

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 99

Representative Cera

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

A BILL

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

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

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

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

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

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

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

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

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

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

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

establish the validity of the claim. 110

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

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

If prior to a final adjudication the bureau determines 139

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

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

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

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

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

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

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

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

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

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

(C) For credit purchased under this section: 225

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

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

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

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

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

Compound interest at a rate established by the board from 260

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

(1) A period of five years; 265

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

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

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

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

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

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

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

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

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

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

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

(a) The reports or opinions of any doctor, clinic, 332
laboratory, or testing company that performed an examination, 333
test, or screening of the claimant's medical condition in 334
violation of any law, regulation, licensing requirement, or 335
medical code of practice of the state in which that examination, 336
test, or screening was conducted; 337

(b) The reports or opinions of any doctor, clinic, 338
laboratory, or testing company that performed an examination, 339
test, or screening of the claimant's medical condition that was 340
conducted without clearly establishing a doctor-patient 341
relationship with the claimant or medical personnel involved in 342
the examination, test, or screening process; 343

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(R) "Pathological evidence of silicosis" means a statement by a board-certified pathologist that more than one representative section of lung tissue uninvolved with any other disease process demonstrates a pattern of round silica nodules

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Handled silica; 473

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

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

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

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

(1) Handled mixed dust; 488

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(O) "FEV1" means forced expiratory volume in the first second, which is the maximal volume of air expelled in one second during performance of simple spirometric tests.	576 577 578
(P) "FVC" means forced vital capacity that is maximal volume of air expired with maximum effort from a position of full inspiration.	579 580 581
(Q) "ILO scale" means the system for the classification of chest x-rays set forth in the international labour office's guidelines for the use of ILO international classification of radiographs of pneumoconioses (2000), as amended.	582 583 584 585
(R) "Lung cancer" means a malignant tumor in which the primary site of origin of the cancer is inside the lungs, but that term does not include mesothelioma.	586 587 588
(S) "Mesothelioma" means a malignant tumor with a primary site of origin in the pleura or the peritoneum, which has been diagnosed by a board-certified pathologist, using standardized and accepted criteria of microscopic morphology and appropriate staining techniques.	589 590 591 592 593
(T) "Nonmalignant condition" means a condition that is caused or may be caused by asbestos other than a diagnosed cancer.	594 595 596
(U) "Pathological evidence of asbestosis" means a statement by a board-certified pathologist that more than one representative section of lung tissue uninvolved with any other disease process demonstrates a pattern of peribronchiolar or parenchymal scarring in the presence of characteristic asbestos bodies and that there is no other more likely explanation for the presence of the fibrosis.	597 598 599 600 601 602 603
(V) "Physical impairment" means a nonmalignant condition	604

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

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

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

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

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

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

medicine specialist. 634

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

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

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

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

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

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

revenues from providing those services. 663

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

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

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

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

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

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

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

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

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

did any of the following: 691

(1) Handled raw asbestos fibers; 692

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

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

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

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

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

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

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

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

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

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

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

(2) "Asbestos claim" means any claim, wherever or whenever made, for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos. "Asbestos claim" includes any of the following: 728
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(a) A claim made by or on behalf of any person who has been exposed to asbestos, or any representative, spouse, parent, child, or other relative of that person, for injury, including mental or emotional injury, death, or loss to person, risk of disease or other injury, costs of medical monitoring or surveillance, or any other effects on the person's health that are caused by the person's exposure to asbestos; 732
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(b) A claim for damage or loss to property that is caused by the installation, presence, or removal of asbestos. 739
740

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) One per cent. 874

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

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

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

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

section shall apply to the following: 893

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

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

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

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

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

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

(d) Any contractual rights to indemnification. 913

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

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

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

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

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

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

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

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

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

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

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

(i) If the patient or the guardian or other legal representative of the patient gives express consent;	980 981
(ii) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent;	982 983 984
(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. <u>or 4133.</u> of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.	985 986 987 988 989 990 991
(b) In any civil action concerning court-ordered treatment or services received by a patient, if the court-ordered treatment or services were ordered as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.	992 993 994 995 996 997 998
(c) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.	999 1000 1001 1002 1003 1004 1005
(d) In any criminal action against a physician, advanced practice registered nurse, or dentist. In such an action, the testimonial privilege established under this division does not	1006 1007 1008

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

disabled, the client's legal representative; 1449

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

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

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

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

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

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

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

bureau by an employer; 1478

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

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

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

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

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

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

(E) As used in this section: 1515

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The basic hourly rate of pay; 1777

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

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

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

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

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

Code;	1793
(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;	1794 1795
(e) Life insurance;	1796
(f) Disability and sickness insurance;	1797
(g) Accident insurance;	1798
(h) Vacation and holiday pay;	1799
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;	1800 1801 1802
(j) Other bona fide fringe benefits.	1803
None of the benefits enumerated in division (E) (3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.	1804 1805 1806 1807
(F) "Interested party," with respect to a particular contract for construction of a public improvement, means:	1808 1809
(1) Any person who submits a bid for the purpose of securing the award of the contract;	1810 1811
(2) Any person acting as a subcontractor of a person described in division (F) (1) of this section;	1812 1813
(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person described in division (F) (1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;	1814 1815 1816 1817 1818 1819

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

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

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

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

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

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

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

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

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

The responsibilities assigned to the executive director of 1847

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

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

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

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

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

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

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

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

(7) Approve all contracts for special services. 1891

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

its members. 2029

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

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

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

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

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

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

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

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

(F) The board shall:

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

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

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

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

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

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

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

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

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

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

(iii) Annual administrative expenses incurred; 2101

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Audit fee bill payments; 2461

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

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

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

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

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

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

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

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

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

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

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

review the performance of the workers' compensation system.	2528
(C) The board shall do all of the following:	2529
(1) Contract to have prepared annually by or under the supervision of an actuary a report that meets the requirements specified under division (E) of this section and that consists of an actuarial valuation of the assets, liabilities, and funding requirements of the state insurance fund and all other funds specified in this chapter and Chapters 4123., 4127., and 4131., and 4133. of the Revised Code;	2530 2531 2532 2533 2534 2535 2536
(2) Require that the actuary or person supervised by an actuary referred to in division (C)(1) of this section complete the valuation in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries;	2537 2538 2539 2540 2541
(3) Submit the report referred to in division (C)(1) of this section to the standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation on or before the first day of November following the year for which the valuation was made;	2542 2543 2544 2545 2546
(4) Have an actuary or a person who provides actuarial services under the supervision of an actuary, at such time as the board determines, and at least once during the five-year period that commences on September 10, 2007, and once within each five-year period thereafter, conduct an actuarial investigation of the experience of employers, the mortality, service, and injury rate of employees, and the payment of temporary total disability, permanent partial disability, and permanent total disability under sections 4123.56 to , <u>4123.57, 4123.58, 4133.12, 4133.13, and 4133.14</u> of the Revised Code to	2547 2548 2549 2550 2551 2552 2553 2554 2555 2556

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

adjust those rates as recommended by the actuary. 2644

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the board; 2815

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Procedures for decision-making; 2915

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

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

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

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

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

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

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

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

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

(1) Reasonable ambulance services; 2981

(2) Relationship of drugs to injury; 2982

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

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

(5) Placing a claimant into rehabilitation; 2985

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

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

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

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

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

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

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

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

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

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

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

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

(2) A public hearing; 3057

(3) Written decisions; 3058

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

(5) Publication of a docket; 3064

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

discounted rate, of all prescription drugs. 3332

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

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

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

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

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

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

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

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

division (F) of this section; 3360

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibitions against discrimination against any 3508

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Notwithstanding any other law providing a shorter period 3711

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

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

(F) As used in this section: 3723

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

(a) A false or misleading representation; 3727

(b) The withholding of information; 3728

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

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

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

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

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

(B) The ombudsperson system staff shall: 3765

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

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

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

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

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

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

(C) The chief ombudsperson shall: 3793

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

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

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

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

(D) No ombudsperson or assistant ombudsperson shall: 3808

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

wages paid to such employees; 4010

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) An employer protest relating to an audit finding or a determination of a manual classification, experience rating, or transfer or combination of risk experience; 4158
4159
4160

(6) Any decision relating to any other risk premium matter 4161
under Chapters 4121., 4123., ~~and 4131.~~, and 4133. of the Revised 4162
Code; 4163

(7) An employer petition objecting to the amount of 4164
security required under division (D) of section 4125.05 of the 4165
Revised Code and the rules adopted pursuant to that section. 4166

An employer may request, in writing, that the 4167
administrator waive the hearing before the administrator or the 4168
administrator's designee. The administrator shall decide whether 4169
to grant or deny a request to waive a hearing. 4170

(C) The bureau of workers' compensation board of 4171
directors, based upon recommendations of the workers' 4172
compensation actuarial committee, shall establish the policy for 4173
all adjudicating committee procedures, including, but not 4174
limited to, specific criteria for manual premium rate 4175
adjustment. 4176

Sec. 4123.30. Money contributed by the employers mentioned 4177
in division (B) (1) of section 4123.01 of the Revised Code 4178
constitutes the "public fund" and the money contributed by 4179
employers mentioned in division (B) (2) of such section 4180
constitutes the "private fund." Each such fund shall be 4181
collected, distributed, and its solvency maintained without 4182
regard to or reliance upon the other. Whenever in this chapter 4183
reference is made to the state insurance fund, the reference is 4184
to such two separate funds but such two separate funds and the 4185
net premiums contributed thereto by employers after adjustments 4186

and dividends, except for the amount thereof which is set aside 4187
for the investigation and prevention of industrial accidents and 4188
diseases pursuant to Section 35 of Article II, Ohio 4189
Constitution, any amounts set aside for actuarial services 4190
authorized or required by sections 4123.44 and 4123.47 of the 4191
Revised Code, and any amounts set aside to reinsure the 4192
liability of the respective insurance funds for the following 4193
payments, constitute a trust fund for the benefit of employers 4194
and employees mentioned in sections 4123.01, 4123.03, and 4195
4123.73 of the Revised Code for the payment of compensation, 4196
medical services, examinations, recommendations and 4197
determinations, nursing and hospital services, medicine, 4198
rehabilitation, death benefits, funeral expenses, and like 4199
benefits for loss sustained on account of injury, disease, or 4200
death provided for by this chapter and Chapter 4133. of the 4201
Revised Code, and for no other purpose. This section does not 4202
prevent the deposit or investment of all such moneys 4203
intermingled for such purpose but such funds shall be separate 4204
and distinct for all other purposes, and the rights and duties 4205
created in this chapter and Chapter 4133. of the Revised Code 4206
shall be construed to have been made with respect to two 4207
separate funds and so as to maintain and continue such funds 4208
separately except for deposit or investment. Disbursements shall 4209
not be made on account of injury, disease, or death of employees 4210
of employers who contribute to one of such funds unless the 4211
moneys to the credit of such fund are sufficient therefor and no 4212
such disbursements shall be made for moneys or credits paid or 4213
credited to the other fund. 4214

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

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

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

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

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

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

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

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

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

(C) The administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules in accordance with Chapter 119. of the Revised Code regarding utilization of the direct deposit of funds by electronic transfer under this section and section 9.37 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The administrator shall divide the administrative cost 4608
assessments collected by the administrator into two 4609
administrative assessment accounts within the state insurance 4610
fund. One of the administrative assessment accounts shall 4611
consist of the administrative cost assessment collected by the 4612
administrator for the industrial commission. One of the 4613
administrative assessment accounts shall consist of the 4614
administrative cost assessments collected by the administrator 4615
for the bureau, the occupational pneumoconiosis board, and the 4616
bureau of workers' compensation board of directors. The 4617
administrator may invest the administrative cost assessments in 4618
these accounts on behalf of the bureau and the industrial 4619
commission as authorized in section 4123.44 of the Revised Code. 4620
In a timely manner, the administrator shall provide to the 4621
industrial commission the information and reports the commission 4622
deems necessary for the commission to monitor the receipts and 4623
the disbursements from the administrative assessment account for 4624
the industrial commission. 4625

(C) The administrator or the administrator's designee 4626
shall transfer moneys as necessary from the administrative 4627
assessment account identified for the bureau, the occupational 4628
pneumoconiosis board, and the bureau of workers' compensation 4629
board of directors to the workers' compensation fund for the use 4630
of the bureau, the occupational pneumoconiosis board, and the 4631
bureau of workers' compensation board of directors. As necessary 4632
and upon the authorization of the industrial commission, the 4633

administrator or the administrator's designee shall transfer 4634
moneys from the administrative assessment account identified for 4635
the industrial commission to the industrial commission operating 4636
fund created under section 4121.021 of the Revised Code. To the 4637
extent that the moneys collected by the administrator in any 4638
fiscal biennium of the state equal the sum appropriated by the 4639
general assembly for administrative costs of the industrial 4640
commission, bureau of workers' compensation board of directors, 4641
occupational pneumoconiosis board, and bureau for the biennium, 4642
the moneys shall be paid into the workers' compensation fund and 4643
the industrial commission operating fund of the state, as 4644
appropriate, and any remainder shall be retained in those funds 4645
and applied to reduce the amount collected during the next 4646
biennium. 4647

Sections 4123.41, 4123.35, and 4123.37 of the Revised Code 4648
apply to the collection of assessments from public and private 4649
employers respectively, except that for boards of county 4650
hospital trustees that are self-insuring employers, only those 4651
provisions applicable to the collection of assessments for 4652
private employers apply. 4653

Sec. 4123.343. This section shall be construed liberally 4654
to the end that employers shall be encouraged to employ and 4655
retain in their employment handicapped employees as defined in 4656
this section. 4657

(A) As used in this section, "handicapped employee" means 4658
an employee who is afflicted with or subject to any physical or 4659
mental impairment, or both, whether congenital or due to an 4660
injury or disease of such character that the impairment 4661
constitutes a handicap in obtaining employment or would 4662
constitute a handicap in obtaining reemployment if the employee 4663

should become unemployed and whose handicap is due to any of the	4664
following diseases or conditions:	4665
(1) Epilepsy;	4666
(2) Diabetes;	4667
(3) Cardiac disease;	4668
(4) Arthritis;	4669
(5) Amputated foot, leg, arm, or hand;	4670
(6) Loss of sight of one or both eyes or a partial loss of	4671
uncorrected vision of more than seventy-five per cent	4672
bilaterally;	4673
(7) Residual disability from poliomyelitis;	4674
(8) Cerebral palsy;	4675
(9) Multiple sclerosis;	4676
(10) Parkinson's disease;	4677
(11) Cerebral vascular accident;	4678
(12) Tuberculosis;	4679
(13) Silicosis;	4680
(14) Psycho-neurotic disability following treatment in a	4681
recognized medical or mental institution;	4682
(15) Hemophilia;	4683
(16) Chronic osteomyelitis;	4684
(17) Ankylosis of joints;	4685
(18) Hyper insulinism;	4686
(19) Muscular dystrophies;	4687

(20) Arterio-sclerosis;	4688
(21) Thrombo-phlebitis;	4689
(22) Varicose veins;	4690
(23) Cardiovascular, pulmonary, or respiratory diseases of a firefighter or police officer employed by a municipal corporation or township as a regular member of a lawfully constituted police department or fire department;	4691 4692 4693 4694
(24) Coal miners' Occupational pneumoconiosis, commonly referred to as "black lung disease" as defined in section <u>4133.01 of the Revised Code;</u>	4695 4696 4697
(25) Disability with respect to which an individual has completed a rehabilitation program conducted pursuant to sections 4121.61 to 4121.69 of the Revised Code.	4698 4699 4700
(B) Under the circumstances set forth in this section all or such portion as the administrator determines of the compensation and benefits paid in any claim arising hereafter shall be charged to and paid from the statutory surplus fund created under section 4123.34 of the Revised Code and only the portion remaining shall be merit-rated or otherwise treated as part of the accident or occupational disease experience of the employer. The provisions of this section apply only in cases of death, total disability, whether temporary or permanent, and all disabilities compensated under division (B) of section 4123.57 of the Revised Code. The administrator shall adopt rules specifying the grounds upon which charges to the statutory surplus fund are to be made. The rules shall prohibit as a grounds any agreement between employer and claimant as to the merits of a claim and the amount of the charge.	4701 4702 4703 4704 4705 4706 4707 4708 4709 4710 4711 4712 4713 4714 4715
(C) Any employer who has in its employ a handicapped	4716

employee is entitled, in the event the person is injured, to a 4717
determination under this section. 4718

An employer shall file an application under this section 4719
for a determination with the bureau or commission in the same 4720
manner as other claims. An application only may be made in cases 4721
where a handicapped employee or a handicapped employee's 4722
dependents claim or are receiving an award of compensation as a 4723
result of an injury or occupational disease occurring or 4724
contracted on or after the date on which division (A) of this 4725
section first included the handicap of such employee. 4726

(D) The circumstances under and the manner in which an 4727
apportionment under this section shall be made are: 4728

(1) Whenever a handicapped employee is injured or disabled 4729
or dies as the result of an injury or occupational disease 4730
sustained in the course of and arising out of a handicapped 4731
employee's employment in this state and the administrator awards 4732
compensation therefor and when it appears to the satisfaction of 4733
the administrator that the injury or occupational disease or the 4734
death resulting therefrom would not have occurred but for the 4735
pre-existing physical or mental impairment of the handicapped 4736
employee, all compensation and benefits payable on account of 4737
the disability or death shall be paid from the surplus fund. 4738

(2) Whenever a handicapped employee is injured or disabled 4739
or dies as a result of an injury or occupational disease and the 4740
administrator finds that the injury or occupational disease 4741
would have been sustained or suffered without regard to the 4742
employee's pre-existing impairment but that the resulting 4743
disability or death was caused at least in part through 4744
aggravation of the employee's pre-existing disability, the 4745
administrator shall determine in a manner that is equitable and 4746

reasonable and based upon medical evidence the amount of 4747
disability or proportion of the cost of the death award that is 4748
attributable to the employee's pre-existing disability and the 4749
amount found shall be charged to the statutory surplus fund. 4750

(E) The benefits and provisions of this section apply only 4751
to employers who have complied with this chapter through 4752
insurance with the state fund. 4753

(F) No employer shall in any year receive credit under 4754
this section in an amount greater than the premium the employer 4755
paid. 4756

(G) An order issued by the administrator pursuant to this 4757
section is appealable under section 4123.511 of the Revised Code 4758
but is not appealable to a court under section 4123.512 of the 4759
Revised Code. 4760

Sec. 4123.35. (A) Except as provided in this section, and 4761
until the policy year commencing July 1, 2015, every private 4762
employer and every publicly owned utility shall pay semiannually 4763
in the months of January and July into the state insurance fund 4764
the amount of annual premium the administrator of workers' 4765
compensation fixes for the employment or occupation of the 4766
employer, the amount of which premium to be paid by each 4767
employer to be determined by the classifications, rules, and 4768
rates made and published by the administrator. The employer 4769
shall pay semiannually a further sum of money into the state 4770
insurance fund as may be ascertained to be due from the employer 4771
by applying the rules of the administrator. 4772

Except as otherwise provided in this section, for a policy 4773
year commencing on or after July 1, 2015, every private employer 4774
and every publicly owned utility shall pay annually in the month 4775

of June immediately preceding the policy year into the state 4776
insurance fund the amount of estimated annual premium the 4777
administrator fixes for the employment or occupation of the 4778
employer, the amount of which estimated premium to be paid by 4779
each employer to be determined by the classifications, rules, 4780
and rates made and published by the administrator. The employer 4781
shall pay a further sum of money into the state insurance fund 4782
as may be ascertained to be due from the employer by applying 4783
the rules of the administrator. Upon receipt of the payroll 4784
report required by division (B) of section 4123.26 of the 4785
Revised Code, the administrator shall adjust the premium and 4786
assessments charged to each employer for the difference between 4787
estimated gross payrolls and actual gross payrolls, and any 4788
balance due to the administrator shall be immediately paid by 4789
the employer. Any balance due the employer shall be credited to 4790
the employer's account. 4791

For a policy year commencing on or after July 1, 2015, 4792
each employer that is recognized by the administrator as a 4793
professional employer organization shall pay monthly into the 4794
state insurance fund the amount of premium the administrator 4795
fixes for the employer for the prior month based on the actual 4796
payroll of the employer reported pursuant to division (C) of 4797
section 4123.26 of the Revised Code. 4798

A receipt certifying that payment has been made shall be 4799
issued to the employer by the bureau of workers' compensation. 4800
The receipt is prima-facie evidence of the payment of the 4801
premium. The administrator shall provide each employer written 4802
proof of workers' compensation coverage as is required in 4803
section 4123.83 of the Revised Code. Proper posting of the 4804
notice constitutes the employer's compliance with the notice 4805
requirement mandated in section 4123.83 of the Revised Code. 4806

The bureau shall verify with the secretary of state the
existence of all corporations and organizations making
application for workers' compensation coverage and shall require
every such application to include the employer's federal
identification number.

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

Division (A) of this section providing for the payment of
premiums semiannually does not apply to any employer who was a
subscriber to the state insurance fund prior to January 1, 1914,
or, until July 1, 2015, who may first become a subscriber to the
fund in any month other than January or July. Instead, the
semiannual premiums shall be paid by those employers from time
to time upon the expiration of the respective periods for which
payments into the fund have been made by them. After July 1,
2015, an employer who first becomes a subscriber to the fund on
any day other than the first day of July shall pay premiums
according to rules adopted by the administrator, with the advice
and consent of the bureau of workers' compensation board of
directors, for the remainder of the policy year for which the
coverage is effective.

The administrator, with the advice and consent of the
board, shall adopt rules to permit employers to make periodic
payments of the premium and assessment due under this division.
The rules shall include provisions for the assessment of
interest charges, where appropriate, and for the assessment of
penalties when an employer fails to make timely premium
payments. The administrator, in the rules the administrator

adopts, may set an administrative fee for these periodic 4837
payments. An employer who timely pays the amounts due under this 4838
division is entitled to all of the benefits and protections of 4839
this chapter. Upon receipt of payment, the bureau shall issue a 4840
receipt to the employer certifying that payment has been made, 4841
which receipt is prima-facie evidence of payment. Workers' 4842
compensation coverage under this chapter continues uninterrupted 4843
upon timely receipt of payment under this division. 4844

Every public employer, except public employers that are 4845
self-insuring employers under this section, shall comply with 4846
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 4847
regard to the contribution of moneys to the public insurance 4848
fund. 4849

(B) Employers who will abide by the rules of the 4850
administrator and who may be of sufficient financial ability to 4851
render certain the payment of compensation to injured employees 4852
or the dependents of killed employees, and the furnishing of 4853
medical, surgical, nursing, and hospital attention and services 4854
and medicines, and funeral expenses, equal to or greater than is 4855
provided for in sections 4123.52, 4123.55 to 4123.62, ~~and~~ 4856
4123.64 to 4123.67, 4133.12, 4133.13, and 4133.14 of the Revised 4857
Code, and who do not desire to insure the payment thereof or 4858
indemnify themselves against loss sustained by the direct 4859
payment thereof, upon a finding of such facts by the 4860
administrator, may be granted the privilege to pay individually 4861
compensation, and furnish medical, surgical, nursing, and 4862
hospital services and attention and funeral expenses directly to 4863
injured employees or the dependents of killed employees, thereby 4864
being granted status as a self-insuring employer. The 4865
administrator may charge employers who apply for the status as a 4866
self-insuring employer a reasonable application fee to cover the 4867

bureau's costs in connection with processing and making a 4868
determination with respect to an application. 4869

All employers granted status as self-insuring employers 4870
shall demonstrate sufficient financial and administrative 4871
ability to assure that all obligations under this section are 4872
promptly met. The administrator shall deny the privilege where 4873
the employer is unable to demonstrate the employer's ability to 4874
promptly meet all the obligations imposed on the employer by 4875
this section. 4876

(1) The administrator shall consider, but is not limited 4877
to, the following factors, where applicable, in determining the 4878
employer's ability to meet all of the obligations imposed on the 4879
employer by this section: 4880

(a) The employer has operated in this state for a minimum 4881
of two years, provided that an employer who has purchased, 4882
acquired, or otherwise succeeded to the operation of a business, 4883
or any part thereof, situated in this state that has operated 4884
for at least two years in this state, also shall qualify; 4885

(b) Where the employer previously contributed to the state 4886
insurance fund or is a successor employer as defined by bureau 4887
rules, the amount of the buyout, as defined by bureau rules; 4888

(c) The sufficiency of the employer's assets located in 4889
this state to insure the employer's solvency in paying 4890
compensation directly; 4891

(d) The financial records, documents, and data, certified 4892
by a certified public accountant, necessary to provide the 4893
employer's full financial disclosure. The records, documents, 4894
and data include, but are not limited to, balance sheets and 4895
profit and loss history for the current year and previous four 4896

years. 4897

(e) The employer's organizational plan for the 4898
administration of the workers' compensation law; 4899

(f) The employer's proposed plan to inform employees of 4900
the change from a state fund insurer to a self-insuring 4901
employer, the procedures the employer will follow as a self- 4902
insuring employer, and the employees' rights to compensation and 4903
benefits; and 4904

(g) The employer has either an account in a financial 4905
institution in this state, or if the employer maintains an 4906
account with a financial institution outside this state, ensures 4907
that workers' compensation checks are drawn from the same 4908
account as payroll checks or the employer clearly indicates that 4909
payment will be honored by a financial institution in this 4910
state. 4911

The administrator may waive the requirements of division 4912
(B) (1) (a) of this section and the requirement of division (B) (1) 4913
(d) of this section that the financial records, documents, and 4914
data be certified by a certified public accountant. The 4915
administrator shall adopt rules establishing the criteria that 4916
an employer shall meet in order for the administrator to waive 4917
the requirements of divisions (B) (1) (a) and (d) of this section. 4918
Such rules may require additional security of that employer 4919
pursuant to division (E) of section 4123.351 of the Revised 4920
Code. 4921

The administrator shall not grant the status of self- 4922
insuring employer to the state, except that the administrator 4923
may grant the status of self-insuring employer to a state 4924
institution of higher education, including its hospitals, that 4925

meets the requirements of division (B) (2) of this section. 4926

(2) When considering the application of a public employer, 4927
except for a board of county commissioners described in division 4928
(G) of section 4123.01 of the Revised Code, a board of a county 4929
hospital, or a publicly owned utility, the administrator shall 4930
verify that the public employer satisfies all of the following 4931
requirements as the requirements apply to that public employer: 4932

(a) For the two-year period preceding application under 4933
this section, the public employer has maintained an unvoted debt 4934
capacity equal to at least two times the amount of the current 4935
annual premium established by the administrator under this 4936
chapter for that public employer for the year immediately 4937
preceding the year in which the public employer makes 4938
application under this section. 4939

(b) For each of the two fiscal years preceding application 4940
under this section, the unreserved and undesignated year-end 4941
fund balance in the public employer's general fund is equal to 4942
at least five per cent of the public employer's general fund 4943
revenues for the fiscal year computed in accordance with 4944
generally accepted accounting principles. 4945

(c) For the five-year period preceding application under 4946
this section, the public employer, to the extent applicable, has 4947
complied fully with the continuing disclosure requirements 4948
established in rules adopted by the United States securities and 4949
exchange commission under 17 C.F.R. 240.15c 2-12. 4950

(d) For the five-year period preceding application under 4951
this section, the public employer has not had its local 4952
government fund distribution withheld on account of the public 4953
employer being indebted or otherwise obligated to the state. 4954

(e) For the five-year period preceding application under 4955
this section, the public employer has not been under a fiscal 4956
watch or fiscal emergency pursuant to section 118.023, 118.04, 4957
or 3316.03 of the Revised Code. 4958

(f) For the public employer's fiscal year preceding 4959
application under this section, the public employer has obtained 4960
an annual financial audit as required under section 117.10 of 4961
the Revised Code, which has been released by the auditor of 4962
state within seven months after the end of the public employer's 4963
fiscal year. 4964

(g) On the date of application, the public employer holds 4965
a debt rating of Aa3 or higher according to Moody's investors 4966
service, inc., or a comparable rating by an independent rating 4967
agency similar to Moody's investors service, inc. 4968

(h) The public employer agrees to generate an annual 4969
accumulating book reserve in its financial statements reflecting 4970
an actuarially generated reserve adequate to pay projected 4971
claims under this chapter for the applicable period of time, as 4972
determined by the administrator. 4973

(i) For a public employer that is a hospital, the public 4974
employer shall submit audited financial statements showing the 4975
hospital's overall liquidity characteristics, and the 4976
administrator shall determine, on an individual basis, whether 4977
the public employer satisfies liquidity standards equivalent to 4978
the liquidity standards of other public employers. 4979

(j) Any additional criteria that the administrator adopts 4980
by rule pursuant to division (E) of this section. 4981

The administrator may adopt rules establishing the 4982
criteria that a public employer shall satisfy in order for the 4983

administrator to waive any of the requirements listed in 4984
divisions (B) (2) (a) to (j) of this section. The rules may 4985
require additional security from that employer pursuant to 4986
division (E) of section 4123.351 of the Revised Code. The 4987
administrator shall not waive any of the requirements listed in 4988
divisions (B) (2) (a) to (j) of this section for a public employer 4989
who does not satisfy the criteria established in the rules the 4990
administrator adopts. 4991

(C) A board of county commissioners described in division 4992
(G) of section 4123.01 of the Revised Code, as an employer, that 4993
will abide by the rules of the administrator and that may be of 4994
sufficient financial ability to render certain the payment of 4995
compensation to injured employees or the dependents of killed 4996
employees, and the furnishing of medical, surgical, nursing, and 4997
hospital attention and services and medicines, and funeral 4998
expenses, equal to or greater than is provided for in sections 4999
4123.52, 4123.55 to 4123.62, ~~and 4123.64 to 4123.67, 4133.12,~~ 5000
4133.13, and 4133.14 of the Revised Code, and that does not 5001
desire to insure the payment thereof or indemnify itself against 5002
loss sustained by the direct payment thereof, upon a finding of 5003
such facts by the administrator, may be granted the privilege to 5004
pay individually compensation, and furnish medical, surgical, 5005
nursing, and hospital services and attention and funeral 5006
expenses directly to injured employees or the dependents of 5007
killed employees, thereby being granted status as a self- 5008
insuring employer. The administrator may charge a board of 5009
county commissioners described in division (G) of section 5010
4123.01 of the Revised Code that applies for the status as a 5011
self-insuring employer a reasonable application fee to cover the 5012
bureau's costs in connection with processing and making a 5013
determination with respect to an application. All employers 5014

granted such status shall demonstrate sufficient financial and 5015
administrative ability to assure that all obligations under this 5016
section are promptly met. The administrator shall deny the 5017
privilege where the employer is unable to demonstrate the 5018
employer's ability to promptly meet all the obligations imposed 5019
on the employer by this section. The administrator shall 5020
consider, but is not limited to, the following factors, where 5021
applicable, in determining the employer's ability to meet all of 5022
the obligations imposed on the board as an employer by this 5023
section: 5024

(1) The board has operated in this state for a minimum of 5025
two years; 5026

(2) Where the board previously contributed to the state 5027
insurance fund or is a successor employer as defined by bureau 5028
rules, the amount of the buyout, as defined by bureau rules; 5029

(3) The sufficiency of the board's assets located in this 5030
state to insure the board's solvency in paying compensation 5031
directly; 5032

(4) The financial records, documents, and data, certified 5033
by a certified public accountant, necessary to provide the 5034
board's full financial disclosure. The records, documents, and 5035
data include, but are not limited to, balance sheets and profit 5036
and loss history for the current year and previous four years. 5037

(5) The board's organizational plan for the administration 5038
of the workers' compensation law; 5039

(6) The board's proposed plan to inform employees of the 5040
proposed self-insurance, the procedures the board will follow as 5041
a self-insuring employer, and the employees' rights to 5042
compensation and benefits; 5043

(7) The board has either an account in a financial 5044
institution in this state, or if the board maintains an account 5045
with a financial institution outside this state, ensures that 5046
workers' compensation checks are drawn from the same account as 5047
payroll checks or the board clearly indicates that payment will 5048
be honored by a financial institution in this state; 5049

(8) The board shall provide the administrator a surety 5050
bond in an amount equal to one hundred twenty-five per cent of 5051
the projected losses as determined by the administrator. 5052

(D) The administrator shall require a surety bond from all 5053
self-insuring employers, issued pursuant to section 4123.351 of 5054
the Revised Code, that is sufficient to compel, or secure to 5055
injured employees, or to the dependents of employees killed, the 5056
payment of compensation and expenses, which shall in no event be 5057
less than that paid or furnished out of the state insurance fund 5058
in similar cases to injured employees or to dependents of killed 5059
employees whose employers contribute to the fund, except when an 5060
employee of the employer, who has suffered the loss of a hand, 5061
arm, foot, leg, or eye prior to the injury for which 5062
compensation is to be paid, and thereafter suffers the loss of 5063
any other of the members as the result of any injury sustained 5064
in the course of and arising out of the employee's employment, 5065
the compensation to be paid by the self-insuring employer is 5066
limited to the disability suffered in the subsequent injury, 5067
additional compensation, if any, to be paid by the bureau out of 5068
the surplus created by section 4123.34 of the Revised Code. 5069

(E) In addition to the requirements of this section, the 5070
administrator shall make and publish rules governing the manner 5071
of making application and the nature and extent of the proof 5072
required to justify a finding of fact by the administrator as to 5073

granting the status of a self-insuring employer, which rules 5074
shall be general in their application, one of which rules shall 5075
provide that all self-insuring employers shall pay into the 5076
state insurance fund such amounts as are required to be credited 5077
to the surplus fund in division (B) of section 4123.34 of the 5078
Revised Code. The administrator may adopt rules establishing 5079
requirements in addition to the requirements described in 5080
division (B)(2) of this section that a public employer shall 5081
meet in order to qualify for self-insuring status. 5082

Employers shall secure directly from the bureau central 5083
offices application forms upon which the bureau shall stamp a 5084
designating number. Prior to submission of an application, an 5085
employer shall make available to the bureau, and the bureau 5086
shall review, the information described in division (B)(1) of 5087
this section, and public employers shall make available, and the 5088
bureau shall review, the information necessary to verify whether 5089
the public employer meets the requirements listed in division 5090
(B)(2) of this section. An employer shall file the completed 5091
application forms with an application fee, which shall cover the 5092
costs of processing the application, as established by the 5093
administrator, by rule, with the bureau at least ninety days 5094
prior to the effective date of the employer's new status as a 5095
self-insuring employer. The application form is not deemed 5096
complete until all the required information is attached thereto. 5097
The bureau shall only accept applications that contain the 5098
required information. 5099

(F) The bureau shall review completed applications within 5100
a reasonable time. If the bureau determines to grant an employer 5101
the status as a self-insuring employer, the bureau shall issue a 5102
statement, containing its findings of fact, that is prepared by 5103
the bureau and signed by the administrator. If the bureau 5104

determines not to grant the status as a self-insuring employer, 5105
the bureau shall notify the employer of the determination and 5106
require the employer to continue to pay its full premium into 5107
the state insurance fund. The administrator also shall adopt 5108
rules establishing a minimum level of performance as a criterion 5109
for granting and maintaining the status as a self-insuring 5110
employer and fixing time limits beyond which failure of the 5111
self-insuring employer to provide for the necessary medical 5112
examinations and evaluations may not delay a decision on a 5113
claim. 5114

(G) The administrator shall adopt rules setting forth 5115
procedures for auditing the program of self-insuring employers. 5116
The bureau shall conduct the audit upon a random basis or 5117
whenever the bureau has grounds for believing that a self- 5118
insuring employer is not in full compliance with bureau rules or 5119
this chapter. 5120

The administrator shall monitor the programs conducted by 5121
self-insuring employers, to ensure compliance with bureau 5122
requirements and for that purpose, shall develop and issue to 5123
self-insuring employers standardized forms for use by the self- 5124
insuring employer in all aspects of the self-insuring employers' 5125
direct compensation program and for reporting of information to 5126
the bureau. 5127

The bureau shall receive and transmit to the self-insuring 5128
employer all complaints concerning any self-insuring employer. 5129
In the case of a complaint against a self-insuring employer, the 5130
administrator shall handle the complaint through the self- 5131
insurance division of the bureau. The bureau shall maintain a 5132
file by employer of all complaints received that relate to the 5133
employer. The bureau shall evaluate each complaint and take 5134

appropriate action. 5135

The administrator shall adopt as a rule a prohibition 5136
against any self-insuring employer from harassing, dismissing, 5137
or otherwise disciplining any employee making a complaint, which 5138
rule shall provide for a financial penalty to be levied by the 5139
administrator payable by the offending self-insuring employer. 5140

(H) For the purpose of making determinations as to whether 5141
to grant status as a self-insuring employer, the administrator 5142
may subscribe to and pay for a credit reporting service that 5143
offers financial and other business information about individual 5144
employers. The costs in connection with the bureau's 5145
subscription or individual reports from the service about an 5146
applicant may be included in the application fee charged 5147
employers under this section. 5148

(I) A self-insuring employer that returns to the state 5149
insurance fund as a state fund employer shall provide the 5150
administrator with medical costs and indemnity costs by claim, 5151
and payroll by manual classification and year, and such other 5152
information the administrator may require. The self-insuring 5153
employer shall submit this information by dates and in a format 5154
determined by the administrator. The administrator shall develop 5155
a state fund experience modification factor for a self-insuring 5156
employer that returns to the state insurance fund based in whole 5157
or in part on the employer's self-insured experience and the 5158
information submitted. 5159

(J) On the first day of July of each year, the 5160
administrator shall calculate separately each self-insuring 5161
employer's assessments for the safety and hygiene fund, 5162
administrative costs pursuant to section 4123.342 of the Revised 5163
Code, and for the surplus fund under division (B) of section 5164

4123.34 of the Revised Code, on the basis of the paid 5165
compensation attributable to the individual self-insuring 5166
employer according to the following calculation: 5167

(1) The total assessment against all self-insuring 5168
employers as a class for each fund and for the administrative 5169
costs for the year that the assessment is being made, as 5170
determined by the administrator, divided by the total amount of 5171
paid compensation for the previous calendar year attributable to 5172
all amenable self-insuring employers; 5173

(2) Multiply the quotient in division (J)(1) of this 5174
section by the total amount of paid compensation for the 5175
previous calendar year that is attributable to the individual 5176
self-insuring employer for whom the assessment is being 5177
determined. Each self-insuring employer shall pay the assessment 5178
that results from this calculation, unless the assessment 5179
resulting from this calculation falls below a minimum 5180
assessment, which minimum assessment the administrator shall 5181
determine on the first day of July of each year with the advice 5182
and consent of the bureau of workers' compensation board of 5183
directors, in which event, the self-insuring employer shall pay 5184
the minimum assessment. 5185

In determining the total amount due for the total 5186
assessment against all self-insuring employers as a class for 5187
each fund and the administrative assessment, the administrator 5188
shall reduce proportionately the total for each fund and 5189
assessment by the amount of money in the self-insurance 5190
assessment fund as of the date of the computation of the 5191
assessment. 5192

The administrator shall calculate the assessment for the 5193
portion of the surplus fund under division (B) of section 5194

4123.34 of the Revised Code that is used for reimbursement to a 5195
self-insuring employer under division (H) of section 4123.512 of 5196
the Revised Code in the same manner as set forth in divisions 5197
(J) (1) and (2) of this section except that the administrator 5198
shall calculate the total assessment for this portion of the 5199
surplus fund only on the basis of those self-insuring employers 5200
that retain participation in reimbursement to the self-insuring 5201
employer under division (H) of section 4123.512 of the Revised 5202
Code and the individual self-insuring employer's proportion of 5203
paid compensation shall be calculated only for those self- 5204
insuring employers who retain participation in reimbursement to 5205
the self-insuring employer under division (H) of section 5206
4123.512 of the Revised Code. 5207

An employer who no longer is a self-insuring employer in 5208
this state or who no longer is operating in this state, shall 5209
continue to pay assessments for administrative costs and for the 5210
surplus fund under division (B) of section 4123.34 of the 5211
Revised Code based upon paid compensation attributable to claims 5212
that occurred while the employer was a self-insuring employer 5213
within this state. 5214

(K) There is hereby created in the state treasury the 5215
self-insurance assessment fund. All investment earnings of the 5216
fund shall be deposited in the fund. The administrator shall use 5217
the money in the self-insurance assessment fund only for 5218
administrative costs as specified in section 4123.341 of the 5219
Revised Code. 5220

(L) Every self-insuring employer shall certify, in 5221
affidavit form subject to the penalty for perjury, to the bureau 5222
the amount of the self-insuring employer's paid compensation for 5223
the previous calendar year. In reporting paid compensation paid 5224

for the previous year, a self-insuring employer shall exclude 5225
from the total amount of paid compensation any reimbursement the 5226
self-insuring employer receives in the previous calendar year 5227
from the surplus fund pursuant to section 4123.512 of the 5228
Revised Code for any paid compensation. The self-insuring 5229
employer also shall exclude from the paid compensation reported 5230
any amount recovered under section 4123.931 of the Revised Code 5231
and any amount that is determined not to have been payable to or 5232
on behalf of a claimant in any final administrative or judicial 5233
proceeding. The self-insuring employer shall exclude such 5234
amounts from the paid compensation reported in the reporting 5235
period subsequent to the date the determination is made. The 5236
administrator shall adopt rules, in accordance with Chapter 119. 5237
of the Revised Code, that provide for all of the following: 5238

(1) Establishing the date by which self-insuring employers 5239
must submit such information and the amount of the assessments 5240
provided for in division (J) of this section for employers who 5241
have been granted self-insuring status within the last calendar 5242
year; 5243

(2) If an employer fails to pay the assessment when due, 5244
the administrator may add a late fee penalty of not more than 5245
five hundred dollars to the assessment plus an additional 5246
penalty amount as follows: 5247

(a) For an assessment from sixty-one to ninety days past 5248
due, the prime interest rate, multiplied by the assessment due; 5249

(b) For an assessment from ninety-one to one hundred 5250
twenty days past due, the prime interest rate plus two per cent, 5251
multiplied by the assessment due; 5252

(c) For an assessment from one hundred twenty-one to one 5253

hundred fifty days past due, the prime interest rate plus four 5254
per cent, multiplied by the assessment due; 5255

(d) For an assessment from one hundred fifty-one to one 5256
hundred eighty days past due, the prime interest rate plus six 5257
per cent, multiplied by the assessment due; 5258

(e) For an assessment from one hundred eighty-one to two 5259
hundred ten days past due, the prime interest rate plus eight 5260
per cent, multiplied by the assessment due; 5261

(f) For each additional thirty-day period or portion 5262
thereof that an assessment remains past due after it has 5263
remained past due for more than two hundred ten days, the prime 5264
interest rate plus eight per cent, multiplied by the assessment 5265
due. 5266

(3) An employer may appeal a late fee penalty and penalty 5267
assessment to the administrator. 5268

For purposes of division (L) (2) of this section, "prime 5269
interest rate" means the average bank prime rate, and the 5270
administrator shall determine the prime interest rate in the 5271
same manner as a county auditor determines the average bank 5272
prime rate under section 929.02 of the Revised Code. 5273

The administrator shall include any assessment and 5274
penalties that remain unpaid for previous assessment periods in 5275
the calculation and collection of any assessments due under this 5276
division or division (J) of this section. 5277

(M) As used in this section, "paid compensation" means all 5278
amounts paid by a self-insuring employer for living maintenance 5279
benefits, all amounts for compensation paid pursuant to sections 5280
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, 5281
~~and~~ 4123.64, 4133.12, 4133.13, and 4133.14 of the Revised Code, 5282

all amounts paid as wages in lieu of such compensation, all 5283
amounts paid in lieu of such compensation under a 5284
nonoccupational accident and sickness program fully funded by 5285
the self-insuring employer, and all amounts paid by a self- 5286
insuring employer for a violation of a specific safety standard 5287
pursuant to Section 35 of Article II, Ohio Constitution and 5288
section 4121.47 of the Revised Code. 5289

(N) Should any section of this chapter or Chapter 4121. of 5290
the Revised Code providing for self-insuring employers' 5291
assessments based upon compensation paid be declared 5292
unconstitutional by a final decision of any court, then that 5293
section of the Revised Code declared unconstitutional shall 5294
revert back to the section in existence prior to November 3, 5295
1989, providing for assessments based upon payroll. 5296

(O) The administrator may grant a self-insuring employer 5297
the privilege to self-insure a construction project entered into 5298
by the self-insuring employer that is scheduled for completion 5299
within six years after the date the project begins, and the 5300
total cost of which is estimated to exceed one hundred million 5301
dollars or, for employers described in division (R) of this 5302
section, if the construction project is estimated to exceed 5303
twenty-five million dollars. The administrator may waive such 5304
cost and time criteria and grant a self-insuring employer the 5305
privilege to self-insure a construction project regardless of 5306
the time needed to complete the construction project and 5307
provided that the cost of the construction project is estimated 5308
to exceed fifty million dollars. A self-insuring employer who 5309
desires to self-insure a construction project shall submit to 5310
the administrator an application listing the dates the 5311
construction project is scheduled to begin and end, the 5312
estimated cost of the construction project, the contractors and 5313

subcontractors whose employees are to be self-insured by the 5314
self-insuring employer, the provisions of a safety program that 5315
is specifically designed for the construction project, and a 5316
statement as to whether a collective bargaining agreement 5317
governing the rights, duties, and obligations of each of the 5318
parties to the agreement with respect to the construction 5319
project exists between the self-insuring employer and a labor 5320
organization. 5321

A self-insuring employer may apply to self-insure the 5322
employees of either of the following: 5323

(1) All contractors and subcontractors who perform labor 5324
or work or provide materials for the construction project; 5325

(2) All contractors and, at the administrator's 5326
discretion, a substantial number of all the subcontractors who 5327
perform labor or work or provide materials for the construction 5328
project. 5329

Upon approval of the application, the administrator shall 5330
mail a certificate granting the privilege to self-insure the 5331
construction project to the self-insuring employer. The 5332
certificate shall contain the name of the self-insuring employer 5333
and the name, address, and telephone number of the self-insuring 5334
employer's representatives who are responsible for administering 5335
workers' compensation claims for the construction project. The 5336
self-insuring employer shall post the certificate in a 5337
conspicuous place at the site of the construction project. 5338

The administrator shall maintain a record of the 5339
contractors and subcontractors whose employees are covered under 5340
the certificate issued to the self-insured employer. A self- 5341
insuring employer immediately shall notify the administrator 5342

when any contractor or subcontractor is added or eliminated from 5343
inclusion under the certificate. 5344

Upon approval of the application, the self-insuring 5345
employer is responsible for the administration and payment of 5346
all claims under this chapter and ~~Chapter~~ Chapters 4121. and 5347
4133. of the Revised Code for the employees of the contractor 5348
and subcontractors covered under the certificate who receive 5349
injuries or are killed in the course of and arising out of 5350
employment on the construction project, or who contract an 5351
occupational disease in the course of employment on the 5352
construction project. For purposes of this chapter and ~~Chapter~~ 5353
Chapters 4121. and 4133. of the Revised Code, a claim that is 5354
administered and paid in accordance with this division is 5355
considered a claim against the self-insuring employer listed in 5356
the certificate. A contractor or subcontractor included under 5357
the certificate shall report to the self-insuring employer 5358
listed in the certificate, all claims that arise under this 5359
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised Code 5360
in connection with the construction project for which the 5361
certificate is issued. 5362

A self-insuring employer who complies with this division 5363
is entitled to the protections provided under this chapter and 5364
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code with 5365
respect to the employees of the contractors and subcontractors 5366
covered under a certificate issued under this division for death 5367
or injuries that arise out of, or death, injuries, or 5368
occupational diseases that arise in the course of, those 5369
employees' employment on that construction project, as if the 5370
employees were employees of the self-insuring employer, provided 5371
that the self-insuring employer also complies with this section. 5372
No employee of the contractors and subcontractors covered under 5373

a certificate issued under this division shall be considered the 5374
employee of the self-insuring employer listed in that 5375
certificate for any purposes other than this chapter and ~~Chapter~~ 5376
Chapters 4121. and 4133. of the Revised Code. Nothing in this 5377
division gives a self-insuring employer authority to control the 5378
means, manner, or method of employment of the employees of the 5379
contractors and subcontractors covered under a certificate 5380
issued under this division. 5381

The contractors and subcontractors included under a 5382
certificate issued under this division are entitled to the 5383
protections provided under this chapter and ~~Chapter~~ Chapters 5384
4121. and 4133. of the Revised Code with respect to the 5385
contractor's or subcontractor's employees who are employed on 5386
the construction project which is the subject of the 5387
certificate, for death or injuries that arise out of, or death, 5388
injuries, or occupational diseases that arise in the course of, 5389
those employees' employment on that construction project. 5390

The contractors and subcontractors included under a 5391
certificate issued under this division shall identify in their 5392
payroll records the employees who are considered the employees 5393
of the self-insuring employer listed in that certificate for 5394
purposes of this chapter and ~~Chapter~~ Chapters 4121. and 4133. of 5395
the Revised Code, and the amount that those employees earned for 5396
employment on the construction project that is the subject of 5397
that certificate. Notwithstanding any provision to the contrary 5398
under this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the 5399
Revised Code, the administrator shall exclude the payroll that 5400
is reported for employees who are considered the employees of 5401
the self-insuring employer listed in that certificate, and that 5402
the employees earned for employment on the construction project 5403
that is the subject of that certificate, when determining those 5404

contractors' or subcontractors' premiums or assessments required 5405
under this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the 5406
Revised Code. A self-insuring employer issued a certificate 5407
under this division shall include in the amount of paid 5408
compensation it reports pursuant to division (L) of this 5409
section, the amount of paid compensation the self-insuring 5410
employer paid pursuant to this division for the previous 5411
calendar year. 5412

Nothing in this division shall be construed as altering 5413
the rights of employees under this chapter and Chapter 4121. of 5414
the Revised Code as those rights existed prior to September 17, 5415
1996. Nothing in this division shall be construed as altering 5416
the rights devolved under sections 2305.31 and 4123.82 of the 5417
Revised Code as those rights existed prior to September 17, 5418
1996. 5419

As used in this division, "privilege to self-insure a 5420
construction project" means privilege to pay individually 5421
compensation, and to furnish medical, surgical, nursing, and 5422
hospital services and attention and funeral expenses directly to 5423
injured employees or the dependents of killed employees. 5424

(P) A self-insuring employer whose application is granted 5425
under division (O) of this section shall designate a safety 5426
professional to be responsible for the administration and 5427
enforcement of the safety program that is specifically designed 5428
for the construction project that is the subject of the 5429
application. 5430

A self-insuring employer whose application is granted 5431
under division (O) of this section shall employ an ombudsperson 5432
for the construction project that is the subject of the 5433
application. The ombudsperson shall have experience in workers' 5434

compensation or the construction industry, or both. The 5435
ombudsperson shall perform all of the following duties: 5436

(1) Communicate with and provide information to employees 5437
who are injured in the course of, or whose injury arises out of 5438
employment on the construction project, or who contract an 5439
occupational disease in the course of employment on the 5440
construction project; 5441

(2) Investigate the status of a claim upon the request of 5442
an employee to do so; 5443

(3) Provide information to claimants, third party 5444
administrators, employers, and other persons to assist those 5445
persons in protecting their rights under this chapter and 5446
~~Chapter~~ Chapters 4121. and 4133. of the Revised Code. 5447

A self-insuring employer whose application is granted 5448
under division (O) of this section shall post the name of the 5449
safety professional and the ombudsperson and instructions for 5450
contacting the safety professional and the ombudsperson in a 5451
conspicuous place at the site of the construction project. 5452

(Q) The administrator may consider all of the following 5453
when deciding whether to grant a self-insuring employer the 5454
privilege to self-insure a construction project as provided 5455
under division (O) of this section: 5456

(1) Whether the self-insuring employer has an 5457
organizational plan for the administration of the workers' 5458
compensation law; 5459

(2) Whether the safety program that is specifically 5460
designed for the construction project provides for the safety of 5461
employees employed on the construction project, is applicable to 5462
all contractors and subcontractors who perform labor or work or 5463

provide materials for the construction project, and has as a 5464
component, a safety training program that complies with 5465
standards adopted pursuant to the "Occupational Safety and 5466
Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and 5467
provides for continuing management and employee involvement; 5468

(3) Whether granting the privilege to self-insure the 5469
construction project will reduce the costs of the construction 5470
project; 5471

(4) Whether the self-insuring employer has employed an 5472
ombudsperson as required under division (P) of this section; 5473

(5) Whether the self-insuring employer has sufficient 5474
surety to secure the payment of claims for which the self- 5475
insuring employer would be responsible pursuant to the granting 5476
of the privilege to self-insure a construction project under 5477
division (O) of this section. 5478

(R) As used in divisions (O), (P), and (Q), "self-insuring 5479
employer" includes the following employers, whether or not they 5480
have been granted the status of being a self-insuring employer 5481
under division (B) of this section: 5482

(1) A state institution of higher education; 5483

(2) A school district; 5484

(3) A county school financing district; 5485

(4) An educational service center; 5486

(5) A community school established under Chapter 3314. of 5487
the Revised Code; 5488

(6) A municipal power agency as defined in section 5489
3734.058 of the Revised Code. 5490

(S) As used in this section:	5491
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	5492 5493 5494
(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.	5495 5496 5497 5498 5499 5500 5501 5502
Sec. 4123.351. (A) The administrator of workers' compensation shall require every self-insuring employer, including any self-insuring employer that is indemnified by a captive insurance company granted a certificate of authority under Chapter 3964. of the Revised Code, to pay a contribution, calculated under this section, to the self-insuring employers' guaranty fund established pursuant to this section. The fund shall provide for payment of compensation and benefits to employees of the self-insuring employer in order to cover any default in payment by that employer.	5503 5504 5505 5506 5507 5508 5509 5510 5511 5512
(B) The bureau of workers' compensation shall operate the self-insuring employers' guaranty fund for self-insuring employers. The administrator annually shall establish the contributions due from self-insuring employers for the fund at rates as low as possible but such as will assure sufficient moneys to guarantee the payment of any claims against the fund. The bureau's operation of the fund is not subject to sections 3929.10 to 3929.18 of the Revised Code or to regulation by the	5513 5514 5515 5516 5517 5518 5519 5520

superintendent of insurance. 5521

(C) If a self-insuring employer defaults, the bureau shall 5522
recover the amounts paid as a result of the default from the 5523
self-insuring employers' guaranty fund. If a self-insuring 5524
employer defaults and is in compliance with this section for the 5525
payment of contributions to the fund, such self-insuring 5526
employer is entitled to the immunity conferred by section 5527
4123.74 of the Revised Code for any claim arising during any 5528
period the employer is in compliance with this section. 5529

(D) (1) There is hereby established a self-insuring 5530
employers' guaranty fund, which shall be in the custody of the 5531
treasurer of state and which shall be separate from the other 5532
funds established and administered pursuant to this chapter. The 5533
fund shall consist of contributions and other payments made by 5534
self-insuring employers under this section. All investment 5535
earnings of the fund shall be credited to the fund. The bureau 5536
shall make disbursements from the fund pursuant to this section. 5537

(2) The administrator has the same powers to invest any of 5538
the surplus or reserve belonging to the fund as are delegated to 5539
the administrator under section 4123.44 of the Revised Code with 5540
respect to the state insurance fund. The administrator shall 5541
apply interest earned solely to the reduction of assessments for 5542
contributions from self-insuring employers and to the payments 5543
required due to defaults. 5544

(3) If the bureau of workers' compensation board of 5545
directors determines that reinsurance of the risks of the fund 5546
is necessary to assure solvency of the fund, the board may: 5547

(a) Enter into contracts for the purchase of reinsurance 5548
coverage of the risks of the fund with any company or agency 5549

authorized by law to issue contracts of reinsurance; 5550

(b) Require the administrator to pay the cost of 5551
reinsurance from the fund; 5552

(c) Include the costs of reinsurance as a liability and 5553
estimated liability of the fund. 5554

(E) The administrator, with the advice and consent of the 5555
board, may adopt rules pursuant to Chapter 119. of the Revised 5556
Code for the implementation of this section, including a rule, 5557
notwithstanding division (C) of this section, requiring self- 5558
insuring employers to provide security in addition to the 5559
contribution to the self-insuring employers' guaranty fund 5560
required by this section. The additional security required by 5561
the rule, as the administrator determines appropriate, shall be 5562
sufficient and adequate to provide for financial assurance to 5563
meet the obligations of self-insuring employers under this 5564
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 5565
Code. 5566

(F) The purchase of coverage under this section by self- 5567
insuring employers is valid notwithstanding the prohibitions 5568
contained in division (A) of section 4123.82 of the Revised Code 5569
and is in addition to the indemnity contracts that self-insuring 5570
employers may purchase pursuant to division (B) of section 5571
4123.82 of the Revised Code. 5572

(G) The administrator, on behalf of the self-insuring 5573
employers' guaranty fund, has the rights of reimbursement and 5574
subrogation and shall collect from a defaulting self-insuring 5575
employer or other liable person all amounts the administrator 5576
has paid or reasonably expects to pay from the fund on account 5577
of the defaulting self-insuring employer. 5578

(H) The assessments for contributions, the administration 5579
of the self-insuring employers' guaranty fund, the investment of 5580
the money in the fund, and the payment of liabilities incurred 5581
by the fund do not create any liability upon the state. 5582

Except for a gross abuse of discretion, neither the board, 5583
nor the individual members thereof, nor the administrator shall 5584
incur any obligation or liability respecting the assessments for 5585
contributions, the administration of the self-insuring 5586
employers' guaranty fund, the investment of the fund, or the 5587
payment of liabilities therefrom. 5588

Sec. 4123.353. (A) A public employer, except for a board 5589
of county commissioners described in division (G) of section 5590
4123.01 of the Revised Code, a board of a county hospital, or a 5591
publicly owned utility, who is granted the status of self- 5592
insuring employer pursuant to section 4123.35 of the Revised 5593
Code shall do all of the following: 5594

(1) Reserve funds as necessary, in accordance with sound 5595
and prudent actuarial judgment, to cover the costs the public 5596
employer may potentially incur to remain in compliance with this 5597
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 5598
Code; 5599

(2) Include all activity under this chapter and ~~Chapter~~ 5600
Chapters 4121. and 4133. of the Revised Code in a single fund on 5601
the public employer's accounting records; 5602

(3) Within ninety days after the last day of each fiscal 5603
year, prepare and maintain a report of the reserved funds 5604
described in division (A)(1) of this section and disbursements 5605
made from those reserved funds. 5606

(B) A public employer who is subject to division (A) of 5607

this section shall make the reports required by that division 5608
available for inspection by the administrator of workers' 5609
compensation and any other person at all reasonable times during 5610
regular business hours. 5611

Sec. 4123.402. The department of administrative services 5612
shall act as employer for workers' compensation claims arising 5613
under this chapter and Chapters 4121., 4127., ~~and 4131., and~~ 5614
4133. of the Revised Code for all state agencies, offices, 5615
institutions, boards, or commissions except for public colleges 5616
and universities. The department shall review, process, certify 5617
or contest, and administer workers' compensation claims for each 5618
state agency, office, institution, board, and commission, except 5619
for a public college or university, unless otherwise agreed to 5620
between the department and a state agency, office, institution, 5621
board, or commission. 5622

The department may enter into a contract with one or more 5623
third party administrators for claims management of a state 5624
agency, office, institution, board, or commission, except for a 5625
public college or university, for workers' compensation claims 5626
and for claims covered by the occupational injury leave program 5627
adopted pursuant to section 124.381 of the Revised Code. 5628

Sec. 4123.441. (A) The administrator of workers' 5629
compensation, with the advice and consent of the bureau of 5630
workers' compensation board of directors shall employ a person 5631
or designate an employee of the bureau of workers' compensation 5632
who is designated as a chartered financial analyst by the CFA 5633
institute and who is licensed by the division of securities in 5634
the department of commerce as a bureau of workers' compensation 5635
chief investment officer to be the chief investment officer for 5636
the bureau of workers' compensation. After ninety days after 5637

September 29, 2005, the bureau of workers' compensation may not 5638
employ a bureau of workers' compensation chief investment 5639
officer, as defined in section 1707.01 of the Revised Code, who 5640
does not hold a valid bureau of workers' compensation chief 5641
investment officer license issued by the division of securities 5642
in the department of commerce. The board shall notify the 5643
division of securities of the department of commerce in writing 5644
of its designation and of any change in its designation within 5645
ten calendar days after the designation or change. 5646

(B) The bureau of workers' compensation chief investment 5647
officer shall reasonably supervise employees of the bureau who 5648
handle investment of assets of funds specified in this chapter 5649
and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the Revised 5650
Code with a view toward preventing violations of Chapter 1707. 5651
of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 5652
7 U.S.C. 1, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 5653
77a, the "Securities Exchange Act of 1934," 48 Stat. 881, 15 5654
U.S.C. 78a, and the rules and regulations adopted under those 5655
statutes. This duty of reasonable supervision shall include the 5656
adoption, implementation, and enforcement of written policies 5657
and procedures reasonably designed to prevent employees of the 5658
bureau who handle investment of assets of the funds specified in 5659
this chapter and Chapters 4121., 4127., ~~and 4131.~~, and 4133. of 5660
the Revised Code, from misusing material, nonpublic information 5661
in violation of those laws, rules, and regulations. 5662

For purposes of this division, no bureau of workers' 5663
compensation chief investment officer shall be considered to 5664
have failed to satisfy the officer's duty of reasonable 5665
supervision if the officer has done all of the following: 5666

(1) Adopted and implemented written procedures, and a 5667

system for applying the procedures, that would reasonably be 5668
expected to prevent and detect, insofar as practicable, any 5669
violation by employees handling investments of assets of the 5670
funds specified in this chapter and Chapters 4121., 4127., ~~and~~ 5671
4131., and 4133. of the Revised Code; 5672

(2) Reasonably discharged the duties and obligations 5673
incumbent on the bureau of workers' compensation chief 5674
investment officer by reason of the established procedures and 5675
the system for applying the procedures when the officer had no 5676
reasonable cause to believe that there was a failure to comply 5677
with the procedures and systems; 5678

(3) Reviewed, at least annually, the adequacy of the 5679
policies and procedures established pursuant to this section and 5680
the effectiveness of their implementation. 5681

(C) The bureau of workers' compensation chief investment 5682
officer shall establish and maintain a policy to monitor and 5683
evaluate the effectiveness of securities transactions executed 5684
on behalf of the bureau. 5685

Sec. 4123.442. When developing the investment policy for 5686
the investment of the assets of the funds specified in this 5687
chapter and Chapters 4121., 4127., ~~and~~ 4131., and 4133. of the 5688
Revised Code, the workers' compensation investment committee 5689
shall do all of the following: 5690

(A) Specify the asset allocation targets and ranges, risk 5691
factors, asset class benchmarks, time horizons, total return 5692
objectives, and performance evaluation guidelines; 5693

(B) Prohibit investing the assets of those funds, directly 5694
or indirectly, in vehicles that target any of the following: 5695

(1) Coins; 5696

(2) Artwork;	5697
(3) Horses;	5698
(4) Jewelry or gems;	5699
(5) Stamps;	5700
(6) Antiques;	5701
(7) Artifacts;	5702
(8) Collectibles;	5703
(9) Memorabilia;	5704
(10) Similar unregulated investments that are not commonly part of an institutional portfolio, that lack liquidity, and that lack readily determinable valuation.	5705 5706 5707
(C) Specify that the administrator of workers' compensation may invest in an investment class only if the bureau of workers' compensation board of directors, by a majority vote, opens that class;	5708 5709 5710 5711
(D) Prohibit investing the assets of those funds in any class of investments the board, by majority vote, closed, or any specific investment in which the board prohibits the administrator from investing;	5712 5713 5714 5715
(E) Not specify in the investment policy that the administrator or employees of the bureau of workers' compensation are prohibited from conducting business with an investment management firm, any investment management professional associated with that firm, any third party solicitor associated with that firm, or any political action committee controlled by that firm or controlled by an investment management professional of that firm based on criteria that are	5716 5717 5718 5719 5720 5721 5722 5723

more restrictive than the restrictions described in divisions 5724
(Y) and (Z) of section 3517.13 of the Revised Code. 5725

Sec. 4123.444. (A) As used in this section and section 5726
4123.445 of the Revised Code: 5727

(1) "Bureau of workers' compensation funds" means any fund 5728
specified in Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. of 5729
the Revised Code that the administrator of workers' compensation 5730
has the authority to invest, in accordance with the 5731
administrator's investment authority under section 4123.44 of 5732
the Revised Code. 5733

(2) "Investment manager" means any person with whom the 5734
administrator of workers' compensation contracts pursuant to 5735
section 4123.44 of the Revised Code to facilitate the investment 5736
of assets of bureau of workers' compensation funds. 5737

(3) "Business entity" means any person with whom an 5738
investment manager contracts for the investment of assets of 5739
bureau of workers' compensation funds. 5740

(4) "Financial or investment crime" means any criminal 5741
offense involving theft, receiving stolen property, 5742
embezzlement, forgery, fraud, passing bad checks, money 5743
laundering, drug trafficking, or any criminal offense involving 5744
money or securities, as set forth in Chapters 2909., 2911., 5745
2913., 2915., 2921., 2923., and 2925. of the Revised Code or 5746
other law of this state, or the laws of any other state or the 5747
United States that are substantially equivalent to those 5748
offenses. 5749

(B) (1) Before entering into a contract with an investment 5750
manager to invest bureau of workers' compensation funds, the 5751
administrator shall do both of the following: 5752

(a) Request from any investment manager with whom the administrator wishes to contract for those investments a list of all employees who will be investing assets of bureau of workers' compensation funds. The list shall specify each employee's state of residence for the five years prior to the date of the administrator's request.

(b) Request that the superintendent of the bureau of criminal investigation and identification conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the investment manager names in that list.

(2) After an investment manager enters into a contract with the administrator to invest bureau of workers' compensation funds and before an investment manager enters into a contract with a business entity to facilitate those investments, the investment manager shall request from any business entity with whom the investment manager wishes to contract to make those investments a list of all employees who will be investing assets of the bureau of workers' compensation funds. The list shall specify each employee's state of residence for the five years prior to the investment manager's request. The investment manager shall forward to the administrator the list received from the business entity. The administrator shall request the superintendent to conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the business entity names in that list. Upon receipt of the results of the criminal records check, the administrator shall advise the investment manager whether the results were favorable or unfavorable.

(3) If, after a contract has been entered into between the

administrator and an investment manager or between an investment 5783
manager and a business entity for the investment of assets of 5784
bureau of workers' compensation funds, the investment manager or 5785
business entity wishes to have an employee who was not the 5786
subject of a criminal records check under division (B) (1) or (B) 5787
(2) of this section invest assets of the bureau of workers' 5788
compensation funds, that employee shall be the subject of a 5789
criminal records check pursuant to this section and section 5790
109.579 of the Revised Code prior to handling the investment of 5791
assets of those funds. The investment manager shall submit to 5792
the administrator the name of that employee along with the 5793
employee's state of residence for the five years prior to the 5794
date in which the administrator requests the criminal records 5795
check. The administrator shall request that the superintendent 5796
conduct a criminal records check on that employee pursuant to 5797
this section and section 109.579 of the Revised Code. 5798

(C) (1) If an employee who is the subject of a criminal 5799
records check pursuant to division (B) of this section has not 5800
been a resident of this state for the five-year period 5801
immediately prior to the time the criminal records check is 5802
requested or does not provide evidence that within that five- 5803
year period the superintendent has requested information about 5804
the employee from the federal bureau of investigation in a 5805
criminal records check, the administrator shall request that the 5806
superintendent obtain information from the federal bureau of 5807
investigation as a part of the criminal records check for the 5808
employee. If the employee has been a resident of this state for 5809
at least that five-year period, the administrator may, but is 5810
not required to, request that the superintendent request and 5811
include in the criminal records check information about that 5812
employee from the federal bureau of investigation. 5813

(2) The administrator shall provide to an investment manager a copy of the form prescribed pursuant to division (C) (1) of section 109.579 of the Revised Code and a standard impression sheet for each employee for whom a criminal records check must be performed, to obtain fingerprint impressions as prescribed pursuant to division (C) (2) of section 109.579 of the Revised Code. The investment manager shall obtain the completed form and impression sheet either directly from each employee or from a business entity and shall forward the completed form and sheet to the administrator, who shall forward these forms and sheets to the superintendent.

(3) Any employee who receives a copy of the form and the impression sheet pursuant to division (C) (2) of this section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall complete the impression sheets in the manner prescribed in division (C) (2) of section 109.579 of the Revised Code.

(D) For each criminal records check the administrator requests under this section, at the time the administrator makes a request the administrator shall pay to the superintendent the fee the superintendent prescribes pursuant to division (E) of section 109.579 of the Revised Code.

Sec. 4123.46. (A) (1) Except as provided in division (A) (2) of this section, the bureau of workers' compensation shall disburse the state insurance fund to employees of employers who have paid into the fund the premiums applicable to the classes to which they belong when the employees have been injured in the course of their employment, wherever the injuries have occurred, and provided the injuries have not been purposely self-

inflicted, or to the dependents of the employees in case death 5844
has ensued. 5845

(2) As long as injuries have not been purposely self- 5846
inflicted, the bureau shall disburse the surplus fund created 5847
under section 4123.34 of the Revised Code to off-duty peace 5848
officers, firefighters, emergency medical technicians, and first 5849
responders, or to their dependents if death ensues, who are 5850
injured while responding to inherently dangerous situations that 5851
call for an immediate response on the part of the person, 5852
regardless of whether the person was within the limits of the 5853
person's jurisdiction when responding, on the condition that the 5854
person responds to the situation as the person otherwise would 5855
if the person were on duty in the person's jurisdiction. 5856

As used in division (A) (2) of this section, "peace 5857
officer," "firefighter," "emergency medical technician," and 5858
"first responder," ~~and "jurisdiction"~~ have the same meanings as 5859
in section 4123.01 of the Revised Code. 5860

(B) All self-insuring employers, in compliance with this 5861
chapter, shall pay the compensation to injured employees, or to 5862
the dependents of employees who have been killed in the course 5863
of their employment, unless the injury or death of the employee 5864
was purposely self-inflicted, and shall furnish the medical, 5865
surgical, nurse, and hospital care and attention or funeral 5866
expenses as would have been paid and furnished by virtue of this 5867
chapter or Chapter 4133. of the Revised Code under a similar 5868
state of facts by the bureau out of the state insurance fund if 5869
the employer had paid the premium into the fund. 5870

If any rule or regulation of a self-insuring employer 5871
provides for or authorizes the payment of greater compensation 5872
or more complete or extended medical care, nursing, surgical, 5873

and hospital attention, or funeral expenses to the injured 5874
employees, or to the dependents of the employees as may be 5875
killed, the employer shall pay to the employees, or to the 5876
dependents of employees killed, the amount of compensation and 5877
furnish the medical care, nursing, surgical, and hospital 5878
attention or funeral expenses provided by the self-insuring 5879
employer's rules and regulations. 5880

(C) Payment to injured employees, or to their dependents 5881
in case death has ensued, is in lieu of any and all rights of 5882
action against the employer of the injured or killed employees. 5883

Sec. 4123.47. (A) The administrator of workers' 5884
compensation shall have an actuarial analysis of the state 5885
insurance fund and all other funds specified in this chapter and 5886
Chapters 4121., 4127., ~~and 4131.~~, and 4133. of the Revised Code 5887
made at least once each year. The analysis shall be made and 5888
certified by recognized, credentialed property or casualty 5889
actuaries who shall be selected by the bureau of workers' 5890
compensation board of directors. The expense of the analysis 5891
shall be paid from the state insurance fund. The administrator 5892
shall make copies of the analysis available to the workers' 5893
compensation audit committee at no charge and to the public at 5894
cost. 5895

(B) The auditor of state annually shall conduct an audit 5896
of the administration of this chapter and Chapter 4133. of the 5897
Revised Code by the industrial commission, the occupational 5898
pneumoconiosis board, and the bureau of workers' compensation 5899
and of the safety and hygiene fund. The cost of the audit shall 5900
be charged to the administrative costs of the bureau as defined 5901
in section 4123.341 of the Revised Code. The audit shall include 5902
audits of all fiscal activities, claims processing and handling, 5903

and employer premium collections. The auditor shall prepare a 5904
report of the audit together with recommendations and transmit 5905
copies of the report to the industrial commission, the bureau of 5906
workers' compensation board of directors, the administrator, the 5907
governor, and to the general assembly. The auditor shall make 5908
copies of the report available to the public at cost. 5909

(C) The administrator may retain the services of a 5910
recognized actuary on a consulting basis for the purpose of 5911
evaluating the actuarial soundness of premium rates and 5912
classifications and all other matters involving the 5913
administration of the state insurance fund. The expense of 5914
services provided by the actuary shall be paid from the state 5915
insurance fund. 5916

Sec. 4123.51. The administrator of workers' compensation 5917
shall by published notices and other appropriate means endeavor 5918
to cause claims to be filed in the service office of the bureau 5919
of workers' compensation from which the investigation and 5920
determination of the claim may be made most expeditiously. A 5921
claim or appeal under this chapter or Chapter 4121., 4127., ~~or~~ 5922
4131., or 4133. of the Revised Code may be filed with any office 5923
of the bureau of workers' compensation or the industrial 5924
commission, within the required statutory period, and is 5925
considered received for the purpose of processing the claims or 5926
appeals. 5927

The administrator, on the form an employee or an 5928
individual acting on behalf of the employee files with the 5929
administrator or a self-insuring employer to initiate a claim 5930
under this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 4133. 5931
of the Revised Code, shall include a statement that is 5932
substantially similar to the following statement in bold font 5933

and set apart from all other text in the form: 5934

"By signing this form, I elect to only receive 5935
compensation, benefits, or both that are provided for in this 5936
claim under Ohio's workers' compensation laws. I understand and 5937
I hereby waive and release my right to receive compensation and 5938
benefits under the workers' compensation laws of another state 5939
for the injury or occupational disease, or the death resulting 5940
from an injury or occupational disease, for which I am filing 5941
this claim. I have not received compensation and benefits under 5942
the workers' compensation laws of another state for this claim, 5943
and I will not file and have not filed a claim in another state 5944
for the injury or occupational disease or death resulting from 5945
an injury or occupational disease for which I am filing this 5946
claim." 5947

Sec. 4123.511. (A) Within seven days after receipt of any 5948
claim under this chapter or Chapter 4133. of the Revised Code, 5949
the bureau of workers' compensation shall notify the claimant 5950
and the employer of the claimant of the receipt of the claim and 5951
of the facts alleged therein. If the bureau receives from a 5952
person other than the claimant written or facsimile information 5953
or information communicated verbally over the telephone 5954
indicating that an injury or occupational disease has occurred 5955
or been contracted which may be compensable under this chapter 5956
or Chapter 4133. of the Revised Code, the bureau shall notify 5957
the employee and the employer of the information. If the 5958
information is provided verbally over the telephone, the person 5959
providing the information shall provide written verification of 5960
the information to the bureau according to division (E) of 5961
section 4123.84 of the Revised Code. The receipt of the 5962
information in writing or facsimile, or if initially by 5963
telephone, the subsequent written verification, and the notice 5964

by the bureau shall be considered an application for 5965
compensation under section 4123.84 or 4123.85 of the Revised 5966
Code, provided that the conditions of division (E) of section 5967
4123.84 of the Revised Code apply to information provided 5968
verbally over the telephone. Upon receipt of a claim, the bureau 5969
shall advise the claimant of the claim number assigned and the 5970
claimant's right to representation in the processing of a claim 5971
or to elect no representation. If the bureau determines that a 5972
claim is determined to be a compensable lost-time claim, the 5973
bureau shall notify the claimant and the employer of the 5974
availability of rehabilitation services. No bureau or industrial 5975
commission employee shall directly or indirectly convey any 5976
information in derogation of this right. This section shall in 5977
no way abrogate the bureau's responsibility to aid and assist a 5978
claimant in the filing of a claim and to advise the claimant of 5979
the claimant's rights under the law. 5980

The administrator of workers' compensation shall assign 5981
all claims and investigations to the bureau service office from 5982
which investigation and determination may be made most 5983
expeditiously. 5984

The bureau shall investigate the facts concerning an 5985
injury or occupational disease and ascertain such facts in 5986
whatever manner is most appropriate and may obtain statements of 5987
the employee, employer, attending physician, and witnesses in 5988
whatever manner is most appropriate. 5989

The administrator, with the advice and consent of the 5990
bureau of workers' compensation board of directors, may adopt 5991
rules that identify specified medical conditions that have a 5992
historical record of being allowed whenever included in a claim. 5993
The administrator may grant immediate allowance of any medical 5994

condition identified in those rules upon the filing of a claim 5995
involving that medical condition and may make immediate payment 5996
of medical bills for any medical condition identified in those 5997
rules that is included in a claim. If an employer contests the 5998
allowance of a claim involving any medical condition identified 5999
in those rules, and the claim is disallowed, payment for the 6000
medical condition included in that claim shall be charged to and 6001
paid from the surplus fund created under section 4123.34 of the 6002
Revised Code. 6003

(B) (1) Except as provided in division (B) (2) of this 6004
section, in claims other than those in which the employer is a 6005
self-insuring employer, if the administrator determines under 6006
division (A) of this section that a claimant is or is not 6007
entitled to an award of compensation or benefits, the 6008
administrator shall issue an order no later than twenty-eight 6009
days after the sending of the notice under division (A) of this 6010
section, granting or denying the payment of the compensation or 6011
benefits, or both as is appropriate to the claimant. 6012
Notwithstanding the time limitation specified in this division 6013
for the issuance of an order, if a medical examination of the 6014
claimant is required by statute, the administrator promptly 6015
shall schedule the claimant for that examination and shall issue 6016
an order no later than twenty-eight days after receipt of the 6017
report of the examination. The administrator shall notify the 6018
claimant and the employer of the claimant and their respective 6019
representatives in writing of the nature of the order and the 6020
amounts of compensation and benefit payments involved. The 6021
employer or claimant may appeal the order pursuant to division 6022
(C) of this section within fourteen days after the date of the 6023
receipt of the order. The employer and claimant may waive, in 6024
writing, their rights to an appeal under this division. 6025

(2) Notwithstanding the time limitation specified in 6026
division (B) (1) of this section for the issuance of an order, if 6027
the employer certifies a claim for payment of compensation or 6028
benefits, or both, to a claimant, and the administrator has 6029
completed the investigation of the claim, the payment of 6030
benefits or compensation, or both, as is appropriate, shall 6031
commence upon the later of the date of the certification or 6032
completion of the investigation and issuance of the order by the 6033
administrator, provided that the administrator shall issue the 6034
order no later than the time limitation specified in division 6035
(B) (1) of this section. 6036

(3) If an appeal is made under division (B) (1) or (2) of 6037
this section, the administrator shall forward the claim file to 6038
the appropriate district hearing officer within seven days of 6039
the appeal. In contested claims other than state fund claims, 6040
the administrator shall forward the claim within seven days of 6041
the administrator's receipt of the claim to the industrial 6042
commission, which shall refer the claim to an appropriate 6043
district hearing officer for a hearing in accordance with 6044
division (C) of this section. 6045

~~(C) If an employer or claimant timely appeals the order of~~ 6046
~~the administrator issued under division (B) of this section or~~ 6047
~~in the case of other contested claims other than state fund~~ 6048
~~claims, (1) Except as provided in division (C) (2) of this~~ 6049
section, the commission shall refer ~~the~~ a claim to an 6050
appropriate district hearing officer according to rules the 6051
commission adopts under section 4121.36 of the Revised Code if 6052
an employer or claimant timely appeals any of the following: 6053

(a) An order or determination of the administrator issued 6054
under division (B) of this section or section 4133.06 of the 6055

Revised Code; 6056

(b) A determination of the occupational pneumoconiosis board issued under section 4133.09 of the Revised Code; 6057
6058

(c) Other contested claims other than state fund claims. 6059

(2) Division (C) (1) of this section does not apply to a claim that has been referred to the occupational pneumoconiosis board under section 4133.08 of the Revised Code. 6060
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The district hearing officer shall notify the parties and their respective representatives of the time and place of the hearing. 6063
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The district hearing officer shall hold a hearing on a disputed issue or claim within forty-five days after the filing of the appeal under this division and issue a decision within seven days after holding the hearing. The district hearing officer shall notify the parties and their respective representatives in writing of the order. Any party may appeal an order issued under this division pursuant to division (D) of this section within fourteen days after receipt of the order under this division. 6066
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(D) Upon the timely filing of an appeal of the order of the district hearing officer issued under division (C) of this section, the commission shall refer the claim file to an appropriate staff hearing officer according to its rules adopted under section 4121.36 of the Revised Code. The staff hearing officer shall hold a hearing within forty-five days after the filing of an appeal under this division and issue a decision within seven days after holding the hearing under this division. The staff hearing officer shall notify the parties and their respective representatives in writing of the staff hearing 6075
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officer's order. Any party may appeal an order issued under this 6085
division pursuant to division (E) of this section within 6086
fourteen days after receipt of the order under this division. 6087

(E) Upon the filing of a timely appeal of the order of the 6088
staff hearing officer issued under division (D) of this section, 6089
the commission or a designated staff hearing officer, on behalf 6090
of the commission, shall determine whether the commission will 6091
hear the appeal. If the commission or the designated staff 6092
hearing officer decides to hear the appeal, the commission or 6093
the designated staff hearing officer shall notify the parties 6094
and their respective representatives in writing of the time and 6095
place of the hearing. The commission shall hold the hearing 6096
within forty-five days after the filing of the notice of appeal 6097
and, within seven days after the conclusion of the hearing, the 6098
commission shall issue its order affirming, modifying, or 6099
reversing the order issued under division (D) of this section. 6100
The commission shall notify the parties and their respective 6101
representatives in writing of the order. If the commission or 6102
the designated staff hearing officer determines not to hear the 6103
appeal, within fourteen days after the expiration of the period 6104
in which an appeal of the order of the staff hearing officer may 6105
be filed as provided in division (D) of this section, the 6106
commission or the designated staff hearing officer shall issue 6107
an order to that effect and notify the parties and their 6108
respective representatives in writing of that order. 6109

Except as otherwise provided in this chapter and Chapters 6110
4121., 4127., ~~and 4131.~~, and 4133. of the Revised Code, any 6111
party may appeal an order issued under this division to the 6112
court pursuant to section 4123.512 of the Revised Code within 6113
sixty days after receipt of the order, subject to the 6114
limitations contained in that section. 6115

(F) Every notice of an appeal from an order issued under 6116
divisions (B), (C), (D), and (E) of this section shall state the 6117
names of the claimant and employer, the number of the claim, the 6118
date of the decision appealed from, and the fact that the 6119
appellant appeals therefrom. 6120

(G) All of the following apply to the proceedings under 6121
divisions (C), (D), and (E) of this section: 6122

(1) The parties shall proceed promptly and without 6123
continuances except for good cause; 6124

(2) The parties, in good faith, shall engage in the free 6125
exchange of information relevant to the claim prior to the 6126
conduct of a hearing according to the rules the commission 6127
adopts under section 4121.36 of the Revised Code; 6128

(3) The administrator is a party and may appear and 6129
participate at all administrative proceedings on behalf of the 6130
state insurance fund. However, in cases in which the employer is 6131
represented, the administrator shall neither present arguments 6132
nor introduce testimony that is cumulative to that presented or 6133
introduced by the employer or the employer's representative. The 6134
administrator may file an appeal under this section on behalf of 6135
the state insurance fund; however, except in cases arising under 6136
section 4123.343 of the Revised Code, the administrator only may 6137
appeal questions of law or issues of fraud when the employer 6138
appears in person or by representative. 6139

(H) Except as provided in section 4121.63 of the Revised 6140
Code and division (K) of this section, payments of compensation 6141
to a claimant or on behalf of a claimant as a result of any 6142
order issued under this chapter or Chapter 4133. of the Revised 6143
Code shall commence upon the earlier of the following: 6144

(1) Fourteen days after the date the administrator issues 6145
an order under division (B) of this section or section 4133.06 6146
of the Revised Code, unless that order is appealed or the claim 6147
has been referred to the occupational pneumoconiosis board, as 6148
applicable; 6149

(2) Fourteen days after the date the occupational 6150
pneumoconiosis board makes a determination under section 4133.09 6151
of the Revised Code; 6152

(3) The date when the employer has waived the right to 6153
appeal a decision issued under division (B) of this section or 6154
Chapter 4133. of the Revised Code; 6155

~~(3)~~ (4) If no appeal of an order has been filed under this 6156
section or to a court under section 4123.512 of the Revised 6157
Code, the expiration of the time limitations for the filing of 6158
an appeal of an order; 6159

~~(4)~~ (5) The date of receipt by the employer of an order of 6160
a district hearing officer, a staff hearing officer, or the 6161
industrial commission issued under division (C), (D), or (E) of 6162
this section. 6163

(I) Except as otherwise provided in division (B) of 6164
section 4123.66 of the Revised Code, payments of medical 6165
benefits payable under this chapter or Chapter 4121., 4127., ~~or~~ 6166
4131., or 4133. of the Revised Code shall commence upon the 6167
earlier of the following: 6168

(1) The date of the issuance of the staff hearing 6169
officer's order under division (D) of this section; 6170

(2) The date of the final administrative or judicial 6171
determination. 6172

(J) The administrator shall charge the compensation 6173
payments made in accordance with division (H) of this section or 6174
medical benefits payments made in accordance with division (I) 6175
of this section to an employer's experience immediately after 6176
the employer has exhausted the employer's administrative appeals 6177
as provided in this section or section 4133.06 of the Revised 6178
Code or has waived the employer's right to an administrative 6179
appeal under division (B) of this section or Chapter 4133. of 6180
the Revised Code, subject to the adjustment specified in 6181
division (H) of section 4123.512 of the Revised Code. 6182

(K) Upon the final administrative or judicial 6183
determination under this section or section 4123.512 of the 6184
Revised Code of an appeal of an order to pay compensation, if a 6185
claimant is found to have received compensation pursuant to a 6186
prior order which is reversed upon subsequent appeal, the 6187
claimant's employer, if a self-insuring employer, or the bureau, 6188
shall withhold from any amount to which the claimant becomes 6189
entitled pursuant to any claim, past, present, or future, under 6190
Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised 6191
Code, the amount of previously paid compensation to the claimant 6192
which, due to reversal upon appeal, the claimant is not 6193
entitled, pursuant to the following criteria: 6194

(1) No withholding for the first twelve weeks of temporary 6195
total disability compensation pursuant to ~~section~~ sections 6196
4123.56 and 4133.12 of the Revised Code shall be made; 6197

(2) Forty per cent of all awards of compensation paid 6198
pursuant to sections 4123.56 ~~and~~ , 4123.57, 4133.12, and 4133.13 6199
of the Revised Code, until the amount overpaid is refunded; 6200

(3) Twenty-five per cent of any compensation paid pursuant 6201
to ~~section~~ sections 4123.58 and 4133.14 of the Revised Code 6202

until the amount overpaid is refunded; 6203

(4) If, pursuant to an appeal under section 4123.512 of 6204
the Revised Code, the court of appeals or the supreme court 6205
reverses the allowance of the claim, then no amount of any 6206
compensation will be withheld. 6207

The administrator and self-insuring employers, as 6208
appropriate, are subject to the repayment schedule of this 6209
division only with respect to an order to pay compensation that 6210
was properly paid under a previous order, but which is 6211
subsequently reversed upon an administrative or judicial appeal. 6212
The administrator and self-insuring employers are not subject 6213
to, but may utilize, the repayment schedule of this division, or 6214
any other lawful means, to collect payment of compensation made 6215
to a person who was not entitled to the compensation due to 6216
fraud as determined by the administrator or the industrial 6217
commission. 6218

(L) If a staff hearing officer or the commission fails to 6219
issue a decision or the commission fails to refuse to hear an 6220
appeal within the time periods required by this section, 6221
payments to a claimant shall cease until the staff hearing 6222
officer or commission issues a decision or hears the appeal, 6223
unless the failure was due to the fault or neglect of the 6224
employer or the employer agrees that the payments should 6225
continue for a longer period of time. 6226

(M) Except as otherwise provided in this section or 6227
section 4123.522 of the Revised Code, no appeal is timely filed 6228
under this section unless the appeal is filed with the time 6229
limits set forth in this section. 6230

(N) No person who is not an employee of the bureau or 6231

commission or who is not by law given access to the contents of 6232
a claims file shall have a file in the person's possession. 6233

(O) Upon application of a party who resides in an area in 6234
which an emergency or disaster is declared, the industrial 6235
commission and hearing officers of the commission may waive the 6236
time frame within which claims and appeals of claims set forth 6237
in this section must be filed upon a finding that the applicant 6238
was unable to comply with a filing deadline due to an emergency 6239
or a disaster. 6240

As used in this division: 6241

(1) "Emergency" means any occasion or instance for which 6242
the governor of Ohio or the president of the United States 6243
publicly declares an emergency and orders state or federal 6244
assistance to save lives and protect property, the public health 6245
and safety, or to lessen or avert the threat of a catastrophe. 6246

(2) "Disaster" means any natural catastrophe or fire, 6247
flood, or explosion, regardless of the cause, that causes damage 6248
of sufficient magnitude that the governor of Ohio or the 6249
president of the United States, through a public declaration, 6250
orders state or federal assistance to alleviate damage, loss, 6251
hardship, or suffering that results from the occurrence. 6252

Sec. 4123.512. (A) The claimant or the employer may appeal 6253
an order of the industrial commission made under division (E) of 6254
section 4123.511 of the Revised Code in any injury or 6255
occupational disease case, other than a decision as to the 6256
extent of disability to the court of common pleas of the county 6257
in which the injury was inflicted or in which the contract of 6258
employment was made if the injury occurred outside the state, or 6259
in which the contract of employment was made if the exposure 6260

occurred outside the state. If no common pleas court has 6261
jurisdiction for the purposes of an appeal by the use of the 6262
jurisdictional requirements described in this division, the 6263
appellant may use the venue provisions in the Rules of Civil 6264
Procedure to vest jurisdiction in a court. If the claim is for 6265
an occupational disease, the appeal shall be to the court of 6266
common pleas of the county in which the exposure which caused 6267
the disease occurred. Like appeal may be taken from an order of 6268
a staff hearing officer made under division (D) of section 6269
4123.511 of the Revised Code from which the commission has 6270
refused to hear an appeal. The appellant shall file the notice 6271
of appeal with a court of common pleas within sixty days after 6272
the date of the receipt of the order appealed from or the date 6273
of receipt of the order of the commission refusing to hear an 6274
appeal of a staff hearing officer's decision under division (D) 6275
of section 4123.511 of the Revised Code. The filing of the 6276
notice of the appeal with the court is the only act required to 6277
perfect the appeal. 6278

If an action has been commenced in a court of a county 6279
other than a court of a county having jurisdiction over the 6280
action, the court, upon notice by any party or upon its own 6281
motion, shall transfer the action to a court of a county having 6282
jurisdiction. 6283

Notwithstanding anything to the contrary in this section, 6284
if the commission determines under section 4123.522 of the 6285
Revised Code that an employee, employer, or their respective 6286
representatives have not received written notice of an order or 6287
decision which is appealable to a court under this section and 6288
which grants relief pursuant to section 4123.522 of the Revised 6289
Code, the party granted the relief has sixty days from receipt 6290
of the order under section 4123.522 of the Revised Code to file 6291

a notice of appeal under this section. 6292

(B) The notice of appeal shall state the names of the 6293
administrator of workers' compensation, the claimant, and the 6294
employer; the number of the claim; the date of the order 6295
appealed from; and the fact that the appellant appeals 6296
therefrom. 6297

The administrator, the claimant, and the employer shall be 6298
parties to the appeal and the court, upon the application of the 6299
commission, shall make the commission a party. The party filing 6300
the appeal shall serve a copy of the notice of appeal on the 6301
administrator at the central office of the bureau of workers' 6302
compensation in Columbus. The administrator shall notify the 6303
employer that if the employer fails to become an active party to 6304
the appeal, then the administrator may act on behalf of the 6305
employer and the results of the appeal could have an adverse 6306
effect upon the employer's premium rates or may result in a 6307
recovery from the employer if the employer is determined to be a 6308
noncomplying employer under section 4123.75 of the Revised Code. 6309

(C) The attorney general or one or more of the attorney 6310
general's assistants or special counsel designated by the 6311
attorney general shall represent the administrator and the 6312
commission. In the event the attorney general or the attorney 6313
general's designated assistants or special counsel are absent, 6314
the administrator or the commission shall select one or more of 6315
the attorneys in the employ of the administrator or the 6316
commission as the administrator's attorney or the commission's 6317
attorney in the appeal. Any attorney so employed shall continue 6318
the representation during the entire period of the appeal and in 6319
all hearings thereof except where the continued representation 6320
becomes impractical. 6321

(D) Upon receipt of notice of appeal, the clerk of courts 6322
shall provide notice to all parties who are appellees and to the 6323
commission. 6324

The claimant shall, within thirty days after the filing of 6325
the notice of appeal, file a petition containing a statement of 6326
facts in ordinary and concise language showing a cause of action 6327
to participate or to continue to participate in the fund and 6328
setting forth the basis for the jurisdiction of the court over 6329
the action. Further pleadings shall be had in accordance with 6330
the Rules of Civil Procedure, provided that service of summons 6331
on such petition shall not be required and provided that the 6332
claimant may not dismiss the complaint without the employer's 6333
consent if the employer is the party that filed the notice of 6334
appeal to court pursuant to this section. The clerk of the court 6335
shall, upon receipt thereof, transmit by certified mail a copy 6336
thereof to each party named in the notice of appeal other than 6337
the claimant. Any party may file with the clerk prior to the 6338
trial of the action a deposition of any physician taken in 6339
accordance with the provisions of the Revised Code, which 6340
deposition may be read in the trial of the action even though 6341
the physician is a resident of or subject to service in the 6342
county in which the trial is had. The bureau of workers' 6343
compensation shall pay the cost of the stenographic deposition 6344
filed in court and of copies of the stenographic deposition for 6345
each party from the surplus fund and charge the costs thereof 6346
against the unsuccessful party if the claimant's right to 6347
participate or continue to participate is finally sustained or 6348
established in the appeal. In the event the deposition is taken 6349
and filed, the physician whose deposition is taken is not 6350
required to respond to any subpoena issued in the trial of the 6351
action. The court, or the jury under the instructions of the 6352

court, if a jury is demanded, shall determine the right of the 6353
claimant to participate or to continue to participate in the 6354
fund upon the evidence adduced at the hearing of the action. 6355

(E) The court shall certify its decision to the commission 6356
and the certificate shall be entered in the records of the 6357
court. Appeals from the judgment are governed by the law 6358
applicable to the appeal of civil actions. 6359

(F) The cost of any legal proceedings authorized by this 6360
section, including an attorney's fee to the claimant's attorney 6361
to be fixed by the trial judge, based upon the effort expended, 6362
in the event the claimant's right to participate or to continue 6363
to participate in the fund is established upon the final 6364
determination of an appeal, shall be taxed against the employer 6365
or the commission if the commission or the administrator rather 6366
than the employer contested the right of the claimant to 6367
participate in the fund. The attorney's fee shall not exceed 6368
forty-two hundred dollars. 6369

(G) If the finding of the court or the verdict of the jury 6370
is in favor of the claimant's right to participate in the fund, 6371
the commission and the administrator shall thereafter proceed in 6372
the matter of the claim as if the judgment were the decision of 6373
the commission, subject to the power of modification provided by 6374
section 4123.52 of the Revised Code. 6375

(H) (1) An appeal from an order issued under division (E) 6376
of section 4123.511 of the Revised Code or any action filed in 6377
court in a case in which an award of compensation or medical 6378
benefits has been made shall not stay the payment of 6379
compensation or medical benefits under the award, or payment for 6380
subsequent periods of total disability or medical benefits 6381
during the pendency of the appeal. If, in a final administrative 6382

or judicial action, it is determined that payments of 6383
compensation or benefits, or both, made to or on behalf of a 6384
claimant should not have been made, the amount thereof shall be 6385
charged to the surplus fund account under division (B) of 6386
section 4123.34 of the Revised Code. In the event the employer 6387
is a state risk, the amount shall not be charged to the 6388
employer's experience, and the administrator shall adjust the 6389
employer's account accordingly. In the event the employer is a 6390
self-insuring employer, the self-insuring employer shall deduct 6391
the amount from the paid compensation the self-insuring employer 6392
reports to the administrator under division (L) of section 6393
4123.35 of the Revised Code. If an employer is a state risk and 6394
has paid an assessment for a violation of a specific safety 6395
requirement, and, in a final administrative or judicial action, 6396
it is determined that the employer did not violate the specific 6397
safety requirement, the administrator shall reimburse the 6398
employer from the surplus fund account under division (B) of 6399
section 4123.34 of the Revised Code for the amount of the 6400
assessment the employer paid for the violation. 6401

(2) (a) Notwithstanding a final determination that payments 6402
of benefits made to or on behalf of a claimant should not have 6403
been made, the administrator or self-insuring employer shall 6404
award payment of medical or vocational rehabilitation services 6405
submitted for payment after the date of the final determination 6406
if all of the following apply: 6407

(i) The services were approved and were rendered by the 6408
provider in good faith prior to the date of the final 6409
determination. 6410

(ii) The services were payable under division (I) of 6411
section 4123.511 of the Revised Code prior to the date of the 6412

final determination. 6413

(iii) The request for payment is submitted within the time 6414
limit set forth in section 4123.52 of the Revised Code. 6415

(b) Payments made under division (H) (1) of this section 6416
shall be charged to the surplus fund account under division (B) 6417
of section 4123.34 of the Revised Code. If the employer of the 6418
employee who is the subject of a claim described in division (H) 6419
(2) (a) of this section is a state fund employer, the payments 6420
made under that division shall not be charged to the employer's 6421
experience. If that employer is a self-insuring employer, the 6422
self-insuring employer shall deduct the amount from the paid 6423
compensation the self-insuring employer reports to the 6424
administrator under division (L) of section 4123.35 of the 6425
Revised Code. 6426

(c) Division (H) (2) of this section shall apply only to a 6427
claim under this chapter or Chapter 4121., 4127., or 4131. of 6428
the Revised Code arising on or after July 29, 2011, and in the 6429
case of Chapter 4133. of the Revised Code, a claim arising on or 6430
after the effective date of this amendment. 6431

(3) A self-insuring employer may elect to pay compensation 6432
and benefits under this section directly to an employee or an 6433
employee's dependents by filing an application with the bureau 6434
of workers' compensation not more than one hundred eighty days 6435
and not less than ninety days before the first day of the 6436
employer's next six-month coverage period. If the self-insuring 6437
employer timely files the application, the application is 6438
effective on the first day of the employer's next six-month 6439
coverage period, provided that the administrator shall compute 6440
the employer's assessment for the surplus fund account due with 6441
respect to the period during which that application was filed 6442

without regard to the filing of the application. On and after 6443
the effective date of the employer's election, the self-insuring 6444
employer shall pay directly to an employee or to an employee's 6445
dependents compensation and benefits under this section 6446
regardless of the date of the injury or occupational disease, 6447
and the employer shall receive no money or credits from the 6448
surplus fund account on account of those payments and shall not 6449
be required to pay any amounts into the surplus fund account on 6450
account of this section. The election made under this division 6451
is irrevocable. 6452

(I) All actions and proceedings under this section which 6453
are the subject of an appeal to the court of common pleas or the 6454
court of appeals shall be preferred over all other civil actions 6455
except election causes, irrespective of position on the 6456
calendar. 6457

This section applies to all decisions of the commission or 6458
the administrator on November 2, 1959, and all claims filed 6459
thereafter are governed by sections 4123.511 and 4123.512 of the 6460
Revised Code. 6461

Any action pending in common pleas court or any other 6462
court on January 1, 1986, under this section is governed by 6463
former sections 4123.514, 4123.515, 4123.516, and 4123.519 and 6464
section 4123.522 of the Revised Code. 6465

Sec. 4123.522. The employee, employer, and their 6466
respective representatives are entitled to written notice of any 6467
hearing, determination, order, award, or decision under this 6468
chapter and Chapter 4133. of the Revised Code and the 6469
administrator of workers' compensation and ~~his~~ the 6470
administrator's representative are entitled to like notice for 6471
orders issued under divisions (C) and (D) of section 4123.511 6472

and section 4123.512 of the Revised Code. An employee, employer, 6473
or the administrator is deemed not to have received notice until 6474
the notice is received from the industrial commission or its 6475
district or staff hearing officers, the administrator, or the 6476
bureau of workers' compensation by both the employee and ~~his~~ the 6477
employee's representative of record, both the employer and ~~his~~ 6478
the employer's representative of record, and by both the 6479
administrator and ~~his~~ the administrator's representative. 6480

If any person to whom a notice is mailed fails to receive 6481
the notice and the commission, upon hearing, determines that the 6482
failure was due to cause beyond the control and without the 6483
fault or neglect of such person or ~~his~~ the person's 6484
representative and that such person or ~~his~~ the person's 6485
representative did not have actual knowledge of the import of 6486
the information contained in the notice, such person may take 6487
the action afforded to such person within twenty-one days after 6488
the receipt of the notice of such determination of the 6489
commission. Delivery of the notice to the address of the person 6490
or ~~his~~ the person's representative is prima-facie evidence of 6491
receipt of the notice by the person. 6492

Sec. 4123.53. (A) The administrator of workers' 6493
compensation or the industrial commission may require any 6494
employee claiming the right to receive compensation to submit to 6495
a medical examination, vocational evaluation, or vocational 6496
questionnaire at any time, and from time to time, at a place 6497
reasonably convenient for the employee, and as provided by the 6498
rules of the commission or the administrator of workers' 6499
compensation. A claimant required by the commission or 6500
administrator to submit to a medical examination or vocational 6501
evaluation, at a point outside of the place of permanent or 6502
temporary residence of the claimant, as provided in this 6503

section, is entitled to have paid to the claimant by the bureau 6504
of workers' compensation the necessary and actual expenses on 6505
account of the attendance for the medical examination or 6506
vocational evaluation after approval of the expense statement by 6507
the bureau. Under extraordinary circumstances and with the 6508
unanimous approval of the commission, if the commission requires 6509
the medical examination or vocational evaluation, or with the 6510
approval of the administrator, if the administrator requires the 6511
medical examination or vocational evaluation, the bureau shall 6512
pay an injured or diseased employee the necessary, actual, and 6513
authorized expenses of treatment at a point outside the place of 6514
permanent or temporary residence of the claimant. 6515

(B) When an employee initially receives temporary total 6516
disability compensation pursuant to section 4123.56 of the 6517
Revised Code for a consecutive ninety-day period, the 6518
administrator shall refer the employee to the bureau medical 6519
section for a medical examination to determine the employee's 6520
continued entitlement to such compensation, the employee's 6521
rehabilitation potential, and the appropriateness of the medical 6522
treatment the employee is receiving. The bureau medical section 6523
shall conduct the examination not later than thirty days 6524
following the end of the initial ninety-day period. If the 6525
medical examiner, upon an initial or any subsequent examination 6526
recommended by the medical examiner under this division, 6527
determines that the employee is temporarily and totally 6528
impaired, the medical examiner shall recommend a date when the 6529
employee should be reexamined. Upon the issuance of the medical 6530
examination report containing a recommendation for 6531
reexamination, the administrator shall schedule an examination 6532
and, if at the date of reexamination the employee is receiving 6533
temporary total disability compensation, the employee shall be 6534

examined. The administrator shall adopt a rule, pursuant to 6535
Chapter 119. of the Revised Code, permitting employers to waive 6536
the administrator's scheduling of any such examinations. 6537

(C) If an employee refuses to submit to any medical 6538
examination or vocational evaluation scheduled pursuant to this 6539
section or obstructs the same, or refuses to complete and submit 6540
to the bureau or commission a vocational questionnaire within 6541
thirty days after the bureau or commission mails the request to 6542
complete and submit the questionnaire the employee's right to 6543
have ~~his or her~~ the employee's claim for compensation 6544
considered, if the claim is pending before the bureau or 6545
commission, or to receive any payment for compensation 6546
therefore granted, is suspended during the period of the 6547
refusal or obstruction. Notwithstanding this section, an 6548
employee's failure to submit to a medical examination or 6549
vocational evaluation, or to complete and submit a vocational 6550
questionnaire, shall not result in the dismissal of the 6551
employee's claim. 6552

(D) Medical examinations scheduled under this section do 6553
not limit medical examinations provided for in other provisions 6554
of this chapter or Chapter 4121. or 4133. of the Revised Code. 6555

Sec. 4123.54. (A) Except as otherwise provided in this 6556
division or divisions (I) and (K) of this section, every 6557
employee, who is injured or who contracts an occupational 6558
disease, and the dependents of each employee who is killed, or 6559
dies as the result of an occupational disease contracted in the 6560
course of employment, wherever the injury has occurred or 6561
occupational disease has been contracted, is entitled to receive 6562
the compensation for loss sustained on account of the injury, 6563
occupational disease, or death, and the medical, nurse, and 6564

hospital services and medicines, and the amount of funeral 6565
expenses in case of death, as are provided by this chapter and 6566
Chapter 4133. of the Revised Code. The compensation and benefits 6567
shall be provided, as applicable, directly from the employee's 6568
self-insuring employer as provided in section 4123.35 of the 6569
Revised Code or from the state insurance fund. An employee or 6570
dependent is not entitled to receive compensation or benefits 6571
under this division if the employee's injury or occupational 6572
disease is either of the following: 6573

(1) Purposely self-inflicted; 6574

(2) Caused by the employee being intoxicated, under the 6575
influence of a controlled substance not prescribed by a 6576
physician, or under the influence of marihuana if being 6577
intoxicated, under the influence of a controlled substance not 6578
prescribed by a physician, or under the influence of marihuana 6579
was the proximate cause of the injury. 6580

(B) For the purpose of this section, provided that an 6581
employer has posted written notice to employees that the results 6582
of, or the employee's refusal to submit to, any chemical test 6583
described under this division may affect the employee's 6584
eligibility for compensation and benefits pursuant to this 6585
chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 6586
Code, there is a rebuttable presumption that an employee is 6587
intoxicated, under the influence of a controlled substance not 6588
prescribed by the employee's physician, or under the influence 6589
of marihuana and that being intoxicated, under the influence of 6590
a controlled substance not prescribed by the employee's 6591
physician, or under the influence of marihuana is the proximate 6592
cause of an injury under either of the following conditions: 6593

(1) When any one or more of the following is true: 6594

(a) The employee, through a qualifying chemical test 6595
administered within eight hours of an injury, is determined to 6596
have an alcohol concentration level equal to or in excess of the 6597
levels established in divisions (A) (1) (b) to (i) of section 6598
4511.19 of the Revised Code; 6599

(b) The employee, through a qualifying chemical test 6600
administered within thirty-two hours of an injury, is determined 6601
to have one of the following controlled substances not 6602
prescribed by the employee's physician or marihuana in the 6603
employee's system that tests above the following levels in an 6604
enzyme multiplied immunoassay technique screening test and above 6605
the levels established in division (B) (1) (c) of this section in 6606
a gas chromatography mass spectrometry test: 6607

(i) For amphetamines, one thousand nanograms per 6608
milliliter of urine; 6609

(ii) For cannabinoids, fifty nanograms per milliliter of 6610
urine; 6611

(iii) For cocaine, including crack cocaine, three hundred 6612
nanograms per milliliter of urine; 6613

(iv) For opiates, two thousand nanograms per milliliter of 6614
urine; 6615

(v) For phencyclidine, twenty-five nanograms per 6616
milliliter of urine. 6617

(c) The employee, through a qualifying chemical test 6618
administered within thirty-two hours of an injury, is determined 6619
to have one of the following controlled substances not 6620
prescribed by the employee's physician or marihuana in the 6621
employee's system that tests above the following levels by a gas 6622
chromatography mass spectrometry test: 6623

(i) For amphetamines, five hundred nanograms per milliliter of urine; 6624
6625

(ii) For cannabinoids, fifteen nanograms per milliliter of urine; 6626
6627

(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine; 6628
6629

(iv) For opiates, two thousand nanograms per milliliter of urine; 6630
6631

(v) For phencyclidine, twenty-five nanograms per milliliter of urine. 6632
6633

(d) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, methadone, or propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services. 6634
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(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B) (1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised Code. 6640
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(C) (1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions: 6647
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6650

(a) When the employee's employer had reasonable cause to 6651

suspect that the employee may be intoxicated, under the 6652
influence of a controlled substance not prescribed by the 6653
employee's physician, or under the influence of marihuana; 6654

(b) At the request of a police officer pursuant to section 6655
4511.191 of the Revised Code, and not at the request of the 6656
employee's employer; 6657

(c) At the request of a licensed physician who is not 6658
employed by the employee's employer, and not at the request of 6659
the employee's employer. 6660

(2) As used in division (C) (1) (a) of this section, 6661
"reasonable cause" means, but is not limited to, evidence that 6662
an employee is or was using alcohol, a controlled substance, or 6663
marihuana drawn from specific, objective facts and reasonable 6664
inferences drawn from these facts in light of experience and 6665
training. These facts and inferences may be based on, but are 6666
not limited to, any of the following: 6667

(a) Observable phenomena, such as direct observation of 6668
use, possession, or distribution of alcohol, a controlled 6669
substance, or marihuana, or of the physical symptoms of being 6670
under the influence of alcohol, a controlled substance, or 6671
marihuana, such as but not limited to slurred speech; dilated 6672
pupils; odor of alcohol, a controlled substance, or marihuana; 6673
changes in affect; or dynamic mood swings; 6674

(b) A pattern of abnormal conduct, erratic or aberrant 6675
behavior, or deteriorating work performance such as frequent 6676
absenteeism, excessive tardiness, or recurrent accidents, that 6677
appears to be related to the use of alcohol, a controlled 6678
substance, or marihuana, and does not appear to be attributable 6679
to other factors; 6680

(c) The identification of an employee as the focus of a criminal investigation into unauthorized possession, use, or trafficking of a controlled substance or marihuana;

(d) A report of use of alcohol, a controlled substance, or marihuana provided by a reliable and credible source;

(e) Repeated or flagrant violations of the safety or work rules of the employee's employer, that are determined by the employee's supervisor to pose a substantial risk of physical injury or property damage and that appear to be related to the use of alcohol, a controlled substance, or marihuana and that do not appear attributable to other factors.

(D) Nothing in this section shall be construed to affect the rights of an employer to test employees for alcohol or controlled substance abuse.

(E) For the purpose of this section, laboratories certified by the United States department of health and human services or laboratories that meet or exceed the standards of that department for laboratory certification shall be used for processing the test results of a qualifying chemical test.

(F) The written notice required by division (B) of this section shall be the same size or larger than the proof of workers' compensation coverage furnished by the bureau of workers' compensation and shall be posted by the employer in the same location as the proof of workers' compensation coverage or the certificate of self-insurance.

(G) If a condition that pre-existed an injury is substantially aggravated by the injury, and that substantial aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results, no

compensation or benefits are payable because of the pre-existing 6710
condition once that condition has returned to a level that would 6711
have existed without the injury. 6712

(H) (1) Whenever, with respect to an employee of an 6713
employer who is subject to and has complied with this chapter 6714
and Chapter 4133. of the Revised Code, there is possibility of 6715
conflict with respect to the application of workers' 6716
compensation laws because the contract of employment is entered 6717
into and all or some portion of the work is or is to be 6718
performed in a state or states other than Ohio, the employer and 6719
the employee may agree to be bound by the laws of this state or 6720
by the laws of some other state in which all or some portion of 6721
the work of the employee is to be performed. The agreement shall 6722
be in writing and shall be filed with the bureau of workers' 6723
compensation within ten days after it is executed and shall 6724
remain in force until terminated or modified by agreement of the 6725
parties similarly filed. If the agreement is to be bound by the 6726
laws of this state and the employer has complied with this 6727
chapter and Chapter 4133. of the Revised Code, then the employee 6728
is entitled to compensation and benefits regardless of where the 6729
injury occurs or the disease is contracted and the rights of the 6730
employee and the employee's dependents under the laws of this 6731
state are the exclusive remedy against the employer on account 6732
of injury, disease, or death in the course of and arising out of 6733
the employee's employment. If the agreement is to be bound by 6734
the laws of another state and the employer has complied with the 6735
laws of that state, the rights of the employee and the 6736
employee's dependents under the laws of that state are the 6737
exclusive remedy against the employer on account of injury, 6738
disease, or death in the course of and arising out of the 6739
employee's employment without regard to the place where the 6740

injury was sustained or the disease contracted. If an employer 6741
and an employee enter into an agreement under this division, the 6742
fact that the employer and the employee entered into that 6743
agreement shall not be construed to change the status of an 6744
employee whose continued employment is subject to the will of 6745
the employer or the employee, unless the agreement contains a 6746
provision that expressly changes that status. 6747

(2) If an employee or the employee's dependents receive an 6748
award of compensation or benefits under this chapter or Chapter 6749
4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code for the 6750
same injury, occupational disease, or death for which the 6751
employee or the employee's dependents previously pursued or 6752
otherwise elected to accept workers' compensation benefits and 6753
received a decision on the merits as defined in section 4123.542 6754
of the Revised Code under the laws of another state or recovered 6755
damages under the laws of another state, the claim shall be 6756
disallowed and the administrator or any self-insuring employer, 6757
by any lawful means, may collect from the employee or the 6758
employee's dependents any of the following: 6759

(a) The amount of compensation or benefits paid to or on 6760
behalf of the employee or the employee's dependents by the 6761
administrator or a self-insuring employer pursuant to this 6762
chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the 6763
Revised Code for that award; 6764

(b) Any interest, attorney's fees, and costs the 6765
administrator or the self-insuring employer incurs in collecting 6766
that payment. 6767

(3) If an employee or the employee's dependents receive an 6768
award of compensation or benefits under this chapter or Chapter 6769
4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code and 6770

subsequently pursue or otherwise elect to accept workers' 6771
compensation benefits or damages under the laws of another state 6772
for the same injury, occupational disease, or death the claim 6773
under this chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. 6774
of the Revised Code shall be disallowed. The administrator or a 6775
self-insuring employer, by any lawful means, may collect from 6776
the employee or the employee's dependents or other-states' 6777
insurer any of the following: 6778

(a) The amount of compensation or benefits paid to or on 6779
behalf of the employee or the employee's dependents by the 6780
administrator or the self-insuring employer pursuant to this 6781
chapter or Chapter 4121., 4127., ~~or 4131.~~, or 4133. of the 6782
Revised Code for that award; 6783

(b) Any interest, costs, and attorney's fees the 6784
administrator or the self-insuring employer incurs in collecting 6785
that payment; 6786

(c) Any costs incurred by an employer in contesting or 6787
responding to any claim filed by the employee or the employee's 6788
dependents for the same injury, occupational disease, or death 6789
that was filed after the original claim for which the employee 6790
or the employee's dependents received a decision on the merits 6791
as described in section 4123.542 of the Revised Code. 6792

(4) If the employee's employer pays premiums into the 6793
state insurance fund, the administrator shall not charge the 6794
amount of compensation or benefits the administrator collects 6795
pursuant to division (H) (2) or (3) of this section to the 6796
employer's experience. If the administrator collects any costs 6797
incurred by an employer in contesting or responding to any claim 6798
pursuant to division (H) (2) or (3) of this section, the 6799
administrator shall forward the amount collected to that 6800

employer. If the employee's employer is a self-insuring 6801
employer, the self-insuring employer shall deduct the amount of 6802
compensation or benefits the self-insuring employer collects 6803
pursuant to this division from the paid compensation the self- 6804
insuring employer reports to the administrator under division 6805
(L) of section 4123.35 of the Revised Code. 6806

(5) If an employee is a resident of a state other than 6807
this state and is insured under the workers' compensation law or 6808
similar laws of a state other than this state, the employee and 6809
the employee's dependents are not entitled to receive 6810
compensation or benefits under this chapter or Chapter 4133. of 6811
the Revised Code, on account of injury, disease, or death 6812
arising out of or in the course of employment while temporarily 6813
within this state, and the rights of the employee and the 6814
employee's dependents under the laws of the other state are the 6815
exclusive remedy against the employer on account of the injury, 6816
disease, or death. 6817

(6) An employee, or the dependent of an employee, who 6818
elects to receive compensation and benefits under this chapter 6819
or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code 6820
for a claim may not receive compensation and benefits under the 6821
workers' compensation laws of any state other than this state 6822
for that same claim. For each claim submitted by or on behalf of 6823
an employee, the administrator or, if the employee is employed 6824
by a self-insuring employer, the self-insuring employer, shall 6825
request the employee or the employee's dependent to sign an 6826
election that affirms the employee's or employee's dependent's 6827
acceptance of electing to receive compensation and benefits 6828
under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. 6829
of the Revised Code for that claim that also affirmatively 6830
waives and releases the employee's or the employee's dependent's 6831

right to file for and receive compensation and benefits under 6832
the laws of any state other than this state for that claim. The 6833
employee or employee's dependent shall sign the election form 6834
within twenty-eight days after the administrator or self- 6835
insuring employer submits the request or the administrator or 6836
self-insuring employer shall dismiss that claim. 6837

In the event a workers' compensation claim has been filed 6838
in another jurisdiction on behalf of an employee or the 6839
dependents of an employee, and the employee or dependents 6840
subsequently elect to receive compensation, benefits, or both 6841
under this chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. 6842
of the Revised Code, the employee or dependent shall withdraw or 6843
refuse acceptance of the workers' compensation claim filed in 6844
the other jurisdiction in order to pursue compensation or 6845
benefits under the laws of this state. If the employee or 6846
dependents were awarded workers' compensation benefits or had 6847
recovered damages under the laws of the other state, any 6848
compensation and benefits awarded under this chapter or Chapter 6849
4121., 4127., ~~or 4131.~~ or 4133. of the Revised Code shall be 6850
paid only to the extent to which those payments exceed the 6851
amounts paid under the laws of the other state. If the employee 6852
or dependent fails to withdraw or to refuse acceptance of the 6853
workers' compensation claim in the other jurisdiction within 6854
twenty-eight days after a request made by the administrator or a 6855
self-insuring employer, the administrator or self-insuring 6856
employer shall dismiss the employee's or employee's dependents' 6857
claim made in this state. 6858

(I) If an employee who is covered under the federal 6859
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 6860
33 U.S.C. 901 et seq., is injured or contracts an occupational 6861
disease or dies as a result of an injury or occupational 6862

disease, and if that employee's or that employee's dependents' 6863
claim for compensation or benefits for that injury, occupational 6864
disease, or death is subject to the jurisdiction of that act, 6865
the employee or the employee's dependents are not entitled to 6866
apply for and shall not receive compensation or benefits under 6867
this chapter and ~~Chapter~~ Chapters 4121. and 4133. of the Revised 6868
Code. The rights of such an employee and the employee's 6869
dependents under the federal "Longshore and Harbor Workers' 6870
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the 6871
exclusive remedy against the employer for that injury, 6872
occupational disease, or death. 6873

(J) Compensation or benefits are not payable to a claimant 6874
during the period of confinement of the claimant in any state or 6875
federal correctional institution, or in any county jail in lieu 6876
of incarceration in a state or federal correctional institution, 6877
whether in this or any other state for conviction of violation 6878
of any state or federal criminal law. 6879

(K) An employer, upon the approval of the administrator, 6880
may provide for workers' compensation coverage for the 6881
employer's employees who are professional athletes and coaches 6882
by submitting to the administrator proof of coverage under a 6883
league policy issued under the laws of another state under 6884
either of the following circumstances: 6885

(1) The employer administers the payroll and workers' 6886
compensation insurance for a professional sports team subject to 6887
a collective bargaining agreement, and the collective bargaining 6888
agreement provides for the uniform administration of workers' 6889
compensation benefits and compensation for professional 6890
athletes. 6891

(2) The employer is a professional sports league, or is a 6892

member team of a professional sports league, and all of the 6893
following apply: 6894

(a) The professional sports league operates as a single 6895
entity, whereby all of the players and coaches of the sports 6896
league are employees of the sports league and not of the 6897
individual member teams. 6898

(b) The professional sports league at all times maintains 6899
workers' compensation insurance that provides coverage for the 6900
players and coaches of the sports league. 6901

(c) Each individual member team of the professional sports 6902
league, pursuant to the organizational or operating documents of 6903
the sports league, is obligated to the sports league to pay to 6904
the sports league any workers' compensation claims that are not 6905
covered by the workers' compensation insurance maintained by the 6906
sports league. 6907

If the administrator approves the employer's proof of 6908
coverage submitted under division (K) of this section, a 6909
professional athlete or coach who is an employee of the employer 6910
and the dependents of the professional athlete or coach are not 6911
entitled to apply for and shall not receive compensation or 6912
benefits under this chapter and ~~Chapter~~ Chapters 4121. and 4133. 6913
of the Revised Code. The rights of such an athlete or coach and 6914
the dependents of such an athlete or coach under the laws of the 6915
state where the policy was issued are the exclusive remedy 6916
against the employer for the athlete or coach if the athlete or 6917
coach suffers an injury or contracts an occupational disease in 6918
the course of employment, or for the dependents of the athlete 6919
or the coach if the athlete or coach is killed as a result of an 6920
injury or dies as a result of an occupational disease, 6921
regardless of the location where the injury was suffered or the 6922

occupational disease was contracted. 6923

Sec. 4123.542. An employee or the dependents of an 6924
employee who receive a decision on the merits of a claim for 6925
compensation or benefits under this chapter or Chapter 4121., 6926
4127., ~~or 4131.~~ or 4133. of the Revised Code shall not file a 6927
claim for the same injury, occupational disease, or death in 6928
another state under the workers' compensation laws of that 6929
state. Except as otherwise provided in division (H) of section 6930
4123.54 of the Revised Code, an employee or the employee's 6931
dependents who receive a decision on the merits of a claim for 6932
compensation or benefits under the workers' compensation laws of 6933
another state shall not file a claim for compensation and 6934
benefits under this chapter or Chapter 4121., 4127., ~~or 4131.~~ 6935
or 4133. of the Revised Code for the same injury, occupational 6936
disease, or death. 6937

As used in this section, "a decision on the merits" means 6938
a decision determined or adjudicated for compensability of a 6939
claim and not on jurisdictional grounds. 6940

Sec. 4123.57. Partial disability compensation shall be 6941
paid as follows. 6942

Except as provided in this section, not earlier than 6943
twenty-six weeks after the date of termination of the latest 6944
period of payments under section 4123.56 of the Revised Code, or 6945
not earlier than twenty-six weeks after the date of the injury 6946
or contraction of an occupational disease in the absence of 6947
payments under section 4123.56 of the Revised Code, the employee 6948
may file an application with the bureau of workers' compensation 6949
for the determination of the percentage of the employee's 6950
permanent partial disability resulting from an injury or 6951
occupational disease. 6952

Whenever the application is filed, the bureau shall send a 6953
copy of the application to the employee's employer or the 6954
employer's representative and shall schedule the employee for a 6955
medical examination by the bureau medical section. The bureau 6956
shall send a copy of the report of the medical examination to 6957
the employee, the employer, and their representatives. 6958
Thereafter, the administrator of workers' compensation shall 6959
review the employee's claim file and make a tentative order as 6960
the evidence before the administrator at the time of the making 6961
of the order warrants. If the administrator determines that 6962
there is a conflict of evidence, the administrator shall send 6963
the application, along with the claimant's file, to the district 6964
hearing officer who shall set the application for a hearing. 6965

The administrator shall notify the employee, the employer, 6966
and their representatives, in writing, of the tentative order 6967
and of the parties' right to request a hearing. Unless the 6968
employee, the employer, or their representative notifies the 6969
administrator, in writing, of an objection to the tentative 6970
order within twenty days after receipt of the notice thereof, 6971
the tentative order shall go into effect and the employee shall 6972
receive the compensation provided in the order. In no event 6973
shall there be a reconsideration of a tentative order issued 6974
under this division. 6975

If the employee, the employer, or their representatives 6976
timely notify the administrator of an objection to the tentative 6977
order, the matter shall be referred to a district hearing 6978
officer who shall set the application for hearing with written 6979
notices to all interested persons. Upon referral to a district 6980
hearing officer, the employer may obtain a medical examination 6981
of the employee, pursuant to rules of the industrial commission. 6982

(A) The district hearing officer, upon the application, 6983
shall determine the percentage of the employee's permanent 6984
disability, except as is subject to division (B) of this 6985
section, based upon that condition of the employee resulting 6986
from the injury or occupational disease and causing permanent 6987
impairment evidenced by medical or clinical findings reasonably 6988
demonstrable. The employee shall receive sixty-six and two- 6989
thirds per cent of the employee's average weekly wage, but not 6990
more than a maximum of thirty-three and one-third per cent of 6991
the statewide average weekly wage as defined in division (C) of 6992
section 4123.62 of the Revised Code, per week regardless of the 6993
average weekly wage, for the number of weeks which equals the 6994
percentage of two hundred weeks. Except on application for 6995
reconsideration, review, or modification, which is filed within 6996
ten days after the date of receipt of the decision of the 6997
district hearing officer, in no instance shall the former award 6998
be modified unless it is found from medical or clinical findings 6999
that the condition of the claimant resulting from the injury has 7000
so progressed as to have increased the percentage of permanent 7001
partial disability. A staff hearing officer shall hear an 7002
application for reconsideration filed and the staff hearing 7003
officer's decision is final. An employee may file an application 7004
for a subsequent determination of the percentage of the 7005
employee's permanent disability. If such an application is 7006
filed, the bureau shall send a copy of the application to the 7007
employer or the employer's representative. No sooner than sixty 7008
days from the date of the mailing of the application to the 7009
employer or the employer's representative, the administrator 7010
shall review the application. The administrator may require a 7011
medical examination or medical review of the employee. The 7012
administrator shall issue a tentative order based upon the 7013
evidence before the administrator, provided that if the 7014

administrator requires a medical examination or medical review, 7015
the administrator shall not issue the tentative order until the 7016
completion of the examination or review. 7017

The employer may obtain a medical examination of the 7018
employee and may submit medical evidence at any stage of the 7019
process up to a hearing before the district hearing officer, 7020
pursuant to rules of the commission. The administrator shall 7021
notify the employee, the employer, and their representatives, in 7022
writing, of the nature and amount of any tentative order issued 7023
on an application requesting a subsequent determination of the 7024
percentage of an employee's permanent disability. An employee, 7025
employer, or their representatives may object to the tentative 7026
order within twenty days after the receipt of the notice 7027
thereof. If no timely objection is made, the tentative order 7028
shall go into effect. In no event shall there be a 7029
reconsideration of a tentative order issued under this division. 7030
If an objection is timely made, the application for a subsequent 7031
determination shall be referred to a district hearing officer 7032
who shall set the application for a hearing with written notice 7033
to all interested persons. No application for subsequent 7034
percentage determinations on the same claim for injury or 7035
occupational disease shall be accepted for review by the 7036
district hearing officer unless supported by substantial 7037
evidence of new and changed circumstances developing since the 7038
time of the hearing on the original or last determination. 7039

No award shall be made under this division based upon a 7040
percentage of disability which, when taken with all other 7041
percentages of permanent disability, exceeds one hundred per 7042
cent. If the percentage of the permanent disability of the 7043
employee equals or exceeds ninety per cent, compensation for 7044
permanent partial disability shall be paid for two hundred 7045

weeks. 7046

Compensation payable under this division accrues and is 7047
payable to the employee from the date of last payment of 7048
compensation, or, in cases where no previous compensation has 7049
been paid, from the date of the injury or the date of the 7050
diagnosis of the occupational disease. 7051

When an award under this division has been made prior to 7052
the death of an employee, all unpaid installments accrued or to 7053
accrue under the provisions of the award are payable to the 7054
surviving spouse, or if there is no surviving spouse, to the 7055
dependent children of the employee, and if there are no children 7056
surviving, then to other dependents as the administrator 7057
determines. 7058

(B) For purposes of this division, "payable per week" 7059
means the seven-consecutive-day period in which compensation is 7060
paid in installments according to the schedule associated with 7061
the applicable injury as set forth in this division. 7062

Compensation paid in weekly installments according to the 7063
schedule described in this division may only be commuted to one 7064
or more lump sum payments pursuant to the procedure set forth in 7065
section 4123.64 of the Revised Code. 7066

In cases included in the following schedule the 7067
compensation payable per week to the employee is the statewide 7068
average weekly wage as defined in division (C) of section 7069
4123.62 of the Revised Code per week and shall be paid in 7070
installments according to the following schedule: 7071

For the loss of a first finger, commonly known as a thumb, 7072
sixty weeks. 7073

For the loss of a second finger, commonly called index 7074

finger, thirty-five weeks.	7075
For the loss of a third finger, thirty weeks.	7076
For the loss of a fourth finger, twenty weeks.	7077
For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.	7078 7079
The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.	7080 7081 7082 7083
The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	7084 7085
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	7086 7087
The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.	7088 7089 7090 7091 7092
For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.	7093 7094 7095
For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.	7096 7097 7098 7099
If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the	7100 7101

claimant's employment in the course of which the claimant was 7102
working at the time of the injury or occupational disease is 7103
such that the handicap or disability resulting from the loss of 7104
fingers, or loss of use of fingers, exceeds the normal handicap 7105
or disability resulting from the loss of fingers, or loss of use 7106
of fingers, the administrator may take that fact into 7107
consideration and increase the award of compensation 7108
accordingly, but the award made shall not exceed the amount of 7109
compensation for loss of a hand. 7110

For the loss of a hand, one hundred seventy-five weeks. 7111

For the loss of an arm, two hundred twenty-five weeks. 7112

For the loss of a great toe, thirty weeks. 7113

For the loss of one of the toes other than the great toe, 7114
ten weeks. 7115

The loss of more than two-thirds of any toe is considered 7116
equal to the loss of the whole toe. 7117

The loss of less than two-thirds of any toe is considered 7118
no loss, except as to the great toe; the loss of the great toe 7119
up to the interphalangeal joint is co-equal to the loss of one- 7120
half of the great toe; the loss of the great toe beyond the 7121
interphalangeal joint is considered equal to the loss of the 7122
whole great toe. 7123

For the loss of a foot, one hundred fifty weeks. 7124

For the loss of a leg, two hundred weeks. 7125

For the loss of the sight of an eye, one hundred twenty- 7126
five weeks. 7127

For the permanent partial loss of sight of an eye, the 7128

portion of one hundred twenty-five weeks as the administrator in 7129
each case determines, based upon the percentage of vision 7130
actually lost as a result of the injury or occupational disease, 7131
but, in no case shall an award of compensation be made for less 7132
than twenty-five per cent loss of uncorrected vision. "Loss of 7133
uncorrected vision" means the percentage of vision actually lost 7134
as the result of the injury or occupational disease. 7135

For the permanent and total loss of hearing of one ear, 7136
twenty-five weeks; but in no case shall an award of compensation 7137
be made for less than permanent and total loss of hearing of one 7138
ear. 7139

For the permanent and total loss of hearing, one hundred 7140
twenty-five weeks; but, except pursuant to the next preceding 7141
paragraph, in no case shall an award of compensation be made for 7142
less than permanent and total loss of hearing. 7143

In case an injury or occupational disease results in 7144
serious facial or head disfigurement which either impairs or may 7145
in the future impair the opportunities to secure or retain 7146
employment, the administrator shall make an award of 7147
compensation as it deems proper and equitable, in view of the 7148
nature of the disfigurement, and not to exceed the sum of ten 7149
thousand dollars. For the purpose of making the award, it is not 7150
material whether the employee is gainfully employed in any 7151
occupation or trade at the time of the administrator's 7152
determination. 7153

When an award under this division has been made prior to 7154
the death of an employee all unpaid installments accrued or to 7155
accrue under the provisions of the award shall be payable to the 7156
surviving spouse, or if there is no surviving spouse, to the 7157
dependent children of the employee and if there are no such 7158

children, then to such dependents as the administrator 7159
determines. 7160

When an employee has sustained the loss of a member by 7161
severance, but no award has been made on account thereof prior 7162
to the employee's death, the administrator shall make an award 7163
in accordance with this division for the loss which shall be 7164
payable to the surviving spouse, or if there is no surviving 7165
spouse, to the dependent children of the employee and if there 7166
are no such children, then to such dependents as the 7167
administrator determines. 7168

(C) Compensation for partial impairment under divisions 7169
(A) and (B) of this section is in addition to the compensation 7170
paid the employee pursuant to section 4123.56 of the Revised 7171
Code. A claimant may receive compensation under divisions (A) 7172
and (B) of this section. 7173

In all cases arising under division (B) of this section, 7174
if it is determined by any one of the following: (1) the amputee 7175
clinic at University hospital, Ohio state university; (2) the 7176
opportunities for Ohioans with disabilities agency; (3) an 7177
amputee clinic or prescribing physician approved by the 7178
administrator or the administrator's designee, that an injured 7179
or disabled employee is in need of an artificial appliance, or 7180
in need of a repair thereof, regardless of whether the appliance 7181
or its repair will be serviceable in the vocational 7182
rehabilitation of the injured employee, and regardless of 7183
whether the employee has returned to or can ever again return to 7184
any gainful employment, the bureau shall pay the cost of the 7185
artificial appliance or its repair out of the surplus created by 7186
division (B) of section 4123.34 of the Revised Code. 7187

In those cases where an opportunities for Ohioans with 7188

disabilities agency's recommendation that an injured or disabled 7189
employee is in need of an artificial appliance would conflict 7190
with their state plan, adopted pursuant to the "Rehabilitation 7191
Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator 7192
or the administrator's designee or the bureau may obtain a 7193
recommendation from an amputee clinic or prescribing physician 7194
that they determine appropriate. 7195

~~(D) If an employee of a state fund employer makes 7196
application for a finding and the administrator finds that the 7197
employee has contracted silicosis as defined in division (Y), or 7198
coal miners' pneumoconiosis as defined in division (Z), or 7199
asbestosis as defined in division (BB) of section 4123.68 of the 7200
Revised Code, and that a change of such employee's occupation is 7201
medically advisable in order to decrease substantially further 7202
exposure to silica dust, asbestos, or coal dust and if the 7203
employee, after the finding, has changed or shall change the 7204
employee's occupation to an occupation in which the exposure to 7205
silica dust, asbestos, or coal dust is substantially decreased, 7206
the administrator shall allow to the employee an amount equal to 7207
fifty per cent of the statewide average weekly wage per week for 7208
a period of thirty weeks, commencing as of the date of the 7209
discontinuance or change, and for a period of one hundred weeks 7210
immediately following the expiration of the period of thirty 7211
weeks, the employee shall receive sixty six and two thirds per 7212
cent of the loss of wages resulting directly and solely from the 7213
change of occupation but not to exceed a maximum of an amount 7214
equal to fifty per cent of the statewide average weekly wage per 7215
week. No such employee is entitled to receive more than one 7216
allowance on account of discontinuance of employment or change 7217
of occupation and benefits shall cease for any period during 7218
which the employee is employed in an occupation in which the 7219~~

~~exposure to silica dust, asbestos, or coal dust is not~~ 7220
~~substantially less than the exposure in the occupation in which~~ 7221
~~the employee was formerly employed or for any period during~~ 7222
~~which the employee may be entitled to receive compensation or~~ 7223
~~benefits under section 4123.68 of the Revised Code on account of~~ 7224
~~disability from silicosis, asbestosis, or coal miners'~~ 7225
~~pneumoconiosis. An award for change of occupation for a coal~~ 7226
~~miner who has contracted coal miners' pneumoconiosis may be~~ 7227
~~granted under this division even though the coal miner continues~~ 7228
~~employment with the same employer, so long as the coal miner's~~ 7229
~~employment subsequent to the change is such that the coal~~ 7230
~~miner's exposure to coal dust is substantially decreased and a~~ 7231
~~change of occupation is certified by the claimant as permanent.~~ 7232
~~The administrator may accord to the employee medical and other~~ 7233
~~benefits in accordance with section 4123.66 of the Revised Code.~~ 7234

~~(E)~~ If a firefighter or police officer makes application 7235
for a finding and the administrator finds that the firefighter 7236
or police officer has contracted a cardiovascular and pulmonary 7237
disease as defined in division (W) of section 4123.68 of the 7238
Revised Code, and that a change of the firefighter's or police 7239
officer's occupation is medically advisable in order to decrease 7240
substantially further exposure to smoke, toxic gases, chemical 7241
fumes, and other toxic vapors, and if the firefighter, or police 7242
officer, after the finding, has changed or changes occupation to 7243
an occupation in which the exposure to smoke, toxic gases, 7244
chemical fumes, and other toxic vapors is substantially 7245
decreased, the administrator shall allow to the firefighter or 7246
police officer an amount equal to fifty per cent of the 7247
statewide average weekly wage per week for a period of thirty 7248
weeks, commencing as of the date of the discontinuance or 7249
change, and for a period of seventy-five weeks immediately 7250

following the expiration of the period of thirty weeks the 7251
administrator shall allow the firefighter or police officer 7252
sixty-six and two-thirds per cent of the loss of wages resulting 7253
directly and solely from the change of occupation but not to 7254
exceed a maximum of an amount equal to fifty per cent of the 7255
statewide average weekly wage per week. No such firefighter or 7256
police officer is entitled to receive more than one allowance on 7257
account of discontinuance of employment or change of occupation 7258
and benefits shall cease for any period during which the 7259
firefighter or police officer is employed in an occupation in 7260
which the exposure to smoke, toxic gases, chemical fumes, and 7261
other toxic vapors is not substantially less than the exposure 7262
in the occupation in which the firefighter or police officer was 7263
formerly employed or for any period during which the firefighter 7264
or police officer may be entitled to receive compensation or 7265
benefits under section 4123.68 of the Revised Code on account of 7266
disability from a cardiovascular and pulmonary disease. The 7267
administrator may accord to the firefighter or police officer 7268
medical and other benefits in accordance with section 4123.66 of 7269
the Revised Code. 7270

~~(F)~~ (E) An order issued under this section is appealable 7271
pursuant to section 4123.511 of the Revised Code but is not 7272
appealable to court under section 4123.512 of the Revised Code. 7273

Sec. 4123.571. In connection with the procedural and 7274
remedial rights of employees, all claims which have accrued 7275
prior to ~~the effective date of this act~~ November 2, 1959, 7276
whether or not an application for claim has been filed, or 7277
whether or not jurisdiction has been established or whether or 7278
not an application for an award under divisions (A), (B), or 7279
(C), ~~or (D)~~ of section 4123.57 of the Revised Code has been 7280
filed shall be governed by the provisions of section 4123.57 of 7281

the Revised Code, as amended by this act. 7282

Sec. 4123.65. (A) A state fund employer or the employee of 7283
such an employer may file an application with the administrator 7284
of workers' compensation for approval of a final settlement of a 7285
claim under this chapter or Chapter 4133. of the Revised Code. 7286
The application shall include the settlement agreement, and 7287
except as otherwise specified in this division, be signed by the 7288
claimant and employer, and clearly set forth the circumstances 7289
by reason of which the proposed settlement is deemed desirable 7290
and that the parties agree to the terms of the settlement 7291
agreement. A claimant may file an application without an 7292
employer's signature in the following situations: 7293

(1) The employer is no longer doing business in Ohio; 7294

(2) The claim no longer is in the employer's industrial 7295
accident or occupational disease experience as provided in 7296
division (B) of section 4123.34 of the Revised Code and the 7297
claimant no longer is employed with that employer; 7298

(3) The employer has failed to comply with section 4123.35 7299
of the Revised Code. 7300

If a claimant files an application without an employer's 7301
signature, and the employer still is doing business in this 7302
state, the administrator shall send written notice of the 7303
application to the employer immediately upon receipt of the 7304
application. If the employer fails to respond to the notice 7305
within thirty days after the notice is sent, the application 7306
need not contain the employer's signature. 7307

If a state fund employer or an employee of such an 7308
employer has not filed an application for a final settlement 7309
under this division, the administrator may file an application 7310

on behalf of the employer or the employee, provided that the 7311
administrator gives notice of the filing to the employer and the 7312
employee and to the representative of record of the employer and 7313
of the employee immediately upon the filing. An application 7314
filed by the administrator shall contain all of the information 7315
and signatures required of an employer or an employee who files 7316
an application under this division. Every self-insuring employer 7317
that enters into a final settlement agreement with an employee 7318
shall mail, within seven days of executing the agreement, a copy 7319
of the agreement to the administrator and the employee's 7320
representative. The administrator shall place the agreement into 7321
the claimant's file. 7322

(B) Except as provided in divisions (C) and (D) of this 7323
section, a settlement agreed to under this section is binding 7324
upon all parties thereto and as to items, injuries, and 7325
occupational diseases to which the settlement applies. 7326

(C) No settlement agreed to under division (A) of this 7327
section or agreed to by a self-insuring employer and the self- 7328
insuring employer's employee shall take effect until thirty days 7329
after the administrator approves the settlement for state fund 7330
employees and employers, or after the self-insuring employer and 7331
employee sign the final settlement agreement. During the thirty- 7332
day period, the employer, employee, or administrator, for state 7333
fund settlements, and the employer or employee, for self- 7334
insuring settlements, may withdraw consent to the settlement by 7335
an employer providing written notice to the employer's employee 7336
and the administrator or by an employee providing written notice 7337
to the employee's employer and the administrator, or by the 7338
administrator providing written notice to the state fund 7339
employer and employee. If an employee dies during the thirty-day 7340
waiting period following the approval of a settlement, the 7341

settlement can be voided by any party for good cause shown. 7342

(D) At the time of agreement to any final settlement 7343
agreement under division (A) of this section or agreement 7344
between a self-insuring employer and the self-insuring 7345
employer's employee, the administrator, for state fund 7346
settlements, and the self-insuring employer, for self-insuring 7347
settlements, immediately shall send a copy of the agreement to 7348
the industrial commission who shall assign the matter to a staff 7349
hearing officer. The staff hearing officer shall determine, 7350
within the time limitations specified in division (C) of this 7351
section, whether the settlement agreement is or is not a gross 7352
miscarriage of justice. If the staff hearing officer determines 7353
within that time period that the settlement agreement is clearly 7354
unfair, the staff hearing officer shall issue an order 7355
disapproving the settlement agreement. If the staff hearing 7356
officer determines that the settlement agreement is not clearly 7357
unfair or fails to act within those time limits, the settlement 7358
agreement is approved. 7359

(E) A settlement entered into under this section may 7360
pertain to one or more claims of a claimant, or one or more 7361
parts of a claim, or the compensation or benefits pertaining to 7362
either, or any combination thereof, provided that nothing in 7363
this section shall be interpreted to require a claimant to enter 7364
into a settlement agreement for every claim that has been filed 7365
with the bureau of workers' compensation by that claimant under 7366
Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. of the Revised 7367
Code. 7368

(F) A settlement entered into under this section is not 7369
appealable under section 4123.511 or 4123.512 of the Revised 7370
Code. 7371

Sec. 4123.651. (A) The employer of a claimant who is 7372
injured or disabled in the course of ~~his~~ the claimant's 7373
employment may require, without the approval of the 7374
administrator or the industrial commission, that the claimant be 7375
examined by a physician of the employer's choice one time upon 7376
any issue asserted by the employee or a physician of the 7377
employee's choice or which is to be considered by the 7378
commission. Any further requests for medical examinations shall 7379
be made to the commission which shall consider and rule on the 7380
request. The employer shall pay the cost of any examinations 7381
initiated by the employer. 7382

(B) The bureau of workers' compensation shall prepare a 7383
form for the release of medical information, records, and 7384
reports relative to the issues necessary for the administration 7385
of a claim under this chapter or Chapter 4133. of the Revised 7386
Code. The claimant promptly shall provide a current signed 7387
release of the information, records, and reports when requested 7388
by the employer. The employer promptly shall provide copies of 7389
all medical information, records, and reports to the bureau and 7390
to the claimant or ~~his~~ the claimant's representative upon 7391
request. 7392

(C) If, without good cause, an employee refuses to submit 7393
to any examination scheduled under this section or refuses to 7394
release or execute a release for any medical information, 7395
record, or report that is required to be released under this 7396
section and involves an issue pertinent to the condition alleged 7397
in the claim, ~~his~~ the employee's right to have ~~his~~ the 7398
employee's claim for compensation or benefits considered, if ~~his~~ 7399
the employee's claim is pending before the administrator, 7400
commission, occupational pneumoconiosis board, or a district or 7401
staff hearing officer, or to receive any payment for 7402

compensation or benefits previously granted, is suspended during 7403
the period of refusal. 7404

(D) No bureau or commission employee shall alter any 7405
medical report obtained from a health care provider the bureau 7406
or commission has selected or cause or request the health care 7407
provider to alter or change a report. The bureau and commission 7408
shall make any request for clarification of a health care 7409
provider's report in writing and shall provide a copy of the 7410
request to the affected parties and their representatives at the 7411
time of making the request. 7412

Sec. 4123.66. (A) In addition to the compensation provided 7413
for in this chapter and Chapter 4133. of the Revised Code, the 7414
administrator of workers' compensation shall disburse and pay 7415
from the state insurance fund the amounts for medical, nurse, 7416
and hospital services and medicine as the administrator deems 7417
proper and, in case death ensues from the injury or occupational 7418
disease, the administrator shall disburse and pay from the fund 7419
reasonable funeral expenses in an amount not to exceed fifty- 7420
five hundred dollars. The bureau of workers' compensation shall 7421
reimburse anyone, whether dependent, volunteer, or otherwise, 7422
who pays the funeral expenses of any employee whose death ensues 7423
from any injury or occupational disease as provided in this 7424
section. The administrator may adopt rules, with the advice and 7425
consent of the bureau of workers' compensation board of 7426
directors, with respect to furnishing medical, nurse, and 7427
hospital service and medicine to injured or disabled employees 7428
entitled thereto, and for the payment therefor. In case an 7429
injury or industrial accident that injures an employee also 7430
causes damage to the employee's eyeglasses, artificial teeth or 7431
other denture, or hearing aid, or in the event an injury or 7432
occupational disease makes it necessary or advisable to replace, 7433

repair, or adjust the same, the bureau shall disburse and pay a 7434
reasonable amount to repair or replace the same. 7435

(B) The administrator, in the rules the administrator 7436
adopts pursuant to division (A) of this section, may adopt rules 7437
specifying the circumstances under which the bureau may make 7438
immediate payment for the first fill of prescription drugs for 7439
medical conditions identified in an application for compensation 7440
or benefits under section 4123.84 or 4123.85 of the Revised Code 7441
that occurs prior to the date the administrator issues an 7442
initial determination order under division (B) of section 7443
4123.511 of the Revised Code. If the claim is ultimately 7444
disallowed in a final administrative or judicial order, and if 7445
the employer is a state fund employer who pays assessments into 7446
the surplus fund account created under section 4123.34 of the 7447
Revised Code, the payments for medical services made pursuant to 7448
this division for the first fill of prescription drugs shall be 7449
charged to and paid from the surplus fund account and not 7450
charged through the state insurance fund to the employer against 7451
whom the claim was filed. 7452

(C) (1) If an employer or a welfare plan has provided to or 7453
on behalf of an employee any benefits or compensation for an 7454
injury or occupational disease and that injury or occupational 7455
disease is determined compensable under this chapter or Chapter 7456
4133. of the Revised Code, the employer or a welfare plan may 7457
request that the administrator reimburse the employer or welfare 7458
plan for the amount the employer or welfare plan paid to or on 7459
behalf of the employee in compensation or benefits. The 7460
administrator shall reimburse the employer or welfare plan for 7461
the compensation and benefits paid if, at the time the employer 7462
or welfare plan provides the benefits or compensation to or on 7463
behalf of employee, the injury or occupational disease had not 7464

been determined to be compensable under this chapter or Chapter 7465
4133. of the Revised Code and if the employee was not receiving 7466
compensation or benefits under this chapter or Chapter 4133. of 7467
the Revised Code for that injury or occupational disease. The 7468
administrator shall reimburse the employer or welfare plan in 7469
the amount that the administrator would have paid to or on 7470
behalf of the employee under this chapter if the injury or 7471
occupational disease originally would have been determined 7472
compensable under this chapter or Chapter 4133. of the Revised 7473
Code. If the employer is a merit-rated employer, the 7474
administrator shall adjust the amount of premium next due from 7475
the employer according to the amount the administrator pays the 7476
employer. The administrator shall adopt rules, in accordance 7477
with Chapter 119. of the Revised Code, to implement this 7478
division. 7479

(2) As used in this division, "welfare plan" has the same 7480
meaning as in division (1) of 29 U.S.C.A. 1002. 7481

Sec. 4123.67. Except as otherwise provided in sections 7482
3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised 7483
Code, compensation before payment shall be exempt from all 7484
claims of creditors and from any attachment or execution, and 7485
shall be paid only to the employees or their dependents. In all 7486
cases where property of an employer is placed in the hands of an 7487
assignee, receiver, or trustee, claims arising under any award 7488
or finding of the industrial commission or bureau of workers' 7489
compensation, pursuant to this chapter or Chapter 4133. of the 7490
Revised Code, including claims for premiums, and any judgment 7491
recovered thereon shall first be paid out of the trust fund in 7492
preference to all other claims, except claims for taxes and the 7493
cost of administration, and with the same preference given to 7494
claims for taxes. 7495

Sec. 4123.68. Every employee who is disabled because of 7496
the contraction of an occupational disease or the dependent of 7497
an employee whose death is caused by an occupational disease, is 7498
entitled to the compensation provided by sections 4123.55 to 7499
4123.59 and 4123.66 of the Revised Code subject to the 7500
modifications relating to occupational diseases contained in 7501
this chapter. An order of the administrator issued under this 7502
section is appealable pursuant to sections 4123.511 and 4123.512 7503
of the Revised Code. 7504

The following diseases are occupational diseases and 7505
compensable as such when contracted by an employee in the course 7506
of the employment in which such employee was engaged and due to 7507
the nature of any process described in this section. A disease 7508
which meets the definition of an occupational disease is 7509
compensable pursuant to this chapter though it is not 7510
specifically listed in this section. 7511

A disease that is occupational pneumoconiosis as defined 7512
in section 4133.01 of the Revised Code is subject to the 7513
requirements and procedures specified in Chapter 4133. of the 7514
Revised Code. 7515

SCHEDULE 7516

Description of disease or injury and description of 7517
process: 7518

(A) Anthrax: Handling of wool, hair, bristles, hides, and 7519
skins. 7520

(B) Glanders: Care of any equine animal suffering from 7521
glanders; handling carcass of such animal. 7522

(C) Lead poisoning: Any industrial process involving the 7523
use of lead or its preparations or compounds. 7524

(D) Mercury poisoning: Any industrial process involving the use of mercury or its preparations or compounds.	7525 7526
(E) Phosphorous poisoning: Any industrial process involving the use of phosphorous or its preparations or compounds.	7527 7528 7529
(F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds.	7530 7531
(G) Poisoning by benzol or by nitro-derivatives and amido-derivatives of benzol (dinitro-benzol, anilin, and others): Any industrial process involving the use of benzol or nitro-derivatives or amido-derivatives of benzol or its preparations or compounds.	7532 7533 7534 7535 7536
(H) Poisoning by gasoline, benzine, naphtha, or other volatile petroleum products: Any industrial process involving the use of gasoline, benzine, naphtha, or other volatile petroleum products.	7537 7538 7539 7540
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	7541 7542 7543
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	7544 7545
(K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.	7546 7547 7548 7549 7550 7551
(L) Epithelion cancer or ulceration of the skin or of the	7552

corneal surface of the eye due to carbon, pitch, tar, or tarry compounds:	7553
Handling or industrial use of carbon, pitch, or tarry compounds.	7554
	7555
(M) Compressed air illness: Any industrial process carried on in compressed air.	7556
	7557
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	7558
	7559
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	7560
	7561
	7562
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	7563
	7564
	7565
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	7566
	7567
	7568
(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.	7569
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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 their preparations.	7574
	7575
	7576
	7577
(T) Potassium cyanide poisoning: Any industrial process involving the use of or direct contact with potassium cyanide.	7578
	7579
(U) Sulphur dioxide poisoning: Any industrial process in	7580

which sulphur dioxide gas is evolved by the expansion of liquid sulphur dioxide. 7581
7582

(V) Berylliosis: Berylliosis means a disease of the lungs 7583
caused by breathing beryllium in the form of dust or fumes, 7584
producing characteristic changes in the lungs and, if caused by 7585
breathing beryllium in the form of fumes, demonstrated by x-ray 7586
examination, by biopsy or by autopsy. 7587

This chapter does not entitle an employee or the 7588
employee's dependents to ~~compensation,~~ medical treatment, or 7589
payment of funeral expenses for disability or death from 7590
berylliosis unless the employee has been subjected to injurious 7591
exposure to beryllium dust or fumes in the employee's employment 7592
in this state preceding the employee's disablement and only in 7593
the event of such disability or death resulting within eight 7594
years after the last injurious exposure; provided that such 7595
eight-year limitation does not apply to ~~disability or~~ death from 7596
exposure occurring after January 1, 1976. In the event of death 7597
following continuous total disability commencing within eight 7598
years after the last injurious exposure, the requirement of 7599
death within eight years after the last injurious exposure does 7600
not apply. 7601

Before awarding compensation for partial or total 7602
disability or death due to berylliosis, the administrator of 7603
workers' compensation shall refer the claim to a qualified 7604
medical specialist for examination and recommendation with 7605
regard to the diagnosis, the extent of the disability, the 7606
nature of the disability, whether permanent or temporary, the 7607
cause of death, and other medical questions connected with the 7608
claim. An employee shall submit to such examinations, including 7609
clinical and x-ray examinations, as the administrator requires. 7610

In the event that an employee refuses to submit to examinations, 7611
including clinical and x-ray examinations, after notice from the 7612
administrator, or in the event that a claimant for compensation 7613
for death due to berylliosis fails to produce necessary consents 7614
and permits, after notice from the administrator, so that such 7615
autopsy examination and tests may be performed, then all rights 7616
for compensation are forfeited. The reasonable compensation of 7617
such specialist and the expenses of examinations and tests shall 7618
be paid, if the claim is allowed, as part of the expenses of the 7619
claim, otherwise they shall be paid from the surplus fund. 7620

(W) Cardiovascular, pulmonary, or respiratory diseases 7621
incurred by firefighters or police officers following exposure 7622
to heat, smoke, toxic gases, chemical fumes and other toxic 7623
substances: Any cardiovascular, pulmonary, or respiratory 7624
disease of a firefighter or police officer caused or induced by 7625
the cumulative effect of exposure to heat, the inhalation of 7626
smoke, toxic gases, chemical fumes and other toxic substances in 7627
the performance of the firefighter's or police officer's duty 7628
constitutes a presumption, which may be refuted by affirmative 7629
evidence, that such occurred in the course of and arising out of 7630
the firefighter's or police officer's employment. For the 7631
purpose of this section, "firefighter" means any regular member 7632
of a lawfully constituted fire department of a municipal 7633
corporation or township, whether paid or volunteer, and "police 7634
officer" means any regular member of a lawfully constituted 7635
police department of a municipal corporation, township or 7636
county, whether paid or volunteer. 7637

This chapter does not entitle a firefighter, or police 7638
officer, or the firefighter's or police officer's dependents to 7639
compensation, medical treatment, or payment of funeral expenses 7640
for disability or death from a cardiovascular, pulmonary, or 7641

respiratory disease, unless the firefighter or police officer 7642
has been subject to injurious exposure to heat, smoke, toxic 7643
gases, chemical fumes, and other toxic substances in the 7644
firefighter's or police officer's employment in this state 7645
preceding the firefighter's or police officer's disablement, 7646
some portion of which has been after January 1, 1967, except as 7647
provided in division ~~(E)~~(D) of section 4123.57 of the Revised 7648
Code. 7649

Compensation on account of cardiovascular, pulmonary, or 7650
respiratory diseases of firefighters and police officers is 7651
payable only in the event of temporary total disability, 7652
permanent total disability, or death, in accordance with section 7653
4123.56, 4123.58, or 4123.59 of the Revised Code. Medical, 7654
hospital, and nursing expenses are payable in accordance with 7655
this chapter. Compensation, medical, hospital, and nursing 7656
expenses are payable only in the event of such disability or 7657
death resulting within eight years after the last injurious 7658
exposure; provided that such eight-year limitation does not 7659
apply to disability or death from exposure occurring after 7660
January 1, 1976. In the event of death following continuous 7661
total disability commencing within eight years after the last 7662
injurious exposure, the requirement of death within eight years 7663
after the last injurious exposure does not apply. 7664

This chapter does not entitle a firefighter or police 7665
officer, or the firefighter's or police officer's dependents, to 7666
compensation, medical, hospital, and nursing expenses, or 7667
payment of funeral expenses for disability or death due to a 7668
cardiovascular, pulmonary, or respiratory disease in the event 7669
of failure or omission on the part of the firefighter or police 7670
officer truthfully to state, when seeking employment, the place, 7671
duration, and nature of previous employment in answer to an 7672

inquiry made by the employer. 7673

Before awarding compensation for disability or death under 7674
this division, the administrator shall refer the claim to a 7675
qualified medical specialist for examination and recommendation 7676
with regard to the diagnosis, the extent of disability, the 7677
cause of death, and other medical questions connected with the 7678
claim. A firefighter or police officer shall submit to such 7679
examinations, including clinical and x-ray examinations, as the 7680
administrator requires. In the event that a firefighter or 7681
police officer refuses to submit to examinations, including 7682
clinical and x-ray examinations, after notice from the 7683
administrator, or in the event that a claimant for compensation 7684
for death under this division fails to produce necessary 7685
consents and permits, after notice from the administrator, so 7686
that such autopsy examination and tests may be performed, then 7687
all rights for compensation are forfeited. The reasonable 7688
compensation of such specialists and the expenses of examination 7689
and tests shall be paid, if the claim is allowed, as part of the 7690
expenses of the claim, otherwise they shall be paid from the 7691
surplus fund. 7692

(X) (1) Cancer contracted by a firefighter: Cancer 7693
contracted by a firefighter who has been assigned to at least 7694
six years of hazardous duty as a firefighter constitutes a 7695
presumption that the cancer was contracted in the course of and 7696
arising out of the firefighter's employment if the firefighter 7697
was exposed to an agent classified by the international agency 7698
for research on cancer or its successor organization as a group 7699
1 or 2A carcinogen. 7700

(2) The presumption described in division (X) (1) of this 7701
section is rebuttable in any of the following situations: 7702

(a) There is evidence that the firefighter's exposure, 7703
outside the scope of the firefighter's official duties, to 7704
cigarettes, tobacco products, or other conditions presenting an 7705
extremely high risk for the development of the cancer alleged, 7706
was probably a significant factor in the cause or progression of 7707
the cancer. 7708

(b) There is evidence that the firefighter was not exposed 7709
to an agent classified by the international agency for research 7710
on cancer as a group 1 or 2A carcinogen. 7711

(c) There is evidence that the firefighter incurred the 7712
type of cancer alleged before becoming a member of the fire 7713
department. 7714

(d) The firefighter is seventy years of age or older. 7715

(3) The presumption described in division (X)(1) of this 7716
section does not apply if it has been more than twenty years 7717
since the firefighter was last assigned to hazardous duty as a 7718
firefighter. 7719

(4) Compensation for cancer contracted by a firefighter in 7720
the course of hazardous duty under division (X) of this section 7721
is payable only in the event of temporary total disability, 7722
permanent total disability, or death, in accordance with 7723
sections 4123.56, 4123.58, and 4123.59 of the Revised Code. 7724

(5) As used in division (X) of this section, "hazardous 7725
duty" has the same meaning as in 5 C.F.R. 550.902, as amended. 7726

(Y) Silicosis: Silicosis means a disease of the lungs 7727
caused by breathing silica dust (silicon dioxide) producing 7728
fibrous nodules distributed through the lungs ~~and demonstrated~~ 7729
~~by x-ray examination, by biopsy or by autopsy.~~ 7730

(Z) Coal miners' pneumoconiosis: Coal miners' 7731
pneumoconiosis, commonly referred to as "black lung disease," 7732
resulting from working in the coal mine industry and due to 7733
exposure to the breathing of coal dust, ~~and demonstrated by x-~~ 7734
~~ray examination, biopsy, autopsy or other medical or clinical-~~ 7735
~~tests.~~ 7736

This chapter does not entitle an employee or the 7737
employee's dependents to compensation, medical treatment, or 7738
payment of funeral expenses for disability or death from 7739
silicosis, asbestosis, or coal miners' pneumoconiosis unless the 7740
employee has been subject to injurious exposure to silica dust 7741
(silicon dioxide), asbestos, or coal dust in the employee's 7742
employment in this state preceding the employee's disablement, 7743
some portion of which has been after October 12, 1945, except as 7744
provided in division ~~(E)~~ (D) of section 4123.57 of the Revised 7745
Code. 7746

Compensation on account of silicosis, asbestosis, or coal 7747
miners' pneumoconiosis are payable only in the event of 7748
temporary total disability, permanent partial disability, 7749
permanent total disability, or death, in accordance with 7750
~~sections 4123.56, 4123.58, and section 4123.59 and Chapter 4133.~~ 7751
of the Revised Code. Medical, hospital, and nursing expenses are 7752
payable in accordance with this chapter. ~~Compensation, medical-~~ 7753
Medical, hospital, and nursing expenses are payable only in the 7754
event of such disability or death resulting within eight years 7755
after the last injurious exposure; provided that such eight-year 7756
limitation does not apply to ~~disability or~~ death occurring after 7757
January 1, 1976, and further provided that such eight-year 7758
limitation does not apply to any asbestosis cases. In the event 7759
of death following continuous total disability commencing within 7760
eight years after the last injurious exposure, the requirement 7761

of death within eight years after the last injurious exposure 7762
does not apply. 7763

~~This chapter does not entitle an employee or the 7764
employee's dependents to compensation, medical, hospital and 7765
nursing expenses, or payment of funeral expenses for disability- 7766
or death due to silicosis, asbestosis, or coal miners' 7767
pneumoconiosis in the event of the failure or omission on the 7768
part of the employee truthfully to state, when seeking 7769
employment, the place, duration, and nature of previous 7770
employment in answer to an inquiry made by the employer. 7771~~

~~Before awarding compensation for disability or death due- 7772
to silicosis, asbestosis, or coal miners' pneumoconiosis, the 7773
administrator shall refer the claim to a qualified medical- 7774
specialist for examination and recommendation with regard to the 7775
diagnosis, the extent of disability, the cause of death, and 7776
other medical questions connected with the claim. An employee- 7777
shall submit to such examinations, including clinical and x ray 7778
examinations, as the administrator requires. In the event that- 7779
an employee refuses to submit to examinations, including- 7780
clinical and x-ray examinations, after notice from the 7781
administrator, or in the event that a claimant for compensation- 7782
for death due to silicosis, asbestosis, or coal miners' 7783
pneumoconiosis fails to produce necessary consents and permits,- 7784
after notice from the commission, so that such autopsy 7785
examination and tests may be performed, then all rights for 7786
compensation are forfeited. The reasonable compensation of such 7787
specialist and the expenses of examinations and tests shall be 7788
paid, if the claim is allowed, as a part of the expenses of the 7789
claim, otherwise they shall be paid from the surplus fund. 7790~~

(AA) Radiation illness: Any industrial process involving 7791

the use of radioactive materials. 7792

Claims for compensation and benefits due to radiation 7793
illness are payable only in the event death or disability 7794
occurred within eight years after the last injurious exposure 7795
provided that such eight-year limitation does not apply to 7796
disability or death from exposure occurring after January 1, 7797
1976. In the event of death following continuous disability 7798
which commenced within eight years of the last injurious 7799
exposure the requirement of death within eight years after the 7800
last injurious exposure does not apply. 7801

(BB) Asbestosis: Asbestosis means a disease caused by 7802
inhalation or ingestion of asbestos, ~~demonstrated by x-ray~~ 7803
~~examination, biopsy, autopsy, or other objective medical or~~ 7804
~~clinical tests.~~ 7805

All conditions, restrictions, limitations, and other 7806
provisions of this section, with reference to the payment of 7807
compensation or benefits on account of silicosis or coal miners' 7808
pneumoconiosis apply to the payment of compensation or benefits 7809
on account of any other occupational disease of the respiratory 7810
tract resulting from injurious exposures to dust. 7811

The refusal to produce the necessary consents and permits 7812
for autopsy examination and testing shall not result in 7813
forfeiture of compensation provided the administrator finds that 7814
such refusal was the result of bona fide religious convictions 7815
or teachings to which the claimant for compensation adhered 7816
prior to the death of the decedent. 7817

Sec. 4123.69. Every employee mentioned in section 4123.68 7818
of the Revised Code and the dependents and the employer or 7819
employers of such employee shall be entitled to all the rights, 7820

benefits, and immunities and shall be subject to all the 7821
liabilities, penalties, and regulations provided for injured 7822
employees and their employers by this chapter and Chapter 4133. 7823
of the Revised Code. 7824

~~The administrator of workers' compensation shall have all- 7825
of the powers, authority, and duties with respect to the- 7826
collection, administration, and disbursement of the state- 7827
occupational disease fund as are provided for in this chapter,- 7828
providing for the collection, administration, and disbursement- 7829
of the state insurance fund for the compensation of injured- 7830
employees.~~ 7831

Sec. 4123.74. Employers who comply with section 4123.35 of 7832
the Revised Code shall not be liable to respond in damages at 7833
common law or by statute for any injury, or occupational 7834
disease, or bodily condition, received or contracted by any 7835
employee in the course of or arising out of ~~his~~ employment, or 7836
for any death resulting from such injury, occupational disease, 7837
or bodily condition occurring during the period covered by such 7838
premium so paid into the state insurance fund, or during the 7839
interval the employer is a self-insuring employer, whether or 7840
not such injury, occupational disease, bodily condition, or 7841
death is compensable under this chapter or Chapter 4133. of the 7842
Revised Code. 7843

Sec. 4123.741. No employee of any employer, as defined in 7844
division (B) of section 4123.01 of the Revised Code, shall be 7845
liable to respond in damages at common law or by statute for any 7846
injury or occupational disease, received or contracted by any 7847
other employee of such employer in the course of and arising out 7848
of the latter employee's employment, or for any death resulting 7849
from such injury or occupational disease, on the condition that 7850

such injury, occupational disease, or death is found to be 7851
compensable under sections 4123.01 to 4123.94, ~~inclusive, or~~ 7852
Chapter 4133. of the Revised Code. 7853

Sec. 4123.85. ~~In~~ Except as provided in Chapter 4133. of 7854
the Revised Code, in all cases of occupational disease, or death 7855
resulting from occupational disease, claims for compensation or 7856
benefits are forever barred unless, within two years after the 7857
disability due to the disease began, or within such longer 7858
period as does not exceed six months after diagnosis of the 7859
occupational disease by a licensed physician or within two years 7860
after death occurs, application is made to the industrial 7861
commission or the bureau of workers' compensation or to the 7862
employer if ~~he~~ the employer is a self-insuring employer. 7863

Sec. 4123.89. For the purpose of this chapter and Chapter 7864
4133. of the Revised Code, a minor is sui juris, and no other 7865
person shall have any cause of action or right to compensation 7866
for an injury to the minor employee, but in the event of the 7867
award of a lump sum of compensation to the minor employee, the 7868
sum shall be paid to the legally appointed guardian of the minor 7869
or in accordance with section 2111.05 of the Revised Code. 7870

When it is found upon hearing by the industrial commission 7871
that an injury, occupational disease, or death of a minor 7872
working in employment which is prohibited by any law enacted by 7873
the general assembly was directly caused by a hazard of such 7874
prohibited employment, the commission shall assess an additional 7875
award of one hundred per cent of the maximum award established 7876
by law, to the amount of the compensation that may be awarded on 7877
account of such injury, occupational disease, or death, and paid 7878
in like manner as other awards. If the compensation is paid from 7879
the state fund, the premium of the employer shall be increased 7880

in such amount, covering such period of time as may be fixed, as 7881
will recoup the state fund in the amount of the additional 7882
award. 7883

Sec. 4123.93. As used in sections 4123.93 to 4123.932 of 7884
the Revised Code: 7885

(A) "Claimant" means a person who is eligible to receive 7886
compensation, medical benefits, or death benefits under this 7887
chapter or Chapter 4121., 4127., ~~or 4131.~~ or 4133. of the 7888
Revised Code. 7889

(B) "Statutory subrogee" means the administrator of 7890
workers' compensation, a self-insuring employer, or an employer 7891
that contracts for the direct payment of medical services 7892
pursuant to division (P) of section 4121.44 of the Revised Code. 7893

(C) "Third party" means an individual, private insurer, 7894
public or private entity, or public or private program that is 7895
or may be liable to make payments to a person without regard to 7896
any statutory duty contained in this chapter or Chapter 4121., 7897
4127., ~~or 4131.~~ or 4133. of the Revised Code. 7898

(D) "Subrogation interest" includes past, present, and 7899
estimated future payments of compensation, medical benefits, 7900
rehabilitation costs, or death benefits, and any other costs or 7901
expenses paid to or on behalf of the claimant by the statutory 7902
subrogee pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 7903
4131. or 4133. of the Revised Code. 7904

(E) "Net amount recovered" means the amount of any award, 7905
settlement, compromise, or recovery by a claimant against a 7906
third party, minus the attorney's fees, costs, or other expenses 7907
incurred by the claimant in securing the award, settlement, 7908
compromise, or recovery. "Net amount recovered" does not include 7909

any punitive damages that may be awarded by a judge or jury. 7910

(F) "Uncompensated damages" means the claimant's 7911
demonstrated or proven damages minus the statutory subrogee's 7912
subrogation interest. 7913

Sec. 4123.931. (A) The payment of compensation or benefits 7914
pursuant to this chapter or Chapter 4121., 4127., ~~or~~ 4131., or 7915
4133. of the Revised Code creates a right of recovery in favor 7916
of a statutory subrogee against a third party, and the statutory 7917
subrogee is subrogated to the rights of a claimant against that 7918
third party. The net amount recovered is subject to a statutory 7919
subrogee's right of recovery. 7920

(B) If a claimant, statutory subrogee, and third party 7921
settle or attempt to settle a claimant's claim against a third 7922
party, the claimant shall receive an amount equal to the 7923
uncompensated damages divided by the sum of the subrogation 7924
interest plus the uncompensated damages, multiplied by the net 7925
amount recovered, and the statutory subrogee shall receive an 7926
amount equal to the subrogation interest divided by the sum of 7927
the subrogation interest plus the uncompensated damages, 7928
multiplied by the net amount recovered, except that the net 7929
amount recovered may instead be divided and paid on a more fair 7930
and reasonable basis that is agreed to by the claimant and 7931
statutory subrogee. If while attempting to settle, the claimant 7932
and statutory subrogee cannot agree to the allocation of the net 7933
amount recovered, the claimant and statutory subrogee may file a 7934
request with the administrator of workers' compensation for a 7935
conference to be conducted by a designee appointed by the 7936
administrator, or the claimant and statutory subrogee may agree 7937
to utilize any other binding or non-binding alternative dispute 7938
resolution process. 7939

The claimant and statutory subrogee shall pay equal shares 7940
of the fees and expenses of utilizing an alternative dispute 7941
resolution process, unless they agree to pay those fees and 7942
expenses in another manner. The administrator shall not assess 7943
any fees to a claimant or statutory subrogee for a conference 7944
conducted by the administrator's designee. 7945

(C) If a claimant and statutory subrogee request that a 7946
conference be conducted by the administrator's designee pursuant 7947
to division (B) of this section, both of the following apply: 7948

(1) The administrator's designee shall schedule a 7949
conference on or before sixty days after the date that the 7950
claimant and statutory subrogee filed a request for the 7951
conference. 7952

(2) The determination made by the administrator's designee 7953
is not subject to Chapter 119. of the Revised Code. 7954

(D) When a claimant's action against a third party 7955
proceeds to trial and damages are awarded, both of the following 7956
apply: 7957

(1) The claimant shall receive an amount equal to the 7958
uncompensated damages divided by the sum of the subrogation 7959
interest plus the uncompensated damages, multiplied by the net 7960
amount recovered, and the statutory subrogee shall receive an 7961
amount equal to the subrogation interest divided by the sum of 7962
the subrogation interest plus the uncompensated damages, 7963
multiplied by the net amount recovered. 7964

(2) The court in a nonjury action shall make findings of 7965
fact, and the jury in a jury action shall return a general 7966
verdict accompanied by answers to interrogatories that specify 7967
the following: 7968

(a) The total amount of the compensatory damages;	7969
(b) The portion of the compensatory damages specified	7970
pursuant to division (D) (2) (a) of this section that represents	7971
economic loss;	7972
(c) The portion of the compensatory damages specified	7973
pursuant to division (D) (2) (a) of this section that represents	7974
noneconomic loss.	7975
(E) (1) After a claimant and statutory subrogee know the	7976
net amount recovered, and after the means for dividing it has	7977
been determined under division (B) or (D) of this section, a	7978
claimant may establish an interest-bearing trust account for the	7979
full amount of the subrogation interest that represents	7980
estimated future payments of compensation, medical benefits,	7981
rehabilitation costs, or death benefits, reduced to present	7982
value, from which the claimant shall make reimbursement payments	7983
to the statutory subrogee for the future payments of	7984
compensation, medical benefits, rehabilitation costs, or death	7985
benefits. If the workers' compensation claim associated with the	7986
subrogation interest is settled, or if the claimant dies, or if	7987
any other circumstance occurs that would preclude any future	7988
payments of compensation, medical benefits, rehabilitation	7989
costs, and death benefits by the statutory subrogee, any amount	7990
remaining in the trust account after final reimbursement is paid	7991
to the statutory subrogee for all payments made by the statutory	7992
subrogee before the ending of future payments shall be paid to	7993
the claimant or the claimant's estate.	7994
(2) A claimant may use interest that accrues on the trust	7995
account to pay the expenses of establishing and maintaining the	7996
trust account, and all remaining interest shall be credited to	7997
the trust account.	7998

(3) If a claimant establishes a trust account, the 7999
statutory subrogee shall provide payment notices to the claimant 8000
on or before the thirtieth day of June and the thirty-first day 8001
of December every year listing the total amount that the 8002
statutory subrogee has paid for compensation, medical benefits, 8003
rehabilitation costs, or death benefits during the half of the 8004
year preceding the notice. The claimant shall make reimbursement 8005
payments to the statutory subrogee from the trust account on or 8006
before the thirty-first day of July every year for a notice 8007
provided by the thirtieth day of June, and on or before the 8008
thirty-first day of January every year for a notice provided by 8009
the thirty-first day of December. The claimant's reimbursement 8010
payment shall be in an amount that equals the total amount 8011
listed on the notice the claimant receives from the statutory 8012
subrogee. 8013

(F) If a claimant does not establish a trust account as 8014
described in division (E)(1) of this section, the claimant shall 8015
pay to the statutory subrogee, on or before thirty days after 8016
receipt of funds from the third party, the full amount of the 8017
subrogation interest that represents estimated future payments 8018
of compensation, medical benefits, rehabilitation costs, or 8019
death benefits. 8020

(G) A claimant shall notify a statutory subrogee and the 8021
attorney general of the identity of all third parties against 8022
whom the claimant has or may have a right of recovery, except 8023
that when the statutory subrogee is a self-insuring employer, 8024
the claimant need not notify the attorney general. No 8025
settlement, compromise, judgment, award, or other recovery in 8026
any action or claim by a claimant shall be final unless the 8027
claimant provides the statutory subrogee and, when required, the 8028
attorney general, with prior notice and a reasonable opportunity 8029

to assert its subrogation rights. If a statutory subrogee and, 8030
when required, the attorney general are not given that notice, 8031
or if a settlement or compromise excludes any amount paid by the 8032
statutory subrogee, the third party and the claimant shall be 8033
jointly and severally liable to pay the statutory subrogee the 8034
full amount of the subrogation interest. 8035

(H) The right of subrogation under this chapter is 8036
automatic, regardless of whether a statutory subrogee is joined 8037
as a party in an action by a claimant against a third party. A 8038
statutory subrogee may assert its subrogation rights through 8039
correspondence with the claimant and the third party or their 8040
legal representatives. A statutory subrogee may institute and 8041
pursue legal proceedings against a third party either by itself 8042
or in conjunction with a claimant. If a statutory subrogee 8043
institutes legal proceedings against a third party, the 8044
statutory subrogee shall provide notice of that fact to the 8045
claimant. If the statutory subrogee joins the claimant as a 8046
necessary party, or if the claimant elects to participate in the 8047
proceedings as a party, the claimant may present the claimant's 8048
case first if the matter proceeds to trial. If a claimant 8049
disputes the validity or amount of an asserted subrogation 8050
interest, the claimant shall join the statutory subrogee as a 8051
necessary party to the action against the third party. 8052

(I) The statutory subrogation right of recovery applies 8053
to, but is not limited to, all of the following: 8054

(1) Amounts recoverable from a claimant's insurer in 8055
connection with underinsured or uninsured motorist coverage, 8056
notwithstanding any limitation contained in Chapter 3937. of the 8057
Revised Code; 8058

(2) Amounts that a claimant would be entitled to recover 8059

from a political subdivision, notwithstanding any limitations 8060
contained in Chapter 2744. of the Revised Code; 8061

(3) Amounts recoverable from an intentional tort action. 8062

(J) If a claimant's claim against a third party is for 8063
wrongful death or the claim involves any minor beneficiaries, 8064
amounts allocated under this section are subject to the approval 8065
of probate court. 8066

(K) Except as otherwise provided in this division, the 8067
administrator shall deposit any money collected under this 8068
section into the public fund or the private fund of the state 8069
insurance fund, as appropriate. Any money collected under this 8070
section for compensation or benefits that were charged pursuant 8071
to section 4123.932 of the Revised Code to the surplus fund 8072
account created in division (B) of section 4123.34 of the 8073
Revised Code and not charged to an employer's experience shall 8074
be deposited in the surplus fund account and not applied to an 8075
individual employer's account. If a self-insuring employer 8076
collects money under this section of the Revised Code, the self- 8077
insuring employer shall deduct the amount collected, in the year 8078
collected, from the amount of paid compensation the self-insured 8079
employer is required to report under section 4123.35 of the 8080
Revised Code. 8081

Sec. 4125.03. (A) The professional employer organization 8082
with whom a shared employee is coemployed shall do all of the 8083
following: 8084

(1) Pay wages associated with a shared employee pursuant 8085
to the terms and conditions of compensation in the professional 8086
employer organization agreement between the professional 8087
employer organization and the client employer; 8088

(2) Pay all related payroll taxes associated with a shared 8089
employee independent of the terms and conditions contained in 8090
the professional employer organization agreement between the 8091
professional employer organization and the client employer; 8092

(3) Maintain workers' compensation coverage, pay all 8093
workers' compensation premiums and manage all workers' 8094
compensation claims, filings, and related procedures associated 8095
with a shared employee in compliance with Chapters 4121. ~~and,~~ 8096
4123., and 4133. of the Revised Code, except that when shared 8097
employees include family farm officers, ordained ministers, or 8098
corporate officers of the client employer, payroll reports shall 8099
include the entire amount of payroll associated with those 8100
persons; 8101

(4) Provide written notice to each shared employee it 8102
assigns to perform services to a client employer of the 8103
relationship between and the responsibilities of the 8104
professional employer organization and the client employer; 8105

(5) Maintain complete records separately listing the 8106
manual classifications of each client employer and the payroll 8107
reported to each manual classification for each client employer 8108
for each payroll reporting period during the time period covered 8109
in the professional employer organization agreement; 8110

(6) Maintain a record of workers' compensation claims for 8111
each client employer; 8112

(7) Make periodic reports, as determined by the 8113
administrator of workers' compensation, of client employers and 8114
total workforce to the administrator; 8115

(8) Report individual client employer payroll, claims, and 8116
classification data under a separate and unique subaccount to 8117

the administrator; 8118

(9) Within fourteen days after receiving notice from the 8119
bureau of workers' compensation that a refund or rebate will be 8120
applied to workers' compensation premiums, provide a copy of 8121
that notice to any client employer to whom that notice is 8122
relevant. 8123

(B) The professional employer organization with whom a 8124
shared employee is coemployed shall provide a list of all of the 8125
following information to the client employer upon the written 8126
request of the client employer: 8127

(1) All workers' compensation claims, premiums, and 8128
payroll associated with that client employer; 8129

(2) Compensation and benefits paid and reserves 8130
established for each claim listed under division (B)(1) of this 8131
section; 8132

(3) Any other information available to the professional 8133
employer organization from the bureau of workers' compensation 8134
regarding that client employer. 8135

(C)(1) A professional employer organization shall provide 8136
the information required under division (B) of this section in 8137
writing to the requesting client employer within forty-five days 8138
after receiving a written request from the client employer. 8139

(2) For purposes of division (C) of this section, a 8140
professional employer organization has provided the required 8141
information to the client employer when the information is 8142
received by the United States postal service or when the 8143
information is personally delivered, in writing, directly to the 8144
client employer. 8145

(D) Except as provided in section 4125.08 of the Revised Code and unless otherwise agreed to in the professional employer organization agreement, the professional employer organization with whom a shared employee is coemployed has a right of direction and control over each shared employee assigned to a client employer's location. However, a client employer shall retain sufficient direction and control over a shared employee as is necessary to do any of the following:

(1) Conduct the client employer's business, including training and supervising shared employees;

(2) Ensure the quality, adequacy, and safety of the goods or services produced or sold in the client employer's business;

(3) Discharge any fiduciary responsibility that the client employer may have;

(4) Comply with any applicable licensure, regulatory, or statutory requirement of the client employer.

(E) Unless otherwise agreed to in the professional employer organization agreement, liability for acts, errors, and omissions shall be determined as follows:

(1) A professional employer organization shall not be liable for the acts, errors, and omissions of a client employer or a shared employee when those acts, errors, and omissions occur under the direction and control of the client employer.

(2) A client employer shall not be liable for the acts, errors, and omissions of a professional employer organization or a shared employee when those acts, errors, and omissions occur under the direction and control of the professional employer organization.

(F) Nothing in divisions (D) and (E) of this section shall 8174
be construed to limit any liability or obligation specifically 8175
agreed to in the professional employer organization agreement. 8176

Sec. 4125.04. (A) When a client employer enters into a 8177
professional employer organization agreement with a professional 8178
employer organization, the professional employer organization is 8179
the employer of record and the succeeding employer for the 8180
purposes of determining a workers' compensation experience 8181
rating pursuant to Chapter 4123. of the Revised Code. 8182

(B) Pursuant to Section 35 of Article II, Ohio 8183
Constitution, and section 4123.74 of the Revised Code, the 8184
exclusive remedy for a shared employee to recover for injuries, 8185
diseases, or death incurred in the course of and arising out of 8186
the employment relationship against either the professional 8187
employer organization or the client employer are those benefits 8188
provided under Chapters 4121.~~and~~, 4123., and 4133. of the 8189
Revised Code. 8190

Sec. 4131.01. As used in sections 4131.01 to 4131.06 of 8191
the Revised Code: 8192

(A) "Federal act" means Title IV of the "Federal Coal Mine 8193
Health and Safety Act of 1969," 83 Stat. 742, 30 U.S.C.A. 801, 8194
as now or hereafter amended. 8195

(B) "Coal-workers pneumoconiosis fund" means the fund 8196
created and administered pursuant to sections 4131.01 to 4131.06 8197
of the Revised Code and does not refer, directly or indirectly, 8198
to any fund created and administered pursuant to Chapter 4123. 8199
or 4133. of the Revised Code. 8200

(C) "Premium" means payment by or on behalf of an operator 8201
of a coal mine in Ohio who is required by the federal act to 8202

secure the payment of benefits for which ~~he~~ the operator is 8203
liable under that act, which payments are to be credited to the 8204
coal-workers pneumoconiosis fund and does not refer, directly or 8205
indirectly, to premiums or contributions paid or required to be 8206
paid pursuant to Chapter 4123. of the Revised Code. 8207

(D) "Subscriber" means an operator who has elected to 8208
subscribe to the coal-workers pneumoconiosis fund and whose 8209
election has been approved by the bureau of workers' 8210
compensation. 8211

Sec. 4133.01. As used in this chapter: 8212

(A) "Board-certified internist," "board-certified 8213
pathologist," and "board-certified pulmonary specialist" have 8214
the same meanings as in section 2307.84 of the Revised Code. 8215

(B) "Occupational pneumoconiosis" means a disease of the 8216
lungs caused by the inhalation of minute particles of dust over 8217
a period of time due to causes and conditions arising out of and 8218
in the course of employment. "Occupational pneumoconiosis" 8219
includes all of the following diseases: 8220

(1) Silicosis; 8221

(2) Anthracosilicosis; 8222

(3) Coal worker's pneumoconiosis, commonly known as black 8223
lung or miner's asthma; 8224

(4) Silico-tuberculosis (silicosis accompanied by active 8225
tuberculosis of the lungs); 8226

(5) Coal worker's pneumoconiosis accompanied by active 8227
tuberculosis of the lungs; 8228

(6) Asbestosis; 8229

<u>(7) Siderosis;</u>	8230
<u>(8) Anthrax;</u>	8231
<u>(9) Any other dust diseases of the lungs and conditions</u>	8232
<u>and diseases caused by occupational pneumoconiosis not</u>	8233
<u>specifically designated in division (B) of this section.</u>	8234
<u>(C) "Statewide average weekly wage" has the same meaning</u>	8235
<u>as in section 4123.62 of the Revised Code.</u>	8236
<u>Sec. 4133.02. Except as otherwise provided in this</u>	8237
<u>chapter, Chapters 4121. and 4123. of the Revised Code apply to</u>	8238
<u>all claims arising under this chapter.</u>	8239
<u>Sec. 4133.03. Except as provided in section 4133.05 of the</u>	8240
<u>Revised Code, all claims for compensation and benefits for</u>	8241
<u>disability or death due to occupational pneumoconiosis are</u>	8242
<u>forever barred unless an employee or an individual on behalf of</u>	8243
<u>an employee applies to the industrial commission or the bureau</u>	8244
<u>of workers' compensation or to the employer if the employer is a</u>	8245
<u>self-insuring employer not later than the following dates, as</u>	8246
<u>applicable:</u>	8247
<u>(A) In the case of disability, not later than three years</u>	8248
<u>after the occurrence of either of the following, whichever is</u>	8249
<u>later:</u>	8250
<u>(1) The last day of the last continuous period of sixty</u>	8251
<u>days or more during which the employee was exposed to the</u>	8252
<u>hazards of occupational pneumoconiosis;</u>	8253
<u>(2) A diagnosed impairment due to occupational</u>	8254
<u>pneumoconiosis was made known to the employee by a physician.</u>	8255
<u>(B) In the case of death, not later than two years after</u>	8256
<u>the date of the employee's death.</u>	8257

Sec. 4133.04. (A) When filing a claim for compensation and 8258
benefits for occupational pneumoconiosis, an employee or, if the 8259
employee is deceased, a dependent of the employee, shall submit 8260
to the administrator of workers' compensation or a self-insuring 8261
employer a written certification by a board-certified pulmonary 8262
specialist stating both of the following: 8263

(1) That the employee is or was suffering from complicated 8264
pneumoconiosis or pulmonary massive fibrosis; 8265

(2) That the occupational pneumoconiosis has or had 8266
resulted in pulmonary impairment as measured by the standards or 8267
methods used by the occupational pneumoconiosis board of at 8268
least fifteen per cent, as confirmed by valid and reproducible 8269
ventilatory testing. 8270

(B) The pulmonary specialist shall disclose all evidence 8271
upon which the written certification is based, including all 8272
radiographic, pathologic, or other diagnostic test results the 8273
pulmonary specialist reviewed. 8274

Sec. 4133.05. (A) (1) For a claim filed not later than 8275
three years after the last date of exposure to the hazards of 8276
occupational pneumoconiosis, the administrator of workers' 8277
compensation or a self-insuring employer shall determine all of 8278
the following: 8279

(a) Whether the employee who is the subject of the claim 8280
was exposed to the hazards of occupational pneumoconiosis for a 8281
continuous period of not less than sixty days in the course of 8282
the employee's employment not later than three years before 8283
filing the claim; 8284

(b) Whether the employee was exposed to the hazard in this 8285
state over a continuous period of not less than two years during 8286

the ten years immediately preceding the date of last exposure to 8287
the hazard; 8288

(c) Whether the employee was exposed to the hazard over a 8289
period of not less than ten years during the fifteen years 8290
immediately preceding the date of last exposure to the hazard. 8291

(2) For a claim filed not later than three years after the 8292
date of diagnosis of occupational pneumoconiosis, the 8293
administrator or self-insuring employer shall determine whether 8294
the employee satisfies the requirements of divisions (A) (1) (b) 8295
and (c) of this section. 8296

(B) For a claim filed by a dependent of an employee whose 8297
death is caused by occupational pneumoconiosis, the 8298
administrator or self-insuring employer shall determine all of 8299
the following: 8300

(1) Whether the deceased employee was exposed to the 8301
hazards of occupational pneumoconiosis for a continuous period 8302
of not less than sixty days in the course of the employee's 8303
employment within ten years before filing the claim; 8304

(2) Whether the deceased employee was exposed to the 8305
hazard in this state over a continuous period of not less than 8306
two years during the ten years immediately preceding the date of 8307
last exposure to the hazard; 8308

(3) Whether the deceased employee was exposed to the 8309
hazard over a period of not less than ten years during the 8310
fifteen years immediately preceding the date of last exposure to 8311
the hazard. 8312

(C) The administrator or self-insuring employer shall 8313
determine other nonmedical facts that, in the opinion of the 8314
administrator or self-insuring employer, are pertinent to a 8315

decision on the validity of a claim. 8316

(D) The administrator may allocate to and divide any 8317
charges resulting from an occupational pneumoconiosis claim 8318
among the employers for whom the employee who is the subject of 8319
the claim was employed up to sixty days during the period of 8320
three years immediately preceding the date of last exposure to 8321
the hazards of occupational pneumoconiosis. The administrator 8322
shall base the allocation on the time and degree of exposure the 8323
employee had with each employer. 8324

Sec. 4133.06. (A) The administrator of workers' 8325
compensation or a self-insuring employer shall determine the 8326
nonmedical findings for an occupational pneumoconiosis claim 8327
filed under section 4133.05 of the Revised Code not later than 8328
ninety days after the administrator or self-insuring employer 8329
receives the claimant's application and the pulmonary 8330
specialist's written certification specified in section 4133.04 8331
of the Revised Code. The administrator or self-insuring employer 8332
shall provide each interested party written notice of the 8333
determination. 8334

(B) The administrator's or self-insuring employer's 8335
determination under this chapter is final unless the employer or 8336
claimant objects to the determination not later than sixty days 8337
after receipt of the notice described in division (A) of this 8338
section. 8339

(C) If a claimant objects to the administrator's 8340
determination regarding the occupational pneumoconiosis claim 8341
for compensation and benefits, the claimant may appeal the claim 8342
in accordance with section 4123.511 or 4123.512 of the Revised 8343
Code. If an employer objects to the determination under this 8344
section, the administrator shall refer the claim to the 8345

occupational pneumoconiosis board as if the objection had not 8346
been filed. 8347

Sec. 4133.07. There is hereby created the occupational 8348
pneumoconiosis board within the bureau of workers' compensation 8349
to determine, under the direction and supervision of the 8350
administrator of workers' compensation, all medical questions 8351
relating to claims for compensation and benefits for 8352
occupational pneumoconiosis. 8353

The board consists of five physicians in good professional 8354
standing holding a certificate issued under Chapter 4731. of the 8355
Revised Code to practice medicine and surgery or osteopathic 8356
medicine and surgery. Members shall be board-certified 8357
internists or board-certified pulmonary specialists. The 8358
administrator shall appoint the members to the board. 8359

Not later than ninety days after the effective date of 8360
this section, the administrator shall appoint the initial 8361
members to the board. The administrator shall appoint three 8362
members to terms ending one year after the effective date of 8363
this section, two members to terms ending two years after that 8364
date, and one member to a term ending three years after that 8365
date. Thereafter, terms of office for all members are six years, 8366
with each term ending on the same day of the same month as did 8367
the term that it succeeds. Each member shall hold office from 8368
the date of appointment until the end of the term for which the 8369
member was appointed. Members may be reappointed. 8370

Vacancies shall be filled in the same manner as original 8371
appointments. Any member appointed to fill a vacancy occurring 8372
before the expiration of the term for which the member's 8373
predecessor was appointed shall hold office for the remainder of 8374
the term. Any member shall continue in office subsequent to the 8375

expiration date of the member's term until a successor takes 8376
office, or until a period of sixty days has elapsed, whichever 8377
occurs first. 8378

The administrator annually shall select from among the 8379
board members a chairperson. A majority of board members 8380
constitutes a quorum. 8381

Members of the occupational pneumoconiosis board shall 8382
receive compensation for their service on the board and be 8383
reimbursed for travel and actual and necessary expenses incurred 8384
in the conduct of their official duties. The administrator shall 8385
establish the compensation of members in accordance with section 8386
4121.121 of the Revised Code. 8387

Sections 101.82 to 101.87 of the Revised Code do not apply 8388
to the occupational pneumoconiosis board. 8389

Sec. 4133.08. (A) On referral to the occupational 8390
pneumoconiosis board, the board shall notify the claimant and 8391
administrator or self-insuring employer, as applicable, to 8392
appear before the board at a time and place stated in the 8393
notice. If the claimant is living, the claimant shall appear 8394
before the board at the specified time and place and submit to 8395
any examination, including clinical and x-ray examinations, 8396
required by the board. 8397

If a licensed physician files an affidavit with the board 8398
that the claimant is physically unable to appear at the 8399
specified time and place, the board shall, on notice to the 8400
proper parties, change the time and place as may reasonably 8401
facilitate the hearing or examination of the claimant or may 8402
appoint a qualified specialist in the field of respiratory 8403
disease to examine the claimant on the board's behalf. 8404

(B) The claimant and employer shall produce as evidence to the board all medical reports and x-ray examinations that are in the claimant's or employer's possession or control and that show the employee's past or present condition. 8405
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If the employee who is the subject of the claim is deceased, the notice specified in division (A) of this section may require the claimant to produce any consents and permits necessary so that an autopsy may be performed. If the board determines an autopsy is necessary to accurately and scientifically determine the cause of death, the board shall order the autopsy. The board shall designate a physician holding a certificate issued under Chapter 4731. of the Revised Code, board-certified pathologist, or any other specialist the board determines necessary to conduct the examination and tests to determine the cause of death and certify the findings in writing to the board. Notwithstanding section 4123.88 of the Revised Code, the findings are public records under section 149.43 of the Revised Code. 8409
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(C) In determining the presence of occupational pneumoconiosis, the board may consider x-ray evidence, but the board shall not give that evidence greater weight than any other type of evidence demonstrating occupational pneumoconiosis. 8423
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(D) If an employee refuses to submit to an examination, the employee's claim shall be suspended during the period of the refusal in accordance with section 4123.53 of the Revised Code. If a claimant fails to produce necessary consents and permits so that an autopsy may be performed, the claimant forfeits all rights for compensation and benefits under this chapter. 8427
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(E) The claimant and employer are entitled to be present at all examinations conducted by the board and to be represented 8433
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by attorneys and physicians. 8435

Sec. 4133.09. (A) The occupational pneumoconiosis board, 8436
as soon as practicable after completing its investigation under 8437
section 4133.08 of the Revised Code, shall issue a written 8438
report on its determination of every medical question in 8439
controversy to the administrator of workers' compensation or 8440
self-insuring employer. The board shall send one copy of the 8441
report to the claimant and one copy to the claimant's employer 8442
if the employer is not a self-insuring employer. 8443

(B) The board shall return to and file with the 8444
administrator or self-insuring employer all evidence and medical 8445
reports and x-ray examinations produced by or on behalf of the 8446
claimant or employer. 8447

(C) The board shall include all of the following in its 8448
determination: 8449

(1) Whether the employee contracted occupational 8450
pneumoconiosis and, if so, the percentage of permanent 8451
disability resulting from the occupational pneumoconiosis; 8452

(2) Whether the exposure in the employment was sufficient 8453
to have caused the employee's occupational pneumoconiosis or to 8454
have perceptibly aggravated an existing occupational 8455
pneumoconiosis or other occupational disease; 8456

(3) What, if any, physician appeared before the board on 8457
the claimant's or employer's behalf and what, if any, medical 8458
evidence was produced by or on the claimant's or employer's 8459
behalf. 8460

(D) (1) It shall be presumed that the employee is suffering 8461
or if the employee is deceased, the deceased employee was 8462
suffering at the time of the employee's death, from occupational 8463

pneumoconiosis that arose out of and in the course of employment 8464
if both of the following are shown: 8465

(a) The employee has or had been exposed to the hazard of 8466
inhaling minute particles of dust in the course of and arising 8467
from the employee's employment for a period of ten years during 8468
the fifteen years immediately preceding the date of the 8469
employee's last exposure to the hazard; 8470

(b) The employee has or had sustained a chronic 8471
respiratory disability. 8472

(2) The presumption described in division (D) (1) of this 8473
section is not conclusive. 8474

(E) If either party contests the board's determination in 8475
division (C) of this section, the party shall file an appeal 8476
with the industrial commission in accordance with section 8477
4123.511 of the Revised Code. 8478

(F) (1) Except as provided in division (F) (2) of this 8479
section, a claimant who receives a final determination from the 8480
board that the employee who is the subject of the claim has or 8481
had no evidence of occupational pneumoconiosis is barred for a 8482
period of three years from filing a new claim or pursuing a 8483
previously filed, but unruled upon, claim for occupational 8484
pneumoconiosis or requesting a modification of any prior ruling 8485
finding the employee not to be suffering from occupational 8486
pneumoconiosis. 8487

The three-year period described in this division begins on 8488
the date of the board's decision or the date on which the 8489
employee's employment with the employer who employed the 8490
employee at the time designated as the employee's last date of 8491
exposure in the denied claim terminates, whichever is sooner. 8492

For purposes of this division, an employee's employment is 8493
considered terminated if the employee has not worked for that 8494
employer for a period of more than ninety days. 8495

The administrator or a self-insuring employer shall 8496
consolidate any previously filed but unrulled upon claim with the 8497
claim in which the board's decision is made and must be denied 8498
together with the decided claim. The administrator or self- 8499
insuring employer shall not apply these limitations to a claim 8500
if doing so would later cause a claimant's claim to be forever 8501
barred for failing to file within the applicable time 8502
limitation. 8503

(2) This division does not apply if the claimant 8504
demonstrates that the occupational pneumoconiosis has 8505
deteriorated. 8506

Sec. 4133.10. The administrator of workers' compensation 8507
or a self-insuring employer may require a claimant to appear for 8508
examination before the occupational pneumoconiosis board. If the 8509
claimant is required to appear for a board examination, the 8510
party that referred the claimant to the board shall reimburse 8511
the claimant for loss of wages and reasonable traveling expenses 8512
and other expenses in connection with the examination. 8513

Sec. 4133.11. An employee filing a claim for compensation 8514
and benefits for occupational pneumoconiosis shall receive 8515
medical, nurse, and hospital services in accordance with section 8516
4123.66 of the Revised Code. 8517

Sec. 4133.12. An employee who is awarded compensation for 8518
temporary total disability for occupational pneumoconiosis shall 8519
receive sixty-six and two-thirds per cent of the employee's 8520
average weekly wage so long as such disability is total. The 8521

employee shall not receive an amount of weekly compensation that 8522
exceeds an amount that is equal to the statewide average weekly 8523
wage or that is less than an amount that is equal to thirty- 8524
three and one-third per cent of the statewide average weekly 8525
wage. In no event, however, shall the minimum weekly 8526
compensation exceed the level of compensation determined by 8527
using the federal minimum hourly wage. 8528

The number of weeks of temporary total disability 8529
compensation an employee may receive for a single occupational 8530
pneumoconiosis claim shall not exceed one hundred four weeks. 8531

Sec. 4133.13. (A) An employee who is awarded compensation 8532
for permanent partial disability for occupational pneumoconiosis 8533
shall receive sixty-six and two-thirds per cent of the 8534
employee's average weekly wage. The employee shall not receive 8535
an amount of weekly compensation that exceeds an amount that is 8536
equal to seventy per cent of the statewide average weekly wage 8537
or that is less than an amount equal to thirty-three and one- 8538
third per cent of the statewide average weekly wage. In no 8539
event, however, shall the minimum weekly compensation exceed the 8540
level of compensation determined by using the federal minimum 8541
hourly wage. 8542

(B) (1) Except as provided in division (B) (2) of this 8543
section, an employee shall receive four weeks of compensation 8544
for each percentage of disability that the administrator of 8545
workers' compensation determines to be permanent. 8546

(2) If an employee is released by the employee's treating 8547
physician to return to work at the position the employee held 8548
before the occupational pneumoconiosis occurred and the 8549
employee's preinjury employer does not offer the preinjury 8550
position or a comparable position to the employee when a 8551

position is available, the award for the percentage of partial 8552
disability shall be computed on the basis of six weeks of 8553
compensation for each percentage of disability. 8554

(C) The degree of permanent partial disability shall be 8555
determined by the degree of whole body medical impairment that 8556
an employee has suffered. Once the degree of an employee's 8557
medical impairment has been determined, that degree of 8558
impairment is the percentage of permanent partial disability 8559
that shall be awarded to the employee. The occupational 8560
pneumoconiosis board shall premise its decision on the degree of 8561
pulmonary function impairment that an employee suffers solely 8562
upon whole body medical impairment. 8563

(D) The administrator shall adopt standards for 8564
determining an employee's degree of whole body medical 8565
impairment. 8566

Sec. 4133.14. An employee who is awarded compensation for 8567
permanent total disability for occupational pneumoconiosis shall 8568
receive sixty-six and two-thirds per cent of the employee's 8569
average weekly wage. The employee shall not receive an amount of 8570
weekly compensation that exceeds an amount that is equal to one 8571
hundred per cent of the statewide average weekly wage or that is 8572
less than an amount that is equal to thirty-three and one-third 8573
per cent of the statewide average weekly wage. In no event, 8574
however, shall the minimum weekly compensation exceed the level 8575
of compensation determined by using the federal minimum hourly 8576
wage. 8577

Permanent total disability compensation for occupational 8578
pneumoconiosis shall cease upon the employee reaching seventy 8579
years of age. 8580

If an employee is determined to be permanently disabled 8581
due to occupational pneumoconiosis, the percentage of permanent 8582
disability shall be determined by the degree of medical 8583
impairment found by the occupational pneumoconiosis board. 8584

In cases of permanent disability or death due to 8585
occupational pneumoconiosis accompanied by active tuberculosis 8586
of the lungs, compensation is payable for disability or death 8587
due to occupational pneumoconiosis alone. 8588

Sec. 4133.15. Benefits in case of death due to 8589
occupational pneumoconiosis shall be paid in accordance with 8590
section 4123.60 of the Revised Code. 8591

Sec. 4133.16. In computing compensation for occupational 8592
pneumoconiosis claims, the administrator of workers' 8593
compensation or a self-insuring employer shall deduct the amount 8594
of all prior compensation or benefits paid to the same claimant 8595
due to silicosis under this chapter or Chapter 4123. of the 8596
Revised Code, but a prior silicosis award shall not, in any 8597
event, preclude an award for occupational pneumoconiosis 8598
otherwise payable under this chapter. 8599

Sec. 4729.80. (A) If the state board of pharmacy 8600
establishes and maintains a drug database pursuant to section 8601
4729.75 of the Revised Code, the board is authorized or required 8602
to provide information from the database in accordance with the 8603
following: 8604

(1) On receipt of a request from a designated 8605
representative of a government entity responsible for the 8606
licensure, regulation, or discipline of health care 8607
professionals with authority to prescribe, administer, or 8608
dispense drugs, the board may provide to the representative 8609

information from the database relating to the professional who 8610
is the subject of an active investigation being conducted by the 8611
government entity. 8612

(2) On receipt of a request from a federal officer, or a 8613
state or local officer of this or any other state, whose duties 8614
include enforcing laws relating to drugs, the board shall 8615
provide to the officer information from the database relating to 8616
the person who is the subject of an active investigation of a 8617
drug abuse offense, as defined in section 2925.01 of the Revised 8618
Code, being conducted by the officer's employing government 8619
entity. 8620

(3) Pursuant to a subpoena issued by a grand jury, the 8621
board shall provide to the grand jury information from the 8622
database relating to the person who is the subject of an 8623
investigation being conducted by the grand jury. 8624

(4) Pursuant to a subpoena, search warrant, or court order 8625
in connection with the investigation or prosecution of a 8626
possible or alleged criminal offense, the board shall provide 8627
information from the database as necessary to comply with the 8628
subpoena, search warrant, or court order. 8629

(5) On receipt of a request from a prescriber or the 8630
prescriber's delegate approved by the board, the board shall 8631
provide to the prescriber a report of information from the 8632
database relating to a patient who is either a current patient 8633
of the prescriber or a potential patient of the prescriber based 8634
on a referral of the patient to the prescriber, if all of the 8635
following conditions are met: 8636

(a) The prescriber certifies in a form specified by the 8637
board that it is for the purpose of providing medical treatment 8638

to the patient who is the subject of the request; 8639

(b) The prescriber has not been denied access to the 8640
database by the board. 8641

(6) On receipt of a request from a pharmacist or the 8642
pharmacist's delegate approved by the board, the board shall 8643
provide to the pharmacist information from the database relating 8644
to a current patient of the pharmacist, if the pharmacist 8645
certifies in a form specified by the board that it is for the 8646
purpose of the pharmacist's practice of pharmacy involving the 8647
patient who is the subject of the request and the pharmacist has 8648
not been denied access to the database by the board. 8649

(7) On receipt of a request from an individual seeking the 8650
individual's own database information in accordance with the 8651
procedure established in rules adopted under section 4729.84 of 8652
the Revised Code, the board may provide to the individual the 8653
individual's own database information. 8654

(8) On receipt of a request from a medical director or a 8655
pharmacy director of a managed care organization that has 8656
entered into a contract with the department of medicaid under 8657
section 5167.10 of the Revised Code and a data security 8658
agreement with the board required by section 5167.14 of the 8659
Revised Code, the board shall provide to the medical director or 8660
the pharmacy director information from the database relating to 8661
a medicaid recipient enrolled in the managed care organization, 8662
including information in the database related to prescriptions 8663
for the recipient that were not covered or reimbursed under a 8664
program administered by the department of medicaid. 8665

(9) On receipt of a request from the medicaid director, 8666
the board shall provide to the director information from the 8667

database relating to a recipient of a program administered by 8668
the department of medicaid, including information in the 8669
database related to prescriptions for the recipient that were 8670
not covered or paid by a program administered by the department. 8671

(10) On receipt of a request from a medical director of a 8672
managed care organization that has entered into a contract with 8673
the administrator of workers' compensation under division (B) (4) 8674
of section 4121.44 of the Revised Code and a data security 8675
agreement with the board required by section 4121.447 of the 8676
Revised Code, the board shall provide to the medical director 8677
information from the database relating to a claimant under 8678
Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised 8679
Code assigned to the managed care organization, including 8680
information in the database related to prescriptions for the 8681
claimant that were not covered or reimbursed under Chapter 8682
4121., 4123., 4127., ~~or 4131.~~ or 4133. of the Revised Code, if 8683
the administrator of workers' compensation confirms, upon 8684
request from the board, that the claimant is assigned to the 8685
managed care organization. 8686

(11) On receipt of a request from the administrator of 8687
workers' compensation, the board shall provide to the 8688
administrator information from the database relating to a 8689
claimant under Chapter 4121., 4123., 4127., ~~or 4131.~~ or 4133. 8690
of the Revised Code, including information in the database 8691
related to prescriptions for the claimant that were not covered 8692
or reimbursed under Chapter 4121., 4123., 4127., ~~or 4131.~~ or 8693
4133. of the Revised Code. 8694

(12) On receipt of a request from a prescriber or the 8695
prescriber's delegate approved by the board, the board shall 8696
provide to the prescriber information from the database relating 8697

to a patient's mother, if the prescriber certifies in a form 8698
specified by the board that it is for the purpose of providing 8699
medical treatment to a newborn or infant patient diagnosed as 8700
opioid dependent and the prescriber has not been denied access 8701
to the database by the board. 8702

(13) On receipt of a request from the director of health, 8703
the board shall provide to the director information from the 8704
database relating to the duties of the director or the 8705
department of health in implementing the Ohio violent death 8706
reporting system established under section 3701.93 of the 8707
Revised Code. 8708

(14) On receipt of a request from a requestor described in 8709
division (A)(1), (2), (5), or (6) of this section who is from or 8710
participating with another state's prescription monitoring 8711
program, the board may provide to the requestor information from 8712
the database, but only if there is a written agreement under 8713
which the information is to be used and disseminated according 8714
to the laws of this state. 8715

(15) On receipt of a request from a delegate of a retail 8716
dispensary licensed under Chapter 3796. of the Revised Code who 8717
is approved by the board to serve as the dispensary's delegate, 8718
the board shall provide to the delegate a report of information 8719
from the database pertaining only to a patient's use of medical 8720
marijuana, if both of the following conditions are met: 8721

(a) The delegate certifies in a form specified by the 8722
board that it is for the purpose of dispensing medical marijuana 8723
for use in accordance with Chapter 3796. of the Revised Code. 8724

(b) The retail dispensary or delegate has not been denied 8725
access to the database by the board. 8726

(B) The state board of pharmacy shall maintain a record of 8727
each individual or entity that requests information from the 8728
database pursuant to this section. In accordance with rules 8729
adopted under section 4729.84 of the Revised Code, the board may 8730
use the records to document and report statistics and law 8731
enforcement outcomes. 8732

The board may provide records of an individual's requests 8733
for database information to the following: 8734

(1) A designated representative of a government entity 8735
that is responsible for the licensure, regulation, or discipline 8736
of health care professionals with authority to prescribe, 8737
administer, or dispense drugs who is involved in an active 8738
criminal or disciplinary investigation being conducted by the 8739
government entity of the individual who submitted the requests 8740
for database information; 8741

(2) A federal officer, or a state or local officer of this 8742
or any other state, whose duties include enforcing laws relating 8743
to drugs and who is involved in an active investigation being 8744
conducted by the officer's employing government entity of the 8745
individual who submitted the requests for database information. 8746

(C) Information contained in the database and any 8747
information obtained from it is confidential and is not a public 8748
record. Information contained in the records of requests for 8749
information from the database is confidential and is not a 8750
public record. Information contained in the database that does 8751
not identify a person, including any licensee or registrant of 8752
the board or other entity, may be released in summary, 8753
statistical, or aggregate form. 8754

(D) Information contained in the database may be provided 8755

only as expressly permitted in law, including any information 8756
contained in the database that relates to any person, including 8757
any licensee or registrant of the board or other entity. 8758

(E) A pharmacist or prescriber shall not be held liable in 8759
damages to any person in any civil action for injury, death, or 8760
loss to person or property on the basis that the pharmacist or 8761
prescriber did or did not seek or obtain information from the 8762
database. 8763

Sec. 5145.163. (A) As used in this section: 8764

(1) "Customer model enterprise" means an enterprise 8765
conducted under a federal prison industries enhancement 8766
certification program in which a private party participates in 8767
the enterprise only as a purchaser of goods and services. 8768

(2) "Employer model enterprise" means an enterprise 8769
conducted under a federal prison industries enhancement 8770
certification program in which a private party participates in 8771
the enterprise as an operator of the enterprise. 8772

(3) "Injury" means a diagnosable injury to an inmate 8773
supported by medical findings that it was sustained in the 8774
course of and arose out of authorized work activity that was an 8775
integral part of the inmate's participation in the Ohio penal 8776
industries program. 8777

(4) "Inmate" means any person who is committed to the 8778
custody of the department of rehabilitation and correction and 8779
who is participating in an Ohio penal industries program that is 8780
under the federal prison industries enhancement certification 8781
program. 8782

(5) "Federal prison industries enhancement certification 8783
program" means the program authorized pursuant to 18 U.S.C. 8784

1761. 8785

(6) "Loss of earning capacity" means an impairment of the 8786
body of an inmate to a degree that makes the inmate unable to 8787
return to work activity under the Ohio penal industries program 8788
and results in a reduction of compensation earned by the inmate 8789
at the time the injury occurred. 8790

(B) Every inmate shall be covered by a policy of 8791
disability insurance to provide benefits for loss of earning 8792
capacity due to an injury and for medical treatment of the 8793
injury following the inmate's release from prison. If the 8794
enterprise for which the inmate works is a customer model 8795
enterprise, Ohio penal industries shall purchase the policy. If 8796
the enterprise for which the inmate works is an employer model 8797
enterprise, the private participant shall purchase the policy. 8798
The person required to purchase the policy shall submit proof of 8799
coverage to the prison labor advisory board before the 8800
enterprise begins operation. 8801

(C) Within ninety days after an inmate sustains an injury, 8802
the inmate may file a disability claim with the person required 8803
to purchase the policy of disability insurance. Upon the request 8804
of the insurer, the inmate shall be medically examined, and the 8805
insurer shall determine the inmate's entitlement to disability 8806
benefits based on the medical examination. The inmate shall 8807
accept or reject an award within thirty days after a 8808
determination of the inmate's entitlement to the award. If the 8809
inmate accepts the award, the benefits shall be paid upon the 8810
inmate's release from prison. The amount of disability benefits 8811
payable to the inmate shall be reduced by sick leave benefits or 8812
other compensation for lost pay made by Ohio penal industries to 8813
the inmate due to an injury that rendered the inmate unable to 8814

work. An inmate shall not receive disability benefits for 8815
injuries occurring as the result of a fight, assault, horseplay, 8816
purposely self-inflicted injury, use of alcohol or controlled 8817
substances, misuse of prescription drugs, or other activity that 8818
is prohibited by the department's or institution's inmate 8819
conduct rules or the work rules of the private participant in 8820
the enterprise. 8821

(D) Inmates are not employees of the department of 8822
rehabilitation and correction or the private participant in an 8823
enterprise. 8824

(E) An inmate is ineligible to receive compensation or 8825
benefits under Chapter 4121., 4123., 4127., ~~or 4131.~~, or 4133. 8826
of the Revised Code for any injury, death, or occupational 8827
disease received in the course of, and arising out of, 8828
participation in the Ohio penal industries program. Any claim 8829
for an injury arising from an inmate's participation in the 8830
program is specifically excluded from the jurisdiction of the 8831
Ohio bureau of workers' compensation and the industrial 8832
commission of Ohio. 8833

(F) Any disability benefit award accepted by an inmate 8834
under this section shall be the inmate's exclusive remedy 8835
against the insurer, the private participant in an enterprise, 8836
and the state. If an inmate rejects an award or a disability 8837
claim is denied, the inmate may bring an action in the court of 8838
claims within the appropriate period of limitations. 8839

(G) If any inmate who is paid disability benefits under 8840
this section is reincarcerated, the benefits shall immediately 8841
cease but shall resume upon the inmate's subsequent release from 8842
incarceration. 8843

Sec. 5503.08. Each state highway patrol officer shall, in 8844
addition to the sick leave benefits provided in section 124.38 8845
of the Revised Code, be entitled to occupational injury leave. 8846
Occupational injury leave of one thousand five hundred hours 8847
with pay may, with the approval of the superintendent of the 8848
state highway patrol, be used for absence resulting from each 8849
independent injury incurred in the line of duty, except that 8850
occupational injury leave is not available for injuries incurred 8851
during those times when the patrol officer is actually engaged 8852
in administrative or clerical duties at a patrol facility, when 8853
a patrol officer is on a meal or rest period, or when the patrol 8854
officer is engaged in any personal business. The superintendent 8855
of the state highway patrol shall, by rule, define those 8856
administrative and clerical duties and those situations where 8857
the occurrence of an injury does not entitle the patrol officer 8858
to occupational injury leave. Each injury incurred in the line 8859
of duty which aggravates a previously existing injury, whether 8860
the previously existing injury was so incurred or not, shall be 8861
considered an independent injury. When its use is authorized 8862
under this section, all occupational injury leave shall be 8863
exhausted before any credit is deducted from unused sick leave 8864
accumulated under section 124.38 of the Revised Code, except 8865
that, unless otherwise provided by the superintendent of the 8866
state highway patrol, occupational injury leave shall not be 8867
used for absence occurring within seven calendar days of the 8868
injury. During that seven calendar day period, unused sick leave 8869
may be used for such an absence. 8870

When occupational injury leave is used, it shall be 8871
deducted from the unused balance of the patrol officer's 8872
occupational injury leave for that injury on the basis of one 8873
hour for every one hour of absence from previously scheduled 8874

work. 8875

Before a patrol officer may use occupational injury leave, 8876
the patrol officer shall: 8877

(A) Apply to the superintendent for permission to use 8878
occupational injury leave on a form that requires the patrol 8879
officer to explain the nature of the patrol officer's 8880
independent injury and the circumstances under which it 8881
occurred; and 8882

(B) Submit to a medical examination. The individual who 8883
conducts the examination shall report to the superintendent the 8884
results of the examination and whether or not the independent 8885
injury prevents the patrol officer from attending work. 8886

The superintendent shall, by rule, provide for periodic 8887
medical examinations of patrol officers who are using 8888
occupational injury leave. The individual selected to conduct 8889
the medical examinations shall report to the superintendent the 8890
results of each such examination, including a description of the 8891
progress made by the patrol officer in recovering from the 8892
independent injury, and whether or not the independent injury 8893
continues to prevent the patrol officer from attending work. 8894

The superintendent shall appoint to conduct medical 8895
examinations under this division individuals authorized by the 8896
Revised Code to do so, including any physician assistant, 8897
clinical nurse specialist, certified nurse practitioner, or 8898
certified nurse-midwife. 8899

A patrol officer is not entitled to use or continue to use 8900
occupational injury leave after refusing to submit to a medical 8901
examination or if the individual examining the patrol officer 8902
reports that the independent injury does not prevent the patrol 8903

officer from attending work. 8904

A patrol officer who falsifies an application for 8905
permission to use occupational injury leave or a medical 8906
examination report is subject to disciplinary action, including 8907
dismissal. 8908

The superintendent shall, by rule, prescribe forms for the 8909
application and medical examination report. 8910

Occupational injury leave pay made according to this 8911
section is in lieu of such workers' compensation benefits as 8912
would have been payable directly to a patrol officer pursuant to 8913
sections 4123.56~~and~~, 4123.58, 4133.12, and 4133.14 of the 8914
Revised Code, but all other compensation and benefits pursuant 8915
to ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code are 8916
payable as in any other case. If at the close of the period, the 8917
patrol officer remains disabled, the patrol officer is entitled 8918
to all compensation and benefits, without a waiting period 8919
pursuant to section 4123.55 of the Revised Code based upon the 8920
injury received, for which the patrol officer qualifies pursuant 8921
to ~~Chapter~~ Chapters 4123. and 4133. of the Revised Code. 8922
Compensation shall be paid from the date that the patrol officer 8923
ceases to receive the patrol officer's regular rate of pay 8924
pursuant to this section. 8925

Occupational injury leave shall not be credited to or, 8926
upon use, deducted from, a patrol officer's sick leave. 8927

Section 2. That existing sections 109.84, 126.30, 8928
145.2915, 2307.84, 2307.91, 2307.97, 2317.02, 2913.48, 3121.899, 8929
3701.741, 3963.10, 4115.03, 4121.03, 4121.12, 4121.121, 8930
4121.125, 4121.127, 4121.129, 4121.13, 4121.30, 4121.31, 8931
4121.32, 4121.34, 4121.36, 4121.41, 4121.44, 4121.441, 4121.442, 8932

4121.444, 4121.45, 4121.50, 4121.61, 4123.025, 4123.05, 4123.15, 8933
4123.26, 4123.27, 4123.291, 4123.30, 4123.311, 4123.32, 8934
4123.324, 4123.34, 4123.341, 4123.342, 4123.343, 4123.35, 8935
4123.351, 4123.353, 4123.402, 4123.441, 4123.442, 4123.444, 8936
4123.46, 4123.47, 4123.51, 4123.511, 4123.512, 4123.522, 8937
4123.53, 4123.54, 4123.542, 4123.57, 4123.571, 4123.65, 8938
4123.651, 4123.66, 4123.67, 4123.68, 4123.69, 4123.74, 4123.741, 8939
4123.85, 4123.89, 4123.93, 4123.931, 4125.03, 4125.04, 4131.01, 8940
4729.80, 5145.163, and 5503.08 of the Revised Code are hereby 8941
repealed. 8942

Section 3. Sections 1 and 2 of this act apply to claims 8943
for compensation and benefits for disability or death due to 8944
occupational pneumoconiosis arising on or after the effective 8945
date of this act. 8946

Section 4. The General Assembly, applying the principle 8947
stated in division (B) of section 1.52 of the Revised Code that 8948
amendments are to be harmonized if reasonably capable of 8949
simultaneous operation, finds that the following sections, 8950
presented in this act as composites of the sections as amended 8951
by the acts indicated, are the resulting version of the sections 8952
in effect prior to the effective date of the section as 8953
presented in this act: 8954

Section 4121.12 of the Revised Code, as amended by Sub. 8955
H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 8956
General Assembly. 8957

Section 4121.125 of the Revised Code, as amended by Sub. 8958
H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 8959
General Assembly. 8960