit paid by an employer prior to July 1, 2015, 4510
shall be subject to an interest charge of six per cent per annum 4511
from the date the premium obligation is incurred. In determining 4512
the interest due on deficiencies in premium security deposit 4513
payments, a charge in each case shall be made against the 4514
employer in an amount equal to interest at the rate of six per 4515
cent per annum on the premium security deposit due but remaining 4516
unpaid sixty days after notice by the administrator. 4517

(8) Any interest charges or penalties provided for in 4518
divisions (D) (2) and (7) of this section shall be credited to 4519
the employer's account for rating purposes in the same manner as 4520
premiums. 4521

(E) A rule providing that each employer, on the occasion 4522
of instituting coverage under this chapter for an effective date 4523
prior to July 1, 2015, shall submit a premium security deposit. 4524
The deposit shall be calculated equivalent to thirty per cent of 4525
the semiannual premium obligation of the employer based upon the 4526
employer's estimated expenditure for wages for the ensuing six- 4527
month period plus thirty per cent of an additional adjustment 4528
period of two months but only up to a maximum of one thousand 4529
dollars and not less than ten dollars. The administrator shall 4530
review the security deposit of every employer who has submitted 4531
a deposit which is less than the one-thousand-dollar maximum. 4532
The administrator may require any such employer to submit 4533
additional money up to the maximum of one thousand dollars that, 4534
in the administrator's opinion, reflects the employer's current 4535
payroll expenditure for an eight-month period. 4536

(F) A rule providing that each employer, on the occasion 4537

of instituting coverage under this chapter, shall submit an 4538
application fee and an application for coverage that completely 4539
provides all of the information required for the administrator 4540
to establish coverage for that employer, and that the employer's 4541
failure to pay the application fee or to provide all of the 4542
information requested on the application may be grounds for the 4543
administrator to deny coverage for that employer. 4544

(G) A rule providing that, in addition to any other 4545
remedies permitted in this chapter, the administrator may 4546
discontinue an employer's coverage if the employer fails to pay 4547
the premium due on or before the premium's due date. 4548

(H) A rule providing that if after a final adjudication it 4549
is determined that an employer has failed to pay an obligation, 4550
billing, account, or assessment that is greater than one 4551
thousand dollars on or before its due date, the administrator 4552
may discontinue the employer's coverage in addition to any other 4553
remedies permitted in this chapter, and that the administrator 4554
shall not discontinue an employer's coverage pursuant to this 4555
division prior to a final adjudication regarding the employer's 4556
failure to pay such obligation, billing, account, or assessment 4557
on or before its due date. 4558

(I) As used in divisions (G) and (H) of this section: 4559

(1) "Employer" has the same meaning as in section 4123.01 4560
of the Revised Code except that "employer" does not include the 4561
state, a state hospital, or a state university or college. 4562

(2) "State university or college" has the same meaning as 4563
in section 3345.12 of the Revised Code and also includes the 4564
Ohio agricultural research and development center and OSU 4565
extension. 4566

(3) "State hospital" means the Ohio state university 4567
hospital and its ancillary facilities and the medical university 4568
of Ohio at Toledo hospital. 4569

Sec. 4123.324. (A) The administrator of workers' 4570
compensation shall adopt rules, for the purpose of encouraging 4571
economic development, that establish conditions under which any 4572
negative experience to be transferred to the account of an 4573
employer who is successor in interest under division (B) of 4574
section 4123.32 of the Revised Code may be reduced or waived. 4575

(B) The administrator, in adopting rules under division 4576
(A) of this section, may not permit a waiver or reduction in 4577
experience transfer if the succession transaction is entered 4578
into for the purpose of escaping obligations under this chapter 4579
or Chapter 4121., 4127., ~~or 4131.~~, or 4133. of the Revised Code. 4580

Sec. 4123.34. It shall be the duty of the bureau of 4581
workers' compensation board of directors and the administrator 4582
of workers' compensation to safeguard and maintain the solvency 4583
of the state insurance fund and all other funds specified in 4584
this chapter and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of 4585
the Revised Code. The administrator, in the exercise of the 4586
powers and discretion conferred upon the administrator in 4587
section 4123.29 of the Revised Code, shall fix and maintain, 4588
with the advice and consent of the board, for each class of 4589
occupation or industry, the lowest possible rates of premium 4590
consistent with the maintenance of a solvent state insurance 4591
fund and the creation and maintenance of a reasonable surplus, 4592
after the payment of legitimate claims for injury, occupational 4593
disease, and death that the administrator authorizes to be paid 4594
from the state insurance fund for the benefit of injured, 4595
diseased, and the dependents of killed employees. In 4596

establishing rates, the administrator shall take into account 4597
the necessity of ensuring sufficient money is set aside in the 4598
premium payment security fund to cover any defaults in premium 4599
obligations. The administrator shall observe all of the 4600
following requirements in fixing the rates of premium for the 4601
risks of occupations or industries: 4602

(A) The administrator shall keep an accurate account of 4603
the money paid in premiums by each of the several classes of 4604
occupations or industries, and the losses on account of 4605
injuries, occupational disease, and death of employees thereof, 4606
and also keep an account of the money received from each 4607
individual employer and the amount of losses incurred against 4608
the state insurance fund on account of injuries, occupational 4609
disease, and death of the employees of the employer. 4610

(B) A portion of the money paid into the state insurance 4611
fund shall be set aside for the creation of a surplus fund 4612
account within the state insurance fund. Any references in this 4613
chapter or in Chapter 4121., 4125., 4127., ~~or 4131., or 4133.~~ of 4614
the Revised Code to the surplus fund, the surplus created in 4615
this division, the statutory surplus fund, or the statutory 4616
surplus of the state insurance fund are hereby deemed to be 4617
references to the surplus fund account. The administrator may 4618
transfer the portion of the state insurance fund to the surplus 4619
fund account as the administrator determines is necessary to 4620
satisfy the needs of the surplus fund account and to guarantee 4621
the solvency of the state insurance fund and the surplus fund 4622
account. In addition to all statutory authority under this 4623
chapter and Chapter 4121. of the Revised Code, the administrator 4624
has discretionary and contingency authority to make charges to 4625
the surplus fund account. The administrator shall account for 4626
all charges, whether statutory, discretionary, or contingency, 4627

that the administrator may make to the surplus fund account. A 4628
revision of basic rates shall be made annually on the first day 4629
of July. 4630

For policy years commencing prior to July 1, 2016, 4631
revisions of basic rates for private employers shall be in 4632
accordance with the oldest four of the last five calendar years 4633
of the combined accident and occupational disease experience of 4634
the administrator in the administration of this chapter, as 4635
shown by the accounts kept as provided in this section. For a 4636
policy year commencing on or after July 1, 2016, revisions of 4637
basic rates for private employers shall be in accordance with 4638
the oldest four of the last five policy years combined accident 4639
and occupational disease experience of the administrator in the 4640
administration of this chapter, as shown by the accounts kept as 4641
provided in this section. 4642

Revisions of basic rates for public employers shall be in 4643
accordance with the oldest four of the last five policy years of 4644
the combined accident and occupational disease experience of the 4645
administrator in the administration of this chapter, as shown by 4646
the accounts kept as provided in this section. 4647

In revising basic rates, the administrator shall exclude 4648
the experience of employers that are no longer active if the 4649
administrator determines that the inclusion of those employers 4650
would have a significant negative impact on the remainder of the 4651
employers in a particular manual classification. The 4652
administrator shall adopt rules, with the advice and consent of 4653
the board, governing rate revisions, the object of which shall 4654
be to make an equitable distribution of losses among the several 4655
classes of occupation or industry, which rules shall be general 4656
in their application. 4657

(C) The administrator may apply that form of rating system 4658
that the administrator finds is best calculated to merit rate or 4659
individually rate the risk more equitably, predicated upon the 4660
basis of its individual industrial accident and occupational 4661
disease experience, and may encourage and stimulate accident 4662
prevention. The administrator shall develop fixed and equitable 4663
rules controlling the rating system, which rules shall conserve 4664
to each risk the basic principles of workers' compensation 4665
insurance. 4666

(D) The administrator, from the money paid into the state 4667
insurance fund, shall set aside into an account of the state 4668
insurance fund titled a premium payment security fund sufficient 4669
money to pay for any premiums due from an employer and 4670
uncollected. 4671

The use of the moneys held by the premium payment security 4672
fund account is restricted to reimbursement to the state 4673
insurance fund of premiums due and uncollected. 4674

(E) The administrator may grant discounts on premium rates 4675
for employers who meet either of the following requirements: 4676

(1) Have not incurred a compensable injury for one year or 4677
more and who maintain an employee safety committee or similar 4678
organization or make periodic safety inspections of the 4679
workplace. 4680

(2) Successfully complete a loss prevention program 4681
prescribed by the superintendent of the division of safety and 4682
hygiene and conducted by the division or by any other person 4683
approved by the superintendent. 4684

(F) (1) In determining the premium rates for the 4685
construction industry the administrator shall calculate the 4686

employers' premiums based upon the actual remuneration 4687
construction industry employees receive from construction 4688
industry employers, provided that the amount of remuneration the 4689
administrator uses in calculating the premiums shall not exceed 4690
an average weekly wage equal to one hundred fifty per cent of 4691
the statewide average weekly wage as defined in division (C) of 4692
section 4123.62 of the Revised Code. 4693

(2) Division (F)(1) of this section shall not be construed 4694
as affecting the manner in which benefits to a claimant are 4695
awarded under this chapter or Chapter 4133. of the Revised Code. 4696

(3) As used in division (F) of this section, "construction 4697
industry" includes any activity performed in connection with the 4698
erection, alteration, repair, replacement, renovation, 4699
installation, or demolition of any building, structure, highway, 4700
or bridge. 4701

(G) The administrator shall not place a limit on the 4702
length of time that an employer may participate in the bureau of 4703
workers' compensation drug free workplace and workplace safety 4704
programs. 4705

Sec. 4123.341. The administrative costs of the industrial 4706
commission, the bureau of workers' compensation board of 4707
directors, the occupational pneumoconiosis board, and the bureau 4708
of workers' compensation shall be those costs and expenses that 4709
are incident to the discharge of the duties and performance of 4710
the activities of the industrial commission, the board, and the 4711
bureau under this chapter and Chapters 4121., 4125., 4127., 4712
4131., 4133., and 4167. of the Revised Code, and all such costs 4713
shall be borne by the state and by other employers amenable to 4714
this chapter as follows: 4715

(A) In addition to the contribution required of the state 4716
under sections 4123.39 and 4123.40 of the Revised Code, the 4717
state shall contribute the sum determined to be necessary under 4718
section 4123.342 of the Revised Code. 4719

(B) The director of budget and management may allocate the 4720
state's share of contributions in the manner the director finds 4721
most equitably apportions the costs. 4722

(C) The counties and taxing districts therein shall 4723
contribute such sum as may be required under section 4123.342 of 4724
the Revised Code. 4725

(D) The private employers shall contribute the sum 4726
required under section 4123.342 of the Revised Code. 4727

Sec. 4123.342. (A) The administrator of workers' 4728
compensation shall allocate among counties and taxing districts 4729
therein as a class, the state and its instrumentalities as a 4730
class, private employers who are insured under the private fund 4731
as a class, and self-insuring employers as a class their fair 4732
shares of the administrative costs which are to be borne by such 4733
employers under division (D) of section 4123.341 of the Revised 4734
Code, separately allocating to each class those costs solely 4735
attributable to the activities of the industrial commission and 4736
those costs solely attributable to the activities of the bureau 4737
of workers' compensation board of directors, the occupational 4738
pneumoconiosis board, and the bureau of workers' compensation in 4739
respect of the class, allocating to any combination of classes 4740
those costs attributable to the activities of the industrial 4741
commission, bureau of workers' compensation board of directors, 4742
occupational pneumoconiosis board, or bureau in respect of the 4743
classes, and allocating to all four classes those costs 4744
attributable to the activities of the industrial commission, 4745

bureau of workers' compensation board of directors, occupational 4746
pneumoconiosis board, and bureau in respect of all classes. The 4747
administrator shall separately calculate each employer's 4748
assessment in the class, except self-insuring employers, on the 4749
basis of the following three factors: payroll, paid 4750
compensation, and paid medical costs of the employer for those 4751
costs solely attributable to the activities of the bureau of 4752
workers' compensation board of directors, the occupational 4753
pneumoconiosis board, and the bureau. The administrator shall 4754
separately calculate each employer's assessment in the class, 4755
except self-insuring employers, on the basis of the following 4756
three factors: payroll, paid compensation, and paid medical 4757
costs of the employer for those costs solely attributable to the 4758
activities of the industrial commission. The administrator shall 4759
separately calculate each self-insuring employer's assessment in 4760
accordance with section 4123.35 of the Revised Code for those 4761
costs solely attributable to the activities of the bureau of 4762
workers' compensation board of directors, the occupational 4763
pneumoconiosis board, and the bureau. The administrator shall 4764
separately calculate each self-insuring employer's assessment in 4765
accordance with section 4123.35 of the Revised Code for those 4766
costs solely attributable to the activities of the industrial 4767
commission. In a timely manner, the industrial commission shall 4768
provide to the administrator, the information necessary for the 4769
administrator to allocate and calculate, with the approval of 4770
the chairperson of the industrial commission, for each class of 4771
employer as described in this division, the costs solely 4772
attributable to the activities of the industrial commission. 4773

(B) The administrator shall divide the administrative cost 4774
assessments collected by the administrator into two 4775
administrative assessment accounts within the state insurance 4776

fund. One of the administrative assessment accounts shall 4777
consist of the administrative cost assessment collected by the 4778
administrator for the industrial commission. One of the 4779
administrative assessment accounts shall consist of the 4780
administrative cost assessments collected by the administrator 4781
for the bureau, the occupational pneumoconiosis board, and the 4782
bureau of workers' compensation board of directors. The 4783
administrator may invest the administrative cost assessments in 4784
these accounts on behalf of the bureau and the industrial 4785
commission as authorized in section 4123.44 of the Revised Code. 4786
In a timely manner, the administrator shall provide to the 4787
industrial commission the information and reports the commission 4788
deems necessary for the commission to monitor the receipts and 4789
the disbursements from the administrative assessment account for 4790
the industrial commission. 4791

(C) The administrator or the administrator's designee 4792
shall transfer moneys as necessary from the administrative 4793
assessment account identified for the bureau, the occupational 4794
pneumoconiosis board, and the bureau of workers' compensation 4795
board of directors to the workers' compensation fund for the use 4796
of the bureau, the occupational pneumoconiosis board, and the 4797
bureau of workers' compensation board of directors. As necessary 4798
and upon the authorization of the industrial commission, the 4799
administrator or the administrator's designee shall transfer 4800
moneys from the administrative assessment account identified for 4801
the industrial commission to the industrial commission operating 4802
fund created under section 4121.021 of the Revised Code. To the 4803
extent that the moneys collected by the administrator in any 4804
fiscal biennium of the state equal the sum appropriated by the 4805
general assembly for administrative costs of the industrial 4806
commission, bureau of workers' compensation board of directors, 4807

occupational pneumoconiosis board, and bureau for the biennium, 4808
the moneys shall be paid into the workers' compensation fund and 4809
the industrial commission operating fund of the state, as 4810
appropriate, and any remainder shall be retained in those funds 4811
and applied to reduce the amount collected during the next 4812
biennium. 4813

Sections 4123.41, 4123.35, and 4123.37 of the Revised Code 4814
apply to the collection of assessments from public and private 4815
employers respectively, except that for boards of county 4816
hospital trustees that are self-insuring employers, only those 4817
provisions applicable to the collection of assessments for 4818
private employers apply. 4819

Sec. 4123.343. This section shall be construed liberally 4820
to the end that employers shall be encouraged to employ and 4821
retain in their employment handicapped employees as defined in 4822
this section. 4823

(A) As used in this section, "handicapped employee" means 4824
an employee who is afflicted with or subject to any physical or 4825
mental impairment, or both, whether congenital or due to an 4826
injury or disease of such character that the impairment 4827
constitutes a handicap in obtaining employment or would 4828
constitute a handicap in obtaining reemployment if the employee 4829
should become unemployed and whose handicap is due to any of the 4830
following diseases or conditions: 4831

- (1) Epilepsy; 4832
- (2) Diabetes; 4833
- (3) Cardiac disease; 4834
- (4) Arthritis; 4835

(5) Amputated foot, leg, arm, or hand;	4836
(6) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than seventy-five per cent bilaterally;	4837 4838 4839
(7) Residual disability from poliomyelitis;	4840
(8) Cerebral palsy;	4841
(9) Multiple sclerosis;	4842
(10) Parkinson's disease;	4843
(11) Cerebral vascular accident;	4844
(12) Tuberculosis;	4845
(13) Silicosis;	4846
(14) Psycho-neurotic disability following treatment in a recognized medical or mental institution;	4847 4848
(15) Hemophilia;	4849
(16) Chronic osteomyelitis;	4850
(17) Ankylosis of joints;	4851
(18) Hyper insulinism;	4852
(19) Muscular dystrophies;	4853
(20) Arterio-sclerosis;	4854
(21) Thrombo-phlebitis;	4855
(22) Varicose veins;	4856
(23) Cardiovascular, pulmonary, or respiratory diseases of a firefighter or police officer employed by a municipal corporation or township as a regular member of a lawfully	4857 4858 4859

constituted police department or fire department; 4860

(24) ~~Coal miners' Occupational~~ pneumoconiosis, ~~commonly~~ 4861
~~referred to as "black lung disease"~~ as defined in section 4862
4133.01 of the Revised Code; 4863

(25) Disability with respect to which an individual has 4864
completed a rehabilitation program conducted pursuant to 4865
sections 4121.61 to 4121.69 of the Revised Code. 4866

(B) Under the circumstances set forth in this section all 4867
or such portion as the administrator determines of the 4868
compensation and benefits paid in any claim arising hereafter 4869
shall be charged to and paid from the statutory surplus fund 4870
created under section 4123.34 of the Revised Code and only the 4871
portion remaining shall be merit-rated or otherwise treated as 4872
part of the accident or occupational disease experience of the 4873
employer. The provisions of this section apply only in cases of 4874
death, total disability, whether temporary or permanent, and all 4875
disabilities compensated under division (B) of section 4123.57 4876
of the Revised Code. The administrator shall adopt rules 4877
specifying the grounds upon which charges to the statutory 4878
surplus fund are to be made. The administrator, in those rules, 4879
shall require that a settlement agreement approved pursuant to 4880
section 4123.65 of the Revised Code or a settlement agreement 4881
approved by a court of competent jurisdiction in this state be 4882
treated as an award of compensation granted by the administrator 4883
for the purpose of making a determination under this section. 4884

(C) Any employer who has in its employ a handicapped 4885
employee is entitled, in the event the person is injured, to a 4886
determination under this section. 4887

An employer shall file an application under this section 4888

for a determination with the bureau or commission in the same 4889
manner as other claims. An application only may be made in cases 4890
where a handicapped employee or a handicapped employee's 4891
dependents claim or are receiving an award of compensation as a 4892
result of an injury or occupational disease occurring or 4893
contracted on or after the date on which division (A) of this 4894
section first included the handicap of such employee. 4895

(D) The circumstances under and the manner in which an 4896
apportionment under this section shall be made are: 4897

(1) Whenever a handicapped employee is injured or disabled 4898
or dies as the result of an injury or occupational disease 4899
sustained in the course of and arising out of a handicapped 4900
employee's employment in this state and the administrator awards 4901
compensation therefor and when it appears to the satisfaction of 4902
the administrator that the injury or occupational disease or the 4903
death resulting therefrom would not have occurred but for the 4904
pre-existing physical or mental impairment of the handicapped 4905
employee, all compensation and benefits payable on account of 4906
the disability or death shall be paid from the surplus fund. 4907

(2) Whenever a handicapped employee is injured or disabled 4908
or dies as a result of an injury or occupational disease and the 4909
administrator finds that the injury or occupational disease 4910
would have been sustained or suffered without regard to the 4911
employee's pre-existing impairment but that the resulting 4912
disability or death was caused at least in part through 4913
aggravation of the employee's pre-existing disability, the 4914
administrator shall determine in a manner that is equitable and 4915
reasonable and based upon medical evidence the amount of 4916
disability or proportion of the cost of the death award that is 4917
attributable to the employee's pre-existing disability and the 4918

amount found shall be charged to the statutory surplus fund. 4919

(E) The benefits and provisions of this section apply only 4920
to employers who have complied with this chapter through 4921
insurance with the state fund. 4922

(F) No employer shall in any year receive credit under 4923
this section in an amount greater than the premium the employer 4924
paid. 4925

(G) An order issued by the administrator pursuant to this 4926
section is appealable under section 4123.511 of the Revised Code 4927
but is not appealable to a court under section 4123.512 of the 4928
Revised Code. 4929

Sec. 4123.35. (A) Except as provided in this section, and 4930
until the policy year commencing July 1, 2015, every private 4931
employer and every publicly owned utility shall pay semiannually 4932
in the months of January and July into the state insurance fund 4933
the amount of annual premium the administrator of workers' 4934
compensation fixes for the employment or occupation of the 4935
employer, the amount of which premium to be paid by each 4936
employer to be determined by the classifications, rules, and 4937
rates made and published by the administrator. The employer 4938
shall pay semiannually a further sum of money into the state 4939
insurance fund as may be ascertained to be due from the employer 4940
by applying the rules of the administrator. 4941

Except as otherwise provided in this section, for a policy 4942
year commencing on or after July 1, 2015, every private employer 4943
and every publicly owned utility shall pay annually in the month 4944
of June immediately preceding the policy year into the state 4945
insurance fund the amount of estimated annual premium the 4946
administrator fixes for the employment or occupation of the 4947

employer, the amount of which estimated premium to be paid by 4948
each employer to be determined by the classifications, rules, 4949
and rates made and published by the administrator. The employer 4950
shall pay a further sum of money into the state insurance fund 4951
as may be ascertained to be due from the employer by applying 4952
the rules of the administrator. Upon receipt of the payroll 4953
report required by division (B) of section 4123.26 of the 4954
Revised Code, the administrator shall adjust the premium and 4955
assessments charged to each employer for the difference between 4956
estimated gross payrolls and actual gross payrolls, and any 4957
balance due to the administrator shall be immediately paid by 4958
the employer. Any balance due the employer shall be credited to 4959
the employer's account. 4960

For a policy year commencing on or after July 1, 2015, 4961
each employer that is recognized by the administrator as a 4962
professional employer organization shall pay monthly into the 4963
state insurance fund the amount of premium the administrator 4964
fixes for the employer for the prior month based on the actual 4965
payroll of the employer reported pursuant to division (C) of 4966
section 4123.26 of the Revised Code. 4967

A receipt certifying that payment has been made shall be 4968
issued to the employer by the bureau of workers' compensation. 4969
The receipt is prima-facie evidence of the payment of the 4970
premium. The administrator shall provide each employer written 4971
proof of workers' compensation coverage as is required in 4972
section 4123.83 of the Revised Code. Proper posting of the 4973
notice constitutes the employer's compliance with the notice 4974
requirement mandated in section 4123.83 of the Revised Code. 4975

The bureau shall verify with the secretary of state the 4976
existence of all corporations and organizations making 4977

application for workers' compensation coverage and shall require 4978
every such application to include the employer's federal 4979
identification number. 4980

A private employer who has contracted with a subcontractor 4981
is liable for the unpaid premium due from any subcontractor with 4982
respect to that part of the payroll of the subcontractor that is 4983
for work performed pursuant to the contract with the employer. 4984

Division (A) of this section providing for the payment of 4985
premiums semiannually does not apply to any employer who was a 4986
subscriber to the state insurance fund prior to January 1, 1914, 4987
or, until July 1, 2015, who may first become a subscriber to the 4988
fund in any month other than January or July. Instead, the 4989
semiannual premiums shall be paid by those employers from time 4990
to time upon the expiration of the respective periods for which 4991
payments into the fund have been made by them. After July 1, 4992
2015, an employer who first becomes a subscriber to the fund on 4993
any day other than the first day of July shall pay premiums 4994
according to rules adopted by the administrator, with the advice 4995
and consent of the bureau of workers' compensation board of 4996
directors, for the remainder of the policy year for which the 4997
coverage is effective. 4998

The administrator, with the advice and consent of the 4999
board, shall adopt rules to permit employers to make periodic 5000
payments of the premium and assessment due under this division. 5001
The rules shall include provisions for the assessment of 5002
interest charges, where appropriate, and for the assessment of 5003
penalties when an employer fails to make timely premium 5004
payments. The administrator, in the rules the administrator 5005
adopts, may set an administrative fee for these periodic 5006
payments. An employer who timely pays the amounts due under this 5007

division is entitled to all of the benefits and protections of 5008
this chapter. Upon receipt of payment, the bureau shall issue a 5009
receipt to the employer certifying that payment has been made, 5010
which receipt is prima-facie evidence of payment. Workers' 5011
compensation coverage under this chapter continues uninterrupted 5012
upon timely receipt of payment under this division. 5013

Every public employer, except public employers that are 5014
self-insuring employers under this section, shall comply with 5015
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 5016
regard to the contribution of moneys to the public insurance 5017
fund. 5018

(B) Employers who will abide by the rules of the 5019
administrator and who may be of sufficient financial ability to 5020
render certain the payment of compensation to injured employees 5021
or the dependents of killed employees, and the furnishing of 5022
medical, surgical, nursing, and hospital attention and services 5023
and medicines, and funeral expenses, equal to or greater than is 5024
provided for in sections 4123.52, 4123.55 to 4123.62, ~~and~~ 5025
4123.64 to 4123.67, 4133.12, 4133.13, and 4133.14 of the Revised 5026
Code, and who do not desire to insure the payment thereof or 5027
indemnify themselves against loss sustained by the direct 5028
payment thereof, upon a finding of such facts by the 5029
administrator, may be granted the privilege to pay individually 5030
compensation, and furnish medical, surgical, nursing, and 5031
hospital services and attention and funeral expenses directly to 5032
injured employees or the dependents of killed employees, thereby 5033
being granted status as a self-insuring employer. The 5034
administrator may charge employers who apply for the status as a 5035
self-insuring employer a reasonable application fee to cover the 5036
bureau's costs in connection with processing and making a 5037
determination with respect to an application. 5038

All employers granted status as self-insuring employers 5039
shall demonstrate sufficient financial and administrative 5040
ability to assure that all obligations under this section are 5041
promptly met. The administrator shall deny the privilege where 5042
the employer is unable to demonstrate the employer's ability to 5043
promptly meet all the obligations imposed on the employer by 5044
this section. 5045

(1) The administrator shall consider, but is not limited 5046
to, the following factors, where applicable, in determining the 5047
employer's ability to meet all of the obligations imposed on the 5048
employer by this section: 5049

(a) The employer has operated in this state for a minimum 5050
of two years, provided that an employer who has purchased, 5051
acquired, or otherwise succeeded to the operation of a business, 5052
or any part thereof, situated in this state that has operated 5053
for at least two years in this state, also shall qualify; 5054

(b) Where the employer previously contributed to the state 5055
insurance fund or is a successor employer as defined by bureau 5056
rules, the amount of the buyout, as defined by bureau rules; 5057

(c) The sufficiency of the employer's assets located in 5058
this state to insure the employer's solvency in paying 5059
compensation directly; 5060

(d) The financial records, documents, and data, certified 5061
by a certified public accountant, necessary to provide the 5062
employer's full financial disclosure. The records, documents, 5063
and data include, but are not limited to, balance sheets and 5064
profit and loss history for the current year and previous four 5065
years. 5066

(e) The employer's organizational plan for the 5067

administration of the workers' compensation law; 5068

(f) The employer's proposed plan to inform employees of 5069
the change from a state fund insurer to a self-insuring 5070
employer, the procedures the employer will follow as a self- 5071
insuring employer, and the employees' rights to compensation and 5072
benefits; and 5073

(g) The employer has either an account in a financial 5074
institution in this state, or if the employer maintains an 5075
account with a financial institution outside this state, ensures 5076
that workers' compensation checks are drawn from the same 5077
account as payroll checks or the employer clearly indicates that 5078
payment will be honored by a financial institution in this 5079
state. 5080

The administrator may waive the requirements of division 5081
(B) (1) (a) of this section and the requirement of division (B) (1) 5082
(d) of this section that the financial records, documents, and 5083
data be certified by a certified public accountant. The 5084
administrator shall adopt rules establishing the criteria that 5085
an employer shall meet in order for the administrator to waive 5086
the requirements of divisions (B) (1) (a) and (d) of this section. 5087
Such rules may require additional security of that employer 5088
pursuant to division (E) of section 4123.351 of the Revised 5089
Code. 5090

The administrator shall not grant the status of self- 5091
insuring employer to the state, except that the administrator 5092
may grant the status of self-insuring employer to a state 5093
institution of higher education, including its hospitals, that 5094
meets the requirements of division (B) (2) of this section. 5095

(2) When considering the application of a public employer, 5096

except for a board of county commissioners described in division 5097
(G) of section 4123.01 of the Revised Code, a board of a county 5098
hospital, or a publicly owned utility, the administrator shall 5099
verify that the public employer satisfies all of the following 5100
requirements as the requirements apply to that public employer: 5101

(a) For the two-year period preceding application under 5102
this section, the public employer has maintained an unvoted debt 5103
capacity equal to at least two times the amount of the current 5104
annual premium established by the administrator under this 5105
chapter for that public employer for the year immediately 5106
preceding the year in which the public employer makes 5107
application under this section. 5108

(b) For each of the two fiscal years preceding application 5109
under this section, the unreserved and undesignated year-end 5110
fund balance in the public employer's general fund is equal to 5111
at least five per cent of the public employer's general fund 5112
revenues for the fiscal year computed in accordance with 5113
generally accepted accounting principles. 5114

(c) For the five-year period preceding application under 5115
this section, the public employer, to the extent applicable, has 5116
complied fully with the continuing disclosure requirements 5117
established in rules adopted by the United States securities and 5118
exchange commission under 17 C.F.R. 240.15c 2-12. 5119

(d) For the five-year period preceding application under 5120
this section, the public employer has not had its local 5121
government fund distribution withheld on account of the public 5122
employer being indebted or otherwise obligated to the state. 5123

(e) For the five-year period preceding application under 5124
this section, the public employer has not been under a fiscal 5125

watch or fiscal emergency pursuant to section 118.023, 118.04, 5126
or 3316.03 of the Revised Code. 5127

(f) For the public employer's fiscal year preceding 5128
application under this section, the public employer has obtained 5129
an annual financial audit as required under section 117.10 of 5130
the Revised Code, which has been released by the auditor of 5131
state within seven months after the end of the public employer's 5132
fiscal year. 5133

(g) On the date of application, the public employer holds 5134
a debt rating of Aa3 or higher according to Moody's investors 5135
service, inc., or a comparable rating by an independent rating 5136
agency similar to Moody's investors service, inc. 5137

(h) The public employer agrees to generate an annual 5138
accumulating book reserve in its financial statements reflecting 5139
an actuarially generated reserve adequate to pay projected 5140
claims under this chapter for the applicable period of time, as 5141
determined by the administrator. 5142

(i) For a public employer that is a hospital, the public 5143
employer shall submit audited financial statements showing the 5144
hospital's overall liquidity characteristics, and the 5145
administrator shall determine, on an individual basis, whether 5146
the public employer satisfies liquidity standards equivalent to 5147
the liquidity standards of other public employers. 5148

(j) Any additional criteria that the administrator adopts 5149
by rule pursuant to division (E) of this section. 5150

The administrator may adopt rules establishing the 5151
criteria that a public employer shall satisfy in order for the 5152
administrator to waive any of the requirements listed in 5153
divisions (B) (2) (a) to (j) of this section. The rules may 5154

require additional security from that employer pursuant to 5155
division (E) of section 4123.351 of the Revised Code. The 5156
administrator shall not waive any of the requirements listed in 5157
divisions (B) (2) (a) to (j) of this section for a public employer 5158
who does not satisfy the criteria established in the rules the 5159
administrator adopts. 5160

(C) A board of county commissioners described in division 5161
(G) of section 4123.01 of the Revised Code, as an employer, that 5162
will abide by the rules of the administrator and that may be of 5163
sufficient financial ability to render certain the payment of 5164
compensation to injured employees or the dependents of killed 5165
employees, and the furnishing of medical, surgical, nursing, and 5166
hospital attention and services and medicines, and funeral 5167
expenses, equal to or greater than is provided for in sections 5168
4123.52, 4123.55 to 4123.62, ~~and~~ 4123.64 to 4123.67, 4133.12, 5169
4133.13, and 4133.14 of the Revised Code, and that does not 5170
desire to insure the payment thereof or indemnify itself against 5171
loss sustained by the direct payment thereof, upon a finding of 5172
such facts by the administrator, may be granted the privilege to 5173
pay individually compensation, and furnish medical, surgical, 5174
nursing, and hospital services and attention and funeral 5175
expenses directly to injured employees or the dependents of 5176
killed employees, thereby being granted status as a self- 5177
insuring employer. The administrator may charge a board of 5178
county commissioners described in division (G) of section 5179
4123.01 of the Revised Code that applies for the status as a 5180
self-insuring employer a reasonable application fee to cover the 5181
bureau's costs in connection with processing and making a 5182
determination with respect to an application. All employers 5183
granted such status shall demonstrate sufficient financial and 5184
administrative ability to assure that all obligations under this 5185

section are promptly met. The administrator shall deny the 5186
privilege where the employer is unable to demonstrate the 5187
employer's ability to promptly meet all the obligations imposed 5188
on the employer by this section. The administrator shall 5189
consider, but is not limited to, the following factors, where 5190
applicable, in determining the employer's ability to meet all of 5191
the obligations imposed on the board as an employer by this 5192
section: 5193

(1) The board has operated in this state for a minimum of 5194
two years; 5195

(2) Where the board previously contributed to the state 5196
insurance fund or is a successor employer as defined by bureau 5197
rules, the amount of the buyout, as defined by bureau rules; 5198

(3) The sufficiency of the board's assets located in this 5199
state to insure the board's solvency in paying compensation 5200
directly; 5201

(4) The financial records, documents, and data, certified 5202
by a certified public accountant, necessary to provide the 5203
board's full financial disclosure. The records, documents, and 5204
data include, but are not limited to, balance sheets and profit 5205
and loss history for the current year and previous four years. 5206

(5) The board's organizational plan for the administration 5207
of the workers' compensation law; 5208

(6) The board's proposed plan to inform employees of the 5209
proposed self-insurance, the procedures the board will follow as 5210
a self-insuring employer, and the employees' rights to 5211
compensation and benefits; 5212

(7) The board has either an account in a financial 5213
institution in this state, or if the board maintains an account 5214

with a financial institution outside this state, ensures that 5215
workers' compensation checks are drawn from the same account as 5216
payroll checks or the board clearly indicates that payment will 5217
be honored by a financial institution in this state; 5218

(8) The board shall provide the administrator a surety 5219
bond in an amount equal to one hundred twenty-five per cent of 5220
the projected losses as determined by the administrator. 5221

(D) The administrator shall require a surety bond from all 5222
self-insuring employers, issued pursuant to section 4123.351 of 5223
the Revised Code, that is sufficient to compel, or secure to 5224
injured employees, or to the dependents of employees killed, the 5225
payment of compensation and expenses, which shall in no event be 5226
less than that paid or furnished out of the state insurance fund 5227
in similar cases to injured employees or to dependents of killed 5228
employees whose employers contribute to the fund, except when an 5229
employee of the employer, who has suffered the loss of a hand, 5230
arm, foot, leg, or eye prior to the injury for which 5231
compensation is to be paid, and thereafter suffers the loss of 5232
any other of the members as the result of any injury sustained 5233
in the course of and arising out of the employee's employment, 5234
the compensation to be paid by the self-insuring employer is 5235
limited to the disability suffered in the subsequent injury, 5236
additional compensation, if any, to be paid by the bureau out of 5237
the surplus created by section 4123.34 of the Revised Code. 5238

(E) In addition to the requirements of this section, the 5239
administrator shall make and publish rules governing the manner 5240
of making application and the nature and extent of the proof 5241
required to justify a finding of fact by the administrator as to 5242
granting the status of a self-insuring employer, which rules 5243
shall be general in their application, one of which rules shall 5244

provide that all self-insuring employers shall pay into the 5245
state insurance fund such amounts as are required to be credited 5246
to the surplus fund in division (B) of section 4123.34 of the 5247
Revised Code. The administrator may adopt rules establishing 5248
requirements in addition to the requirements described in 5249
division (B) (2) of this section that a public employer shall 5250
meet in order to qualify for self-insuring status. 5251

Employers shall secure directly from the bureau central 5252
offices application forms upon which the bureau shall stamp a 5253
designating number. Prior to submission of an application, an 5254
employer shall make available to the bureau, and the bureau 5255
shall review, the information described in division (B) (1) of 5256
this section, and public employers shall make available, and the 5257
bureau shall review, the information necessary to verify whether 5258
the public employer meets the requirements listed in division 5259
(B) (2) of this section. An employer shall file the completed 5260
application forms with an application fee, which shall cover the 5261
costs of processing the application, as established by the 5262
administrator, by rule, with the bureau at least ninety days 5263
prior to the effective date of the employer's new status as a 5264
self-insuring employer. The application form is not deemed 5265
complete until all the required information is attached thereto. 5266
The bureau shall only accept applications that contain the 5267
required information. 5268

(F) The bureau shall review completed applications within 5269
a reasonable time. If the bureau determines to grant an employer 5270
the status as a self-insuring employer, the bureau shall issue a 5271
statement, containing its findings of fact, that is prepared by 5272
the bureau and signed by the administrator. If the bureau 5273
determines not to grant the status as a self-insuring employer, 5274
the bureau shall notify the employer of the determination and 5275

require the employer to continue to pay its full premium into 5276
the state insurance fund. The administrator also shall adopt 5277
rules establishing a minimum level of performance as a criterion 5278
for granting and maintaining the status as a self-insuring 5279
employer and fixing time limits beyond which failure of the 5280
self-insuring employer to provide for the necessary medical 5281
examinations and evaluations may not delay a decision on a 5282
claim. 5283

(G) The administrator shall adopt rules setting forth 5284
procedures for auditing the program of self-insuring employers. 5285
The bureau shall conduct the audit upon a random basis or 5286
whenever the bureau has grounds for believing that a self- 5287
insuring employer is not in full compliance with bureau rules or 5288
this chapter. 5289

The administrator shall monitor the programs conducted by 5290
self-insuring employers, to ensure compliance with bureau 5291
requirements and for that purpose, shall develop and issue to 5292
self-insuring employers standardized forms for use by the self- 5293
insuring employer in all aspects of the self-insuring employers' 5294
direct compensation program and for reporting of information to 5295
the bureau. 5296

The bureau shall receive and transmit to the self-insuring 5297
employer all complaints concerning any self-insuring employer. 5298
In the case of a complaint against a self-insuring employer, the 5299
administrator shall handle the complaint through the self- 5300
insurance division of the bureau. The bureau shall maintain a 5301
file by employer of all complaints received that relate to the 5302
employer. The bureau shall evaluate each complaint and take 5303
appropriate action. 5304

The administrator shall adopt as a rule a prohibition 5305

against any self-insuring employer from harassing, dismissing, 5306
or otherwise disciplining any employee making a complaint, which 5307
rule shall provide for a financial penalty to be levied by the 5308
administrator payable by the offending self-insuring employer. 5309

(H) For the purpose of making determinations as to whether 5310
to grant status as a self-insuring employer, the administrator 5311
may subscribe to and pay for a credit reporting service that 5312
offers financial and other business information about individual 5313
employers. The costs in connection with the bureau's 5314
subscription or individual reports from the service about an 5315
applicant may be included in the application fee charged 5316
employers under this section. 5317

(I) A self-insuring employer that returns to the state 5318
insurance fund as a state fund employer shall provide the 5319
administrator with medical costs and indemnity costs by claim, 5320
and payroll by manual classification and year, and such other 5321
information the administrator may require. The self-insuring 5322
employer shall submit this information by dates and in a format 5323
determined by the administrator. The administrator shall develop 5324
a state fund experience modification factor for a self-insuring 5325
employer that returns to the state insurance fund based in whole 5326
or in part on the employer's self-insured experience and the 5327
information submitted. 5328

(J) On the first day of July of each year, the 5329
administrator shall calculate separately each self-insuring 5330
employer's assessments for the safety and hygiene fund, 5331
administrative costs pursuant to section 4123.342 of the Revised 5332
Code, and for the surplus fund under division (B) of section 5333
4123.34 of the Revised Code, on the basis of the paid 5334
compensation attributable to the individual self-insuring 5335

employer according to the following calculation: 5336

(1) The total assessment against all self-insuring 5337
employers as a class for each fund and for the administrative 5338
costs for the year that the assessment is being made, as 5339
determined by the administrator, divided by the total amount of 5340
paid compensation for the previous calendar year attributable to 5341
all amenable self-insuring employers; 5342

(2) Multiply the quotient in division (J)(1) of this 5343
section by the total amount of paid compensation for the 5344
previous calendar year that is attributable to the individual 5345
self-insuring employer for whom the assessment is being 5346
determined. Each self-insuring employer shall pay the assessment 5347
that results from this calculation, unless the assessment 5348
resulting from this calculation falls below a minimum 5349
assessment, which minimum assessment the administrator shall 5350
determine on the first day of July of each year with the advice 5351
and consent of the bureau of workers' compensation board of 5352
directors, in which event, the self-insuring employer shall pay 5353
the minimum assessment. 5354

In determining the total amount due for the total 5355
assessment against all self-insuring employers as a class for 5356
each fund and the administrative assessment, the administrator 5357
shall reduce proportionately the total for each fund and 5358
assessment by the amount of money in the self-insurance 5359
assessment fund as of the date of the computation of the 5360
assessment. 5361

The administrator shall calculate the assessment for the 5362
portion of the surplus fund under division (B) of section 5363
4123.34 of the Revised Code that is used for reimbursement to a 5364
self-insuring employer under division (H) of section 4123.512 of 5365

the Revised Code in the same manner as set forth in divisions 5366
(J) (1) and (2) of this section except that the administrator 5367
shall calculate the total assessment for this portion of the 5368
surplus fund only on the basis of those self-insuring employers 5369
that retain participation in reimbursement to the self-insuring 5370
employer under division (H) of section 4123.512 of the Revised 5371
Code and the individual self-insuring employer's proportion of 5372
paid compensation shall be calculated only for those self- 5373
insuring employers who retain participation in reimbursement to 5374
the self-insuring employer under division (H) of section 5375
4123.512 of the Revised Code. 5376

An employer who no longer is a self-insuring employer in 5377
this state or who no longer is operating in this state, shall 5378
continue to pay assessments for administrative costs and for the 5379
surplus fund under division (B) of section 4123.34 of the 5380
Revised Code based upon paid compensation attributable to claims 5381
that occurred while the employer was a self-insuring employer 5382
within this state. 5383

(K) There is hereby created in the state treasury the 5384
self-insurance assessment fund. All investment earnings of the 5385
fund shall be deposited in the fund. The administrator shall use 5386
the money in the self-insurance assessment fund only for 5387
administrative costs as specified in section 4123.341 of the 5388
Revised Code. 5389

(L) Every self-insuring employer shall certify, in 5390
affidavit form subject to the penalty for perjury, to the bureau 5391
the amount of the self-insuring employer's paid compensation for 5392
the previous calendar year. In reporting paid compensation paid 5393
for the previous year, a self-insuring employer shall exclude 5394
from the total amount of paid compensation any reimbursement the 5395

self-insuring employer receives in the previous calendar year 5396
from the surplus fund pursuant to section 4123.512 of the 5397
Revised Code for any paid compensation. The self-insuring 5398
employer also shall exclude from the paid compensation reported 5399
any amount recovered under section 4123.931 of the Revised Code 5400
and any amount that is determined not to have been payable to or 5401
on behalf of a claimant in any final administrative or judicial 5402
proceeding. The self-insuring employer shall exclude such 5403
amounts from the paid compensation reported in the reporting 5404
period subsequent to the date the determination is made. The 5405
administrator shall adopt rules, in accordance with Chapter 119. 5406
of the Revised Code, that provide for all of the following: 5407

(1) Establishing the date by which self-insuring employers 5408
must submit such information and the amount of the assessments 5409
provided for in division (J) of this section for employers who 5410
have been granted self-insuring status within the last calendar 5411
year; 5412

(2) If an employer fails to pay the assessment when due, 5413
the administrator may add a late fee penalty of not more than 5414
five hundred dollars to the assessment plus an additional 5415
penalty amount as follows: 5416

(a) For an assessment from sixty-one to ninety days past 5417
due, the prime interest rate, multiplied by the assessment due; 5418

(b) For an assessment from ninety-one to one hundred 5419
twenty days past due, the prime interest rate plus two per cent, 5420
multiplied by the assessment due; 5421

(c) For an assessment from one hundred twenty-one to one 5422
hundred fifty days past due, the prime interest rate plus four 5423
per cent, multiplied by the assessment due; 5424

(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;

(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;

(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the assessment due.

(3) An employer may appeal a late fee penalty and penalty assessment to the administrator.

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

The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, ~~and 4123.64, 4133.12, 4133.13, and 4133.14~~ of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a

nonoccupational accident and sickness program fully funded by 5454
the self-insuring employer, and all amounts paid by a self- 5455
insuring employer for a violation of a specific safety standard 5456
pursuant to Section 35 of Article II, Ohio Constitution and 5457
section 4121.47 of the Revised Code. 5458

(N) Should any section of this chapter or Chapter 4121. of 5459
the Revised Code providing for self-insuring employers' 5460
assessments based upon compensation paid be declared 5461
unconstitutional by a final decision of any court, then that 5462
section of the Revised Code declared unconstitutional shall 5463
revert back to the section in existence prior to November 3, 5464
1989, providing for assessments based upon payroll. 5465

(O) The administrator may grant a self-insuring employer 5466
the privilege to self-insure a construction project entered into 5467
by the self-insuring employer that is scheduled for completion 5468
within six years after the date the project begins, and the 5469
total cost of which is estimated to exceed one hundred million 5470
dollars or, for employers described in division (R) of this 5471
section, if the construction project is estimated to exceed 5472
twenty-five million dollars. The administrator may waive such 5473
cost and time criteria and grant a self-insuring employer the 5474
privilege to self-insure a construction project regardless of 5475
the time needed to complete the construction project and 5476
provided that the cost of the construction project is estimated 5477
to exceed fifty million dollars. A self-insuring employer who 5478
desires to self-insure a construction project shall submit to 5479
the administrator an application listing the dates the 5480
construction project is scheduled to begin and end, the 5481
estimated cost of the construction project, the contractors and 5482
subcontractors whose employees are to be self-insured by the 5483
self-insuring employer, the provisions of a safety program that 5484

is specifically designed for the construction project, and a 5485
statement as to whether a collective bargaining agreement 5486
governing the rights, duties, and obligations of each of the 5487
parties to the agreement with respect to the construction 5488
project exists between the self-insuring employer and a labor 5489
organization. 5490

A self-insuring employer may apply to self-insure the 5491
employees of either of the following: 5492

(1) All contractors and subcontractors who perform labor 5493
or work or provide materials for the construction project; 5494

(2) All contractors and, at the administrator's 5495
discretion, a substantial number of all the subcontractors who 5496
perform labor or work or provide materials for the construction 5497
project. 5498

Upon approval of the application, the administrator shall 5499
mail a certificate granting the privilege to self-insure the 5500
construction project to the self-insuring employer. The 5501
certificate shall contain the name of the self-insuring employer 5502
and the name, address, and telephone number of the self-insuring 5503
employer's representatives who are responsible for administering 5504
workers' compensation claims for the construction project. The 5505
self-insuring employer shall post the certificate in a 5506
conspicuous place at the site of the construction project. 5507

The administrator shall maintain a record of the 5508
contractors and subcontractors whose employees are covered under 5509
the certificate issued to the self-insured employer. A self- 5510
insuring employer immediately shall notify the administrator 5511
when any contractor or subcontractor is added or eliminated from 5512
inclusion under the certificate. 5513

Upon approval of the application, the self-insuring 5514
employer is responsible for the administration and payment of 5515
all claims under this chapter and ~~Chapter~~ Chapters 4121. and 5516
4133. of the Revised Code for the employees of the contractor 5517
and subcontractors covered under the certificate who receive 5518
injuries or are killed in the course of and arising out of 5519
employment on the construction project, or who contract an 5520
occupational disease in the course of employment on the 5521
construction project. For purposes of this chapter and ~~Chapter~~ 5522
Chapters 4121. and 4133. of the Revised Code, a claim that is 5523
administered and paid in accordance with this division is 5524
considered a claim against the self-insuring employer listed in 5525
the certificate. A contractor or subcontractor included under 5526
the certificate shall report to the self-insuring employer 5527
listed in the certificate, all claims that arise under this 5528
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised Code 5529
in connection with the construction project for which the 5530
certificate is issued. 5531

A self-insuring employer who complies with this division 5532
is entitled to the protections provided under this chapter and 5533
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code with 5534
respect to the employees of the contractors and subcontractors 5535
covered under a certificate issued under this division for death 5536
or injuries that arise out of, or death, injuries, or 5537
occupational diseases that arise in the course of, those 5538
employees' employment on that construction project, as if the 5539
employees were employees of the self-insuring employer, provided 5540
that the self-insuring employer also complies with this section. 5541
No employee of the contractors and subcontractors covered under 5542
a certificate issued under this division shall be considered the 5543
employee of the self-insuring employer listed in that 5544

certificate for any purposes other than this chapter and ~~Chapter~~ 5545
Chapters 4121. and 4133. of the Revised Code. Nothing in this 5546
division gives a self-insuring employer authority to control the 5547
means, manner, or method of employment of the employees of the 5548
contractors and subcontractors covered under a certificate 5549
issued under this division. 5550

The contractors and subcontractors included under a 5551
certificate issued under this division are entitled to the 5552
protections provided under this chapter and ~~Chapter~~ Chapters 5553
4121. and 4133. of the Revised Code with respect to the 5554
contractor's or subcontractor's employees who are employed on 5555
the construction project which is the subject of the 5556
certificate, for death or injuries that arise out of, or death, 5557
injuries, or occupational diseases that arise in the course of, 5558
those employees' employment on that construction project. 5559

The contractors and subcontractors included under a 5560
certificate issued under this division shall identify in their 5561
payroll records the employees who are considered the employees 5562
of the self-insuring employer listed in that certificate for 5563
purposes of this chapter and ~~Chapter~~ Chapters 4121. and 4133. of 5564
the Revised Code, and the amount that those employees earned for 5565
employment on the construction project that is the subject of 5566
that certificate. Notwithstanding any provision to the contrary 5567
under this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the 5568
Revised Code, the administrator shall exclude the payroll that 5569
is reported for employees who are considered the employees of 5570
the self-insuring employer listed in that certificate, and that 5571
the employees earned for employment on the construction project 5572
that is the subject of that certificate, when determining those 5573
contractors' or subcontractors' premiums or assessments required 5574
under this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the 5575

Revised Code. A self-insuring employer issued a certificate 5576
under this division shall include in the amount of paid 5577
compensation it reports pursuant to division (L) of this 5578
section, the amount of paid compensation the self-insuring 5579
employer paid pursuant to this division for the previous 5580
calendar year. 5581

Nothing in this division shall be construed as altering 5582
the rights of employees under this chapter and Chapter 4121. of 5583
the Revised Code as those rights existed prior to September 17, 5584
1996. Nothing in this division shall be construed as altering 5585
the rights devolved under sections 2305.31 and 4123.82 of the 5586
Revised Code as those rights existed prior to September 17, 5587
1996. 5588

As used in this division, "privilege to self-insure a 5589
construction project" means privilege to pay individually 5590
compensation, and to furnish medical, surgical, nursing, and 5591
hospital services and attention and funeral expenses directly to 5592
injured employees or the dependents of killed employees. 5593

(P) A self-insuring employer whose application is granted 5594
under division (O) of this section shall designate a safety 5595
professional to be responsible for the administration and 5596
enforcement of the safety program that is specifically designed 5597
for the construction project that is the subject of the 5598
application. 5599

A self-insuring employer whose application is granted 5600
under division (O) of this section shall employ an ombudsperson 5601
for the construction project that is the subject of the 5602
application. The ombudsperson shall have experience in workers' 5603
compensation or the construction industry, or both. The 5604
ombudsperson shall perform all of the following duties: 5605

(1) Communicate with and provide information to employees 5606
who are injured in the course of, or whose injury arises out of 5607
employment on the construction project, or who contract an 5608
occupational disease in the course of employment on the 5609
construction project; 5610

(2) Investigate the status of a claim upon the request of 5611
an employee to do so; 5612

(3) Provide information to claimants, third party 5613
administrators, employers, and other persons to assist those 5614
persons in protecting their rights under this chapter and 5615
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code. 5616

A self-insuring employer whose application is granted 5617
under division (O) of this section shall post the name of the 5618
safety professional and the ombudsperson and instructions for 5619
contacting the safety professional and the ombudsperson in a 5620
conspicuous place at the site of the construction project. 5621

(Q) The administrator may consider all of the following 5622
when deciding whether to grant a self-insuring employer the 5623
privilege to self-insure a construction project as provided 5624
under division (O) of this section: 5625

(1) Whether the self-insuring employer has an 5626
organizational plan for the administration of the workers' 5627
compensation law; 5628

(2) Whether the safety program that is specifically 5629
designed for the construction project provides for the safety of 5630
employees employed on the construction project, is applicable to 5631
all contractors and subcontractors who perform labor or work or 5632
provide materials for the construction project, and has as a 5633
component, a safety training program that complies with 5634

standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:

(1) A state institution of higher education;

(2) A school district;

(3) A county school financing district;

(4) An educational service center;

(5) A community school established under Chapter 3314. of the Revised Code;

(6) A municipal power agency as defined in section 3734.058 of the Revised Code.

(S) As used in this section:

(1) "Unvoted debt capacity" means the amount of money that

a public employer may borrow without voter approval of a tax 5662
levy; 5663

(2) "State institution of higher education" means the 5664
state universities listed in section 3345.011 of the Revised 5665
Code, community colleges created pursuant to Chapter 3354. of 5666
the Revised Code, university branches created pursuant to 5667
Chapter 3355. of the Revised Code, technical colleges created 5668
pursuant to Chapter 3357. of the Revised Code, and state 5669
community colleges created pursuant to Chapter 3358. of the 5670
Revised Code. 5671

Sec. 4123.351. (A) The administrator of workers' 5672
compensation shall require every self-insuring employer, 5673
including any self-insuring employer that is indemnified by a 5674
captive insurance company granted a certificate of authority 5675
under Chapter 3964. of the Revised Code, to pay a contribution, 5676
calculated under this section, to the self-insuring employers' 5677
guaranty fund established pursuant to this section. The fund 5678
shall provide for payment of compensation and benefits to 5679
employees of the self-insuring employer in order to cover any 5680
default in payment by that employer. 5681

(B) The bureau of workers' compensation shall operate the 5682
self-insuring employers' guaranty fund for self-insuring 5683
employers. The administrator annually shall establish the 5684
contributions due from self-insuring employers for the fund at 5685
rates as low as possible but such as will assure sufficient 5686
moneys to guarantee the payment of any claims against the fund. 5687
The bureau's operation of the fund is not subject to sections 5688
3929.10 to 3929.18 of the Revised Code or to regulation by the 5689
superintendent of insurance. 5690

(C) If a self-insuring employer defaults, the bureau shall 5691

recover the amounts paid as a result of the default from the 5692
self-insuring employers' guaranty fund. If a self-insuring 5693
employer defaults and is in compliance with this section for the 5694
payment of contributions to the fund, such self-insuring 5695
employer is entitled to the immunity conferred by section 5696
4123.74 of the Revised Code for any claim arising during any 5697
period the employer is in compliance with this section. 5698

(D) (1) There is hereby established a self-insuring 5699
employers' guaranty fund, which shall be in the custody of the 5700
treasurer of state and which shall be separate from the other 5701
funds established and administered pursuant to this chapter. The 5702
fund shall consist of contributions and other payments made by 5703
self-insuring employers under this section. All investment 5704
earnings of the fund shall be credited to the fund. The bureau 5705
shall make disbursements from the fund pursuant to this section. 5706

(2) The administrator has the same powers to invest any of 5707
the surplus or reserve belonging to the fund as are delegated to 5708
the administrator under section 4123.44 of the Revised Code with 5709
respect to the state insurance fund. The administrator shall 5710
apply interest earned solely to the reduction of assessments for 5711
contributions from self-insuring employers and to the payments 5712
required due to defaults. 5713

(3) If the bureau of workers' compensation board of 5714
directors determines that reinsurance of the risks of the fund 5715
is necessary to assure solvency of the fund, the board may: 5716

(a) Enter into contracts for the purchase of reinsurance 5717
coverage of the risks of the fund with any company or agency 5718
authorized by law to issue contracts of reinsurance; 5719

(b) Require the administrator to pay the cost of 5720

reinsurance from the fund;	5721
(c) Include the costs of reinsurance as a liability and estimated liability of the fund.	5722 5723
(E) The administrator, with the advice and consent of the board, may adopt rules pursuant to Chapter 119. of the Revised Code for the implementation of this section, including a rule, notwithstanding division (C) of this section, requiring self-insuring employers to provide security in addition to the contribution to the self-insuring employers' guaranty fund required by this section. The additional security required by the rule, as the administrator determines appropriate, shall be sufficient and adequate to provide for financial assurance to meet the obligations of self-insuring employers under this chapter and Chapter <u>Chapters 4121. and 4133.</u> of the Revised Code.	5724 5725 5726 5727 5728 5729 5730 5731 5732 5733 5734 5735
(F) The purchase of coverage under this section by self-insuring employers is valid notwithstanding the prohibitions contained in division (A) of section 4123.82 of the Revised Code and is in addition to the indemnity contracts that self-insuring employers may purchase pursuant to division (B) of section 4123.82 of the Revised Code.	5736 5737 5738 5739 5740 5741
(G) The administrator, on behalf of the self-insuring employers' guaranty fund, has the rights of reimbursement and subrogation and shall collect from a defaulting self-insuring employer or other liable person all amounts the administrator has paid or reasonably expects to pay from the fund on account of the defaulting self-insuring employer.	5742 5743 5744 5745 5746 5747
(H) The assessments for contributions, the administration of the self-insuring employers' guaranty fund, the investment of	5748 5749

the money in the fund, and the payment of liabilities incurred 5750
by the fund do not create any liability upon the state. 5751

Except for a gross abuse of discretion, neither the board, 5752
nor the individual members thereof, nor the administrator shall 5753
incur any obligation or liability respecting the assessments for 5754
contributions, the administration of the self-insuring 5755
employers' guaranty fund, the investment of the fund, or the 5756
payment of liabilities therefrom. 5757

Sec. 4123.353. (A) A public employer, except for a board 5758
of county commissioners described in division (G) of section 5759
4123.01 of the Revised Code, a board of a county hospital, or a 5760
publicly owned utility, who is granted the status of self- 5761
insuring employer pursuant to section 4123.35 of the Revised 5762
Code shall do all of the following: 5763

(1) Reserve funds as necessary, in accordance with sound 5764
and prudent actuarial judgment, to cover the costs the public 5765
employer may potentially incur to remain in compliance with this 5766
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 5767
Code; 5768

(2) Include all activity under this chapter and ~~Chapter~~ 5769
Chapters 4121. and 4133. of the Revised Code in a single fund on 5770
the public employer's accounting records; 5771

(3) Within ninety days after the last day of each fiscal 5772
year, prepare and maintain a report of the reserved funds 5773
described in division (A) (1) of this section and disbursements 5774
made from those reserved funds. 5775

(B) A public employer who is subject to division (A) of 5776
this section shall make the reports required by that division 5777
available for inspection by the administrator of workers' 5778

compensation and any other person at all reasonable times during 5779
regular business hours. 5780

Sec. 4123.402. The department of administrative services 5781
shall act as employer for workers' compensation claims arising 5782
under this chapter and Chapters 4121., 4127., ~~and 4131., and~~ 5783
4133. of the Revised Code for all state agencies, offices, 5784
institutions, boards, or commissions except for public colleges 5785
and universities. The department shall review, process, certify 5786
or contest, and administer workers' compensation claims for each 5787
state agency, office, institution, board, and commission, except 5788
for a public college or university, unless otherwise agreed to 5789
between the department and a state agency, office, institution, 5790
board, or commission. 5791

The department may enter into a contract with one or more 5792
third party administrators for claims management of a state 5793
agency, office, institution, board, or commission, except for a 5794
public college or university, for workers' compensation claims 5795
and for claims covered by the occupational injury leave program 5796
adopted pursuant to section 124.381 of the Revised Code. 5797

Sec. 4123.441. (A) The administrator of workers' 5798
compensation, with the advice and consent of the bureau of 5799
workers' compensation board of directors shall employ a person 5800
or designate an employee of the bureau of workers' compensation 5801
who is designated as a chartered financial analyst by the CFA 5802
institute and who is licensed by the division of securities in 5803
the department of commerce as a bureau of workers' compensation 5804
chief investment officer to be the chief investment officer for 5805
the bureau of workers' compensation. After ninety days after 5806
September 29, 2005, the bureau of workers' compensation may not 5807
employ a bureau of workers' compensation chief investment 5808

officer, as defined in section 1707.01 of the Revised Code, who 5809
does not hold a valid bureau of workers' compensation chief 5810
investment officer license issued by the division of securities 5811
in the department of commerce. The board shall notify the 5812
division of securities of the department of commerce in writing 5813
of its designation and of any change in its designation within 5814
ten calendar days after the designation or change. 5815

(B) The bureau of workers' compensation chief investment 5816
officer shall reasonably supervise employees of the bureau who 5817
handle investment of assets of funds specified in this chapter 5818
and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the Revised 5819
Code with a view toward preventing violations of Chapter 1707. 5820
of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 5821
7 U.S.C. 1, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 5822
77a, the "Securities Exchange Act of 1934," 48 Stat. 881, 15 5823
U.S.C. 78a, and the rules and regulations adopted under those 5824
statutes. This duty of reasonable supervision shall include the 5825
adoption, implementation, and enforcement of written policies 5826
and procedures reasonably designed to prevent employees of the 5827
bureau who handle investment of assets of the funds specified in 5828
this chapter and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of 5829
the Revised Code, from misusing material, nonpublic information 5830
in violation of those laws, rules, and regulations. 5831

For purposes of this division, no bureau of workers' 5832
compensation chief investment officer shall be considered to 5833
have failed to satisfy the officer's duty of reasonable 5834
supervision if the officer has done all of the following: 5835

(1) Adopted and implemented written procedures, and a 5836
system for applying the procedures, that would reasonably be 5837
expected to prevent and detect, insofar as practicable, any 5838

violation by employees handling investments of assets of the 5839
funds specified in this chapter and Chapters 4121., 4127., ~~and~~ 5840
~~4131., and 4133.~~ of the Revised Code; 5841

(2) Reasonably discharged the duties and obligations 5842
incumbent on the bureau of workers' compensation chief 5843
investment officer by reason of the established procedures and 5844
the system for applying the procedures when the officer had no 5845
reasonable cause to believe that there was a failure to comply 5846
with the procedures and systems; 5847

(3) Reviewed, at least annually, the adequacy of the 5848
policies and procedures established pursuant to this section and 5849
the effectiveness of their implementation. 5850

(C) The bureau of workers' compensation chief investment 5851
officer shall establish and maintain a policy to monitor and 5852
evaluate the effectiveness of securities transactions executed 5853
on behalf of the bureau. 5854

Sec. 4123.442. When developing the investment policy for 5855
the investment of the assets of the funds specified in this 5856
chapter and Chapters 4121., 4127., ~~and~~ 4131., and 4133. of the 5857
Revised Code, the workers' compensation investment committee 5858
shall do all of the following: 5859

(A) Specify the asset allocation targets and ranges, risk 5860
factors, asset class benchmarks, time horizons, total return 5861
objectives, and performance evaluation guidelines; 5862

(B) Prohibit investing the assets of those funds, directly 5863
or indirectly, in vehicles that target any of the following: 5864

(1) Coins; 5865

(2) Artwork; 5866

(3) Horses;	5867
(4) Jewelry or gems;	5868
(5) Stamps;	5869
(6) Antiques;	5870
(7) Artifacts;	5871
(8) Collectibles;	5872
(9) Memorabilia;	5873
(10) Similar unregulated investments that are not commonly part of an institutional portfolio, that lack liquidity, and that lack readily determinable valuation.	5874 5875 5876
(C) Specify that the administrator of workers' compensation may invest in an investment class only if the bureau of workers' compensation board of directors, by a majority vote, opens that class;	5877 5878 5879 5880
(D) Prohibit investing the assets of those funds in any class of investments the board, by majority vote, closed, or any specific investment in which the board prohibits the administrator from investing;	5881 5882 5883 5884
(E) Not specify in the investment policy that the administrator or employees of the bureau of workers' compensation are prohibited from conducting business with an investment management firm, any investment management professional associated with that firm, any third party solicitor associated with that firm, or any political action committee controlled by that firm or controlled by an investment management professional of that firm based on criteria that are more restrictive than the restrictions described in divisions	5885 5886 5887 5888 5889 5890 5891 5892 5893

(Y) and (Z) of section 3517.13 of the Revised Code. 5894

Sec. 4123.444. (A) As used in this section and section 5895
4123.445 of the Revised Code: 5896

(1) "Bureau of workers' compensation funds" means any fund 5897
specified in Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. of 5898
the Revised Code that the administrator of workers' compensation 5899
has the authority to invest, in accordance with the 5900
administrator's investment authority under section 4123.44 of 5901
the Revised Code. 5902

(2) "Investment manager" means any person with whom the 5903
administrator of workers' compensation contracts pursuant to 5904
section 4123.44 of the Revised Code to facilitate the investment 5905
of assets of bureau of workers' compensation funds. 5906

(3) "Business entity" means any person with whom an 5907
investment manager contracts for the investment of assets of 5908
bureau of workers' compensation funds. 5909

(4) "Financial or investment crime" means any criminal 5910
offense involving theft, receiving stolen property, 5911
embezzlement, forgery, fraud, passing bad checks, money 5912
laundering, drug trafficking, or any criminal offense involving 5913
money or securities, as set forth in Chapters 2909., 2911., 5914
2913., 2915., 2921., 2923., and 2925. of the Revised Code or 5915
other law of this state, or the laws of any other state or the 5916
United States that are substantially equivalent to those 5917
offenses. 5918

(B) (1) Before entering into a contract with an investment 5919
manager to invest bureau of workers' compensation funds, the 5920
administrator shall do both of the following: 5921

(a) Request from any investment manager with whom the 5922

administrator wishes to contract for those investments a list of 5923
all employees who will be investing assets of bureau of workers' 5924
compensation funds. The list shall specify each employee's state 5925
of residence for the five years prior to the date of the 5926
administrator's request. 5927

(b) Request that the superintendent of the bureau of 5928
criminal investigation and identification conduct a criminal 5929
records check in accordance with this section and section 5930
109.579 of the Revised Code with respect to every employee the 5931
investment manager names in that list. 5932

(2) After an investment manager enters into a contract 5933
with the administrator to invest bureau of workers' compensation 5934
funds and before an investment manager enters into a contract 5935
with a business entity to facilitate those investments, the 5936
investment manager shall request from any business entity with 5937
whom the investment manager wishes to contract to make those 5938
investments a list of all employees who will be investing assets 5939
of the bureau of workers' compensation funds. The list shall 5940
specify each employee's state of residence for the five years 5941
prior to the investment manager's request. The investment 5942
manager shall forward to the administrator the list received 5943
from the business entity. The administrator shall request the 5944
superintendent to conduct a criminal records check in accordance 5945
with this section and section 109.579 of the Revised Code with 5946
respect to every employee the business entity names in that 5947
list. Upon receipt of the results of the criminal records check, 5948
the administrator shall advise the investment manager whether 5949
the results were favorable or unfavorable. 5950

(3) If, after a contract has been entered into between the 5951
administrator and an investment manager or between an investment 5952

manager and a business entity for the investment of assets of 5953
bureau of workers' compensation funds, the investment manager or 5954
business entity wishes to have an employee who was not the 5955
subject of a criminal records check under division (B) (1) or (B) 5956
(2) of this section invest assets of the bureau of workers' 5957
compensation funds, that employee shall be the subject of a 5958
criminal records check pursuant to this section and section 5959
109.579 of the Revised Code prior to handling the investment of 5960
assets of those funds. The investment manager shall submit to 5961
the administrator the name of that employee along with the 5962
employee's state of residence for the five years prior to the 5963
date in which the administrator requests the criminal records 5964
check. The administrator shall request that the superintendent 5965
conduct a criminal records check on that employee pursuant to 5966
this section and section 109.579 of the Revised Code. 5967

(C) (1) If an employee who is the subject of a criminal 5968
records check pursuant to division (B) of this section has not 5969
been a resident of this state for the five-year period 5970
immediately prior to the time the criminal records check is 5971
requested or does not provide evidence that within that five- 5972
year period the superintendent has requested information about 5973
the employee from the federal bureau of investigation in a 5974
criminal records check, the administrator shall request that the 5975
superintendent obtain information from the federal bureau of 5976
investigation as a part of the criminal records check for the 5977
employee. If the employee has been a resident of this state for 5978
at least that five-year period, the administrator may, but is 5979
not required to, request that the superintendent request and 5980
include in the criminal records check information about that 5981
employee from the federal bureau of investigation. 5982

(2) The administrator shall provide to an investment 5983

manager a copy of the form prescribed pursuant to division (C) 5984
(1) of section 109.579 of the Revised Code and a standard 5985
impression sheet for each employee for whom a criminal records 5986
check must be performed, to obtain fingerprint impressions as 5987
prescribed pursuant to division (C)(2) of section 109.579 of the 5988
Revised Code. The investment manager shall obtain the completed 5989
form and impression sheet either directly from each employee or 5990
from a business entity and shall forward the completed form and 5991
sheet to the administrator, who shall forward these forms and 5992
sheets to the superintendent. 5993

(3) Any employee who receives a copy of the form and the 5994
impression sheet pursuant to division (C)(2) of this section and 5995
who is requested to complete the form and provide a set of 5996
fingerprint impressions shall complete the form or provide all 5997
the information necessary to complete the form and shall 5998
complete the impression sheets in the manner prescribed in 5999
division (C)(2) of section 109.579 of the Revised Code. 6000

(D) For each criminal records check the administrator 6001
requests under this section, at the time the administrator makes 6002
a request the administrator shall pay to the superintendent the 6003
fee the superintendent prescribes pursuant to division (E) of 6004
section 109.579 of the Revised Code. 6005

Sec. 4123.46. (A)(1) Except as provided in division (A)(2) 6006
of this section, the bureau of workers' compensation shall 6007
disburse the state insurance fund to employees of employers who 6008
have paid into the fund the premiums applicable to the classes 6009
to which they belong when the employees have been injured in the 6010
course of their employment, wherever the injuries have occurred, 6011
and provided the injuries have not been purposely self- 6012
inflicted, or to the dependents of the employees in case death 6013

has ensued. 6014

(2) As long as injuries have not been purposely self- 6015
inflicted, the bureau shall disburse the surplus fund created 6016
under section 4123.34 of the Revised Code to off-duty peace 6017
officers, firefighters, emergency medical technicians, and first 6018
responders, or to their dependents if death ensues, who are 6019
injured while responding to inherently dangerous situations that 6020
call for an immediate response on the part of the person, 6021
regardless of whether the person was within the limits of the 6022
person's jurisdiction when responding, on the condition that the 6023
person responds to the situation as the person otherwise would 6024
if the person were on duty in the person's jurisdiction. 6025

As used in division (A) (2) of this section, "peace 6026
officer," "firefighter," "emergency medical technician," and 6027
"first responder," ~~and "jurisdiction"~~ have the same meanings as 6028
in section 4123.01 of the Revised Code. 6029

(B) All self-insuring employers, in compliance with this 6030
chapter, shall pay the compensation to injured employees, or to 6031
the dependents of employees who have been killed in the course 6032
of their employment, unless the injury or death of the employee 6033
was purposely self-inflicted, and shall furnish the medical, 6034
surgical, nurse, and hospital care and attention or funeral 6035
expenses as would have been paid and furnished by virtue of this 6036
chapter or Chapter 4133. of the Revised Code under a similar 6037
state of facts by the bureau out of the state insurance fund if 6038
the employer had paid the premium into the fund. 6039

If any rule or regulation of a self-insuring employer 6040
provides for or authorizes the payment of greater compensation 6041
or more complete or extended medical care, nursing, surgical, 6042
and hospital attention, or funeral expenses to the injured 6043

employees, or to the dependents of the employees as may be 6044
killed, the employer shall pay to the employees, or to the 6045
dependents of employees killed, the amount of compensation and 6046
furnish the medical care, nursing, surgical, and hospital 6047
attention or funeral expenses provided by the self-insuring 6048
employer's rules and regulations. 6049

(C) Payment to injured employees, or to their dependents 6050
in case death has ensued, is in lieu of any and all rights of 6051
action against the employer of the injured or killed employees. 6052

Sec. 4123.47. (A) The administrator of workers' 6053
compensation shall have an actuarial analysis of the state 6054
insurance fund and all other funds specified in this chapter and 6055
Chapters 4121., 4127., ~~and 4131., and 4133.~~ of the Revised Code 6056
made at least once each year. The analysis shall be made and 6057
certified by recognized, credentialed property or casualty 6058
actuaries who shall be selected by the bureau of workers' 6059
compensation board of directors. The expense of the analysis 6060
shall be paid from the state insurance fund. The administrator 6061
shall make copies of the analysis available to the workers' 6062
compensation audit committee at no charge and to the public at 6063
cost. 6064

(B) The auditor of state annually shall conduct an audit 6065
of the administration of this chapter and Chapter 4133. of the 6066
Revised Code by the industrial commission, the occupational 6067
pneumoconiosis board, and the bureau of workers' compensation 6068
and of the safety and hygiene fund. The cost of the audit shall 6069
be charged to the administrative costs of the bureau as defined 6070
in section 4123.341 of the Revised Code. The audit shall include 6071
audits of all fiscal activities, claims processing and handling, 6072
and employer premium collections. The auditor shall prepare a 6073

report of the audit together with recommendations and transmit 6074
copies of the report to the industrial commission, the bureau of 6075
workers' compensation board of directors, the administrator, the 6076
governor, and to the general assembly. The auditor shall make 6077
copies of the report available to the public at cost. 6078

(C) The administrator may retain the services of a 6079
recognized actuary on a consulting basis for the purpose of 6080
evaluating the actuarial soundness of premium rates and 6081
classifications and all other matters involving the 6082
administration of the state insurance fund. The expense of 6083
services provided by the actuary shall be paid from the state 6084
insurance fund. 6085

Sec. 4123.51. The administrator of workers' compensation 6086
shall by published notices and other appropriate means endeavor 6087
to cause claims to be filed in the service office of the bureau 6088
of workers' compensation from which the investigation and 6089
determination of the claim may be made most expeditiously. A 6090
claim or appeal under this chapter or Chapter 4121., 4127., ~~or~~ 6091
4131., or 4133. of the Revised Code may be filed with any office 6092
of the bureau of workers' compensation or the industrial 6093
commission, within the required statutory period, and is 6094
considered received for the purpose of processing the claims or 6095
appeals. 6096

The administrator, on the form an employee or an 6097
individual acting on behalf of the employee files with the 6098
administrator or a self-insuring employer to initiate a claim 6099
under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4133. 6100
of the Revised Code, shall include a statement that is 6101
substantially similar to the following statement in bold font 6102
and set apart from all other text in the form: 6103

"By signing this form, I elect to only receive 6104
compensation, benefits, or both that are provided for in this 6105
claim under Ohio's workers' compensation laws. I understand and 6106
I hereby waive and release my right to receive compensation and 6107
benefits under the workers' compensation laws of another state 6108
for the injury or occupational disease, or the death resulting 6109
from an injury or occupational disease, for which I am filing 6110
this claim. I have not received compensation and benefits under 6111
the workers' compensation laws of another state for this claim, 6112
and I will not file and have not filed a claim in another state 6113
for the injury or occupational disease or death resulting from 6114
an injury or occupational disease for which I am filing this 6115
claim." 6116

Sec. 4123.511. (A) Within seven days after receipt of any 6117
claim under this chapter or Chapter 4133. of the Revised Code, 6118
the bureau of workers' compensation shall notify the claimant 6119
and the employer of the claimant of the receipt of the claim and 6120
of the facts alleged therein. If the bureau receives from a 6121
person other than the claimant written or facsimile information 6122
or information communicated verbally over the telephone 6123
indicating that an injury or occupational disease has occurred 6124
or been contracted which may be compensable under this chapter 6125
or Chapter 4133. of the Revised Code, the bureau shall notify 6126
the employee and the employer of the information. If the 6127
information is provided verbally over the telephone, the person 6128
providing the information shall provide written verification of 6129
the information to the bureau according to division (E) of 6130
section 4123.84 of the Revised Code. The receipt of the 6131
information in writing or facsimile, or if initially by 6132
telephone, the subsequent written verification, and the notice 6133
by the bureau shall be considered an application for 6134

compensation under section 4123.84 or 4123.85 of the Revised 6135
Code, provided that the conditions of division (E) of section 6136
4123.84 of the Revised Code apply to information provided 6137
verbally over the telephone. Upon receipt of a claim, the bureau 6138
shall advise the claimant of the claim number assigned and the 6139
claimant's right to representation in the processing of a claim 6140
or to elect no representation. If the bureau determines that a 6141
claim is determined to be a compensable lost-time claim, the 6142
bureau shall notify the claimant and the employer of the 6143
availability of rehabilitation services. No bureau or industrial 6144
commission employee shall directly or indirectly convey any 6145
information in derogation of this right. This section shall in 6146
no way abrogate the bureau's responsibility to aid and assist a 6147
claimant in the filing of a claim and to advise the claimant of 6148
the claimant's rights under the law. 6149

The administrator of workers' compensation shall assign 6150
all claims and investigations to the bureau service office from 6151
which investigation and determination may be made most 6152
expeditiously. 6153

The bureau shall investigate the facts concerning an 6154
injury or occupational disease and ascertain such facts in 6155
whatever manner is most appropriate and may obtain statements of 6156
the employee, employer, attending physician, and witnesses in 6157
whatever manner is most appropriate. 6158

The administrator, with the advice and consent of the 6159
bureau of workers' compensation board of directors, may adopt 6160
rules that identify specified medical conditions that have a 6161
historical record of being allowed whenever included in a claim. 6162
The administrator may grant immediate allowance of any medical 6163
condition identified in those rules upon the filing of a claim 6164

involving that medical condition and may make immediate payment 6165
of medical bills for any medical condition identified in those 6166
rules that is included in a claim. If an employer contests the 6167
allowance of a claim involving any medical condition identified 6168
in those rules, and the claim is disallowed, payment for the 6169
medical condition included in that claim shall be charged to and 6170
paid from the surplus fund created under section 4123.34 of the 6171
Revised Code. 6172

(B) (1) Except as provided in division (B) (2) of this 6173
section, in claims other than those in which the employer is a 6174
self-insuring employer, if the administrator determines under 6175
division (A) of this section that a claimant is or is not 6176
entitled to an award of compensation or benefits, the 6177
administrator shall issue an order no later than twenty-eight 6178
days after the sending of the notice under division (A) of this 6179
section, granting or denying the payment of the compensation or 6180
benefits, or both as is appropriate to the claimant. 6181
Notwithstanding the time limitation specified in this division 6182
for the issuance of an order, if a medical examination of the 6183
claimant is required by statute, the administrator promptly 6184
shall schedule the claimant for that examination and shall issue 6185
an order no later than twenty-eight days after receipt of the 6186
report of the examination. The administrator shall notify the 6187
claimant and the employer of the claimant and their respective 6188
representatives in writing of the nature of the order and the 6189
amounts of compensation and benefit payments involved. The 6190
employer or claimant may appeal the order pursuant to division 6191
(C) of this section within fourteen days after the date of the 6192
receipt of the order. The employer and claimant may waive, in 6193
writing, their rights to an appeal under this division. 6194

(2) Notwithstanding the time limitation specified in 6195

division (B) (1) of this section for the issuance of an order, if 6196
the employer certifies a claim for payment of compensation or 6197
benefits, or both, to a claimant, and the administrator has 6198
completed the investigation of the claim, the payment of 6199
benefits or compensation, or both, as is appropriate, shall 6200
commence upon the later of the date of the certification or 6201
completion of the investigation and issuance of the order by the 6202
administrator, provided that the administrator shall issue the 6203
order no later than the time limitation specified in division 6204
(B) (1) of this section. 6205

(3) If an appeal is made under division (B) (1) or (2) of 6206
this section, the administrator shall forward the claim file to 6207
the appropriate district hearing officer within seven days of 6208
the appeal. In contested claims other than state fund claims, 6209
the administrator shall forward the claim within seven days of 6210
the administrator's receipt of the claim to the industrial 6211
commission, which shall refer the claim to an appropriate 6212
district hearing officer for a hearing in accordance with 6213
division (C) of this section. 6214

~~(C) If an employer or claimant timely appeals the order of~~ 6215
~~the administrator issued under division (B) of this section or~~ 6216
~~in the case of other contested claims other than state fund~~ 6217
~~claims, (1) Except as provided in division (C) (2) of this~~ 6218
section, the commission shall refer ~~the~~ a claim to an 6219
appropriate district hearing officer according to rules the 6220
commission adopts under section 4121.36 of the Revised Code if 6221
an employer or claimant timely appeals any of the following: 6222

(a) An order or determination of the administrator issued 6223
under division (B) of this section or section 4133.06 of the 6224
Revised Code; 6225

(b) A determination of the occupational pneumoconiosis board issued under section 4133.09 of the Revised Code; 6226
6227

(c) Other contested claims other than state fund claims. 6228

(2) Division (C)(1) of this section does not apply to a claim that has been referred to the occupational pneumoconiosis board for review under section 4133.08 of the Revised Code. 6229
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The district hearing officer shall notify the parties and their respective representatives of the time and place of the hearing. 6232
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The district hearing officer shall hold a hearing on a disputed issue or claim within forty-five days after the filing of the appeal under this division and issue a decision within seven days after holding the hearing. The district hearing officer shall notify the parties and their respective representatives in writing of the order. Any party may appeal an order issued under this division pursuant to division (D) of this section within fourteen days after receipt of the order under this division. 6235
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(D) Upon the timely filing of an appeal of the order of the district hearing officer issued under division (C) of this section, the commission shall refer the claim file to an appropriate staff hearing officer according to its rules adopted under section 4121.36 of the Revised Code. The staff hearing officer shall hold a hearing within forty-five days after the filing of an appeal under this division and issue a decision within seven days after holding the hearing under this division. The staff hearing officer shall notify the parties and their respective representatives in writing of the staff hearing officer's order. Any party may appeal an order issued under this 6244
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division pursuant to division (E) of this section within 6255
fourteen days after receipt of the order under this division. 6256

(E) Upon the filing of a timely appeal of the order of the 6257
staff hearing officer issued under division (D) of this section, 6258
the commission or a designated staff hearing officer, on behalf 6259
of the commission, shall determine whether the commission will 6260
hear the appeal. If the commission or the designated staff 6261
hearing officer decides to hear the appeal, the commission or 6262
the designated staff hearing officer shall notify the parties 6263
and their respective representatives in writing of the time and 6264
place of the hearing. The commission shall hold the hearing 6265
within forty-five days after the filing of the notice of appeal 6266
and, within seven days after the conclusion of the hearing, the 6267
commission shall issue its order affirming, modifying, or 6268
reversing the order issued under division (D) of this section. 6269
The commission shall notify the parties and their respective 6270
representatives in writing of the order. If the commission or 6271
the designated staff hearing officer determines not to hear the 6272
appeal, within fourteen days after the expiration of the period 6273
in which an appeal of the order of the staff hearing officer may 6274
be filed as provided in division (D) of this section, the 6275
commission or the designated staff hearing officer shall issue 6276
an order to that effect and notify the parties and their 6277
respective representatives in writing of that order. 6278

Except as otherwise provided in this chapter and Chapters 6279
4121., 4127., ~~and 4131.~~, and 4133. of the Revised Code, any 6280
party may appeal an order issued under this division to the 6281
court pursuant to section 4123.512 of the Revised Code within 6282
sixty days after receipt of the order, subject to the 6283
limitations contained in that section. 6284

(F) Every notice of an appeal from an order issued under 6285
divisions (B), (C), (D), and (E) of this section shall state the 6286
names of the claimant and employer, the number of the claim, the 6287
date of the decision appealed from, and the fact that the 6288
appellant appeals therefrom. 6289

(G) All of the following apply to the proceedings under 6290
divisions (C), (D), and (E) of this section: 6291

(1) The parties shall proceed promptly and without 6292
continuances except for good cause; 6293

(2) The parties, in good faith, shall engage in the free 6294
exchange of information relevant to the claim prior to the 6295
conduct of a hearing according to the rules the commission 6296
adopts under section 4121.36 of the Revised Code; 6297

(3) The administrator is a party and may appear and 6298
participate at all administrative proceedings on behalf of the 6299
state insurance fund. However, in cases in which the employer is 6300
represented, the administrator shall neither present arguments 6301
nor introduce testimony that is cumulative to that presented or 6302
introduced by the employer or the employer's representative. The 6303
administrator may file an appeal under this section on behalf of 6304
the state insurance fund; however, except in cases arising under 6305
section 4123.343 of the Revised Code, the administrator only may 6306
appeal questions of law or issues of fraud when the employer 6307
appears in person or by representative. 6308

(H) Except as provided in section 4121.63 of the Revised 6309
Code and division (K) of this section, payments of compensation 6310
to a claimant or on behalf of a claimant as a result of any 6311
order issued under this chapter or Chapter 4133. of the Revised 6312
Code shall commence upon the earlier of the following: 6313

(1) Fourteen days after the date the administrator issues an order under division (B) of this section or section 4133.06 of the Revised Code, unless that order is appealed or the claim has been referred to the occupational pneumoconiosis board, as applicable;

(2) Fourteen days after the date the occupational pneumoconiosis board makes a determination under section 4133.09 of the Revised Code;

(3) The date when the employer has waived the right to appeal a decision issued under division (B) of this section or Chapter 4133. of the Revised Code;

~~(3)~~ (4) If no appeal of an order has been filed under this section or to a court under section 4123.512 of the Revised Code, the expiration of the time limitations for the filing of an appeal of an order;

~~(4)~~ (5) The date of receipt by the employer of an order of a district hearing officer, a staff hearing officer, or the industrial commission issued under division (C), (D), or (E) of this section.

(I) Except as otherwise provided in division (B) of section 4123.66 of the Revised Code, payments of medical benefits payable under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4133. of the Revised Code shall commence upon the earlier of the following:

(1) The date of the issuance of the staff hearing officer's order under division (D) of this section;

(2) The date of the final administrative or judicial determination.

(J) The administrator shall charge the compensation 6342
payments made in accordance with division (H) of this section or 6343
medical benefits payments made in accordance with division (I) 6344
of this section to an employer's experience immediately after 6345
the employer has exhausted the employer's administrative appeals 6346
as provided in this section or section 4133.06 of the Revised 6347
Code or has waived the employer's right to an administrative 6348
appeal under division (B) of this section or Chapter 4133. of 6349
the Revised Code, subject to the adjustment specified in 6350
division (H) of section 4123.512 of the Revised Code. 6351

(K) Upon the final administrative or judicial 6352
determination under this section or section 4123.512 of the 6353
Revised Code of an appeal of an order to pay compensation, if a 6354
claimant is found to have received compensation pursuant to a 6355
prior order which is reversed upon subsequent appeal, the 6356
claimant's employer, if a self-insuring employer, or the bureau, 6357
shall withhold from any amount to which the claimant becomes 6358
entitled pursuant to any claim, past, present, or future, under 6359
Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised 6360
Code, the amount of previously paid compensation to the claimant 6361
which, due to reversal upon appeal, the claimant is not 6362
entitled, pursuant to the following criteria: 6363

(1) No withholding for the first twelve weeks of temporary 6364
total disability compensation pursuant to ~~section~~ sections 6365
4123.56 and 4133.12 of the Revised Code shall be made; 6366

(2) Forty per cent of all awards of compensation paid 6367
pursuant to sections 4123.56 ~~and~~ , 4123.57, 4133.12, and 4133.13 6368
of the Revised Code, until the amount overpaid is refunded; 6369

(3) Twenty-five per cent of any compensation paid pursuant 6370
to ~~section~~ sections 4123.58 and 4133.14 of the Revised Code 6371

until the amount overpaid is refunded; 6372

(4) If, pursuant to an appeal under section 4123.512 of 6373
the Revised Code, the court of appeals or the supreme court 6374
reverses the allowance of the claim, then no amount of any 6375
compensation will be withheld. 6376

The administrator and self-insuring employers, as 6377
appropriate, are subject to the repayment schedule of this 6378
division only with respect to an order to pay compensation that 6379
was properly paid under a previous order, but which is 6380
subsequently reversed upon an administrative or judicial appeal. 6381
The administrator and self-insuring employers are not subject 6382
to, but may utilize, the repayment schedule of this division, or 6383
any other lawful means, to collect payment of compensation made 6384
to a person who was not entitled to the compensation due to 6385
fraud as determined by the administrator or the industrial 6386
commission. 6387

(L) If a staff hearing officer or the commission fails to 6388
issue a decision or the commission fails to refuse to hear an 6389
appeal within the time periods required by this section, 6390
payments to a claimant shall cease until the staff hearing 6391
officer or commission issues a decision or hears the appeal, 6392
unless the failure was due to the fault or neglect of the 6393
employer or the employer agrees that the payments should 6394
continue for a longer period of time. 6395

(M) Except as otherwise provided in this section or 6396
section 4123.522 of the Revised Code, no appeal is timely filed 6397
under this section unless the appeal is filed with the time 6398
limits set forth in this section. 6399

(N) No person who is not an employee of the bureau or 6400

commission or who is not by law given access to the contents of 6401
a claims file shall have a file in the person's possession. 6402

(O) Upon application of a party who resides in an area in 6403
which an emergency or disaster is declared, the industrial 6404
commission and hearing officers of the commission may waive the 6405
time frame within which claims and appeals of claims set forth 6406
in this section must be filed upon a finding that the applicant 6407
was unable to comply with a filing deadline due to an emergency 6408
or a disaster. 6409

As used in this division: 6410

(1) "Emergency" means any occasion or instance for which 6411
the governor of Ohio or the president of the United States 6412
publicly declares an emergency and orders state or federal 6413
assistance to save lives and protect property, the public health 6414
and safety, or to lessen or avert the threat of a catastrophe. 6415

(2) "Disaster" means any natural catastrophe or fire, 6416
flood, or explosion, regardless of the cause, that causes damage 6417
of sufficient magnitude that the governor of Ohio or the 6418
president of the United States, through a public declaration, 6419
orders state or federal assistance to alleviate damage, loss, 6420
hardship, or suffering that results from the occurrence. 6421

Sec. 4123.512. (A) The claimant or the employer may appeal 6422
an order of the industrial commission made under division (E) of 6423
section 4123.511 of the Revised Code in any injury or 6424
occupational disease case, other than a decision as to the 6425
extent of disability to the court of common pleas of the county 6426
in which the injury was inflicted or in which the contract of 6427
employment was made if the injury occurred outside the state, or 6428
in which the contract of employment was made if the exposure 6429

occurred outside the state. If no common pleas court has 6430
jurisdiction for the purposes of an appeal by the use of the 6431
jurisdictional requirements described in this division, the 6432
appellant may use the venue provisions in the Rules of Civil 6433
Procedure to vest jurisdiction in a court. If the claim is for 6434
an occupational disease, the appeal shall be to the court of 6435
common pleas of the county in which the exposure which caused 6436
the disease occurred. Like appeal may be taken from an order of 6437
a staff hearing officer made under division (D) of section 6438
4123.511 of the Revised Code from which the commission has 6439
refused to hear an appeal. Except as otherwise provided in this 6440
division, the appellant shall file the notice of appeal with a 6441
court of common pleas within sixty days after the date of the 6442
receipt of the order appealed from or the date of receipt of the 6443
order of the commission refusing to hear an appeal of a staff 6444
hearing officer's decision under division (D) of section 6445
4123.511 of the Revised Code. Either the claimant or the 6446
employer may file a notice of an intent to settle the claim 6447
within thirty days after the date of the receipt of the order 6448
appealed from or of the order of the commission refusing to hear 6449
an appeal of a staff hearing officer's decision. The claimant or 6450
employer shall file notice of intent to settle with the 6451
administrator of workers' compensation, and the notice shall be 6452
served on the opposing party and the party's representative. The 6453
filing of the notice of intent to settle extends the time to 6454
file an appeal to one hundred fifty days, unless the opposing 6455
party files an objection to the notice of intent to settle 6456
within fourteen days after the date of the receipt of the notice 6457
of intent to settle. The party shall file the objection with the 6458
administrator, and the objection shall be served on the party 6459
that filed the notice of intent to settle and the party's 6460
representative. The filing of the notice of the appeal with the 6461

court is the only act required to perfect the appeal. 6462

If an action has been commenced in a court of a county 6463
other than a court of a county having jurisdiction over the 6464
action, the court, upon notice by any party or upon its own 6465
motion, shall transfer the action to a court of a county having 6466
jurisdiction. 6467

Notwithstanding anything to the contrary in this section, 6468
if the commission determines under section 4123.522 of the 6469
Revised Code that an employee, employer, or their respective 6470
representatives have not received written notice of an order or 6471
decision which is appealable to a court under this section and 6472
which grants relief pursuant to section 4123.522 of the Revised 6473
Code, the party granted the relief has sixty days from receipt 6474
of the order under section 4123.522 of the Revised Code to file 6475
a notice of appeal under this section. 6476

(B) The notice of appeal shall state the names of the 6477
administrator of workers' compensation, the claimant, and the 6478
employer; the number of the claim; the date of the order 6479
appealed from; and the fact that the appellant appeals 6480
therefrom. 6481

The administrator, the claimant, and the employer shall be 6482
parties to the appeal and the court, upon the application of the 6483
commission, shall make the commission a party. The party filing 6484
the appeal shall serve a copy of the notice of appeal on the 6485
administrator at the central office of the bureau of workers' 6486
compensation in Columbus. The administrator shall notify the 6487
employer that if the employer fails to become an active party to 6488
the appeal, then the administrator may act on behalf of the 6489
employer and the results of the appeal could have an adverse 6490
effect upon the employer's premium rates or may result in a 6491

recovery from the employer if the employer is determined to be a 6492
noncomplying employer under section 4123.75 of the Revised Code. 6493

(C) The attorney general or one or more of the attorney 6494
general's assistants or special counsel designated by the 6495
attorney general shall represent the administrator and the 6496
commission. In the event the attorney general or the attorney 6497
general's designated assistants or special counsel are absent, 6498
the administrator or the commission shall select one or more of 6499
the attorneys in the employ of the administrator or the 6500
commission as the administrator's attorney or the commission's 6501
attorney in the appeal. Any attorney so employed shall continue 6502
the representation during the entire period of the appeal and in 6503
all hearings thereof except where the continued representation 6504
becomes impractical. 6505

(D) Upon receipt of notice of appeal, the clerk of courts 6506
shall provide notice to all parties who are appellees and to the 6507
commission. 6508

The claimant shall, within thirty days after the filing of 6509
the notice of appeal, file a petition containing a statement of 6510
facts in ordinary and concise language showing a cause of action 6511
to participate or to continue to participate in the fund and 6512
setting forth the basis for the jurisdiction of the court over 6513
the action. Further pleadings shall be had in accordance with 6514
the Rules of Civil Procedure, provided that service of summons 6515
on such petition shall not be required and provided that the 6516
claimant may not dismiss the complaint without the employer's 6517
consent if the employer is the party that filed the notice of 6518
appeal to court pursuant to this section. The clerk of the court 6519
shall, upon receipt thereof, transmit by certified mail a copy 6520
thereof to each party named in the notice of appeal other than 6521

the claimant. Any party may file with the clerk prior to the 6522
trial of the action a deposition of any physician taken in 6523
accordance with the provisions of the Revised Code, which 6524
deposition may be read in the trial of the action even though 6525
the physician is a resident of or subject to service in the 6526
county in which the trial is had. The bureau of workers' 6527
compensation shall pay the cost of the stenographic deposition 6528
filed in court and of copies of the stenographic deposition for 6529
each party from the surplus fund and charge the costs thereof 6530
against the unsuccessful party if the claimant's right to 6531
participate or continue to participate is finally sustained or 6532
established in the appeal. In the event the deposition is taken 6533
and filed, the physician whose deposition is taken is not 6534
required to respond to any subpoena issued in the trial of the 6535
action. The court, or the jury under the instructions of the 6536
court, if a jury is demanded, shall determine the right of the 6537
claimant to participate or to continue to participate in the 6538
fund upon the evidence adduced at the hearing of the action. 6539

(E) The court shall certify its decision to the commission 6540
and the certificate shall be entered in the records of the 6541
court. Appeals from the judgment are governed by the law 6542
applicable to the appeal of civil actions. 6543

(F) The cost of any legal proceedings authorized by this 6544
section, including an attorney's fee to the claimant's attorney 6545
to be fixed by the trial judge, based upon the effort expended, 6546
in the event the claimant's right to participate or to continue 6547
to participate in the fund is established upon the final 6548
determination of an appeal, shall be taxed against the employer 6549
or the commission if the commission or the administrator rather 6550
than the employer contested the right of the claimant to 6551
participate in the fund. The attorney's fee shall not exceed 6552

five thousand dollars. 6553

(G) If the finding of the court or the verdict of the jury 6554
is in favor of the claimant's right to participate in the fund, 6555
the commission and the administrator shall thereafter proceed in 6556
the matter of the claim as if the judgment were the decision of 6557
the commission, subject to the power of modification provided by 6558
section 4123.52 of the Revised Code. 6559

(H) (1) An appeal from an order issued under division (E) 6560
of section 4123.511 of the Revised Code or any action filed in 6561
court in a case in which an award of compensation or medical 6562
benefits has been made shall not stay the payment of 6563
compensation or medical benefits under the award, or payment for 6564
subsequent periods of total disability or medical benefits 6565
during the pendency of the appeal. If, in a final administrative 6566
or judicial action, it is determined that payments of 6567
compensation or benefits, or both, made to or on behalf of a 6568
claimant should not have been made, the amount thereof shall be 6569
charged to the surplus fund account under division (B) of 6570
section 4123.34 of the Revised Code. In the event the employer 6571
is a state risk, the amount shall not be charged to the 6572
employer's experience, and the administrator shall adjust the 6573
employer's account accordingly. In the event the employer is a 6574
self-insuring employer, the self-insuring employer shall deduct 6575
the amount from the paid compensation the self-insuring employer 6576
reports to the administrator under division (L) of section 6577
4123.35 of the Revised Code. If an employer is a state risk and 6578
has paid an assessment for a violation of a specific safety 6579
requirement, and, in a final administrative or judicial action, 6580
it is determined that the employer did not violate the specific 6581
safety requirement, the administrator shall reimburse the 6582
employer from the surplus fund account under division (B) of 6583

section 4123.34 of the Revised Code for the amount of the 6584
assessment the employer paid for the violation. 6585

(2) (a) Notwithstanding a final determination that payments 6586
of benefits made to or on behalf of a claimant should not have 6587
been made, the administrator or self-insuring employer shall 6588
award payment of medical or vocational rehabilitation services 6589
submitted for payment after the date of the final determination 6590
if all of the following apply: 6591

(i) The services were approved and were rendered by the 6592
provider in good faith prior to the date of the final 6593
determination. 6594

(ii) The services were payable under division (I) of 6595
section 4123.511 of the Revised Code prior to the date of the 6596
final determination. 6597

(iii) The request for payment is submitted within the time 6598
limit set forth in section 4123.52 of the Revised Code. 6599

(b) Payments made under division (H) (1) of this section 6600
shall be charged to the surplus fund account under division (B) 6601
of section 4123.34 of the Revised Code. If the employer of the 6602
employee who is the subject of a claim described in division (H) 6603
(2) (a) of this section is a state fund employer, the payments 6604
made under that division shall not be charged to the employer's 6605
experience. If that employer is a self-insuring employer, the 6606
self-insuring employer shall deduct the amount from the paid 6607
compensation the self-insuring employer reports to the 6608
administrator under division (L) of section 4123.35 of the 6609
Revised Code. 6610

(c) Division (H) (2) of this section shall apply only to a 6611
claim under this chapter or Chapter 4121., 4127., or 4131. of 6612

the Revised Code arising on or after July 29, 2011, and in the 6613
case of Chapter 4133. of the Revised Code, a claim arising on or 6614
after the effective date of this amendment. 6615

(3) A self-insuring employer may elect to pay compensation 6616
and benefits under this section directly to an employee or an 6617
employee's dependents by filing an application with the bureau 6618
of workers' compensation not more than one hundred eighty days 6619
and not less than ninety days before the first day of the 6620
employer's next six-month coverage period. If the self-insuring 6621
employer timely files the application, the application is 6622
effective on the first day of the employer's next six-month 6623
coverage period, provided that the administrator shall compute 6624
the employer's assessment for the surplus fund account due with 6625
respect to the period during which that application was filed 6626
without regard to the filing of the application. On and after 6627
the effective date of the employer's election, the self-insuring 6628
employer shall pay directly to an employee or to an employee's 6629
dependents compensation and benefits under this section 6630
regardless of the date of the injury or occupational disease, 6631
and the employer shall receive no money or credits from the 6632
surplus fund account on account of those payments and shall not 6633
be required to pay any amounts into the surplus fund account on 6634
account of this section. The election made under this division 6635
is irrevocable. 6636

(I) All actions and proceedings under this section which 6637
are the subject of an appeal to the court of common pleas or the 6638
court of appeals shall be preferred over all other civil actions 6639
except election causes, irrespective of position on the 6640
calendar. 6641

This section applies to all decisions of the commission or 6642

the administrator on November 2, 1959, and all claims filed 6643
thereafter are governed by sections 4123.511 and 4123.512 of the 6644
Revised Code. 6645

Any action pending in common pleas court or any other 6646
court on January 1, 1986, under this section is governed by 6647
former sections 4123.514, 4123.515, 4123.516, and 4123.519 and 6648
section 4123.522 of the Revised Code. 6649

Sec. 4123.522. The employee, employer, and their 6650
respective representatives are entitled to written notice of any 6651
hearing, determination, order, award, or decision under this 6652
chapter and Chapter 4133. of the Revised Code and the 6653
administrator of workers' compensation and ~~his the~~ 6654
administrator's representative are entitled to like notice for 6655
orders issued under divisions (C) and (D) of section 4123.511 6656
and section 4123.512 of the Revised Code. An employee, employer, 6657
or the administrator is deemed not to have received notice until 6658
the notice is received from the industrial commission or its 6659
district or staff hearing officers, the administrator, or the 6660
bureau of workers' compensation by both the employee and ~~his the~~ 6661
employee's representative of record, both the employer and ~~his~~ 6662
the employer's representative of record, and by both the 6663
administrator and ~~his the administrator's~~ representative. 6664

If any person to whom a notice is mailed fails to receive 6665
the notice and the commission, upon hearing, determines that the 6666
failure was due to cause beyond the control and without the 6667
fault or neglect of such person or ~~his the person's~~ 6668
representative and that such person or ~~his the person's~~ 6669
representative did not have actual knowledge of the import of 6670
the information contained in the notice, such person may take 6671
the action afforded to such person within twenty-one days after 6672

the receipt of the notice of such determination of the 6673
commission. Delivery of the notice to the address of the person 6674
or ~~his~~ the person's representative is prima-facie evidence of 6675
receipt of the notice by the person. 6676

Sec. 4123.53. (A) The administrator of workers' 6677
compensation or the industrial commission may require any 6678
employee claiming the right to receive compensation to submit to 6679
a medical examination, vocational evaluation, or vocational 6680
questionnaire at any time, and from time to time, at a place 6681
reasonably convenient for the employee, and as provided by the 6682
rules of the commission or the administrator of workers' 6683
compensation. A claimant required by the commission or 6684
administrator to submit to a medical examination or vocational 6685
evaluation, at a point outside of the place of permanent or 6686
temporary residence of the claimant, as provided in this 6687
section, is entitled to have paid to the claimant by the bureau 6688
of workers' compensation the necessary and actual expenses on 6689
account of the attendance for the medical examination or 6690
vocational evaluation after approval of the expense statement by 6691
the bureau. Under extraordinary circumstances and with the 6692
unanimous approval of the commission, if the commission requires 6693
the medical examination or vocational evaluation, or with the 6694
approval of the administrator, if the administrator requires the 6695
medical examination or vocational evaluation, the bureau shall 6696
pay an injured or diseased employee the necessary, actual, and 6697
authorized expenses of treatment at a point outside the place of 6698
permanent or temporary residence of the claimant. 6699

(B) (1) Except as provided in divisions (B) (2) and (3) of 6700
this section, when an employee initially receives temporary 6701
total disability compensation pursuant to section 4123.56 of the 6702
Revised Code for a consecutive ninety-day period, the 6703

administrator shall refer the employee to the bureau medical 6704
section to schedule a medical examination to determine the 6705
employee's continued entitlement to such compensation, the 6706
employee's rehabilitation potential, and the appropriateness of 6707
the medical treatment the employee is receiving. The bureau 6708
medical section shall schedule the examination for a date not 6709
later than thirty days following the end of the initial ninety- 6710
day period. If the medical examiner, upon an initial or any 6711
subsequent examination recommended by the medical examiner under 6712
this division, determines that the employee is temporarily and 6713
totally impaired, the medical examiner shall recommend a date 6714
when the employee should be reexamined. Upon the issuance of the 6715
medical examination report containing a recommendation for 6716
reexamination, the administrator shall schedule an examination 6717
and, if at the date of reexamination the employee is receiving 6718
temporary total disability compensation, the employee shall be 6719
examined. 6720

(2) The administrator, for good cause, may waive the 6721
scheduling of a medical examination under division (B) (1) of 6722
this section. If the employee's employer objects to the 6723
administrator's waiver, the administrator shall refer the 6724
employee to the bureau medical section to schedule the 6725
examination or the administrator shall schedule the examination. 6726

(3) The administrator shall adopt a rule, pursuant to 6727
Chapter 119. of the Revised Code, permitting employers to waive 6728
the administrator's scheduling of any such examinations. 6729

(C) If an employee refuses to submit to any medical 6730
examination or vocational evaluation scheduled pursuant to this 6731
section or obstructs the same, or refuses to complete and submit 6732
to the bureau or commission a vocational questionnaire within 6733

thirty days after the bureau or commission mails the request to 6734
complete and submit the questionnaire the employee's right to 6735
have the employee's claim for compensation considered, if the 6736
claim is pending before the bureau or commission, or to receive 6737
any payment for compensation theretofore granted, is suspended 6738
during the period of the refusal or obstruction. Notwithstanding 6739
this section, an employee's failure to submit to a medical 6740
examination or vocational evaluation, or to complete and submit 6741
a vocational questionnaire, shall not result in the dismissal of 6742
the employee's claim. 6743

(D) Medical examinations scheduled under this section do 6744
not limit medical examinations provided for in other provisions 6745
of this chapter or Chapter 4121. or 4133. of the Revised Code. 6746

Sec. 4123.54. (A) Except as otherwise provided in this 6747
division or divisions (I) and (K) of this section, every 6748
employee, who is injured or who contracts an occupational 6749
disease, and the dependents of each employee who is killed, or 6750
dies as the result of an occupational disease contracted in the 6751
course of employment, wherever the injury has occurred or 6752
occupational disease has been contracted, is entitled to receive 6753
the compensation for loss sustained on account of the injury, 6754
occupational disease, or death, and the medical, nurse, and 6755
hospital services and medicines, and the amount of funeral 6756
expenses in case of death, as are provided by this chapter and 6757
Chapter 4133. of the Revised Code. The compensation and benefits 6758
shall be provided, as applicable, directly from the employee's 6759
self-insuring employer as provided in section 4123.35 of the 6760
Revised Code or from the state insurance fund. An employee or 6761
dependent is not entitled to receive compensation or benefits 6762
under this division if the employee's injury or occupational 6763
disease is either of the following: 6764

- (1) Purposely self-inflicted; 6765
- (2) Caused by the employee being intoxicated, under the 6766
influence of a controlled substance not prescribed by a 6767
physician, or under the influence of marihuana if being 6768
intoxicated, under the influence of a controlled substance not 6769
prescribed by a physician, or under the influence of marihuana 6770
was the proximate cause of the injury. 6771
- (B) For the purpose of this section, provided that an 6772
employer has posted written notice to employees that the results 6773
of, or the employee's refusal to submit to, any chemical test 6774
described under this division may affect the employee's 6775
eligibility for compensation and benefits pursuant to this 6776
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 6777
Code, there is a rebuttable presumption that an employee is 6778
intoxicated, under the influence of a controlled substance not 6779
prescribed by the employee's physician, or under the influence 6780
of marihuana and that being intoxicated, under the influence of 6781
a controlled substance not prescribed by the employee's 6782
physician, or under the influence of marihuana is the proximate 6783
cause of an injury under either of the following conditions: 6784
- (1) When any one or more of the following is true: 6785
- (a) The employee, through a qualifying chemical test 6786
administered within eight hours of an injury, is determined to 6787
have an alcohol concentration level equal to or in excess of the 6788
levels established in divisions (A) (1) (b) to (i) of section 6789
4511.19 of the Revised Code; 6790
- (b) The employee, through a qualifying chemical test 6791
administered within thirty-two hours of an injury, is determined 6792
to have one of the following controlled substances not 6793

prescribed by the employee's physician or marihuana in the 6794
employee's system that tests above the following levels in an 6795
enzyme multiplied immunoassay technique screening test and above 6796
the levels established in division (B) (1) (c) of this section in 6797
a gas chromatography mass spectrometry test: 6798

(i) For amphetamines, one thousand nanograms per 6799
milliliter of urine; 6800

(ii) For cannabinoids, fifty nanograms per milliliter of 6801
urine; 6802

(iii) For cocaine, including crack cocaine, three hundred 6803
nanograms per milliliter of urine; 6804

(iv) For opiates, two thousand nanograms per milliliter of 6805
urine; 6806

(v) For phencyclidine, twenty-five nanograms per 6807
milliliter of urine. 6808

(c) The employee, through a qualifying chemical test 6809
administered within thirty-two hours of an injury, is determined 6810
to have one of the following controlled substances not 6811
prescribed by the employee's physician or marihuana in the 6812
employee's system that tests above the following levels by a gas 6813
chromatography mass spectrometry test: 6814

(i) For amphetamines, five hundred nanograms per 6815
milliliter of urine; 6816

(ii) For cannabinoids, fifteen nanograms per milliliter of 6817
urine; 6818

(iii) For cocaine, including crack cocaine, one hundred 6819
fifty nanograms per milliliter of urine; 6820

(iv) For opiates, two thousand nanograms per milliliter of urine; 6821
6822

(v) For phencyclidine, twenty-five nanograms per milliliter of urine. 6823
6824

(d) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, methadone, or propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services. 6825
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(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B) (1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised Code. 6831
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(C) (1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions: 6838
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(a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated, under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana; 6842
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(b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer; 6846
6847
6848

(c) At the request of a licensed physician who is not 6849

employed by the employee's employer, and not at the request of 6850
the employee's employer. 6851

(2) As used in division (C) (1) (a) of this section, 6852
"reasonable cause" means, but is not limited to, evidence that 6853
an employee is or was using alcohol, a controlled substance, or 6854
marihuana drawn from specific, objective facts and reasonable 6855
inferences drawn from these facts in light of experience and 6856
training. These facts and inferences may be based on, but are 6857
not limited to, any of the following: 6858

(a) Observable phenomena, such as direct observation of 6859
use, possession, or distribution of alcohol, a controlled 6860
substance, or marihuana, or of the physical symptoms of being 6861
under the influence of alcohol, a controlled substance, or 6862
marihuana, such as but not limited to slurred speech; dilated 6863
pupils; odor of alcohol, a controlled substance, or marihuana; 6864
changes in affect; or dynamic mood swings; 6865

(b) A pattern of abnormal conduct, erratic or aberrant 6866
behavior, or deteriorating work performance such as frequent 6867
absenteeism, excessive tardiness, or recurrent accidents, that 6868
appears to be related to the use of alcohol, a controlled 6869
substance, or marihuana, and does not appear to be attributable 6870
to other factors; 6871

(c) The identification of an employee as the focus of a 6872
criminal investigation into unauthorized possession, use, or 6873
trafficking of a controlled substance or marihuana; 6874

(d) A report of use of alcohol, a controlled substance, or 6875
marihuana provided by a reliable and credible source; 6876

(e) Repeated or flagrant violations of the safety or work 6877
rules of the employee's employer, that are determined by the 6878

employee's supervisor to pose a substantial risk of physical 6879
injury or property damage and that appear to be related to the 6880
use of alcohol, a controlled substance, or marihuana and that do 6881
not appear attributable to other factors. 6882

(D) Nothing in this section shall be construed to affect 6883
the rights of an employer to test employees for alcohol or 6884
controlled substance abuse. 6885

(E) For the purpose of this section, laboratories 6886
certified by the United States department of health and human 6887
services or laboratories that meet or exceed the standards of 6888
that department for laboratory certification shall be used for 6889
processing the test results of a qualifying chemical test. 6890

(F) The written notice required by division (B) of this 6891
section shall be the same size or larger than the proof of 6892
workers' compensation coverage furnished by the bureau of 6893
workers' compensation and shall be posted by the employer in the 6894
same location as the proof of workers' compensation coverage or 6895
the certificate of self-insurance. 6896

(G) If a condition that pre-existed an injury is 6897
substantially aggravated by the injury, and that substantial 6898
aggravation is documented by objective diagnostic findings, 6899
objective clinical findings, or objective test results, no 6900
compensation or benefits are payable because of the pre-existing 6901
condition once that condition has returned to a level that would 6902
have existed without the injury. 6903

(H) (1) Whenever, with respect to an employee of an 6904
employer who is subject to and has complied with this chapter 6905
and Chapter 4133. of the Revised Code, there is possibility of 6906
conflict with respect to the application of workers' 6907

compensation laws because the contract of employment is entered 6908
into and all or some portion of the work is or is to be 6909
performed in a state or states other than Ohio, the employer and 6910
the employee may agree to be bound by the laws of this state or 6911
by the laws of some other state in which all or some portion of 6912
the work of the employee is to be performed. The agreement shall 6913
be in writing and shall be filed with the bureau of workers' 6914
compensation within ten days after it is executed and shall 6915
remain in force until terminated or modified by agreement of the 6916
parties similarly filed. If the agreement is to be bound by the 6917
laws of this state and the employer has complied with this 6918
chapter and Chapter 4133. of the Revised Code, then the employee 6919
is entitled to compensation and benefits regardless of where the 6920
injury occurs or the disease is contracted and the rights of the 6921
employee and the employee's dependents under the laws of this 6922
state are the exclusive remedy against the employer on account 6923
of injury, disease, or death in the course of and arising out of 6924
the employee's employment. If the agreement is to be bound by 6925
the laws of another state and the employer has complied with the 6926
laws of that state, the rights of the employee and the 6927
employee's dependents under the laws of that state are the 6928
exclusive remedy against the employer on account of injury, 6929
disease, or death in the course of and arising out of the 6930
employee's employment without regard to the place where the 6931
injury was sustained or the disease contracted. If an employer 6932
and an employee enter into an agreement under this division, the 6933
fact that the employer and the employee entered into that 6934
agreement shall not be construed to change the status of an 6935
employee whose continued employment is subject to the will of 6936
the employer or the employee, unless the agreement contains a 6937
provision that expressly changes that status. 6938

(2) If an employee or the employee's dependents receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code for the same injury, occupational disease, or death for which the employee or the employee's dependents previously pursued or otherwise elected to accept workers' compensation benefits and received a decision on the merits as defined in section 4123.542 of the Revised Code under the laws of another state or recovered damages under the laws of another state, the claim shall be disallowed and the administrator or any self-insuring employer, by any lawful means, may collect from the employee or the employee's dependents any of the following:

(a) The amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or a self-insuring employer pursuant to this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code for that award;

(b) Any interest, attorney's fees, and costs the administrator or the self-insuring employer incurs in collecting that payment.

(3) If an employee or the employee's dependents receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code and subsequently pursue or otherwise elect to accept workers' compensation benefits or damages under the laws of another state for the same injury, occupational disease, or death the claim under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code shall be disallowed. The administrator or a self-insuring employer, by any lawful means, may collect from the employee or the employee's dependents or other-states'

insurer any of the following: 6969

(a) The amount of compensation or benefits paid to or on 6970
behalf of the employee or the employee's dependents by the 6971
administrator or the self-insuring employer pursuant to this 6972
chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the 6973
Revised Code for that award; 6974

(b) Any interest, costs, and attorney's fees the 6975
administrator or the self-insuring employer incurs in collecting 6976
that payment; 6977

(c) Any costs incurred by an employer in contesting or 6978
responding to any claim filed by the employee or the employee's 6979
dependents for the same injury, occupational disease, or death 6980
that was filed after the original claim for which the employee 6981
or the employee's dependents received a decision on the merits 6982
as described in section 4123.542 of the Revised Code. 6983

(4) If the employee's employer pays premiums into the 6984
state insurance fund, the administrator shall not charge the 6985
amount of compensation or benefits the administrator collects 6986
pursuant to division (H) (2) or (3) of this section to the 6987
employer's experience. If the administrator collects any costs 6988
incurred by an employer in contesting or responding to any claim 6989
pursuant to division (H) (2) or (3) of this section, the 6990
administrator shall forward the amount collected to that 6991
employer. If the employee's employer is a self-insuring 6992
employer, the self-insuring employer shall deduct the amount of 6993
compensation or benefits the self-insuring employer collects 6994
pursuant to this division from the paid compensation the self- 6995
insuring employer reports to the administrator under division 6996
(L) of section 4123.35 of the Revised Code. 6997

(5) If an employee is a resident of a state other than 6998
this state and is insured under the workers' compensation law or 6999
similar laws of a state other than this state, the employee and 7000
the employee's dependents are not entitled to receive 7001
compensation or benefits under this chapter or Chapter 4133. of 7002
the Revised Code, on account of injury, disease, or death 7003
arising out of or in the course of employment while temporarily 7004
within this state, and the rights of the employee and the 7005
employee's dependents under the laws of the other state are the 7006
exclusive remedy against the employer on account of the injury, 7007
disease, or death. 7008

(6) An employee, or the dependent of an employee, who 7009
elects to receive compensation and benefits under this chapter 7010
or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code 7011
for a claim may not receive compensation and benefits under the 7012
workers' compensation laws of any state other than this state 7013
for that same claim. For each claim submitted by or on behalf of 7014
an employee, the administrator or, if the employee is employed 7015
by a self-insuring employer, the self-insuring employer, shall 7016
request the employee or the employee's dependent to sign an 7017
election that affirms the employee's or employee's dependent's 7018
acceptance of electing to receive compensation and benefits 7019
under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. 7020
of the Revised Code for that claim that also affirmatively 7021
waives and releases the employee's or the employee's dependent's 7022
right to file for and receive compensation and benefits under 7023
the laws of any state other than this state for that claim. The 7024
employee or employee's dependent shall sign the election form 7025
within twenty-eight days after the administrator or self- 7026
insuring employer submits the request or the administrator or 7027
self-insuring employer shall dismiss that claim. 7028

In the event a workers' compensation claim has been filed 7029
in another jurisdiction on behalf of an employee or the 7030
dependents of an employee, and the employee or dependents 7031
subsequently elect to receive compensation, benefits, or both 7032
under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. 7033
of the Revised Code, the employee or dependent shall withdraw or 7034
refuse acceptance of the workers' compensation claim filed in 7035
the other jurisdiction in order to pursue compensation or 7036
benefits under the laws of this state. If the employee or 7037
dependents were awarded workers' compensation benefits or had 7038
recovered damages under the laws of the other state, any 7039
compensation and benefits awarded under this chapter or Chapter 7040
4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code shall be 7041
paid only to the extent to which those payments exceed the 7042
amounts paid under the laws of the other state. If the employee 7043
or dependent fails to withdraw or to refuse acceptance of the 7044
workers' compensation claim in the other jurisdiction within 7045
twenty-eight days after a request made by the administrator or a 7046
self-insuring employer, the administrator or self-insuring 7047
employer shall dismiss the employee's or employee's dependents' 7048
claim made in this state. 7049

(I) If an employee who is covered under the federal 7050
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 7051
33 U.S.C. 901 et seq., is injured or contracts an occupational 7052
disease or dies as a result of an injury or occupational 7053
disease, and if that employee's or that employee's dependents' 7054
claim for compensation or benefits for that injury, occupational 7055
disease, or death is subject to the jurisdiction of that act, 7056
the employee or the employee's dependents are not entitled to 7057
apply for and shall not receive compensation or benefits under 7058
this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 7059

Code. The rights of such an employee and the employee's 7060
dependents under the federal "Longshore and Harbor Workers'
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the 7061
exclusive remedy against the employer for that injury, 7062
occupational disease, or death. 7063
7064

(J) Compensation or benefits are not payable to a claimant 7065
during the period of confinement of the claimant in any state or 7066
federal correctional institution, or in any county jail in lieu 7067
of incarceration in a state or federal correctional institution, 7068
whether in this or any other state for conviction of violation 7069
of any state or federal criminal law. 7070

(K) An employer, upon the approval of the administrator, 7071
may provide for workers' compensation coverage for the 7072
employer's employees who are professional athletes and coaches 7073
by submitting to the administrator proof of coverage under a 7074
league policy issued under the laws of another state under 7075
either of the following circumstances: 7076

(1) The employer administers the payroll and workers' 7077
compensation insurance for a professional sports team subject to 7078
a collective bargaining agreement, and the collective bargaining 7079
agreement provides for the uniform administration of workers' 7080
compensation benefits and compensation for professional 7081
athletes. 7082

(2) The employer is a professional sports league, or is a 7083
member team of a professional sports league, and all of the 7084
following apply: 7085

(a) The professional sports league operates as a single 7086
entity, whereby all of the players and coaches of the sports 7087
league are employees of the sports league and not of the 7088

individual member teams. 7089

(b) The professional sports league at all times maintains 7090
workers' compensation insurance that provides coverage for the 7091
players and coaches of the sports league. 7092

(c) Each individual member team of the professional sports 7093
league, pursuant to the organizational or operating documents of 7094
the sports league, is obligated to the sports league to pay to 7095
the sports league any workers' compensation claims that are not 7096
covered by the workers' compensation insurance maintained by the 7097
sports league. 7098

If the administrator approves the employer's proof of 7099
coverage submitted under division (K) of this section, a 7100
professional athlete or coach who is an employee of the employer 7101
and the dependents of the professional athlete or coach are not 7102
entitled to apply for and shall not receive compensation or 7103
benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4133. 7104
of the Revised Code. The rights of such an athlete or coach and 7105
the dependents of such an athlete or coach under the laws of the 7106
state where the policy was issued are the exclusive remedy 7107
against the employer for the athlete or coach if the athlete or 7108
coach suffers an injury or contracts an occupational disease in 7109
the course of employment, or for the dependents of the athlete 7110
or the coach if the athlete or coach is killed as a result of an 7111
injury or dies as a result of an occupational disease, 7112
regardless of the location where the injury was suffered or the 7113
occupational disease was contracted. 7114

Sec. 4123.542. An employee or the dependents of an 7115
employee who receive a decision on the merits of a claim for 7116
compensation or benefits under this chapter or Chapter 4121., 7117
4127., ~~or 4131.,~~ or 4133. of the Revised Code shall not file a 7118

claim for the same injury, occupational disease, or death in 7119
another state under the workers' compensation laws of that 7120
state. Except as otherwise provided in division (H) of section 7121
4123.54 of the Revised Code, an employee or the employee's 7122
dependents who receive a decision on the merits of a claim for 7123
compensation or benefits under the workers' compensation laws of 7124
another state shall not file a claim for compensation and 7125
benefits under this chapter or Chapter 4121., 4127., ~~or 4131.~~ 7126
or 4133. of the Revised Code for the same injury, occupational 7127
disease, or death. 7128

As used in this section, "a decision on the merits" means 7129
a decision determined or adjudicated for compensability of a 7130
claim and not on jurisdictional grounds. 7131

Sec. 4123.57. Partial disability compensation shall be 7132
paid as follows. 7133

Except as provided in this section, not earlier than 7134
twenty-six weeks after the date of termination of the latest 7135
period of payments under section 4123.56 of the Revised Code, or 7136
not earlier than twenty-six weeks after the date of the injury 7137
or contraction of an occupational disease in the absence of 7138
payments under section 4123.56 of the Revised Code, the employee 7139
may file an application with the bureau of workers' compensation 7140
for the determination of the percentage of the employee's 7141
permanent partial disability resulting from an injury or 7142
occupational disease. 7143

Whenever the application is filed, the bureau shall send a 7144
copy of the application to the employee's employer or the 7145
employer's representative and shall schedule the employee for a 7146
medical examination by the bureau medical section. The bureau 7147
shall send a copy of the report of the medical examination to 7148

the employee, the employer, and their representatives. 7149
Thereafter, the administrator of workers' compensation shall 7150
review the employee's claim file and make a tentative order as 7151
the evidence before the administrator at the time of the making 7152
of the order warrants. If the administrator determines that 7153
there is a conflict of evidence, the administrator shall send 7154
the application, along with the claimant's file, to the district 7155
hearing officer who shall set the application for a hearing. 7156

The administrator shall notify the employee, the employer, 7157
and their representatives, in writing, of the tentative order 7158
and of the parties' right to request a hearing. Unless the 7159
employee, the employer, or their representative notifies the 7160
administrator, in writing, of an objection to the tentative 7161
order within twenty days after receipt of the notice thereof, 7162
the tentative order shall go into effect and the employee shall 7163
receive the compensation provided in the order. In no event 7164
shall there be a reconsideration of a tentative order issued 7165
under this division. 7166

If the employee, the employer, or their representatives 7167
timely notify the administrator of an objection to the tentative 7168
order, the matter shall be referred to a district hearing 7169
officer who shall set the application for hearing with written 7170
notices to all interested persons. Upon referral to a district 7171
hearing officer, the employer may obtain a medical examination 7172
of the employee, pursuant to rules of the industrial commission. 7173

(A) The district hearing officer, upon the application, 7174
shall determine the percentage of the employee's permanent 7175
disability, except as is subject to division (B) of this 7176
section, based upon that condition of the employee resulting 7177
from the injury or occupational disease and causing permanent 7178

impairment evidenced by medical or clinical findings reasonably 7179
demonstrable. The employee shall receive sixty-six and two- 7180
thirds per cent of the employee's average weekly wage, but not 7181
more than a maximum of thirty-three and one-third per cent of 7182
the statewide average weekly wage as defined in division (C) of 7183
section 4123.62 of the Revised Code, per week regardless of the 7184
average weekly wage, for the number of weeks which equals the 7185
percentage of two hundred weeks. Except on application for 7186
reconsideration, review, or modification, which is filed within 7187
ten days after the date of receipt of the decision of the 7188
district hearing officer, in no instance shall the former award 7189
be modified unless it is found from medical or clinical findings 7190
that the condition of the claimant resulting from the injury has 7191
so progressed as to have increased the percentage of permanent 7192
partial disability. A staff hearing officer shall hear an 7193
application for reconsideration filed and the staff hearing 7194
officer's decision is final. An employee may file an application 7195
for a subsequent determination of the percentage of the 7196
employee's permanent disability. If such an application is 7197
filed, the bureau shall send a copy of the application to the 7198
employer or the employer's representative. No sooner than sixty 7199
days from the date of the mailing of the application to the 7200
employer or the employer's representative, the administrator 7201
shall review the application. The administrator may require a 7202
medical examination or medical review of the employee. The 7203
administrator shall issue a tentative order based upon the 7204
evidence before the administrator, provided that if the 7205
administrator requires a medical examination or medical review, 7206
the administrator shall not issue the tentative order until the 7207
completion of the examination or review. 7208

The employer may obtain a medical examination of the 7209

employee and may submit medical evidence at any stage of the 7210
process up to a hearing before the district hearing officer, 7211
pursuant to rules of the commission. The administrator shall 7212
notify the employee, the employer, and their representatives, in 7213
writing, of the nature and amount of any tentative order issued 7214
on an application requesting a subsequent determination of the 7215
percentage of an employee's permanent disability. An employee, 7216
employer, or their representatives may object to the tentative 7217
order within twenty days after the receipt of the notice 7218
thereof. If no timely objection is made, the tentative order 7219
shall go into effect. In no event shall there be a 7220
reconsideration of a tentative order issued under this division. 7221
If an objection is timely made, the application for a subsequent 7222
determination shall be referred to a district hearing officer 7223
who shall set the application for a hearing with written notice 7224
to all interested persons. No application for subsequent 7225
percentage determinations on the same claim for injury or 7226
occupational disease shall be accepted for review by the 7227
district hearing officer unless supported by substantial 7228
evidence of new and changed circumstances developing since the 7229
time of the hearing on the original or last determination. 7230

No award shall be made under this division based upon a 7231
percentage of disability which, when taken with all other 7232
percentages of permanent disability, exceeds one hundred per 7233
cent. If the percentage of the permanent disability of the 7234
employee equals or exceeds ninety per cent, compensation for 7235
permanent partial disability shall be paid for two hundred 7236
weeks. 7237

Compensation payable under this division accrues and is 7238
payable to the employee from the date of last payment of 7239
compensation, or, in cases where no previous compensation has 7240

been paid, from the date of the injury or the date of the 7241
diagnosis of the occupational disease. 7242

When an award under this division has been made prior to 7243
the death of an employee, all unpaid installments accrued or to 7244
accrue under the provisions of the award are payable to the 7245
surviving spouse, or if there is no surviving spouse, to the 7246
dependent children of the employee, and if there are no children 7247
surviving, then to other dependents as the administrator 7248
determines. 7249

(B) For purposes of this division, "payable per week" 7250
means the seven-consecutive-day period in which compensation is 7251
paid in installments according to the schedule associated with 7252
the applicable injury as set forth in this division. 7253

Compensation paid in weekly installments according to the 7254
schedule described in this division may only be commuted to one 7255
or more lump sum payments pursuant to the procedure set forth in 7256
section 4123.64 of the Revised Code. 7257

In cases included in the following schedule the 7258
compensation payable per week to the employee is the statewide 7259
average weekly wage as defined in division (C) of section 7260
4123.62 of the Revised Code per week and shall be paid in 7261
installments according to the following schedule: 7262

For the loss of a first finger, commonly known as a thumb, 7263
sixty weeks. 7264

For the loss of a second finger, commonly called index 7265
finger, thirty-five weeks. 7266

For the loss of a third finger, thirty weeks. 7267

For the loss of a fourth finger, twenty weeks. 7268

For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.	7269 7270
The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.	7271 7272 7273 7274
The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	7275 7276
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	7277 7278
The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.	7279 7280 7281 7282 7283
For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.	7284 7285 7286
For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.	7287 7288 7289 7290
If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss of use of fingers, exceeds the normal handicap or disability resulting from the loss of fingers, or loss of use	7291 7292 7293 7294 7295 7296 7297

of fingers, the administrator may take that fact into 7298
consideration and increase the award of compensation 7299
accordingly, but the award made shall not exceed the amount of 7300
compensation for loss of a hand. 7301

For the loss of a hand, one hundred seventy-five weeks. 7302

For the loss of an arm, two hundred twenty-five weeks. 7303

For the loss of a great toe, thirty weeks. 7304

For the loss of one of the toes other than the great toe, 7305
ten weeks. 7306

The loss of more than two-thirds of any toe is considered 7307
equal to the loss of the whole toe. 7308

The loss of less than two-thirds of any toe is considered 7309
no loss, except as to the great toe; the loss of the great toe 7310
up to the interphalangeal joint is co-equal to the loss of one- 7311
half of the great toe; the loss of the great toe beyond the 7312
interphalangeal joint is considered equal to the loss of the 7313
whole great toe. 7314

For the loss of a foot, one hundred fifty weeks. 7315

For the loss of a leg, two hundred weeks. 7316

For the loss of the sight of an eye, one hundred twenty- 7317
five weeks. 7318

For the permanent partial loss of sight of an eye, the 7319
portion of one hundred twenty-five weeks as the administrator in 7320
each case determines, based upon the percentage of vision 7321
actually lost as a result of the injury or occupational disease, 7322
but, in no case shall an award of compensation be made for less 7323
than twenty-five per cent loss of uncorrected vision. "Loss of 7324

uncorrected vision" means the percentage of vision actually lost 7325
as the result of the injury or occupational disease. 7326

For the permanent and total loss of hearing of one ear, 7327
twenty-five weeks; but in no case shall an award of compensation 7328
be made for less than permanent and total loss of hearing of one 7329
ear. 7330

For the permanent and total loss of hearing, one hundred 7331
twenty-five weeks; but, except pursuant to the next preceding 7332
paragraph, in no case shall an award of compensation be made for 7333
less than permanent and total loss of hearing. 7334

In case an injury or occupational disease results in 7335
serious facial or head disfigurement which either impairs or may 7336
in the future impair the opportunities to secure or retain 7337
employment, the administrator shall make an award of 7338
compensation as it deems proper and equitable, in view of the 7339
nature of the disfigurement, and not to exceed the sum of ten 7340
thousand dollars. For the purpose of making the award, it is not 7341
material whether the employee is gainfully employed in any 7342
occupation or trade at the time of the administrator's 7343
determination. 7344

When an award under this division has been made prior to 7345
the death of an employee all unpaid installments accrued or to 7346
accrue under the provisions of the award shall be payable to the 7347
surviving spouse, or if there is no surviving spouse, to the 7348
dependent children of the employee and if there are no such 7349
children, then to such dependents as the administrator 7350
determines. 7351

When an employee has sustained the loss of a member by 7352
severance, but no award has been made on account thereof prior 7353

to the employee's death, the administrator shall make an award 7354
in accordance with this division for the loss which shall be 7355
payable to the surviving spouse, or if there is no surviving 7356
spouse, to the dependent children of the employee and if there 7357
are no such children, then to such dependents as the 7358
administrator determines. 7359

(C) Compensation for partial impairment under divisions 7360
(A) and (B) of this section is in addition to the compensation 7361
paid the employee pursuant to section 4123.56 of the Revised 7362
Code. A claimant may receive compensation under divisions (A) 7363
and (B) of this section. 7364

In all cases arising under division (B) of this section, 7365
if it is determined by any one of the following: (1) the amputee 7366
clinic at University hospital, Ohio state university; (2) the 7367
opportunities for Ohioans with disabilities agency; (3) an 7368
amputee clinic or prescribing physician approved by the 7369
administrator or the administrator's designee, that an injured 7370
or disabled employee is in need of an artificial appliance, or 7371
in need of a repair thereof, regardless of whether the appliance 7372
or its repair will be serviceable in the vocational 7373
rehabilitation of the injured employee, and regardless of 7374
whether the employee has returned to or can ever again return to 7375
any gainful employment, the bureau shall pay the cost of the 7376
artificial appliance or its repair out of the surplus created by 7377
division (B) of section 4123.34 of the Revised Code. 7378

In those cases where an opportunities for Ohioans with 7379
disabilities agency's recommendation that an injured or disabled 7380
employee is in need of an artificial appliance would conflict 7381
with their state plan, adopted pursuant to the "Rehabilitation 7382
Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator 7383

or the administrator's designee or the bureau may obtain a 7384
recommendation from an amputee clinic or prescribing physician 7385
that they determine appropriate. 7386

~~(D) If an employee of a state fund employer makes 7387
application for a finding and the administrator finds that the 7388
employee has contracted silicosis as defined in division (Y), or 7389
coal miners' pneumoconiosis as defined in division (Z), or 7390
asbestosis as defined in division (BB) of section 4123.68 of the 7391
Revised Code, and that a change of such employee's occupation is 7392
medically advisable in order to decrease substantially further 7393
exposure to silica dust, asbestos, or coal dust and if the 7394
employee, after the finding, has changed or shall change the 7395
employee's occupation to an occupation in which the exposure to 7396
silica dust, asbestos, or coal dust is substantially decreased, 7397
the administrator shall allow to the employee an amount equal to 7398
fifty per cent of the statewide average weekly wage per week for 7399
a period of thirty weeks, commencing as of the date of the 7400
discontinuance or change, and for a period of one hundred weeks 7401
immediately following the expiration of the period of thirty 7402
weeks, the employee shall receive sixty six and two thirds per 7403
cent of the loss of wages resulting directly and solely from the 7404
change of occupation but not to exceed a maximum of an amount 7405
equal to fifty per cent of the statewide average weekly wage per 7406
week. No such employee is entitled to receive more than one 7407
allowance on account of discontinuance of employment or change 7408
of occupation and benefits shall cease for any period during 7409
which the employee is employed in an occupation in which the 7410
exposure to silica dust, asbestos, or coal dust is not 7411
substantially less than the exposure in the occupation in which 7412
the employee was formerly employed or for any period during 7413
which the employee may be entitled to receive compensation or 7414~~

~~benefits under section 4123.68 of the Revised Code on account of 7415
disability from silicosis, asbestosis, or coal miners' 7416
pneumoconiosis. An award for change of occupation for a coal 7417
miner who has contracted coal miners' pneumoconiosis may be 7418
granted under this division even though the coal miner continues 7419
employment with the same employer, so long as the coal miner's 7420
employment subsequent to the change is such that the coal 7421
miner's exposure to coal dust is substantially decreased and a 7422
change of occupation is certified by the claimant as permanent. 7423
The administrator may accord to the employee medical and other 7424
benefits in accordance with section 4123.66 of the Revised Code. 7425~~

~~(E) If a firefighter or police officer makes application 7426
for a finding and the administrator finds that the firefighter 7427
or police officer has contracted a cardiovascular and pulmonary 7428
disease as defined in division (W) of section 4123.68 of the 7429
Revised Code, and that a change of the firefighter's or police 7430
officer's occupation is medically advisable in order to decrease 7431
substantially further exposure to smoke, toxic gases, chemical 7432
fumes, and other toxic vapors, and if the firefighter, or police 7433
officer, after the finding, has changed or changes occupation to 7434
an occupation in which the exposure to smoke, toxic gases, 7435
chemical fumes, and other toxic vapors is substantially 7436
decreased, the administrator shall allow to the firefighter or 7437
police officer an amount equal to fifty per cent of the 7438
statewide average weekly wage per week for a period of thirty 7439
weeks, commencing as of the date of the discontinuance or 7440
change, and for a period of seventy-five weeks immediately 7441
following the expiration of the period of thirty weeks the 7442
administrator shall allow the firefighter or police officer 7443
sixty-six and two-thirds per cent of the loss of wages resulting 7444
directly and solely from the change of occupation but not to 7445~~

exceed a maximum of an amount equal to fifty per cent of the 7446
statewide average weekly wage per week. No such firefighter or 7447
police officer is entitled to receive more than one allowance on 7448
account of discontinuance of employment or change of occupation 7449
and benefits shall cease for any period during which the 7450
firefighter or police officer is employed in an occupation in 7451
which the exposure to smoke, toxic gases, chemical fumes, and 7452
other toxic vapors is not substantially less than the exposure 7453
in the occupation in which the firefighter or police officer was 7454
formerly employed or for any period during which the firefighter 7455
or police officer may be entitled to receive compensation or 7456
benefits under section 4123.68 of the Revised Code on account of 7457
disability from a cardiovascular and pulmonary disease. The 7458
administrator may accord to the firefighter or police officer 7459
medical and other benefits in accordance with section 4123.66 of 7460
the Revised Code. 7461

~~(F)~~ (E) An order issued under this section is appealable 7462
pursuant to section 4123.511 of the Revised Code but is not 7463
appealable to court under section 4123.512 of the Revised Code. 7464

Sec. 4123.571. In connection with the procedural and 7465
remedial rights of employees, all claims which have accrued 7466
prior to ~~the effective date of this act~~ November 2, 1959, 7467
whether or not an application for claim has been filed, or 7468
whether or not jurisdiction has been established or whether or 7469
not an application for an award under divisions (A), (B), or 7470
(C), ~~or (D)~~ of section 4123.57 of the Revised Code has been 7471
filed shall be governed by the provisions of section 4123.57 of 7472
the Revised Code, as amended by this act. 7473

Sec. 4123.65. (A) A state fund employer or the employee of 7474
such an employer may file an application with the administrator 7475

of workers' compensation for approval of a final settlement of a 7476
claim under this chapter or Chapter 4133. of the Revised Code. 7477
The application shall include the settlement agreement, and 7478
except as otherwise specified in this division, be signed by the 7479
claimant and employer, and clearly set forth the circumstances 7480
by reason of which the proposed settlement is deemed desirable 7481
and that the parties agree to the terms of the settlement 7482
agreement. A claimant may file an application without an 7483
employer's signature in the following situations: 7484

- (1) The employer is no longer doing business in Ohio; 7485
- (2) The claim no longer is in the employer's industrial 7486
accident or occupational disease experience as provided in 7487
division (B) of section 4123.34 of the Revised Code and the 7488
claimant no longer is employed with that employer; 7489
- (3) The employer has failed to comply with section 4123.35 7490
of the Revised Code. 7491

If a claimant files an application without an employer's 7492
signature, and the employer still is doing business in this 7493
state, the administrator shall send written notice of the 7494
application to the employer immediately upon receipt of the 7495
application. If the employer fails to respond to the notice 7496
within thirty days after the notice is sent, the application 7497
need not contain the employer's signature. 7498

If a state fund employer or an employee of such an 7499
employer has not filed an application for a final settlement 7500
under this division, the administrator may file an application 7501
on behalf of the employer or the employee, provided that the 7502
administrator gives notice of the filing to the employer and the 7503
employee and to the representative of record of the employer and 7504

of the employee immediately upon the filing. An application 7505
filed by the administrator shall contain all of the information 7506
and signatures required of an employer or an employee who files 7507
an application under this division. Every self-insuring employer 7508
that enters into a final settlement agreement with an employee 7509
shall mail, within seven days of executing the agreement, a copy 7510
of the agreement to the administrator and the employee's 7511
representative. The administrator shall place the agreement into 7512
the claimant's file. 7513

(B) Except as provided in divisions (C) and (D) of this 7514
section, a settlement agreed to under this section is binding 7515
upon all parties thereto and as to items, injuries, and 7516
occupational diseases to which the settlement applies. 7517

(C) No settlement agreed to under division (A) of this 7518
section or agreed to by a self-insuring employer and the self- 7519
insuring employer's employee shall take effect until thirty days 7520
after the administrator approves the settlement for state fund 7521
employees and employers, or after the self-insuring employer and 7522
employee sign the final settlement agreement. During the thirty- 7523
day period, the employer, employee, or administrator, for state 7524
fund settlements, and the employer or employee, for self- 7525
insuring settlements, may withdraw consent to the settlement by 7526
an employer providing written notice to the employer's employee 7527
and the administrator or by an employee providing written notice 7528
to the employee's employer and the administrator, or by the 7529
administrator providing written notice to the state fund 7530
employer and employee. If an employee dies during the thirty-day 7531
waiting period following the approval of a settlement, the 7532
settlement can be voided by any party for good cause shown. 7533

(D) At the time of agreement to any final settlement 7534

agreement under division (A) of this section or agreement 7535
between a self-insuring employer and the self-insuring 7536
employer's employee, the administrator, for state fund 7537
settlements, and the self-insuring employer, for self-insuring 7538
settlements, immediately shall send a copy of the agreement to 7539
the industrial commission who shall assign the matter to a staff 7540
hearing officer. The staff hearing officer shall determine, 7541
within the time limitations specified in division (C) of this 7542
section, whether the settlement agreement is or is not a gross 7543
miscarriage of justice. If the staff hearing officer determines 7544
within that time period that the settlement agreement is clearly 7545
unfair, the staff hearing officer shall issue an order 7546
disapproving the settlement agreement. If the staff hearing 7547
officer determines that the settlement agreement is not clearly 7548
unfair or fails to act within those time limits, the settlement 7549
agreement is approved. 7550

(E) A settlement entered into under this section may 7551
pertain to one or more claims of a claimant, or one or more 7552
parts of a claim, or the compensation or benefits pertaining to 7553
either, or any combination thereof, provided that nothing in 7554
this section shall be interpreted to require a claimant to enter 7555
into a settlement agreement for every claim that has been filed 7556
with the bureau of workers' compensation by that claimant under 7557
Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised 7558
Code. 7559

(F) A settlement entered into under this section is not 7560
appealable under section 4123.511 or 4123.512 of the Revised 7561
Code. 7562

Sec. 4123.651. (A) The employer of a claimant who is 7563
injured or disabled in the course of ~~his~~ the claimant's 7564

employment may require, without the approval of the 7565
administrator or the industrial commission, that the claimant be 7566
examined by a physician of the employer's choice one time upon 7567
any issue asserted by the employee or a physician of the 7568
employee's choice or which is to be considered by the 7569
commission. Any further requests for medical examinations shall 7570
be made to the commission which shall consider and rule on the 7571
request. The employer shall pay the cost of any examinations 7572
initiated by the employer. 7573

(B) The bureau of workers' compensation shall prepare a 7574
form for the release of medical information, records, and 7575
reports relative to the issues necessary for the administration 7576
of a claim under this chapter or Chapter 4133. of the Revised 7577
Code. The claimant promptly shall provide a current signed 7578
release of the information, records, and reports when requested 7579
by the employer. The employer promptly shall provide copies of 7580
all medical information, records, and reports to the bureau and 7581
to the claimant or ~~his~~ the claimant's representative upon 7582
request. 7583

(C) If, without good cause, an employee refuses to submit 7584
to any examination scheduled under this section or refuses to 7585
release or execute a release for any medical information, 7586
record, or report that is required to be released under this 7587
section and involves an issue pertinent to the condition alleged 7588
in the claim, ~~his~~ the employee's right to have ~~his~~ the 7589
employee's claim for compensation or benefits considered, if ~~his~~ 7590
the employee's claim is pending before the administrator, 7591
commission, occupational pneumoconiosis board, or a district or 7592
staff hearing officer, or to receive any payment for 7593
compensation or benefits previously granted, is suspended during 7594
the period of refusal. 7595

(D) No bureau or commission employee shall alter any 7596
medical report obtained from a health care provider the bureau 7597
or commission has selected or cause or request the health care 7598
provider to alter or change a report. The bureau and commission 7599
shall make any request for clarification of a health care 7600
provider's report in writing and shall provide a copy of the 7601
request to the affected parties and their representatives at the 7602
time of making the request. 7603

Sec. 4123.66. (A) In addition to the compensation provided 7604
for in this chapter and Chapter 4133. of the Revised Code, the 7605
administrator of workers' compensation shall disburse and pay 7606
from the state insurance fund the amounts for medical, nurse, 7607
and hospital services and medicine as the administrator deems 7608
proper and, in case death ensues from the injury or occupational 7609
disease, the administrator shall disburse and pay from the fund 7610
reasonable funeral expenses in an amount not to exceed fifty- 7611
five hundred dollars. The bureau of workers' compensation shall 7612
reimburse anyone, whether dependent, volunteer, or otherwise, 7613
who pays the funeral expenses of any employee whose death ensues 7614
from any injury or occupational disease as provided in this 7615
section. The administrator may adopt rules, with the advice and 7616
consent of the bureau of workers' compensation board of 7617
directors, with respect to furnishing medical, nurse, and 7618
hospital service and medicine to injured or disabled employees 7619
entitled thereto, and for the payment therefor. In case an 7620
injury or industrial accident that injures an employee also 7621
causes damage to the employee's eyeglasses, artificial teeth or 7622
other denture, or hearing aid, or in the event an injury or 7623
occupational disease makes it necessary or advisable to replace, 7624
repair, or adjust the same, the bureau shall disburse and pay a 7625
reasonable amount to repair or replace the same. 7626

(B) The administrator, in the rules the administrator 7627
adopts pursuant to division (A) of this section, may adopt rules 7628
specifying the circumstances under which the bureau may make 7629
immediate payment for the first fill of prescription drugs for 7630
medical conditions identified in an application for compensation 7631
or benefits under section 4123.84 or 4123.85 of the Revised Code 7632
that occurs prior to the date the administrator issues an 7633
initial determination order under division (B) of section 7634
4123.511 of the Revised Code. If the claim is ultimately 7635
disallowed in a final administrative or judicial order, and if 7636
the employer is a state fund employer who pays assessments into 7637
the surplus fund account created under section 4123.34 of the 7638
Revised Code, the payments for medical services made pursuant to 7639
this division for the first fill of prescription drugs shall be 7640
charged to and paid from the surplus fund account and not 7641
charged through the state insurance fund to the employer against 7642
whom the claim was filed. 7643

(C) (1) If an employer or a welfare plan has provided to or 7644
on behalf of an employee any benefits or compensation for an 7645
injury or occupational disease and that injury or occupational 7646
disease is determined compensable under this chapter or Chapter 7647
4133. of the Revised Code, the employer or a welfare plan may 7648
request that the administrator reimburse the employer or welfare 7649
plan for the amount the employer or welfare plan paid to or on 7650
behalf of the employee in compensation or benefits. The 7651
administrator shall reimburse the employer or welfare plan for 7652
the compensation and benefits paid if, at the time the employer 7653
or welfare plan provides the benefits or compensation to or on 7654
behalf of employee, the injury or occupational disease had not 7655
been determined to be compensable under this chapter or Chapter 7656
4133. of the Revised Code and if the employee was not receiving 7657

compensation or benefits under this chapter or Chapter 4133. of 7658
the Revised Code for that injury or occupational disease. The 7659
administrator shall reimburse the employer or welfare plan in 7660
the amount that the administrator would have paid to or on 7661
behalf of the employee under this chapter if the injury or 7662
occupational disease originally would have been determined 7663
compensable under this chapter or Chapter 4133. of the Revised 7664
Code. If the employer is a merit-rated employer, the 7665
administrator shall adjust the amount of premium next due from 7666
the employer according to the amount the administrator pays the 7667
employer. The administrator shall adopt rules, in accordance 7668
with Chapter 119. of the Revised Code, to implement this 7669
division. 7670

(2) As used in this division, "welfare plan" has the same 7671
meaning as in division (1) of 29 U.S.C.A. 1002. 7672

(D)(1) Subject to the requirements of division (D)(2) of 7673
this section, the administrator may make a payment of up to five 7674
hundred dollars to either of the following: 7675

(a) The centers of medicare and medicaid services, for 7676
reimbursement of conditional payments made pursuant to the 7677
"Medicare Secondary Payer Act," 42 U.S.C. 1395y; 7678

(b) The Ohio department of medicaid, or a medical 7679
assistance provider to whom the department has assigned a right 7680
of recovery for a claim for which the department has notified 7681
the provider that the department intends to recoup the 7682
department's prior payment for the claim, for reimbursement 7683
under sections 5160.35 to 5160.43 of the Revised Code for the 7684
cost of medical assistance paid on behalf of a medical 7685
assistance recipient. 7686

(2) The administrator may make a payment under division 7687
(D) (1) of this section if the administrator makes a reasonable 7688
determination that both of the following apply: 7689

(a) The payment is for reimbursement of benefits for an 7690
injury or occupational disease. 7691

(b) The injury or occupational disease is compensable, or 7692
is likely to be compensable, under this chapter or Chapter 7693
4121., 4127., or 4131. of the Revised Code. 7694

(3) Any payment made pursuant to this division shall be 7695
charged to and paid from the surplus fund account created under 7696
section 4123.34 of the Revised Code. 7697

(4) Nothing in this division shall be construed as 7698
limiting the centers of medicare and medicaid services, the 7699
department, or any other entity with a lawful right to 7700
reimbursement from recovering sums greater than five hundred 7701
dollars. 7702

(5) The administrator may adopt rules, with the advice and 7703
consent of the bureau of workers' compensation board of 7704
directors, to implement this division. 7705

Sec. 4123.67. Except as otherwise provided in sections 7706
3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised 7707
Code, compensation before payment shall be exempt from all 7708
claims of creditors and from any attachment or execution, and 7709
shall be paid only to the employees or their dependents. In all 7710
cases where property of an employer is placed in the hands of an 7711
assignee, receiver, or trustee, claims arising under any award 7712
or finding of the industrial commission or bureau of workers' 7713
compensation, pursuant to this chapter or Chapter 4133. of the 7714
Revised Code, including claims for premiums, and any judgment 7715

recovered thereon shall first be paid out of the trust fund in 7716
preference to all other claims, except claims for taxes and the 7717
cost of administration, and with the same preference given to 7718
claims for taxes. 7719

Sec. 4123.68. Every employee who is disabled because of 7720
the contraction of an occupational disease or the dependent of 7721
an employee whose death is caused by an occupational disease, is 7722
entitled to the compensation provided by sections 4123.55 to 7723
4123.59 and 4123.66 of the Revised Code subject to the 7724
modifications relating to occupational diseases contained in 7725
this chapter. An order of the administrator issued under this 7726
section is appealable pursuant to sections 4123.511 and 4123.512 7727
of the Revised Code. 7728

The following diseases are occupational diseases and 7729
compensable as such when contracted by an employee in the course 7730
of the employment in which such employee was engaged and due to 7731
the nature of any process described in this section. A disease 7732
which meets the definition of an occupational disease is 7733
compensable pursuant to this chapter though it is not 7734
specifically listed in this section. 7735

A disease that is occupational pneumoconiosis as defined 7736
in section 4133.01 of the Revised Code is subject to the 7737
requirements and procedures specified in Chapter 4133. of the 7738
Revised Code. 7739

SCHEDULE 7740

Description of disease or injury and description of 7741
process: 7742

(A) Anthrax: Handling of wool, hair, bristles, hides, and 7743
skins. 7744

(B) Glanders: Care of any equine animal suffering from glanders; handling carcass of such animal.	7745 7746
(C) Lead poisoning: Any industrial process involving the use of lead or its preparations or compounds.	7747 7748
(D) Mercury poisoning: Any industrial process involving the use of mercury or its preparations or compounds.	7749 7750
(E) Phosphorous poisoning: Any industrial process involving the use of phosphorous or its preparations or compounds.	7751 7752 7753
(F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds.	7754 7755
(G) Poisoning by benzol or by nitro-derivatives and amido-derivatives of benzol (dinitro-benzol, anilin, and others): Any industrial process involving the use of benzol or nitro-derivatives or amido-derivatives of benzol or its preparations or compounds.	7756 7757 7758 7759 7760
(H) Poisoning by gasoline, benzine, naphtha, or other volatile petroleum products: Any industrial process involving the use of gasoline, benzine, naphtha, or other volatile petroleum products.	7761 7762 7763 7764
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	7765 7766 7767
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	7768 7769
(K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process	7770 7771 7772

involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.	7773
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(L) Epithelion cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry compounds: Handling or industrial use of carbon, pitch, or tarry compounds.	7776
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(M) Compressed air illness: Any industrial process carried on in compressed air.	7780
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(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	7782
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(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	7784
	7785
	7786
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	7787
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	7789
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	7790
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	7792
(R) Tenosynovitis and prepatellar bursitis: Primary tenosynovitis characterized by a passive effusion or crepitus into the tendon sheath of the flexor or extensor muscles of the hand, due to frequently repetitive motions or vibrations, or prepatellar bursitis due to continued pressure.	7793
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(S) Chrome ulceration of the skin or nasal passages: Any industrial process involving the use of or direct contact with chromic acid or bichromates of ammonium, potassium, or sodium or	7798
	7799
	7800

their preparations. 7801

(T) Potassium cyanide poisoning: Any industrial process 7802
involving the use of or direct contact with potassium cyanide. 7803

(U) Sulphur dioxide poisoning: Any industrial process in 7804
which sulphur dioxide gas is evolved by the expansion of liquid 7805
sulphur dioxide. 7806

(V) Berylliosis: Berylliosis means a disease of the lungs 7807
caused by breathing beryllium in the form of dust or fumes, 7808
producing characteristic changes in the lungs and, if caused by 7809
breathing beryllium in the form of fumes, demonstrated by x-ray 7810
examination, by biopsy or by autopsy. 7811

This chapter does not entitle an employee or the 7812
employee's dependents to ~~compensation,~~ medical treatment, or 7813
payment of funeral expenses for disability or death from 7814
berylliosis unless the employee has been subjected to injurious 7815
exposure to beryllium dust or fumes in the employee's employment 7816
in this state preceding the employee's disablement and only in 7817
the event of such disability or death resulting within eight 7818
years after the last injurious exposure; provided that such 7819
eight-year limitation does not apply to ~~disability or~~ death from 7820
exposure occurring after January 1, 1976. In the event of death 7821
following continuous total disability commencing within eight 7822
years after the last injurious exposure, the requirement of 7823
death within eight years after the last injurious exposure does 7824
not apply. 7825

Before awarding compensation for partial or total 7826
disability or death due to berylliosis, the administrator of 7827
workers' compensation shall refer the claim to a qualified 7828
medical specialist for examination and recommendation with 7829

regard to the diagnosis, the extent of the disability, the 7830
nature of the disability, whether permanent or temporary, the 7831
cause of death, and other medical questions connected with the 7832
claim. An employee shall submit to such examinations, including 7833
clinical and x-ray examinations, as the administrator requires. 7834
In the event that an employee refuses to submit to examinations, 7835
including clinical and x-ray examinations, after notice from the 7836
administrator, or in the event that a claimant for compensation 7837
for death due to berylliosis fails to produce necessary consents 7838
and permits, after notice from the administrator, so that such 7839
autopsy examination and tests may be performed, then all rights 7840
for compensation are forfeited. The reasonable compensation of 7841
such specialist and the expenses of examinations and tests shall 7842
be paid, if the claim is allowed, as part of the expenses of the 7843
claim, otherwise they shall be paid from the surplus fund. 7844

(W) Cardiovascular, pulmonary, or respiratory diseases 7845
incurred by firefighters or police officers following exposure 7846
to heat, smoke, toxic gases, chemical fumes and other toxic 7847
substances: Any cardiovascular, pulmonary, or respiratory 7848
disease of a firefighter or police officer caused or induced by 7849
the cumulative effect of exposure to heat, the inhalation of 7850
smoke, toxic gases, chemical fumes and other toxic substances in 7851
the performance of the firefighter's or police officer's duty 7852
constitutes a presumption, which may be refuted by affirmative 7853
evidence, that such occurred in the course of and arising out of 7854
the firefighter's or police officer's employment. For the 7855
purpose of this section, "firefighter" means any regular member 7856
of a lawfully constituted fire department of a municipal 7857
corporation or township, whether paid or volunteer, and "police 7858
officer" means any regular member of a lawfully constituted 7859
police department of a municipal corporation, township or 7860

county, whether paid or volunteer. 7861

This chapter does not entitle a firefighter, or police 7862
officer, or the firefighter's or police officer's dependents to 7863
compensation, medical treatment, or payment of funeral expenses 7864
for disability or death from a cardiovascular, pulmonary, or 7865
respiratory disease, unless the firefighter or police officer 7866
has been subject to injurious exposure to heat, smoke, toxic 7867
gases, chemical fumes, and other toxic substances in the 7868
firefighter's or police officer's employment in this state 7869
preceding the firefighter's or police officer's disablement, 7870
some portion of which has been after January 1, 1967, except as 7871
provided in division ~~(E)~~(D) of section 4123.57 of the Revised 7872
Code. 7873

Compensation on account of cardiovascular, pulmonary, or 7874
respiratory diseases of firefighters and police officers is 7875
payable only in the event of temporary total disability, 7876
permanent total disability, or death, in accordance with section 7877
4123.56, 4123.58, or 4123.59 of the Revised Code. Medical, 7878
hospital, and nursing expenses are payable in accordance with 7879
this chapter. Compensation, medical, hospital, and nursing 7880
expenses are payable only in the event of such disability or 7881
death resulting within eight years after the last injurious 7882
exposure; provided that such eight-year limitation does not 7883
apply to disability or death from exposure occurring after 7884
January 1, 1976. In the event of death following continuous 7885
total disability commencing within eight years after the last 7886
injurious exposure, the requirement of death within eight years 7887
after the last injurious exposure does not apply. 7888

This chapter does not entitle a firefighter or police 7889
officer, or the firefighter's or police officer's dependents, to 7890

compensation, medical, hospital, and nursing expenses, or 7891
payment of funeral expenses for disability or death due to a 7892
cardiovascular, pulmonary, or respiratory disease in the event 7893
of failure or omission on the part of the firefighter or police 7894
officer truthfully to state, when seeking employment, the place, 7895
duration, and nature of previous employment in answer to an 7896
inquiry made by the employer. 7897

Before awarding compensation for disability or death under 7898
this division, the administrator shall refer the claim to a 7899
qualified medical specialist for examination and recommendation 7900
with regard to the diagnosis, the extent of disability, the 7901
cause of death, and other medical questions connected with the 7902
claim. A firefighter or police officer shall submit to such 7903
examinations, including clinical and x-ray examinations, as the 7904
administrator requires. In the event that a firefighter or 7905
police officer refuses to submit to examinations, including 7906
clinical and x-ray examinations, after notice from the 7907
administrator, or in the event that a claimant for compensation 7908
for death under this division fails to produce necessary 7909
consents and permits, after notice from the administrator, so 7910
that such autopsy examination and tests may be performed, then 7911
all rights for compensation are forfeited. The reasonable 7912
compensation of such specialists and the expenses of examination 7913
and tests shall be paid, if the claim is allowed, as part of the 7914
expenses of the claim, otherwise they shall be paid from the 7915
surplus fund. 7916

(X) (1) Cancer contracted by a firefighter: Cancer 7917
contracted by a firefighter who has been assigned to at least 7918
six years of hazardous duty as a firefighter constitutes a 7919
presumption that the cancer was contracted in the course of and 7920
arising out of the firefighter's employment if the firefighter 7921

was exposed to an agent classified by the international agency 7922
for research on cancer or its successor organization as a group 7923
1 or 2A carcinogen. 7924

(2) The presumption described in division (X)(1) of this 7925
section is rebuttable in any of the following situations: 7926

(a) There is evidence that the firefighter's exposure, 7927
outside the scope of the firefighter's official duties, to 7928
cigarettes, tobacco products, or other conditions presenting an 7929
extremely high risk for the development of the cancer alleged, 7930
was probably a significant factor in the cause or progression of 7931
the cancer. 7932

(b) There is evidence that the firefighter was not exposed 7933
to an agent classified by the international agency for research 7934
on cancer as a group 1 or 2A carcinogen. 7935

(c) There is evidence that the firefighter incurred the 7936
type of cancer alleged before becoming a member of the fire 7937
department. 7938

(d) The firefighter is seventy years of age or older. 7939

(3) The presumption described in division (X)(1) of this 7940
section does not apply if it has been more than twenty years 7941
since the firefighter was last assigned to hazardous duty as a 7942
firefighter. 7943

(4) Compensation for cancer contracted by a firefighter in 7944
the course of hazardous duty under division (X) of this section 7945
is payable only in the event of temporary total disability, 7946
permanent total disability, or death, in accordance with 7947
sections 4123.56, 4123.58, and 4123.59 of the Revised Code. 7948

(5) As used in division (X) of this section, "hazardous 7949

duty" has the same meaning as in 5 C.F.R. 550.902, as amended. 7950

(Y) Silicosis: Silicosis means a disease of the lungs 7951
caused by breathing silica dust (silicon dioxide) producing 7952
fibrous nodules distributed through the lungs ~~and demonstrated~~ 7953
~~by x-ray examination, by biopsy or by autopsy.~~ 7954

(Z) Coal miners' pneumoconiosis: Coal miners' 7955
pneumoconiosis, commonly referred to as "black lung disease," 7956
resulting from working in the coal mine industry and due to 7957
exposure to the breathing of coal dust, ~~and demonstrated by x-~~ 7958
~~ray examination, biopsy, autopsy or other medical or clinical-~~ 7959
~~tests.~~ 7960

This chapter does not entitle an employee or the 7961
employee's dependents to compensation, medical treatment, or 7962
payment of funeral expenses for disability or death from 7963
silicosis, asbestosis, or coal miners' pneumoconiosis unless the 7964
employee has been subject to injurious exposure to silica dust 7965
(silicon dioxide), asbestos, or coal dust in the employee's 7966
employment in this state preceding the employee's disablement, 7967
some portion of which has been after October 12, 1945, except as 7968
provided in division ~~(E)~~ (D) of section 4123.57 of the Revised 7969
Code. 7970

Compensation on account of silicosis, asbestosis, or coal 7971
miners' pneumoconiosis are payable only in the event of 7972
temporary total disability, permanent partial disability, 7973
permanent total disability, or death, in accordance with 7974
~~sections 4123.56, 4123.58, and section 4123.59 and Chapter 4133.~~ 7975
of the Revised Code. Medical, hospital, and nursing expenses are 7976
payable in accordance with this chapter. ~~Compensation, medical-~~ 7977
Medical, hospital, and nursing expenses are payable only in the 7978
event of such disability or death resulting within eight years 7979

after the last injurious exposure; provided that such eight-year 7980
limitation does not apply to ~~disability or~~ death occurring after 7981
January 1, 1976, and further provided that such eight-year 7982
limitation does not apply to any asbestosis cases. In the event 7983
of death following continuous total disability commencing within 7984
eight years after the last injurious exposure, the requirement 7985
of death within eight years after the last injurious exposure 7986
does not apply. 7987

~~This chapter does not entitle an employee or the 7988
employee's dependents to compensation, medical, hospital and 7989
nursing expenses, or payment of funeral expenses for disability 7990
or death due to silicosis, asbestosis, or coal miners' 7991
pneumoconiosis in the event of the failure or omission on the 7992
part of the employee truthfully to state, when seeking 7993
employment, the place, duration, and nature of previous 7994
employment in answer to an inquiry made by the employer. 7995~~

~~Before awarding compensation for disability or death due 7996
to silicosis, asbestosis, or coal miners' pneumoconiosis, the 7997
administrator shall refer the claim to a qualified medical 7998
specialist for examination and recommendation with regard to the 7999
diagnosis, the extent of disability, the cause of death, and 8000
other medical questions connected with the claim. An employee 8001
shall submit to such examinations, including clinical and x-ray 8002
examinations, as the administrator requires. In the event that 8003
an employee refuses to submit to examinations, including 8004
clinical and x-ray examinations, after notice from the 8005
administrator, or in the event that a claimant for compensation 8006
for death due to silicosis, asbestosis, or coal miners' 8007
pneumoconiosis fails to produce necessary consents and permits, 8008
after notice from the commission, so that such autopsy 8009
examination and tests may be performed, then all rights for 8010~~

~~compensation are forfeited. The reasonable compensation of such specialist and the expenses of examinations and tests shall be paid, if the claim is allowed, as a part of the expenses of the claim, otherwise they shall be paid from the surplus fund.~~ 8011
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(AA) Radiation illness: Any industrial process involving the use of radioactive materials. 8015
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Claims for compensation and benefits due to radiation illness are payable only in the event death or disability occurred within eight years after the last injurious exposure provided that such eight-year limitation does not apply to disability or death from exposure occurring after January 1, 1976. In the event of death following continuous disability which commenced within eight years of the last injurious exposure the requirement of death within eight years after the last injurious exposure does not apply. 8017
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(BB) Asbestosis: Asbestosis means a disease caused by inhalation or ingestion of asbestos, ~~demonstrated by x-ray examination, biopsy, autopsy, or other objective medical or clinical tests.~~ 8026
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All conditions, restrictions, limitations, and other provisions of this section, with reference to the payment of compensation or benefits on account of silicosis or coal miners' pneumoconiosis apply to the payment of compensation or benefits on account of any other occupational disease of the respiratory tract resulting from injurious exposures to dust. 8030
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The refusal to produce the necessary consents and permits for autopsy examination and testing shall not result in forfeiture of compensation provided the administrator finds that such refusal was the result of bona fide religious convictions 8036
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8039

or teachings to which the claimant for compensation adhered 8040
prior to the death of the decedent. 8041

Sec. 4123.69. Every employee mentioned in section 4123.68 8042
of the Revised Code and the dependents and the employer or 8043
employers of such employee shall be entitled to all the rights, 8044
benefits, and immunities and shall be subject to all the 8045
liabilities, penalties, and regulations provided for injured 8046
employees and their employers by this chapter and Chapter 4133. 8047
of the Revised Code. 8048

~~The administrator of workers' compensation shall have all 8049
of the powers, authority, and duties with respect to the 8050
collection, administration, and disbursement of the state 8051
occupational disease fund as are provided for in this chapter, 8052
providing for the collection, administration, and disbursement 8053
of the state insurance fund for the compensation of injured 8054
employees.~~ 8055

Sec. 4123.74. Employers who comply with section 4123.35 of 8056
the Revised Code shall not be liable to respond in damages at 8057
common law or by statute for any injury, or occupational 8058
disease, or bodily condition, received or contracted by any 8059
employee in the course of or arising out of ~~his~~ employment, or 8060
for any death resulting from such injury, occupational disease, 8061
or bodily condition occurring during the period covered by such 8062
premium so paid into the state insurance fund, or during the 8063
interval the employer is a self-insuring employer, whether or 8064
not such injury, occupational disease, bodily condition, or 8065
death is compensable under this chapter or Chapter 4133. of the 8066
Revised Code. 8067

Sec. 4123.741. No employee of any employer, as defined in 8068
division (B) of section 4123.01 of the Revised Code, shall be 8069

liable to respond in damages at common law or by statute for any 8070
injury or occupational disease, received or contracted by any 8071
other employee of such employer in the course of and arising out 8072
of the latter employee's employment, or for any death resulting 8073
from such injury or occupational disease, on the condition that 8074
such injury, occupational disease, or death is found to be 8075
compensable under sections 4123.01 to 4123.94, ~~inclusive, or~~ 8076
Chapter 4133. of the Revised Code. 8077

Sec. 4123.85. ~~In~~ Except as provided in Chapter 4133. of 8078
the Revised Code, in all cases of occupational disease, or death 8079
resulting from occupational disease, claims for compensation or 8080
benefits are forever barred unless, within two years after the 8081
disability due to the disease began, or within such longer 8082
period as does not exceed six months after diagnosis of the 8083
occupational disease by a licensed physician or within two years 8084
after death occurs, application is made to the industrial 8085
commission or the bureau of workers' compensation or to the 8086
employer if ~~he~~ the employer is a self-insuring employer. 8087

Sec. 4123.89. For the purpose of this chapter and Chapter 8088
4133. of the Revised Code, a minor is sui juris, and no other 8089
person shall have any cause of action or right to compensation 8090
for an injury to the minor employee, but in the event of the 8091
award of a lump sum of compensation to the minor employee, the 8092
sum shall be paid to the legally appointed guardian of the minor 8093
or in accordance with section 2111.05 of the Revised Code. 8094

When it is found upon hearing by the industrial commission 8095
that an injury, occupational disease, or death of a minor 8096
working in employment which is prohibited by any law enacted by 8097
the general assembly was directly caused by a hazard of such 8098
prohibited employment, the commission shall assess an additional 8099

award of one hundred per cent of the maximum award established 8100
by law, to the amount of the compensation that may be awarded on 8101
account of such injury, occupational disease, or death, and paid 8102
in like manner as other awards. If the compensation is paid from 8103
the state fund, the premium of the employer shall be increased 8104
in such amount, covering such period of time as may be fixed, as 8105
will recoup the state fund in the amount of the additional 8106
award. 8107

Sec. 4123.93. As used in sections 4123.93 to 4123.932 of 8108
the Revised Code: 8109

(A) "Claimant" means a person who is eligible to receive 8110
compensation, medical benefits, or death benefits under this 8111
chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the 8112
Revised Code. 8113

(B) "Statutory subrogee" means the administrator of 8114
workers' compensation, a self-insuring employer, or an employer 8115
that contracts for the direct payment of medical services 8116
pursuant to division (P) of section 4121.44 of the Revised Code. 8117

(C) "Third party" means an individual, private insurer, 8118
public or private entity, or public or private program that is 8119
or may be liable to make payments to a person without regard to 8120
any statutory duty contained in this chapter or Chapter 4121., 8121
4127., ~~or 4131.~~ or 4133. of the Revised Code. 8122

(D) "Subrogation interest" includes past, present, and 8123
estimated future payments of compensation, medical benefits, 8124
rehabilitation costs, or death benefits, and any other costs or 8125
expenses paid to or on behalf of the claimant by the statutory 8126
subrogee pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 8127
4131., or 4133. of the Revised Code. 8128

(E) "Net amount recovered" means the amount of any award, 8129
settlement, compromise, or recovery by a claimant against a 8130
third party, minus the attorney's fees, costs, or other expenses 8131
incurred by the claimant in securing the award, settlement, 8132
compromise, or recovery. "Net amount recovered" does not include 8133
any punitive damages that may be awarded by a judge or jury. 8134

(F) "Uncompensated damages" means the claimant's 8135
demonstrated or proven damages minus the statutory subrogee's 8136
subrogation interest. 8137

Sec. 4123.931. (A) The payment of compensation or benefits 8138
pursuant to this chapter or Chapter 4121., 4127., ~~or~~4131., or 8139
4133. of the Revised Code creates a right of recovery in favor 8140
of a statutory subrogee against a third party, and the statutory 8141
subrogee is subrogated to the rights of a claimant against that 8142
third party. The net amount recovered is subject to a statutory 8143
subrogee's right of recovery. 8144

(B) If a claimant, statutory subrogee, and third party 8145
settle or attempt to settle a claimant's claim against a third 8146
party, the claimant shall receive an amount equal to the 8147
uncompensated damages divided by the sum of the subrogation 8148
interest plus the uncompensated damages, multiplied by the net 8149
amount recovered, and the statutory subrogee shall receive an 8150
amount equal to the subrogation interest divided by the sum of 8151
the subrogation interest plus the uncompensated damages, 8152
multiplied by the net amount recovered, except that the net 8153
amount recovered may instead be divided and paid on a more fair 8154
and reasonable basis that is agreed to by the claimant and 8155
statutory subrogee. If while attempting to settle, the claimant 8156
and statutory subrogee cannot agree to the allocation of the net 8157
amount recovered, the claimant and statutory subrogee may file a 8158

request with the administrator of workers' compensation for a 8159
conference to be conducted by a designee appointed by the 8160
administrator, or the claimant and statutory subrogee may agree 8161
to utilize any other binding or non-binding alternative dispute 8162
resolution process. 8163

The claimant and statutory subrogee shall pay equal shares 8164
of the fees and expenses of utilizing an alternative dispute 8165
resolution process, unless they agree to pay those fees and 8166
expenses in another manner. The administrator shall not assess 8167
any fees to a claimant or statutory subrogee for a conference 8168
conducted by the administrator's designee. 8169

(C) If a claimant and statutory subrogee request that a 8170
conference be conducted by the administrator's designee pursuant 8171
to division (B) of this section, both of the following apply: 8172

(1) The administrator's designee shall schedule a 8173
conference on or before sixty days after the date that the 8174
claimant and statutory subrogee filed a request for the 8175
conference. 8176

(2) The determination made by the administrator's designee 8177
is not subject to Chapter 119. of the Revised Code. 8178

(D) When a claimant's action against a third party 8179
proceeds to trial and damages are awarded, both of the following 8180
apply: 8181

(1) The claimant shall receive an amount equal to the 8182
uncompensated damages divided by the sum of the subrogation 8183
interest plus the uncompensated damages, multiplied by the net 8184
amount recovered, and the statutory subrogee shall receive an 8185
amount equal to the subrogation interest divided by the sum of 8186
the subrogation interest plus the uncompensated damages, 8187

multiplied by the net amount recovered. 8188

(2) The court in a nonjury action shall make findings of 8189
fact, and the jury in a jury action shall return a general 8190
verdict accompanied by answers to interrogatories that specify 8191
the following: 8192

(a) The total amount of the compensatory damages; 8193

(b) The portion of the compensatory damages specified 8194
pursuant to division (D) (2) (a) of this section that represents 8195
economic loss; 8196

(c) The portion of the compensatory damages specified 8197
pursuant to division (D) (2) (a) of this section that represents 8198
noneconomic loss. 8199

(E) (1) After a claimant and statutory subrogee know the 8200
net amount recovered, and after the means for dividing it has 8201
been determined under division (B) or (D) of this section, a 8202
claimant may establish an interest-bearing trust account for the 8203
full amount of the subrogation interest that represents 8204
estimated future payments of compensation, medical benefits, 8205
rehabilitation costs, or death benefits, reduced to present 8206
value, from which the claimant shall make reimbursement payments 8207
to the statutory subrogee for the future payments of 8208
compensation, medical benefits, rehabilitation costs, or death 8209
benefits. If the workers' compensation claim associated with the 8210
subrogation interest is settled, or if the claimant dies, or if 8211
any other circumstance occurs that would preclude any future 8212
payments of compensation, medical benefits, rehabilitation 8213
costs, and death benefits by the statutory subrogee, any amount 8214
remaining in the trust account after final reimbursement is paid 8215
to the statutory subrogee for all payments made by the statutory 8216

subrogee before the ending of future payments shall be paid to 8217
the claimant or the claimant's estate. 8218

(2) A claimant may use interest that accrues on the trust 8219
account to pay the expenses of establishing and maintaining the 8220
trust account, and all remaining interest shall be credited to 8221
the trust account. 8222

(3) If a claimant establishes a trust account, the 8223
statutory subrogee shall provide payment notices to the claimant 8224
on or before the thirtieth day of June and the thirty-first day 8225
of December every year listing the total amount that the 8226
statutory subrogee has paid for compensation, medical benefits, 8227
rehabilitation costs, or death benefits during the half of the 8228
year preceding the notice. The claimant shall make reimbursement 8229
payments to the statutory subrogee from the trust account on or 8230
before the thirty-first day of July every year for a notice 8231
provided by the thirtieth day of June, and on or before the 8232
thirty-first day of January every year for a notice provided by 8233
the thirty-first day of December. The claimant's reimbursement 8234
payment shall be in an amount that equals the total amount 8235
listed on the notice the claimant receives from the statutory 8236
subrogee. 8237

(F) If a claimant does not establish a trust account as 8238
described in division (E)(1) of this section, the claimant shall 8239
pay to the statutory subrogee, on or before thirty days after 8240
receipt of funds from the third party, the full amount of the 8241
subrogation interest that represents estimated future payments 8242
of compensation, medical benefits, rehabilitation costs, or 8243
death benefits. 8244

(G) A claimant shall notify a statutory subrogee and the 8245
attorney general of the identity of all third parties against 8246

whom the claimant has or may have a right of recovery, except 8247
that when the statutory subrogee is a self-insuring employer, 8248
the claimant need not notify the attorney general. No 8249
settlement, compromise, judgment, award, or other recovery in 8250
any action or claim by a claimant shall be final unless the 8251
claimant provides the statutory subrogee and, when required, the 8252
attorney general, with prior notice and a reasonable opportunity 8253
to assert its subrogation rights. If a statutory subrogee and, 8254
when required, the attorney general are not given that notice, 8255
or if a settlement or compromise excludes any amount paid by the 8256
statutory subrogee, the third party and the claimant shall be 8257
jointly and severally liable to pay the statutory subrogee the 8258
full amount of the subrogation interest. 8259

(H) The right of subrogation under this chapter is 8260
automatic, regardless of whether a statutory subrogee is joined 8261
as a party in an action by a claimant against a third party. A 8262
statutory subrogee may assert its subrogation rights through 8263
correspondence with the claimant and the third party or their 8264
legal representatives. A statutory subrogee may institute and 8265
pursue legal proceedings against a third party either by itself 8266
or in conjunction with a claimant. If a statutory subrogee 8267
institutes legal proceedings against a third party, the 8268
statutory subrogee shall provide notice of that fact to the 8269
claimant. If the statutory subrogee joins the claimant as a 8270
necessary party, or if the claimant elects to participate in the 8271
proceedings as a party, the claimant may present the claimant's 8272
case first if the matter proceeds to trial. If a claimant 8273
disputes the validity or amount of an asserted subrogation 8274
interest, the claimant shall join the statutory subrogee as a 8275
necessary party to the action against the third party. 8276

(I) The statutory subrogation right of recovery applies 8277

to, but is not limited to, all of the following:	8278
(1) Amounts recoverable from a claimant's insurer in connection with underinsured or uninsured motorist coverage, notwithstanding any limitation contained in Chapter 3937. of the Revised Code;	8279 8280 8281 8282
(2) Amounts that a claimant would be entitled to recover from a political subdivision, notwithstanding any limitations contained in Chapter 2744. of the Revised Code;	8283 8284 8285
(3) Amounts recoverable from an intentional tort action.	8286
(J) If a claimant's claim against a third party is for wrongful death or the claim involves any minor beneficiaries, amounts allocated under this section are subject to the approval of probate court.	8287 8288 8289 8290
(K) Except as otherwise provided in this division, the administrator shall deposit any money collected under this section into the public fund or the private fund of the state insurance fund, as appropriate. Any money collected under this section for compensation or benefits that were charged pursuant to section 4123.932 of the Revised Code to the surplus fund account created in division (B) of section 4123.34 of the Revised Code and not charged to an employer's experience shall be deposited in the surplus fund account and not applied to an individual employer's account. If a self-insuring employer collects money under this section of the Revised Code, the self-insuring employer shall deduct the amount collected, in the year collected, from the amount of paid compensation the self-insured employer is required to report under section 4123.35 of the Revised Code.	8291 8292 8293 8294 8295 8296 8297 8298 8299 8300 8301 8302 8303 8304 8305
Sec. 4125.03. (A) The professional employer organization	8306

with whom a shared employee is coemployed shall do all of the 8307
following: 8308

(1) Pay wages associated with a shared employee pursuant 8309
to the terms and conditions of compensation in the professional 8310
employer organization agreement between the professional 8311
employer organization and the client employer; 8312

(2) Pay all related payroll taxes associated with a shared 8313
employee independent of the terms and conditions contained in 8314
the professional employer organization agreement between the 8315
professional employer organization and the client employer; 8316

(3) Maintain workers' compensation coverage, pay all 8317
workers' compensation premiums and manage all workers' 8318
compensation claims, filings, and related procedures associated 8319
with a shared employee in compliance with Chapters 4121. ~~and~~ 4123., and 4133. of the Revised Code, except that when shared 8320
employees include family farm officers, ordained ministers, or 8321
corporate officers of the client employer, payroll reports shall 8322
include the entire amount of payroll associated with those 8323
persons; 8324
8325

(4) Provide written notice to each shared employee it 8326
assigns to perform services to a client employer of the 8327
relationship between and the responsibilities of the 8328
professional employer organization and the client employer; 8329

(5) Maintain complete records separately listing the 8330
manual classifications of each client employer and the payroll 8331
reported to each manual classification for each client employer 8332
for each payroll reporting period during the time period covered 8333
in the professional employer organization agreement; 8334

(6) Maintain a record of workers' compensation claims for 8335

each client employer; 8336

(7) Make periodic reports, as determined by the 8337
administrator of workers' compensation, of client employers and 8338
total workforce to the administrator; 8339

(8) Report individual client employer payroll, claims, and 8340
classification data under a separate and unique subaccount to 8341
the administrator; 8342

(9) Within fourteen days after receiving notice from the 8343
bureau of workers' compensation that a refund or rebate will be 8344
applied to workers' compensation premiums, provide a copy of 8345
that notice to any client employer to whom that notice is 8346
relevant. 8347

(B) The professional employer organization with whom a 8348
shared employee is coemployed shall provide a list of all of the 8349
following information to the client employer upon the written 8350
request of the client employer: 8351

(1) All workers' compensation claims, premiums, and 8352
payroll associated with that client employer; 8353

(2) Compensation and benefits paid and reserves 8354
established for each claim listed under division (B)(1) of this 8355
section; 8356

(3) Any other information available to the professional 8357
employer organization from the bureau of workers' compensation 8358
regarding that client employer. 8359

(C)(1) A professional employer organization shall provide 8360
the information required under division (B) of this section in 8361
writing to the requesting client employer within forty-five days 8362
after receiving a written request from the client employer. 8363

(2) For purposes of division (C) of this section, a professional employer organization has provided the required information to the client employer when the information is received by the United States postal service or when the information is personally delivered, in writing, directly to the client employer.

(D) Except as provided in section 4125.08 of the Revised Code and unless otherwise agreed to in the professional employer organization agreement, the professional employer organization with whom a shared employee is coemployed has a right of direction and control over each shared employee assigned to a client employer's location. However, a client employer shall retain sufficient direction and control over a shared employee as is necessary to do any of the following:

(1) Conduct the client employer's business, including training and supervising shared employees;

(2) Ensure the quality, adequacy, and safety of the goods or services produced or sold in the client employer's business;

(3) Discharge any fiduciary responsibility that the client employer may have;

(4) Comply with any applicable licensure, regulatory, or statutory requirement of the client employer.

(E) Unless otherwise agreed to in the professional employer organization agreement, liability for acts, errors, and omissions shall be determined as follows:

(1) A professional employer organization shall not be liable for the acts, errors, and omissions of a client employer or a shared employee when those acts, errors, and omissions occur under the direction and control of the client employer.

(2) A client employer shall not be liable for the acts, 8393
errors, and omissions of a professional employer organization or 8394
a shared employee when those acts, errors, and omissions occur 8395
under the direction and control of the professional employer 8396
organization. 8397

(F) Nothing in divisions (D) and (E) of this section shall 8398
be construed to limit any liability or obligation specifically 8399
agreed to in the professional employer organization agreement. 8400

Sec. 4125.04. (A) When a client employer enters into a 8401
professional employer organization agreement with a professional 8402
employer organization, the professional employer organization is 8403
the employer of record and the succeeding employer for the 8404
purposes of determining a workers' compensation experience 8405
rating pursuant to Chapter 4123. of the Revised Code. 8406

(B) Pursuant to Section 35 of Article II, Ohio 8407
Constitution, and section 4123.74 of the Revised Code, the 8408
exclusive remedy for a shared employee to recover for injuries, 8409
diseases, or death incurred in the course of and arising out of 8410
the employment relationship against either the professional 8411
employer organization or the client employer are those benefits 8412
provided under Chapters 4121.~~and~~, 4123., and 4133. of the 8413
Revised Code. 8414

Sec. 4125.041. A shared employee under a professional 8415
employer organization agreement shall not, solely as a result of 8416
being a shared employee, be considered an employee of the 8417
professional employer organization for purposes of general 8418
liability insurance, fidelity bonds, surety bonds, employer 8419
liability not otherwise covered by Chapters 4121.~~and~~, 4123., and 4133. 8420
of the Revised Code, or liquor liability insurance 8421
carried by the professional employer organization, unless the 8422

professional employer organization agreement and applicable 8423
prearranged employment contract, insurance contract, or bond 8424
specifically states otherwise. 8425

Sec. 4125.05. (A) Not later than thirty days after the 8426
formation of a professional employer organization, a 8427
professional employer organization operating in this state shall 8428
register with the administrator of workers' compensation on 8429
forms provided by the administrator. Following initial 8430
registration, each professional employer organization shall 8431
register with the administrator annually on or before the 8432
thirty-first day of December. Commonly owned or controlled 8433
applicants may register as a professional employer organization 8434
reporting entity or register individually. Registration as a 8435
part of a professional employer organization reporting entity 8436
shall not disqualify an individual professional employer 8437
organization from participating in a group-rated plan under 8438
division (A) (4) of section 4123.29 of the Revised Code. 8439

(B) Initial registration and each annual registration 8440
renewal shall include all of the following: 8441

(1) A list of each of the professional employer 8442
organization's client employers current as of the date of 8443
registration for purposes of initial registration or current as 8444
of the date of annual registration renewal, or within fourteen 8445
days of adding or releasing a client, that includes the client 8446
employer's name, address, federal tax identification number, and 8447
bureau of workers' compensation risk number; 8448

(2) A fee as determined by the administrator; 8449

(3) The name or names under which the professional 8450
employer organization conducts business; 8451

- (4) The address of the professional employer organization's principal place of business and the address of each office it maintains in this state; 8452
8453
8454
- (5) The professional employer organization's taxpayer or employer identification number; 8455
8456
- (6) A list of each state in which the professional employer organization has operated in the preceding five years, and the name, corresponding with each state, under which the professional employer organization operated in each state, including any alternative names, names of predecessors, and if known, successor business entities; 8457
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8459
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- (7) The most recent financial statement prepared and audited pursuant to division (B) of section 4125.051 of the Revised Code; 8463
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- (8) If there is any deficit in the working capital required under division (A) of section 4125.051 of the Revised Code, a bond, irrevocable letter of credit, or securities with a minimum market value in an amount sufficient to cover the deficit in accordance with the requirements of that section; 8466
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- (9) An attestation of the accuracy of the data submissions from the chief executive officer, president, or other individual who serves as the controlling person of the professional employer organization. 8471
8472
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- (C) Upon terms and for periods that the administrator considers appropriate, the administrator may issue a limited registration to a professional employer organization or professional employer organization reporting entity that provides all of the following items: 8475
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8477
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8479
- (1) A properly executed request for limited registration 8480

on a form provided by the administrator; 8481

(2) All information and materials required for 8482
registration in divisions (B) (1) to (6) of this section; 8483

(3) Information and documentation necessary to show that 8484
the professional employer organization or professional employer 8485
organization reporting entity satisfies all of the following 8486
criteria: 8487

(a) It is domiciled outside of this state. 8488

(b) It is licensed or registered as a professional 8489
employer organization in another state. 8490

(c) It does not maintain an office in this state. 8491

(d) It does not participate in direct solicitations for 8492
client employers located or domiciled in this state. 8493

(e) It has fifty or fewer shared employees employed or 8494
domiciled in this state on any given day. 8495

(D) (1) The administrator, with the advice and consent of 8496
the bureau of workers' compensation board of directors, may 8497
adopt rules in accordance with Chapter 119. of the Revised Code 8498
to require, in addition to the requirement under division (B) (8) 8499
of this section, a professional employer organization to provide 8500
security in the form of a bond or letter of credit assignable to 8501
the Ohio bureau of workers' compensation not to exceed an amount 8502
equal to the premiums and assessments incurred for the most 8503
recent policy year, prior to any discounts or dividends, to meet 8504
the financial obligations of the professional employer 8505
organization pursuant to this chapter and Chapters 4121. ~~and~~ 4123. ~~and~~ 4133. of the Revised Code. 8506
8507

(2) A professional employer organization may appeal the 8508

amount of the security required pursuant to rules adopted under 8509
division (D) (1) of this section in accordance with section 8510
4123.291 of the Revised Code. 8511

(3) A professional employer organization shall pay 8512
premiums and assessments for purposes of Chapters 4121.~~and~~, 8513
4123., and 4133. of the Revised Code on a monthly basis pursuant 8514
to division (A) of section 4123.35 of the Revised Code. 8515

(E) Notwithstanding division (D) of this section, a 8516
professional employer organization that qualifies for self- 8517
insurance or retrospective rating under section 4123.29 or 8518
4123.35 of the Revised Code shall abide by the financial 8519
disclosure and security requirements pursuant to those sections 8520
and the rules adopted under those sections in place of the 8521
requirements specified in division (D) of this section or 8522
specified in rules adopted pursuant to that division. 8523

(F) Except to the extent necessary for the administrator 8524
to administer the statutory duties of the administrator and for 8525
employees of the state to perform their official duties, all 8526
records, reports, client lists, and other information obtained 8527
from a professional employer organization and professional 8528
employer organization reporting entity under divisions (A), (B), 8529
and (C) of this section are confidential and shall be considered 8530
trade secrets and shall not be published or open to public 8531
inspection. 8532

(G) The list described in division (B) (1) of this section 8533
shall be considered a trade secret. 8534

(H) The administrator shall establish the fee described in 8535
division (B) (2) of this section in an amount that does not 8536
exceed the cost of the administration of the initial and renewal 8537

registration process. 8538

(I) A financial statement required under division (B)(7) 8539
of this section for initial registration shall be the most 8540
recent financial statement of the professional employer 8541
organization or professional employer organization reporting 8542
entity of which the professional employer organization is a 8543
member and shall not be older than thirteen months. For each 8544
registration renewal, the professional employer organization 8545
shall file the required financial statement within one hundred 8546
eighty days after the end of the professional employer 8547
organization's or professional employer organization reporting 8548
entity's fiscal year. A professional employer organization may 8549
apply to the administrator for an extension beyond that time if 8550
the professional employer organization provides the 8551
administrator with a letter from the professional employer 8552
organization's auditor stating the reason for delay and the 8553
anticipated completion date. 8554

(J) Multiple, unrelated professional employer 8555
organizations shall not combine together for purposes of 8556
obtaining workers' compensation coverage or for forming any type 8557
of self-insurance arrangement available under this chapter. 8558
Multiple, unrelated professional employer organization reporting 8559
entities shall not combine together for purposes of obtaining 8560
workers' compensation coverage or for forming any type of self- 8561
insurance arrangement available under this chapter. 8562

(K) The administrator shall maintain a list of 8563
professional employer organizations and professional employer 8564
organization reporting entities registered under this section 8565
that is readily available to the public by electronic or other 8566
means. 8567

Sec. 4131.01. As used in sections 4131.01 to 4131.06 of 8568
the Revised Code: 8569

(A) "Federal act" means Title IV of the "Federal Coal Mine 8570
Health and Safety Act of 1969," 83 Stat. 742, 30 U.S.C.A. 801, 8571
as now or hereafter amended. 8572

(B) "Coal-workers pneumoconiosis fund" means the fund 8573
created and administered pursuant to sections 4131.01 to 4131.06 8574
of the Revised Code and does not refer, directly or indirectly, 8575
to any fund created and administered pursuant to Chapter 4123. 8576
or 4133. of the Revised Code. 8577

(C) "Premium" means payment by or on behalf of an operator 8578
of a coal mine in Ohio who is required by the federal act to 8579
secure the payment of benefits for which ~~he~~ the operator is 8580
liable under that act, which payments are to be credited to the 8581
coal-workers pneumoconiosis fund and does not refer, directly or 8582
indirectly, to premiums or contributions paid or required to be 8583
paid pursuant to Chapter 4123. of the Revised Code. 8584

(D) "Subscriber" means an operator who has elected to 8585
subscribe to the coal-workers pneumoconiosis fund and whose 8586
election has been approved by the bureau of workers' 8587
compensation. 8588

Sec. 4133.01. As used in this chapter: 8589

(A) "Board-certified internist," "board-certified 8590
pathologist," and "board-certified pulmonary specialist" have 8591
the same meanings as in section 2307.84 of the Revised Code. 8592

(B) "Occupational pneumoconiosis" means a disease of the 8593
lungs caused by the inhalation of minute particles of dust over 8594
a period of time due to causes and conditions arising out of and 8595
in the course of employment. "Occupational pneumoconiosis" 8596

<u>includes all of the following diseases:</u>	8597
<u>(1) Silicosis;</u>	8598
<u>(2) Anthracosilicosis;</u>	8599
<u>(3) Coal worker's pneumoconiosis, commonly known as black lung or miner's asthma;</u>	8600 8601
<u>(4) Silico-tuberculosis (silicosis accompanied by active tuberculosis of the lungs);</u>	8602 8603
<u>(5) Coal worker's pneumoconiosis accompanied by active tuberculosis of the lungs;</u>	8604 8605
<u>(6) Asbestosis;</u>	8606
<u>(7) Siderosis;</u>	8607
<u>(8) Anthrax;</u>	8608
<u>(9) Any other dust diseases of the lungs and conditions and diseases caused by occupational pneumoconiosis not specifically designated in division (B) of this section.</u>	8609 8610 8611
<u>(C) "Statewide average weekly wage" has the same meaning as in section 4123.62 of the Revised Code.</u>	8612 8613
<u>Sec. 4133.02. Except as otherwise provided in this chapter, Chapters 4121. and 4123. of the Revised Code apply to all claims arising under this chapter.</u>	8614 8615 8616
<u>Sec. 4133.03. Except as provided in section 4133.05 of the Revised Code, all claims for compensation and benefits for disability or death due to occupational pneumoconiosis are forever barred unless an employee or an individual on behalf of an employee applies to the industrial commission or the bureau of workers' compensation or to the employer if the employer is a self-insuring employer not later than the following dates, as</u>	8617 8618 8619 8620 8621 8622 8623

applicable: 8624

(A) In the case of disability, not later than three years 8625
after the occurrence of either of the following, whichever is 8626
later: 8627

(1) The last day of the last continuous period of sixty 8628
days or more during which the employee was exposed to the 8629
hazards of occupational pneumoconiosis; 8630

(2) A diagnosed impairment due to occupational 8631
pneumoconiosis was made known to the employee by a physician. 8632

(B) In the case of death, not later than two years after 8633
the date of the employee's death. 8634

Sec. 4133.04. (A) When filing a claim for compensation and 8635
benefits for occupational pneumoconiosis, an employee or, if the 8636
employee is deceased, a dependent of the employee, shall submit 8637
to the administrator of workers' compensation or a self-insuring 8638
employer a written certification by a board-certified pulmonary 8639
specialist stating both of the following: 8640

(1) That the employee is or was suffering from complicated 8641
pneumoconiosis or pulmonary massive fibrosis; 8642

(2) That the occupational pneumoconiosis has or had 8643
resulted in pulmonary impairment as measured by the standards or 8644
methods used by the occupational pneumoconiosis board of at 8645
least fifteen per cent, as confirmed by valid and reproducible 8646
ventilatory testing. 8647

(B) The pulmonary specialist shall disclose all evidence 8648
on which the written certification is based, including all 8649
radiographic, pathologic, or other diagnostic test results the 8650
pulmonary specialist reviewed. 8651

Sec. 4133.05. (A) (1) For a claim filed not later than 8652
three years after the last date of exposure to the hazards of 8653
occupational pneumoconiosis, the administrator of workers' 8654
compensation or a self-insuring employer shall determine all of 8655
the following: 8656

(a) Whether the employee who is the subject of the claim 8657
was exposed to the hazards of occupational pneumoconiosis for a 8658
continuous period of not less than sixty days in the course of 8659
the employee's employment not later than three years before 8660
filing the claim; 8661

(b) Whether the employee was exposed to the hazard in this 8662
state over a continuous period of not less than two years during 8663
the ten years immediately preceding the date of last exposure to 8664
the hazard; 8665

(c) Whether the employee was exposed to the hazard over a 8666
period of not less than ten years during the fifteen years 8667
immediately preceding the date of last exposure to the hazard. 8668

(2) For a claim filed not later than three years after the 8669
date of diagnosis of occupational pneumoconiosis, the 8670
administrator or self-insuring employer shall determine whether 8671
the employee satisfies the requirements of divisions (A) (1) (b) 8672
and (c) of this section. 8673

(B) For a claim filed by a dependent of an employee whose 8674
death is caused by occupational pneumoconiosis, the 8675
administrator or self-insuring employer shall determine all of 8676
the following: 8677

(1) Whether the deceased employee was exposed to the 8678
hazards of occupational pneumoconiosis for a continuous period 8679
of not less than sixty days in the course of the employee's 8680

employment within ten years before filing the claim; 8681

(2) Whether the deceased employee was exposed to the 8682
hazard in this state over a continuous period of not less than 8683
two years during the ten years immediately preceding the date of 8684
last exposure to the hazard; 8685

(3) Whether the deceased employee was exposed to the 8686
hazard over a period of not less than ten years during the 8687
fifteen years immediately preceding the date of last exposure to 8688
the hazard. 8689

(C) The administrator or self-insuring employer shall 8690
determine other nonmedical facts that, in the opinion of the 8691
administrator or self-insuring employer, are pertinent to a 8692
decision on the validity of a claim. 8693

(D) The administrator may allocate to and divide any 8694
charges resulting from an occupational pneumoconiosis claim 8695
among the employers for whom the employee who is the subject of 8696
the claim was employed up to sixty days during the period of 8697
three years immediately preceding the date of last exposure to 8698
the hazards of occupational pneumoconiosis. The administrator 8699
shall base the allocation on the time and degree of exposure the 8700
employee had with each employer. 8701

Sec. 4133.06. (A) The administrator of workers' 8702
compensation or a self-insuring employer shall determine the 8703
nonmedical findings for an occupational pneumoconiosis claim 8704
filed under section 4133.05 of the Revised Code not later than 8705
ninety days after the administrator or self-insuring employer 8706
receives the claimant's application and the pulmonary 8707
specialist's written certification specified in section 4133.04 8708
of the Revised Code. The administrator or self-insuring employer 8709

shall provide each interested party written notice of the 8710
determination. 8711

(B) The administrator's or self-insuring employer's 8712
determination under this chapter is final unless the employer or 8713
claimant objects to the determination not later than sixty days 8714
after receipt of the notice described in division (A) of this 8715
section. 8716

(C) If a claimant objects to the administrator's 8717
determination regarding the occupational pneumoconiosis claim 8718
for compensation and benefits, the claimant may appeal the claim 8719
in accordance with section 4123.511 or 4123.512 of the Revised 8720
Code. If an employer objects to the determination under this 8721
section, the administrator shall refer the claim to the 8722
occupational pneumoconiosis board as if the objection had not 8723
been filed. 8724

Sec. 4133.07. There is hereby created the occupational 8725
pneumoconiosis board within the bureau of workers' compensation 8726
to determine, under the direction and supervision of the 8727
administrator of workers' compensation, all medical questions 8728
relating to claims for compensation and benefits for 8729
occupational pneumoconiosis. 8730

The board consists of five physicians in good professional 8731
standing holding a certificate issued under Chapter 4731. of the 8732
Revised Code to practice medicine and surgery or osteopathic 8733
medicine and surgery. Members shall be board-certified 8734
internists or board-certified pulmonary specialists. The 8735
administrator shall appoint the members to the board. 8736

Not later than ninety days after the effective date of 8737
this section, the administrator shall appoint the initial 8738

members to the board. The administrator shall appoint three 8739
members to terms ending one year after the effective date of 8740
this section, two members to terms ending two years after that 8741
date, and one member to a term ending three years after that 8742
date. Thereafter, terms of office for all members are six years, 8743
with each term ending on the same day of the same month as did 8744
the term that it succeeds. Each member shall hold office from 8745
the date of appointment until the end of the term for which the 8746
member was appointed. Members may be reappointed. 8747

Vacancies shall be filled in the same manner as original 8748
appointments. Any member appointed to fill a vacancy occurring 8749
before the expiration of the term for which the member's 8750
predecessor was appointed shall hold office for the remainder of 8751
the term. Any member shall continue in office subsequent to the 8752
expiration date of the member's term until a successor takes 8753
office, or until a period of sixty days has elapsed, whichever 8754
occurs first. 8755

The administrator annually shall select from among the 8756
board members a chairperson. A majority of board members 8757
constitutes a quorum. 8758

Members of the occupational pneumoconiosis board shall 8759
receive compensation for their service on the board and be 8760
reimbursed for travel and actual and necessary expenses incurred 8761
in the conduct of their official duties. The administrator shall 8762
establish the compensation of members in accordance with section 8763
4121.121 of the Revised Code. 8764

Sections 101.82 to 101.87 of the Revised Code do not apply 8765
to the occupational pneumoconiosis board. 8766

Sec. 4133.08. (A) On referral to the occupational 8767

pneumoconiosis board, the board shall notify the claimant and 8768
administrator or self-insuring employer, as applicable, to 8769
appear before the board at a time and place stated in the 8770
notice. If the claimant is living, the claimant shall appear 8771
before the board at the specified time and place and submit to 8772
any examination, including clinical and x-ray examinations, 8773
required by the board. 8774

If a licensed physician files an affidavit with the board 8775
that the claimant is physically unable to appear at the 8776
specified time and place, the board shall, on notice to the 8777
proper parties, change the time and place as may reasonably 8778
facilitate the hearing or examination of the claimant or may 8779
appoint a qualified specialist in the field of respiratory 8780
disease to examine the claimant on the board's behalf. 8781

(B) The claimant and employer shall produce as evidence to 8782
the board all medical reports and x-ray examinations that are in 8783
the claimant's or employer's possession or control and that show 8784
the employee's past or present condition. 8785

If the employee who is the subject of the claim is 8786
deceased, the notice specified in division (A) of this section 8787
may require the claimant to produce any consents and permits 8788
necessary so that an autopsy may be performed. If the board 8789
determines an autopsy is necessary to accurately and 8790
scientifically determine the cause of death, the board shall 8791
order the autopsy. The board shall designate a physician holding 8792
a certificate issued under Chapter 4731. of the Revised Code, 8793
board-certified pathologist, or any other specialist the board 8794
determines necessary to conduct the examination and tests to 8795
determine the cause of death and certify the findings in writing 8796
to the board. Notwithstanding section 4123.88 of the Revised 8797

Code, the findings are public records under section 149.43 of 8798
the Revised Code. 8799

(C) In determining the presence of occupational 8800
pneumoconiosis, the board may consider x-ray evidence, but the 8801
board shall not give that evidence greater weight than any other 8802
type of evidence demonstrating occupational pneumoconiosis. 8803

(D) If an employee refuses to submit to an examination, 8804
the employee's claim shall be suspended during the period of the 8805
refusal in accordance with section 4123.53 of the Revised Code. 8806
If a claimant fails to produce necessary consents and permits so 8807
that an autopsy may be performed, the claimant forfeits all 8808
rights for compensation and benefits under this chapter. 8809

(E) The claimant and employer are entitled to be present 8810
at all examinations conducted by the board and to be represented 8811
by attorneys and physicians. 8812

Sec. 4133.09. (A) The occupational pneumoconiosis board, 8813
as soon as practicable after completing its investigation under 8814
section 4133.08 of the Revised Code, shall issue a written 8815
report on its determination of every medical question in 8816
controversy to the administrator of workers' compensation or 8817
self-insuring employer. The board shall send one copy of the 8818
report to the claimant and one copy to the claimant's employer 8819
if the employer is not a self-insuring employer. 8820

(B) The board shall return to and file with the 8821
administrator or self-insuring employer all evidence and medical 8822
reports and x-ray examinations produced by or on behalf of the 8823
claimant or employer. 8824

(C) The board shall include all of the following in its 8825
determination: 8826

(1) Whether the employee contracted occupational 8827
pneumoconiosis and, if so, the percentage of permanent 8828
disability resulting from the occupational pneumoconiosis; 8829

(2) Whether the exposure in the employment was sufficient 8830
to have caused the employee's occupational pneumoconiosis or to 8831
have perceptibly aggravated an existing occupational 8832
pneumoconiosis or other occupational disease; 8833

(3) What, if any, physician appeared before the board on 8834
the claimant's or employer's behalf and what, if any, medical 8835
evidence was produced by or on the claimant's or employer's 8836
behalf. 8837

(D) (1) It shall be presumed that the employee is suffering 8838
or if the employee is deceased, the deceased employee was 8839
suffering at the time of the employee's death, from occupational 8840
pneumoconiosis that arose out of and in the course of employment 8841
if both of the following are shown: 8842

(a) The employee has or had been exposed to the hazard of 8843
inhaling minute particles of dust in the course of and arising 8844
from the employee's employment for a period of ten years during 8845
the fifteen years immediately preceding the date of the 8846
employee's last exposure to the hazard; 8847

(b) The employee has or had sustained a chronic 8848
respiratory disability. 8849

(2) The presumption described in division (D) (1) of this 8850
section is not conclusive. 8851

(E) If either party contests the board's determination in 8852
division (C) of this section, the party shall file an appeal 8853
with the industrial commission in accordance with section 8854
4123.511 of the Revised Code. 8855

(F) (1) Except as provided in division (F) (2) of this 8856
section, a claimant who receives a final determination from the 8857
board that the employee who is the subject of the claim has or 8858
had no evidence of occupational pneumoconiosis is barred for a 8859
period of three years from filing a new claim or pursuing a 8860
previously filed, but unruled on, claim for occupational 8861
pneumoconiosis or requesting a modification of any prior ruling 8862
finding the employee not to be suffering from occupational 8863
pneumoconiosis. 8864

The three-year period described in this division begins on 8865
the date of the board's decision or the date on which the 8866
employee's employment with the employer who employed the 8867
employee at the time designated as the employee's last date of 8868
exposure in the denied claim terminates, whichever is sooner. 8869
For purposes of this division, an employee's employment is 8870
considered terminated if the employee has not worked for that 8871
employer for a period of more than ninety days. 8872

The administrator or a self-insuring employer shall 8873
consolidate any previously filed but unruled on claim with the 8874
claim in which the board's decision is made and must be denied 8875
together with the decided claim. The administrator or self- 8876
insuring employer shall not apply these limitations to a claim 8877
if doing so would later cause a claimant's claim to be forever 8878
barred for failing to file within the applicable time 8879
limitation. 8880

(2) This division does not apply if the claimant 8881
demonstrates that the occupational pneumoconiosis has 8882
deteriorated. 8883

Sec. 4133.10. The administrator of workers' compensation 8884
or a self-insuring employer may require a claimant to appear for 8885

examination before the occupational pneumoconiosis board. If the 8886
claimant is required to appear for a board examination, the 8887
party that referred the claimant to the board shall reimburse 8888
the claimant for loss of wages and reasonable traveling expenses 8889
and other expenses in connection with the examination. 8890

Sec. 4133.11. An employee filing a claim for compensation 8891
and benefits for occupational pneumoconiosis shall receive 8892
medical, nurse, and hospital services in accordance with section 8893
4123.66 of the Revised Code. 8894

Sec. 4133.12. (A) Except as provided in this division, an 8895
employee who is awarded compensation for temporary total 8896
disability for occupational pneumoconiosis shall receive sixty- 8897
six and two-thirds per cent of the employee's average weekly 8898
wage so long as such disability is total. The maximum weekly 8899
compensation an employee may receive under this section is the 8900
statewide average weekly wage. The minimum weekly compensation 8901
that an employee may receive under this section is the lower of 8902
the following amounts: 8903

(1) An amount that is equal to thirty-three and one-third 8904
per cent of the statewide average weekly wage; 8905

(2) An amount that is equal to the federal minimum hourly 8906
wage multiplied by forty. 8907

(B) The number of weeks of temporary total disability 8908
compensation an employee may receive for a single occupational 8909
pneumoconiosis claim shall not exceed one hundred four weeks. 8910

Sec. 4133.13. (A) Except as provided in this division, an 8911
employee who is awarded compensation for permanent partial 8912
disability for occupational pneumoconiosis shall receive sixty- 8913
six and two-thirds per cent of the employee's average weekly 8914

wage. The maximum weekly compensation an employee may receive 8915
under this section is seventy per cent of the statewide average 8916
weekly wage. The minimum weekly compensation that an employee 8917
may receive under this section is the lower of the following 8918
amounts: 8919

(1) An amount that is equal to thirty-three and one-third 8920
per cent of the statewide average weekly wage; 8921

(2) An amount that is equal to the federal minimum hourly 8922
wage multiplied by forty. 8923

(B) (1) Except as provided in division (B) (2) of this 8924
section, an employee shall receive four weeks of compensation 8925
for each percentage of disability that the administrator of 8926
workers' compensation determines to be permanent. 8927

(2) If an employee is released by the employee's treating 8928
physician to return to work at the position the employee held 8929
before the occupational pneumoconiosis occurred and the 8930
employee's preinjury employer does not offer the preinjury 8931
position or a comparable position to the employee when a 8932
position is available, the award for the percentage of partial 8933
disability shall be computed on the basis of six weeks of 8934
compensation for each percentage of disability. 8935

(C) The degree of permanent partial disability shall be 8936
determined by the degree of whole body medical impairment that 8937
an employee has suffered. Once the degree of an employee's 8938
medical impairment has been determined, that degree of 8939
impairment is the percentage of permanent partial disability 8940
that shall be awarded to the employee. The occupational 8941
pneumoconiosis board shall premise its decision on the degree of 8942
pulmonary function impairment that an employee suffers solely on 8943

whole body medical impairment. 8944

(D) The administrator shall adopt standards for 8945
determining an employee's degree of whole body medical 8946
impairment. 8947

Sec. 4133.14. (A) Except as provided in this division, an 8948
employee who is awarded compensation for permanent total 8949
disability for occupational pneumoconiosis shall receive sixty- 8950
six and two-thirds per cent of the employee's average weekly 8951
wage. The maximum weekly compensation an employee may receive 8952
under this section is one hundred per cent of the statewide 8953
average weekly wage. The minimum weekly compensation that an 8954
employee may receive under this section is the lower of the 8955
following amounts: 8956

(1) An amount that is equal to thirty-three and one-third 8957
per cent of the statewide average weekly wage; 8958

(2) An amount that is equal to the federal minimum hourly 8959
wage multiplied by forty. 8960

(B) Permanent total disability compensation for 8961
occupational pneumoconiosis shall cease on the employee reaching 8962
seventy years of age. 8963

If an employee is determined to be permanently disabled 8964
due to occupational pneumoconiosis, the percentage of permanent 8965
disability shall be determined by the degree of medical 8966
impairment found by the occupational pneumoconiosis board. 8967

In cases of permanent disability or death due to 8968
occupational pneumoconiosis accompanied by active tuberculosis 8969
of the lungs, compensation is payable for disability or death 8970
due to occupational pneumoconiosis alone. 8971

Sec. 4133.15. Benefits in case of death due to occupational pneumoconiosis shall be paid in accordance with section 4123.60 of the Revised Code. 8972
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Sec. 4133.16. In computing compensation for occupational pneumoconiosis claims, the administrator of workers' compensation or a self-insuring employer shall deduct the amount of all prior compensation or benefits paid to the same claimant due to silicosis under this chapter or Chapter 4123. of the Revised Code, but a prior silicosis award shall not, in any event, preclude an award for occupational pneumoconiosis otherwise payable under this chapter. 8975
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Sec. 4729.80. (A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board is authorized or required to provide information from the database in accordance with the following: 8983
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(1) On receipt of a request from a designated representative of a government entity responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs, the board may provide to the representative information from the database relating to the professional who is the subject of an active investigation being conducted by the government entity. 8988
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(2) On receipt of a request from a federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs, the board shall provide to the officer information from the database relating to the person who is the subject of an active investigation of a drug abuse offense, as defined in section 2925.01 of the Revised 8996
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Code, being conducted by the officer's employing government 9002
entity. 9003

(3) Pursuant to a subpoena issued by a grand jury, the 9004
board shall provide to the grand jury information from the 9005
database relating to the person who is the subject of an 9006
investigation being conducted by the grand jury. 9007

(4) Pursuant to a subpoena, search warrant, or court order 9008
in connection with the investigation or prosecution of a 9009
possible or alleged criminal offense, the board shall provide 9010
information from the database as necessary to comply with the 9011
subpoena, search warrant, or court order. 9012

(5) On receipt of a request from a prescriber or the 9013
prescriber's delegate approved by the board, the board shall 9014
provide to the prescriber a report of information from the 9015
database relating to a patient who is either a current patient 9016
of the prescriber or a potential patient of the prescriber based 9017
on a referral of the patient to the prescriber, if all of the 9018
following conditions are met: 9019

(a) The prescriber certifies in a form specified by the 9020
board that it is for the purpose of providing medical treatment 9021
to the patient who is the subject of the request; 9022

(b) The prescriber has not been denied access to the 9023
database by the board. 9024

(6) On receipt of a request from a pharmacist or the 9025
pharmacist's delegate approved by the board, the board shall 9026
provide to the pharmacist information from the database relating 9027
to a current patient of the pharmacist, if the pharmacist 9028
certifies in a form specified by the board that it is for the 9029
purpose of the pharmacist's practice of pharmacy involving the 9030

patient who is the subject of the request and the pharmacist has 9031
not been denied access to the database by the board. 9032

(7) On receipt of a request from an individual seeking the 9033
individual's own database information in accordance with the 9034
procedure established in rules adopted under section 4729.84 of 9035
the Revised Code, the board may provide to the individual the 9036
individual's own database information. 9037

(8) On receipt of a request from a medical director or a 9038
pharmacy director of a managed care organization that has 9039
entered into a contract with the department of medicaid under 9040
section 5167.10 of the Revised Code and a data security 9041
agreement with the board required by section 5167.14 of the 9042
Revised Code, the board shall provide to the medical director or 9043
the pharmacy director information from the database relating to 9044
a medicaid recipient enrolled in the managed care organization, 9045
including information in the database related to prescriptions 9046
for the recipient that were not covered or reimbursed under a 9047
program administered by the department of medicaid. 9048

(9) On receipt of a request from the medicaid director, 9049
the board shall provide to the director information from the 9050
database relating to a recipient of a program administered by 9051
the department of medicaid, including information in the 9052
database related to prescriptions for the recipient that were 9053
not covered or paid by a program administered by the department. 9054

(10) On receipt of a request from a medical director of a 9055
managed care organization that has entered into a contract with 9056
the administrator of workers' compensation under division (B) (4) 9057
of section 4121.44 of the Revised Code and a data security 9058
agreement with the board required by section 4121.447 of the 9059
Revised Code, the board shall provide to the medical director 9060

information from the database relating to a claimant under 9061
Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. of the Revised 9062
Code assigned to the managed care organization, including 9063
information in the database related to prescriptions for the 9064
claimant that were not covered or reimbursed under Chapter 9065
4121., 4123., 4127., ~~or 4131.~~, or 4133. of the Revised Code, if 9066
the administrator of workers' compensation confirms, upon 9067
request from the board, that the claimant is assigned to the 9068
managed care organization. 9069

(11) On receipt of a request from the administrator of 9070
workers' compensation, the board shall provide to the 9071
administrator information from the database relating to a 9072
claimant under Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. 9073
of the Revised Code, including information in the database 9074
related to prescriptions for the claimant that were not covered 9075
or reimbursed under Chapter 4121., 4123., 4127., ~~or 4131.~~, or 9076
4133. of the Revised Code. 9077

(12) On receipt of a request from a prescriber or the 9078
prescriber's delegate approved by the board, the board shall 9079
provide to the prescriber information from the database relating 9080
to a patient's mother, if the prescriber certifies in a form 9081
specified by the board that it is for the purpose of providing 9082
medical treatment to a newborn or infant patient diagnosed as 9083
opioid dependent and the prescriber has not been denied access 9084
to the database by the board. 9085

(13) On receipt of a request from the director of health, 9086
the board shall provide to the director information from the 9087
database relating to the duties of the director or the 9088
department of health in implementing the Ohio violent death 9089
reporting system established under section 3701.93 of the 9090

Revised Code. 9091

(14) On receipt of a request from a requestor described in 9092
division (A)(1), (2), (5), or (6) of this section who is from or 9093
participating with another state's prescription monitoring 9094
program, the board may provide to the requestor information from 9095
the database, but only if there is a written agreement under 9096
which the information is to be used and disseminated according 9097
to the laws of this state. 9098

(15) On receipt of a request from a delegate of a retail 9099
dispensary licensed under Chapter 3796. of the Revised Code who 9100
is approved by the board to serve as the dispensary's delegate, 9101
the board shall provide to the delegate a report of information 9102
from the database pertaining only to a patient's use of medical 9103
marijuana, if both of the following conditions are met: 9104

(a) The delegate certifies in a form specified by the 9105
board that it is for the purpose of dispensing medical marijuana 9106
for use in accordance with Chapter 3796. of the Revised Code. 9107

(b) The retail dispensary or delegate has not been denied 9108
access to the database by the board. 9109

(B) The state board of pharmacy shall maintain a record of 9110
each individual or entity that requests information from the 9111
database pursuant to this section. In accordance with rules 9112
adopted under section 4729.84 of the Revised Code, the board may 9113
use the records to document and report statistics and law 9114
enforcement outcomes. 9115

The board may provide records of an individual's requests 9116
for database information to the following: 9117

(1) A designated representative of a government entity 9118
that is responsible for the licensure, regulation, or discipline 9119

of health care professionals with authority to prescribe, 9120
administer, or dispense drugs who is involved in an active 9121
criminal or disciplinary investigation being conducted by the 9122
government entity of the individual who submitted the requests 9123
for database information; 9124

(2) A federal officer, or a state or local officer of this 9125
or any other state, whose duties include enforcing laws relating 9126
to drugs and who is involved in an active investigation being 9127
conducted by the officer's employing government entity of the 9128
individual who submitted the requests for database information. 9129

(C) Information contained in the database and any 9130
information obtained from it is confidential and is not a public 9131
record. Information contained in the records of requests for 9132
information from the database is confidential and is not a 9133
public record. Information contained in the database that does 9134
not identify a person, including any licensee or registrant of 9135
the board or other entity, may be released in summary, 9136
statistical, or aggregate form. 9137

(D) Information contained in the database may be provided 9138
only as expressly permitted in law, including any information 9139
contained in the database that relates to any person, including 9140
any licensee or registrant of the board or other entity. 9141

(E) A pharmacist or prescriber shall not be held liable in 9142
damages to any person in any civil action for injury, death, or 9143
loss to person or property on the basis that the pharmacist or 9144
prescriber did or did not seek or obtain information from the 9145
database. 9146

Sec. 5145.163. (A) As used in this section: 9147

(1) "Customer model enterprise" means an enterprise 9148

conducted under a federal prison industries enhancement 9149
certification program in which a private party participates in 9150
the enterprise only as a purchaser of goods and services. 9151

(2) "Employer model enterprise" means an enterprise 9152
conducted under a federal prison industries enhancement 9153
certification program in which a private party participates in 9154
the enterprise as an operator of the enterprise. 9155

(3) "Injury" means a diagnosable injury to an inmate 9156
supported by medical findings that it was sustained in the 9157
course of and arose out of authorized work activity that was an 9158
integral part of the inmate's participation in the Ohio penal 9159
industries program. 9160

(4) "Inmate" means any person who is committed to the 9161
custody of the department of rehabilitation and correction and 9162
who is participating in an Ohio penal industries program that is 9163
under the federal prison industries enhancement certification 9164
program. 9165

(5) "Federal prison industries enhancement certification 9166
program" means the program authorized pursuant to 18 U.S.C. 9167
1761. 9168

(6) "Loss of earning capacity" means an impairment of the 9169
body of an inmate to a degree that makes the inmate unable to 9170
return to work activity under the Ohio penal industries program 9171
and results in a reduction of compensation earned by the inmate 9172
at the time the injury occurred. 9173

(B) Every inmate shall be covered by a policy of 9174
disability insurance to provide benefits for loss of earning 9175
capacity due to an injury and for medical treatment of the 9176
injury following the inmate's release from prison. If the 9177

enterprise for which the inmate works is a customer model 9178
enterprise, Ohio penal industries shall purchase the policy. If 9179
the enterprise for which the inmate works is an employer model 9180
enterprise, the private participant shall purchase the policy. 9181
The person required to purchase the policy shall submit proof of 9182
coverage to the prison labor advisory board before the 9183
enterprise begins operation. 9184

(C) Within ninety days after an inmate sustains an injury, 9185
the inmate may file a disability claim with the person required 9186
to purchase the policy of disability insurance. Upon the request 9187
of the insurer, the inmate shall be medically examined, and the 9188
insurer shall determine the inmate's entitlement to disability 9189
benefits based on the medical examination. The inmate shall 9190
accept or reject an award within thirty days after a 9191
determination of the inmate's entitlement to the award. If the 9192
inmate accepts the award, the benefits shall be paid upon the 9193
inmate's release from prison. The amount of disability benefits 9194
payable to the inmate shall be reduced by sick leave benefits or 9195
other compensation for lost pay made by Ohio penal industries to 9196
the inmate due to an injury that rendered the inmate unable to 9197
work. An inmate shall not receive disability benefits for 9198
injuries occurring as the result of a fight, assault, horseplay, 9199
purposely self-inflicted injury, use of alcohol or controlled 9200
substances, misuse of prescription drugs, or other activity that 9201
is prohibited by the department's or institution's inmate 9202
conduct rules or the work rules of the private participant in 9203
the enterprise. 9204

(D) Inmates are not employees of the department of 9205
rehabilitation and correction or the private participant in an 9206
enterprise. 9207

(E) An inmate is ineligible to receive compensation or 9208
benefits under Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. 9209
of the Revised Code for any injury, death, or occupational 9210
disease received in the course of, and arising out of, 9211
participation in the Ohio penal industries program. Any claim 9212
for an injury arising from an inmate's participation in the 9213
program is specifically excluded from the jurisdiction of the 9214
Ohio bureau of workers' compensation and the industrial 9215
commission of Ohio. 9216

(F) Any disability benefit award accepted by an inmate 9217
under this section shall be the inmate's exclusive remedy 9218
against the insurer, the private participant in an enterprise, 9219
and the state. If an inmate rejects an award or a disability 9220
claim is denied, the inmate may bring an action in the court of 9221
claims within the appropriate period of limitations. 9222

(G) If any inmate who is paid disability benefits under 9223
this section is reincarcerated, the benefits shall immediately 9224
cease but shall resume upon the inmate's subsequent release from 9225
incarceration. 9226

Sec. 5502.41. (A) As used in this section: 9227

(1) "Chief executive of a participating political 9228
subdivision" means the elected chief executive of a 9229
participating political subdivision or, if the political 9230
subdivision does not have an elected chief executive, a member 9231
of the political subdivision's governing body or an employee of 9232
the political subdivision appointed by the governing body's 9233
members to be its representative for purposes of the intrastate 9234
mutual aid program created pursuant to this section. 9235

(2) "Countywide emergency management agency" means a 9236

countywide emergency management agency established under section 9237
5502.26 of the Revised Code. 9238

(3) "Emergency" means any period during which the congress 9239
of the United States, a chief executive as defined in section 9240
5502.21 of the Revised Code, or a chief executive of a 9241
participating political subdivision has declared or proclaimed 9242
that an emergency exists. 9243

(4) "Participating political subdivision" means each 9244
political subdivision in this state except a political 9245
subdivision that enacts or adopts, by appropriate legislation, 9246
ordinance, resolution, rule, bylaw, or regulation signed by its 9247
chief executive, a decision not to participate in the intrastate 9248
mutual aid program created by this section and that provides a 9249
copy of the legislation, ordinance, resolution, rule, bylaw, or 9250
regulation to the state emergency management agency and to the 9251
countywide emergency management agency, regional authority for 9252
emergency management, or program for emergency management within 9253
the political subdivision. 9254

(5) "Planned event" means a scheduled nonemergency 9255
activity as defined by the national incident management system 9256
adopted under section 5502.28 of the Revised Code as the state's 9257
standard procedure for incident management. "Planned event" 9258
includes, but is not limited to, a sporting event, concert, or 9259
parade. 9260

(6) "Political subdivision" or "subdivision" has the same 9261
meaning as in section 2744.01 of the Revised Code and also 9262
includes a health district established under Chapter 3709. of 9263
the Revised Code. 9264

(7) "Program for emergency management within a political 9265

subdivision" means a program for emergency management created by 9266
a political subdivision under section 5502.271 of the Revised 9267
Code. 9268

(8) "Regional authority for emergency management" means a 9269
regional authority for emergency management established under 9270
section 5502.27 of the Revised Code. 9271

(9) "Regional response team" means a group of persons from 9272
participating political subdivisions who provide mutual 9273
assistance or aid in preparation for, response to, or recovery 9274
from an incident, disaster, exercise, training activity, planned 9275
event, or emergency, any of which requires additional resources. 9276
"Regional response team" includes, but is not limited to, an 9277
incident management team, hazardous materials response team, 9278
water rescue team, bomb team, or search and rescue team. 9279

(B) There is hereby created the intrastate mutual aid 9280
program to be known as "the intrastate mutual aid compact" to 9281
complement existing mutual aid agreements. The program shall 9282
have two purposes: 9283

(1) Provide for mutual assistance or aid among the 9284
participating political subdivisions for purposes of preparing 9285
for, responding to, and recovering from an incident, disaster, 9286
exercise, training activity, planned event, or emergency, any of 9287
which requires additional resources; 9288

(2) Establish a method by which a participating political 9289
subdivision may seek assistance or aid that resolves many of the 9290
common issues facing political subdivisions before, during, and 9291
after an incident, disaster, exercise, training activity, 9292
planned event, or emergency, any of which requires additional 9293
resources, and that ensures, to the extent possible, eligibility 9294

for available state and federal disaster assistance or other 9295
funding. 9296

(C) Each countywide emergency management agency, regional 9297
authority for emergency management, and program for emergency 9298
management within a political subdivision, in coordination with 9299
all departments, divisions, boards, commissions, agencies, and 9300
other instrumentalities within that political subdivision, shall 9301
establish procedures or plans that, to the extent possible, 9302
accomplish both of the following: 9303

(1) Identify hazards that potentially could affect the 9304
participating political subdivisions served by that agency, 9305
authority, or program; 9306

(2) Identify and inventory the current services, 9307
equipment, supplies, personnel, and other resources related to 9308
the preparedness, response, and recovery activities of the 9309
participating political subdivisions served by that agency, 9310
authority, or program. 9311

(D) (1) The executive director of the state emergency 9312
management agency shall coordinate with the countywide emergency 9313
management agencies, regional authorities for emergency 9314
management, and programs for emergency management within a 9315
political subdivision in identifying and formulating appropriate 9316
procedures or plans to resolve resource shortfalls. 9317

(2) During and after the formulation of the procedures or 9318
plans to resolve resource shortfalls, there shall be ongoing 9319
consultation and coordination among the executive director of 9320
the state emergency management agency; the countywide emergency 9321
management agencies, regional authorities for emergency 9322
management, and programs for emergency management within a 9323

political subdivision; and all departments, divisions, boards, 9324
commissions, agencies, and other instrumentalities of, and 9325
having emergency response functions within, each participating 9326
political subdivision, regarding this section, local procedures 9327
and plans, and the resolution of the resource shortfalls. 9328

(E) (1) A participating political subdivision that is 9329
impacted by an incident, disaster, exercise, training activity, 9330
planned event, or emergency, any of which requires additional 9331
resources, may request mutual assistance or aid by doing either 9332
of the following: 9333

(a) Declaring a state of emergency and issuing a request 9334
for assistance or aid from any other participating political 9335
subdivision; 9336

(b) Issuing to another participating political subdivision 9337
a verbal or written request for assistance or aid. If the 9338
request is made verbally, a written confirmation of the request 9339
shall be made not later than seventy-two hours after the verbal 9340
request is made. 9341

(2) Requests for assistance or aid made under division (E) 9342
(1) of this section shall be made through the emergency 9343
management agency of a participating political subdivision or an 9344
official designated by the chief executive of the participating 9345
political subdivision from which the assistance or aid is 9346
requested and shall provide the following information: 9347

(a) A description of the incident, disaster, exercise, 9348
training activity, planned event, or emergency; 9349

(b) A description of the assistance or aid needed; 9350

(c) An estimate of the length of time the assistance or 9351
aid will be needed; 9352

(d) The specific place and time for staging of the 9353
assistance or aid and a point of contact at that location. 9354

(F) A participating political subdivision shall provide 9355
assistance or aid to another participating political subdivision 9356
that is impacted by an incident, disaster, exercise, training 9357
activity, planned event, or emergency, any of which requires 9358
additional resources. The provision of the assistance or aid is 9359
subject to the following conditions: 9360

(1) The responding political subdivision may withhold 9361
resources necessary to provide for its own protection. 9362

(2) Personnel of the responding political subdivision 9363
shall continue under their local command and control structure, 9364
but shall be under the operational control of the appropriate 9365
officials within the incident management system of the 9366
participating political subdivision receiving assistance or aid. 9367

(3) Responding law enforcement officers acting pursuant to 9368
this section have the same authority to enforce the law as when 9369
acting within the territory of their regular employment. 9370

(G) (1) Nothing in this section shall do any of the 9371
following: 9372

(a) Alter the duties and responsibilities of emergency 9373
response personnel; 9374

(b) Prohibit a private company from participating in the 9375
provision of mutual assistance or aid pursuant to the compact 9376
created pursuant to this section if the participating political 9377
subdivision approves the participation and the contract with the 9378
private company allows for the participation; 9379

(c) Prohibit employees of participating political 9380

subdivisions from responding to a request for mutual assistance 9381
or aid precipitated by an incident, disaster, exercise, training 9382
activity, planned event, or emergency, any of which requires 9383
additional resources, when the employees are responding as part 9384
of a regional response team that is under the operational 9385
control of the incident command structure; 9386

(d) Authorize employees of participating political 9387
subdivisions to respond to an incident, disaster, exercise, 9388
training activity, planned event, or emergency, any of which 9389
requires additional resources, without a request from a 9390
participating political subdivision. 9391

(2) This section does not preclude a participating 9392
political subdivision from entering into a mutual aid or other 9393
agreement with another political subdivision, and does not 9394
affect any other agreement to which a participating political 9395
subdivision may be a party, or any request for assistance or aid 9396
that may be made, under any other section of the Revised Code, 9397
including, but not limited to, any mutual aid arrangement under 9398
this chapter, any fire protection or emergency medical services 9399
contract under section 9.60 of the Revised Code, sheriffs' 9400
requests for assistance to preserve the public peace and protect 9401
persons and property under section 311.07 of the Revised Code, 9402
any agreement for mutual assistance or aid in police protection 9403
under section 737.04 of the Revised Code, any agreement for law 9404
enforcement services between universities and colleges and 9405
political subdivisions under section 3345.041 or 3345.21 of the 9406
Revised Code, and mutual aid agreements among emergency planning 9407
districts for hazardous substances or chemicals response under 9408
sections 3750.02 and 3750.03 of the Revised Code. 9409

(H) (1) Personnel of a responding participating political 9410

subdivision who suffer injury or death in the course of, and 9411
arising out of, their employment while rendering assistance or 9412
aid under this section to another participating political 9413
subdivision are entitled to all applicable benefits under 9414
Chapters 4121.~~and~~, 4123., and 4133. of the Revised Code. 9415

(2) Personnel of a responding participating political 9416
subdivision shall be considered, while rendering assistance or 9417
aid under this section in another participating political 9418
subdivision, to be agents of the responding political 9419
subdivision for purposes of tort liability and immunity from 9420
tort liability under the law of this state. 9421

(3) (a) A responding participating political subdivision 9422
and the personnel of that political subdivision, while rendering 9423
assistance or aid under this section, or while in route to or 9424
from rendering assistance or aid under this section, in another 9425
participating political subdivision, shall be deemed to be 9426
exercising governmental functions as defined in section 2744.01 9427
of the Revised Code, shall have the defenses to and immunities 9428
from civil liability provided in sections 2744.02 and 2744.03 of 9429
the Revised Code, and shall be entitled to all applicable 9430
limitations on recoverable damages under section 2744.05 of the 9431
Revised Code. 9432

(b) A participating political subdivision requesting 9433
assistance or aid and the personnel of that political 9434
subdivision, while requesting or receiving assistance or aid 9435
under this section from any other participating political 9436
subdivision, shall be deemed to be exercising governmental 9437
functions as defined in section 2744.01 of the Revised Code, 9438
shall have the defenses to and immunities from civil liability 9439
provided in sections 2744.02 and 2744.03 of the Revised Code, 9440

and shall be entitled to all applicable limitations on 9441
recoverable damages under section 2744.05 of the Revised Code. 9442

(I) If a person holds a license, certificate, or other 9443
permit issued by a participating political subdivision 9444
evidencing qualification in a professional, mechanical, or other 9445
skill, and if the assistance or aid of that person is asked for 9446
under this section by a participating political subdivision, the 9447
person shall be deemed to be licensed or certified in or 9448
permitted by the participating political subdivision receiving 9449
the assistance or aid to render the assistance or aid, subject 9450
to any limitations and conditions the chief executive of the 9451
participating political subdivision receiving the assistance or 9452
aid may prescribe by executive order or otherwise. 9453

(J) (1) Subject to division (K) of this section and except 9454
as provided in division (J) (2) of this section, any 9455
participating political subdivision rendering assistance or aid 9456
under this section in another participating political 9457
subdivision shall be reimbursed by the participating political 9458
subdivision receiving the assistance or aid for any loss or 9459
damage to, or expense incurred in the operation of, any 9460
equipment used in rendering the assistance or aid, for any 9461
expense incurred in the provision of any service used in 9462
rendering the assistance or aid, and for all other costs 9463
incurred in responding to the request for assistance or aid. To 9464
avoid duplication of payments, insurance proceeds available to 9465
cover any loss or damage to equipment of a participating 9466
political subdivision rendering assistance or aid shall be 9467
considered in the reimbursement by the participating political 9468
subdivision receiving the assistance or aid. 9469

(2) A participating political subdivision rendering 9470

assistance or aid under this section to another participating 9471
political subdivision shall not be reimbursed for either of the 9472
following: 9473

(a) The first eight hours of mutual assistance or aid it 9474
provides to the political subdivision receiving the assistance 9475
or aid; 9476

(b) Expenses the participating political subdivision 9477
incurs under division (H) (1) of this section. 9478

(K) A participating political subdivision rendering 9479
assistance or aid under this section may do any of the 9480
following: 9481

(1) Assume, in whole or in part, any loss, damage, 9482
expense, or cost the political subdivision incurs in rendering 9483
the assistance or aid; 9484

(2) Loan, without charge, any equipment, or donate any 9485
service, to the political subdivision receiving the assistance 9486
or aid; 9487

(3) Enter into agreements with one or more other 9488
participating political subdivisions to establish different 9489
allocations of losses, damages, expenses, or costs among such 9490
political subdivisions. 9491

Sec. 5503.08. Each state highway patrol officer shall, in 9492
addition to the sick leave benefits provided in section 124.38 9493
of the Revised Code, be entitled to occupational injury leave. 9494
Occupational injury leave of one thousand five hundred hours 9495
with pay may, with the approval of the superintendent of the 9496
state highway patrol, be used for absence resulting from each 9497
independent injury incurred in the line of duty, except that 9498
occupational injury leave is not available for injuries incurred 9499

during those times when the patrol officer is actually engaged 9500
in administrative or clerical duties at a patrol facility, when 9501
a patrol officer is on a meal or rest period, or when the patrol 9502
officer is engaged in any personal business. The superintendent 9503
of the state highway patrol shall, by rule, define those 9504
administrative and clerical duties and those situations where 9505
the occurrence of an injury does not entitle the patrol officer 9506
to occupational injury leave. Each injury incurred in the line 9507
of duty which aggravates a previously existing injury, whether 9508
the previously existing injury was so incurred or not, shall be 9509
considered an independent injury. When its use is authorized 9510
under this section, all occupational injury leave shall be 9511
exhausted before any credit is deducted from unused sick leave 9512
accumulated under section 124.38 of the Revised Code, except 9513
that, unless otherwise provided by the superintendent of the 9514
state highway patrol, occupational injury leave shall not be 9515
used for absence occurring within seven calendar days of the 9516
injury. During that seven calendar day period, unused sick leave 9517
may be used for such an absence. 9518

When occupational injury leave is used, it shall be 9519
deducted from the unused balance of the patrol officer's 9520
occupational injury leave for that injury on the basis of one 9521
hour for every one hour of absence from previously scheduled 9522
work. 9523

Before a patrol officer may use occupational injury leave, 9524
the patrol officer shall: 9525

(A) Apply to the superintendent for permission to use 9526
occupational injury leave on a form that requires the patrol 9527
officer to explain the nature of the patrol officer's 9528
independent injury and the circumstances under which it 9529

occurred; and 9530

(B) Submit to a medical examination. The individual who 9531
conducts the examination shall report to the superintendent the 9532
results of the examination and whether or not the independent 9533
injury prevents the patrol officer from attending work. 9534

The superintendent shall, by rule, provide for periodic 9535
medical examinations of patrol officers who are using 9536
occupational injury leave. The individual selected to conduct 9537
the medical examinations shall report to the superintendent the 9538
results of each such examination, including a description of the 9539
progress made by the patrol officer in recovering from the 9540
independent injury, and whether or not the independent injury 9541
continues to prevent the patrol officer from attending work. 9542

The superintendent shall appoint to conduct medical 9543
examinations under this division individuals authorized by the 9544
Revised Code to do so, including any physician assistant, 9545
clinical nurse specialist, certified nurse practitioner, or 9546
certified nurse-midwife. 9547

A patrol officer is not entitled to use or continue to use 9548
occupational injury leave after refusing to submit to a medical 9549
examination or if the individual examining the patrol officer 9550
reports that the independent injury does not prevent the patrol 9551
officer from attending work. 9552

A patrol officer who falsifies an application for 9553
permission to use occupational injury leave or a medical 9554
examination report is subject to disciplinary action, including 9555
dismissal. 9556

The superintendent shall, by rule, prescribe forms for the 9557
application and medical examination report. 9558

Occupational injury leave pay made according to this 9559
section is in lieu of such workers' compensation benefits as 9560
would have been payable directly to a patrol officer pursuant to 9561
sections 4123.56 ~~and~~, 4123.58, 4133.12, and 4133.14 of the 9562
Revised Code, but all other compensation and benefits pursuant 9563
to ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code are 9564
payable as in any other case. If at the close of the period, the 9565
patrol officer remains disabled, the patrol officer is entitled 9566
to all compensation and benefits, without a waiting period 9567
pursuant to section 4123.55 of the Revised Code based upon the 9568
injury received, for which the patrol officer qualifies pursuant 9569
to ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code. 9570
Compensation shall be paid from the date that the patrol officer 9571
ceases to receive the patrol officer's regular rate of pay 9572
pursuant to this section. 9573

Occupational injury leave shall not be credited to or, 9574
upon use, deducted from, a patrol officer's sick leave. 9575

Sec. 5505.01. As used in this chapter: 9576

(A) "Employee" means any qualified employee in the uniform 9577
division of the state highway patrol, any qualified employee in 9578
the radio division hired prior to November 2, 1989, and any 9579
state highway patrol cadet attending training school pursuant to 9580
section 5503.05 of the Revised Code whose attendance at the 9581
school begins on or after June 30, 1991. "Employee" includes the 9582
superintendent of the state highway patrol. In all cases of 9583
doubt, the state highway patrol retirement board shall determine 9584
whether any person is an employee as defined in this division, 9585
and the decision of the board is final. 9586

(B) "Prior service" means all service rendered as an 9587
employee of the state highway patrol prior to September 5, 1941, 9588

to the extent credited by the board, provided that in no case 9589
shall prior service include service rendered prior to November 9590
15, 1933. 9591

(C) "Total service" means all service rendered by an 9592
employee to the extent credited by the board. Total service 9593
includes all of the following: 9594

(1) Contributing service rendered by the employee since 9595
last becoming a member of the state highway patrol retirement 9596
system; 9597

(2) All prior service credit; 9598

(3) Restored service credit as provided in this chapter; 9599

(4) Military service credit purchased under division (D) 9600
of section 5505.16 or section 5505.25 of the Revised Code; 9601

(5) Credit granted under division (C) of section 5505.17 9602
or section 5505.201, 5505.40, or 5505.402 of the Revised Code; 9603

(6) Credit for any period, not to exceed three years, 9604
during which the member was out of service and receiving 9605
benefits under Chapters 4121. ~~and~~, 4123., and 4133. of the 9606
Revised Code. 9607

(D) "Regular interest" means interest compounded at rates 9608
designated from time to time by the retirement board. 9609

(E) "Plan" means the provisions of this chapter. 9610

(F) "Retirement system" or "system" means the state 9611
highway patrol retirement system created and established in the 9612
plan. 9613

(G) "Contributing service" means all service rendered by a 9614
member since September 4, 1941, for which deductions were made 9615

from the member's salary under the plan. 9616

(H) "Retirement board" or "board" means the state highway 9617
patrol retirement board provided for in the plan. 9618

(I) Except as provided in sections 5505.16, 5505.162, and 9619
5505.18 of the Revised Code, "member" means any employee 9620
included in the membership of the retirement system, whether or 9621
not rendering contributing service. 9622

(J) "Retirant" means any member who has retired under 9623
section 5505.16 or 5505.18 of the Revised Code. 9624

(K) "Accumulated contributions" means the sum of the 9625
following credited to a member's individual account in the 9626
employees' savings fund: 9627

(1) All amounts deducted from the salary of the member; 9628

(2) All amounts paid by the member to purchase state 9629
highway patrol retirement system service credit pursuant to this 9630
chapter or other state law. 9631

(L) (1) Except as provided in division (L) (2) of this 9632
section, "final average salary" means the average of the highest 9633
salary paid a member during any five consecutive or 9634
nonconsecutive years. 9635

If a member has less than five years of contributing 9636
service, the member's final average salary shall be the average 9637
of the annual rates of salary paid to the member during the 9638
member's total years of contributing service. 9639

(2) If a member is credited with service under division 9640
(C) (6) of this section or division (D) of section 5505.16 of the 9641
Revised Code, the member's final average salary shall be the 9642
average of the highest salary that was paid to the member or 9643

would have been paid to the member, had the member been 9644
rendering contributing service, during any five consecutive or 9645
nonconsecutive years. If that member has less than five years of 9646
total service, the member's final average salary shall be the 9647
average of the annual rates of salary that were paid to the 9648
member or would have been paid to the member during the member's 9649
years of total service. 9650

(M) "Pension" means an annual amount payable by the 9651
retirement system throughout the life of a person or as 9652
otherwise provided in the plan. 9653

(N) "Pension reserve" means the present value of any 9654
pension, or benefit in lieu of any pension, computed upon the 9655
basis of mortality and other tables of experience and interest 9656
the board shall from time to time adopt. 9657

(O) "Deferred pension" means a pension for which an 9658
eligible member of the system has made application and which is 9659
payable as provided in division (A) or (B) of section 5505.16 of 9660
the Revised Code. 9661

(P) "Retirement" means retirement as provided in sections 9662
5505.16 and 5505.18 of the Revised Code. 9663

(Q) "Fiduciary" means any of the following: 9664

(1) A person who exercises any discretionary authority or 9665
control with respect to the management of the system, or with 9666
respect to the management or disposition of its assets; 9667

(2) A person who renders investment advice for a fee, 9668
direct or indirect, with respect to money or property of the 9669
system; 9670

(3) A person who has any discretionary authority or 9671

responsibility in the administration of the system. 9672

(R) (1) Except as otherwise provided in this division, 9673
"salary" means all compensation, wages, and other earnings paid 9674
to a member by reason of employment but without regard to 9675
whether any of the compensation, wages, or other earnings are 9676
treated as deferred income for federal income tax purposes. 9677
Salary includes all of the following: 9678

(a) Payments for shift differential, hazard duty, 9679
professional achievement, and longevity; 9680

(b) Payments for occupational injury leave, personal 9681
leave, sick leave, bereavement leave, administrative leave, and 9682
vacation leave used by the member; 9683

(c) Payments made under a disability leave program 9684
sponsored by the state for which the state is required by 9685
section 5505.151 of the Revised Code to make periodic employer 9686
and employee contributions to the retirement system. 9687

(2) "Salary" does not include any of the following: 9688

(a) Payments resulting from the conversion of accrued but 9689
unused sick leave, personal leave, compensatory time, and 9690
vacation leave; 9691

(b) Payments made by the state to provide life insurance, 9692
sickness, accident, endowment, health, medical, hospital, 9693
dental, or surgical coverage, or other insurance for the member 9694
or the member's family, or amounts paid by the state to the 9695
member in lieu of providing that insurance; 9696

(c) Payments for overtime work; 9697

(d) Incidental benefits, including lodging, food, laundry, 9698
parking, or services furnished by the state, use of property or 9699

equipment of the state, and reimbursement for job-related 9700
expenses authorized by the state including moving and travel 9701
expenses and expenses related to professional development; 9702

(e) Payments made to or on behalf of a member that are in 9703
excess of the annual compensation that may be taken into account 9704
by the retirement system under division (a) (17) of section 401 9705
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 9706
U.S.C.A. 401 (a) (17), as amended; 9707

(f) Payments made under division (B), (C), or (E) of 9708
section 5923.05 of the Revised Code, Section 4 of Substitute 9709
Senate Bill No. 3 of the 119th general assembly, Section 3 of 9710
Amended Substitute Senate Bill No. 164 of the 124th general 9711
assembly, or Amended Substitute House Bill No. 405 of the 124th 9712
general assembly. 9713

(3) The retirement board shall determine by rule whether 9714
any compensation, wages, or earnings not enumerated in this 9715
division are salary, and its decision shall be final. 9716

(S) "Actuary" means an individual who satisfies all of the 9717
following requirements: 9718

(1) Is a member of the American academy of actuaries; 9719

(2) Is an associate or fellow of the society of actuaries; 9720

(3) Has a minimum of five years' experience in providing 9721
actuarial services to public retirement plans. 9722

Section 2. That existing sections 109.84, 126.30, 9723
145.2915, 715.27, 2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 9724
3121.899, 3701.741, 3923.281, 3963.10, 4115.03, 4121.03, 9725
4121.12, 4121.121, 4121.125, 4121.127, 4121.129, 4121.13, 9726
4121.30, 4121.31, 4121.32, 4121.34, 4121.36, 4121.41, 4121.44, 9727

4121.441, 4121.442, 4121.444, 4121.45, 4121.50, 4121.61, 9728
4123.025, 4123.05, 4123.15, 4123.26, 4123.27, 4123.291, 4123.30, 9729
4123.311, 4123.32, 4123.324, 4123.34, 4123.341, 4123.342, 9730
4123.343, 4123.35, 4123.351, 4123.353, 4123.402, 4123.441, 9731
4123.442, 4123.444, 4123.46, 4123.47, 4123.51, 4123.511, 9732
4123.512, 4123.522, 4123.53, 4123.54, 4123.542, 4123.57, 9733
4123.571, 4123.65, 4123.651, 4123.66, 4123.67, 4123.68, 4123.69, 9734
4123.74, 4123.741, 4123.85, 4123.89, 4123.93, 4123.931, 4125.03, 9735
4125.04, 4125.041, 4125.05, 4131.01, 4729.80, 5145.163, 5502.41, 9736
5503.08, and 5505.01 of the Revised Code are hereby repealed. 9737

Section 3. Sections 1 and 2 of this act apply to claims 9738
for compensation and benefits for disability or death due to 9739
occupational pneumoconiosis arising on or after the effective 9740
date of this act. 9741

Section 4. Section 4121.12 of the Revised Code is 9742
presented in this act as a composite of the section as amended 9743
by Sub. H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171, all of 9744
the 129th General Assembly. The General Assembly, applying the 9745
principle stated in division (B) of section 1.52 of the Revised 9746
Code that amendments are to be harmonized if reasonably capable 9747
of simultaneous operation, finds that the composite is the 9748
resulting version of the section in effect prior to the 9749
effective date of the section as presented in this act. 9750