

As Passed by the Senate

135th General Assembly

Regular Session

2023-2024

Sub. S. B. No. 196

Senator Roegner

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

A BILL

To amend sections 109.921, 124.38, 124.82, 173.521, 1
173.542, 305.03, 313.12, 503.241, 940.09, 2
1347.08, 1561.12, 1571.012, 1751.84, 1753.21, 3
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4507.081, 4507.141, 4507.30, 4511.81, 4723.36, 23
4723.431, 4729.284, 4729.41, 4729.45, 4729.47, 24
5120.17, 5120.21, 5145.22, 5502.522, and 5739.01 25
and to enact sections 2135.15, 4723.437, 26
4723.438, and 4723.4812 of the Revised Code 27
regarding the authority of advanced practice 28
registered nurses. 29

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

Section 1. That sections 109.921, 124.38, 124.82, 173.521, 30
173.542, 305.03, 313.12, 503.241, 940.09, 1347.08, 1561.12, 31
1571.012, 1751.84, 1753.21, 2108.16, 2111.031, 2111.49, 2133.25, 32
2135.01, 2151.33, 2151.3515, 2151.421, 2305.235, 2313.14, 33
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3319.143, 3321.04, 3501.382, 3701.031, 3701.046, 3701.144, 36
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4123.85, 4506.07, 4507.06, 4507.08, 4507.081, 4507.141, 4507.30, 46
4511.81, 4723.36, 4723.431, 4729.284, 4729.41, 4729.45, 4729.47, 47
5120.17, 5120.21, 5145.22, 5502.522, and 5739.01 be amended and 48
sections 2135.15, 4723.437, 4723.438, and 4723.4812 of the 49

Revised Code be enacted to read as follows: 50

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

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

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

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

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

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

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

(b) A violation of an existing or former municipal 71
ordinance or law of this or any other state or the United States 72
that is or was substantially equivalent to any section listed in 73
division (A) (2) (a) of this section. 74

(B) There is hereby created in the state treasury the rape 75
crisis program trust fund, consisting of money paid into the 76
fund pursuant to sections 307.515 and 311.172 of the Revised 77

Code and any money appropriated to the fund by the general 78
assembly or donated to the fund. The attorney general shall 79
administer the fund. The attorney general may use not more than 80
five per cent of the money deposited or appropriated into the 81
fund to pay costs associated with administering this section and 82
shall use at least ninety-five per cent of the money deposited 83
or appropriated into the fund for the purpose of providing 84
funding to rape crisis programs under this section. 85

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

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

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

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

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

(3) If the program is a government-based or nonprofit 106

entity that provides a full continuum of services to victims of 107
sexual assault, to provide those services and education to 108
prevent sexual assault. 109

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

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

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

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

Employees may use sick leave, upon approval of the 126
responsible administrative officer of the employing unit, for 127
absence due to personal illness, pregnancy, injury, exposure to 128
contagious disease that could be communicated to other 129
employees, and illness, injury, or death in the employee's 130
immediate family. Unused sick leave shall be cumulative without 131
limit. When sick leave is used, it shall be deducted from the 132
employee's credit on the basis of one hour for every one hour of 133
absence from previously scheduled work. 134

The previously accumulated sick leave of an employee who 135

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

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

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

The appointing authority of each employing unit shall 155
require an employee to furnish a satisfactory written, signed 156
statement to justify the use of sick leave. If medical attention 157
is required, a certificate stating the nature of the illness 158
from a licensed physician, certified nurse-midwife, clinical 159
nurse specialist, or certified nurse practitioner shall be 160
required to justify the use of sick leave. Falsification of 161
either ~~a written, signed the~~ statement or ~~a physician's the~~ 162
certificate shall be grounds for disciplinary action, including 163
dismissal. 164

This section does not interfere with existing unused sick 165

leave credit in any agency of government where attendance 166
records are maintained and credit has been given employees for 167
unused sick leave. 168

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

Sec. 124.82. (A) Except as provided in division (D) of 185
this section, the department of administrative services, in 186
consultation with the superintendent of insurance, shall, in 187
accordance with competitive selection procedures of Chapter 125. 188
of the Revised Code, contract with an insurance company or a 189
health plan in combination with an insurance company, authorized 190
to do business in this state, for the issuance of a policy or 191
contract of health, medical, hospital, dental, vision, or 192
surgical benefits, or any combination of those benefits, 193
covering state employees who are paid directly by warrant of the 194
director of budget and management, including elected state 195
officials. The department may fulfill its obligation under this 196

division by exercising its authority under division (A) (2) of 197
section 124.81 of the Revised Code. 198

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

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

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

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

(4) The director of health examines and certifies to the 220
department that the quality and adequacy of care rendered by the 221
health insuring corporations meet at least the standards of care 222
provided by hospitals ~~and, physicians, and advanced practice~~ 223
registered nurses in that employee's community, who would be 224
providing such care as would be covered by a contract awarded 225

under division (A) of this section.	226
(C) All or any portion of the cost, premium, or charge for the coverage in divisions (A) and (B) of this section may be paid in such manner or combination of manners as the department determines and may include the proration of health care costs, premiums, or charges for part-time employees.	227 228 229 230 231
(D) Notwithstanding divisions (A) and (B) of this section, the department may provide benefits equivalent to those that may be paid under a policy or contract issued by an insurance company or a health plan pursuant to division (A) or (B) of this section.	232 233 234 235 236
(E) This section does not prohibit the state office of collective bargaining from entering into an agreement with an employee representative for the purposes of providing fringe benefits, including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services or other benefits, or any combination of those benefits, to employees paid directly by warrant of the director of budget and management through a jointly administered trust fund. The employer's contribution for the cost of the benefit care shall be mutually agreed to in the collectively bargained agreement. The amount, type, and structure of fringe benefits provided under this division is subject to the determination of the board of trustees of the jointly administered trust fund. Notwithstanding any other provision of the Revised Code, competitive bidding does not apply to the purchase of fringe benefits for employees under this division when those benefits are provided through a jointly administered trust fund.	237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255

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

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

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

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

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

(b) A physician, certified nurse-midwife if authorized as 275
described in section 4723.438 of the Revised Code, clinical 276
nurse specialist, or certified nurse practitioner has determined 277
and documented in writing that the individual has a medical 278
condition that, unless the individual is enrolled in home and 279
community-based services such as the PASSPORT program, will 280
require the individual to be admitted to a nursing facility 281
within thirty days of the physician's or nurse's determination. 282

(c) The individual has been hospitalized and a physician, 283
certified nurse-midwife if authorized as described in section 284

4723.438 of the Revised Code, clinical nurse specialist, or 285
certified nurse practitioner has determined and documented in 286
writing that, unless the individual is enrolled in home and 287
community-based services such as the PASSPORT program, the 288
individual is to be transported directly from the hospital to a 289
nursing facility and admitted. 290

(d) Both of the following apply: 291

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

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

(B) Each month, each area agency on aging shall identify 303
individuals residing in the area that the agency serves who are 304
eligible for the home first component of the PASSPORT program. 305
When an area agency on aging identifies such an individual, the 306
agency shall notify the long-term care consultation program 307
administrator serving the area in which the individual resides. 308
The administrator shall determine whether the PASSPORT program 309
is appropriate for the individual and whether the individual 310
would rather participate in the PASSPORT program than continue 311
or begin to reside in a nursing facility. If the administrator 312
determines that the PASSPORT program is appropriate for the 313
individual and the individual would rather participate in the 314

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

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

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

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

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

(b) A physician, certified nurse-midwife if authorized as 337
described in section 4723.438 of the Revised Code, clinical 338
nurse specialist, or certified nurse practitioner has determined 339
and documented in writing that the individual has a medical 340
condition that, unless the individual is enrolled in home and 341
community-based services such as the assisted living program, 342
will require the individual to be admitted to a nursing facility 343

within thirty days of the physician's or nurse's determination. 344

(c) The individual has been hospitalized and a physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual is to be transported directly from the hospital to a nursing facility and admitted. 345
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(d) Both of the following apply: 353

(i) The individual is the subject of a report made under section 5101.63 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code. 354
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(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual should be admitted to a nursing facility. 360
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(B) Each month, each area agency on aging shall identify individuals residing in the area that the area agency on aging serves who are eligible for the home first component of the assisted living program. When an area agency on aging identifies such an individual and determines that there is a vacancy in a residential care facility participating in the medicaid-funded component of the assisted living program that is acceptable to the individual, the agency shall notify the long-term care 365
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consultation program administrator serving the area in which the 373
individual resides. The administrator shall determine whether 374
the assisted living program is appropriate for the individual 375
and whether the individual would rather participate in the 376
assisted living program than continue or begin to reside in a 377
nursing facility. If the administrator determines that the 378
assisted living program is appropriate for the individual and 379
the individual would rather participate in the assisted living 380
program than continue or begin to reside in a nursing facility, 381
the administrator shall so notify the department of aging. On 382
receipt of the notice from the administrator, the department 383
shall approve the individual's enrollment in the medicaid-funded 384
component of the assisted living program regardless of the 385
unified waiting list established under section 173.55 of the 386
Revised Code, unless the enrollment would cause the component to 387
exceed any limit on the number of individuals who may 388
participate in the component as set by the United States 389
secretary of health and human services in the assisted living 390
waiver. 391

Sec. 305.03. (A) (1) Whenever any county officer, except 392
the county auditor or county treasurer, fails to perform the 393
duties of office for ninety consecutive days, except in case of 394
sickness or injury as provided in divisions (B) and (C) of this 395
section, the office shall be deemed vacant. 396

(2) Whenever any county auditor or county treasurer fails 397
to perform the duties of office for thirty consecutive days, 398
except in case of sickness or injury as provided in divisions 399
(B) and (C) of this section, the office shall be deemed vacant. 400

(B) Whenever any county officer is absent because of 401
sickness or injury, the officer shall cause to be filed with the 402

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

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

(D) If at any time two county commissioners in a county 417
are absent and have filed a ~~physician's~~ certificate under 418
division (B) of this section, the county coroner, in addition to 419
performing the duties of coroner, shall serve as county 420
commissioner until at least one of the absent commissioners 421
returns to office or until the office of at least one of the 422
absent commissioners is deemed vacant under this section and the 423
vacancy is filled. If the coroner so requests, the coroner shall 424
be paid a per diem rate for the coroner's service as a 425
commissioner. That per diem rate shall be the annual salary 426
specified by law for a county commissioner of that county whose 427
term of office began in the same year as the coroner's term of 428
office began, divided by the number of days in the year. 429

While the coroner is serving as a county commissioner, the 430
coroner shall be considered an acting county commissioner and 431
shall perform the duties of the office of county commissioner 432

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

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

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

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

Sec. 313.12. (A) When any person dies as a result of 457
criminal or other violent means, by casualty, by suicide, or in 458
any suspicious or unusual manner, when any person, including a 459
child under two years of age, dies suddenly when in apparent 460
good health, or when any person with a developmental disability 461
dies regardless of the circumstances, the physician, certified 462

nurse-midwife, clinical nurse specialist, or certified nurse practitioner called in attendance, or any member of an ambulance service, emergency squad, or law enforcement agency who obtains knowledge thereof arising from the person's duties, shall immediately notify the office of the coroner of the known facts concerning the time, place, manner, and circumstances of the death, and any other information that is required pursuant to sections 313.01 to 313.22 of the Revised Code. In such cases, if a request is made for cremation, the funeral director called in attendance shall immediately notify the coroner.

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

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

Such vacancy shall be filled in the manner provided by section 503.24 of the Revised Code. Whenever any township officer is absent from the township because of sickness or injury, ~~he~~ the officer shall cause to be filed with the board of township trustees a ~~physician's~~ certificate from a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner of ~~his~~ the officer's sickness or injury. If such certificate is not filed with the board within ten days after the expiration of the ninety consecutive days of absence from the township, ~~his~~ the officer's office shall be deemed vacant and the board of township trustees shall declare a vacancy to exist in such office.

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

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

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

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

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

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

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

(B) (1) An employee of a soil and water conservation 513
district is eligible to become a receiving employee if the 514
employee is a full-time employee, or a full-time limited hours 515
employee, who has completed the prescribed probationary period, 516
has used up all accrued paid leave, and has been placed on an 517
approved, unpaid, medical-related leave of absence for a period 518
of at least thirty consecutive working days because of the 519
employee's own serious illness or because of a serious illness 520
of a member of the employee's immediate family. 521

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

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

(2) A soil and water conservation district employee 540
desiring to become a donating employee shall complete and submit 541
a sick leave donation form to the employee's immediate 542
supervisor within twenty days after the date of the initial 543
posting of the notice described in division (C) (1) of this 544
section. If the board of supervisors of the employing district 545
of an employee desiring to become a donating employee approves 546
the sick leave donation, the board shall forward to the 547
committee, together with a check equal to the total value of the 548
sick leave donation, a copy of the sick leave donation form, and 549
the board shall notify the receiving employee regarding the 550
donation. 551

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

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

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

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

(3) The value of an hour of sick leave donated is the value of the donating employee's gross hourly wage. The number of hours received by a receiving employee from a donating employee shall be a number that, when multiplied by the receiving employee's gross hourly wage, equals the amount resulting when the donating employee's gross hourly wage is multiplied by the number of hours of sick leave donated.

(4) No paid leave shall accrue to a receiving employee for any compensation received through donated sick leave, and the

receipt of donated sick leave does not affect the date on which 581
a receiving employee first qualifies for continuation of health 582
insurance coverage. 583

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

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

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

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

(3) Inform the person about the types of uses made of the 601
personal information, including the identity of any users 602
usually granted access to the system. 603

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

(C) (1) A state or local agency, upon request, shall 607
disclose medical, psychiatric, or psychological information to a 608
person who is the subject of the information or to the person's 609

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

(2) Upon the signed written request of ~~either~~ a licensed 626
attorney at law ~~or,~~ a licensed physician, or an advanced 627
practice registered nurse designated by the inmate, together 628
with the signed written request of an inmate of a correctional 629
institution under the administration of the department of 630
rehabilitation and correction, the department shall disclose 631
medical information to the designated attorney ~~or,~~ physician, or 632
advanced practice registered nurse as provided in division (C) 633
of section 5120.21 of the Revised Code. 634

(D) If an individual who is authorized to inspect personal 635
information that is maintained in a personal information system 636
requests the state or local agency that maintains the system to 637
provide a copy of any personal information that the individual 638
is authorized to inspect, the agency shall provide a copy of the 639
personal information to the individual. Each state and local 640

agency may establish reasonable fees for the service of copying, 641
upon request, personal information that is maintained by the 642
agency. 643

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

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

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

(1) The contents of an adoption file maintained by the 662
department of health under sections 3705.12 to 3705.124 of the 663
Revised Code; 664

(2) Information contained in the putative father registry 665
established by section 3107.062 of the Revised Code, regardless 666
of whether the information is held by the department of job and 667
family services or, pursuant to section 3111.69 of the Revised 668
Code, the office of child support in the department or a child 669

support enforcement agency;	670
(3) Papers, records, and books that pertain to an adoption	671
and that are subject to inspection in accordance with section	672
3107.17 of the Revised Code;	673
(4) Records specified in division (A) of section 3107.52	674
of the Revised Code;	675
(5) Records that identify an individual described in	676
division (A)(1) of section 3721.031 of the Revised Code, or that	677
would tend to identify such an individual;	678
(6) Files and records that have been expunged under	679
division (D)(1) or (2) of section 3721.23 of the Revised Code;	680
(7) Records that identify an individual described in	681
division (A)(1) of section 3721.25 of the Revised Code, or that	682
would tend to identify such an individual;	683
(8) Records that identify an individual described in	684
division (A)(1) of section 5165.88 of the Revised Code, or that	685
would tend to identify such an individual;	686
(9) Test materials, examinations, or evaluation tools used	687
in an examination for licensure as a nursing home administrator	688
that the board of executives of long-term services and supports	689
administers under section 4751.15 of the Revised Code or	690
contracts under that section with a private or government entity	691
to administer;	692
(10) Information contained in a database established and	693
maintained pursuant to section 5101.13 of the Revised Code;	694
(11) Information contained in a database established and	695
maintained pursuant to section 5101.631 of the Revised Code.	696

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

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

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

The applicant shall pass an examination as to the 719
applicant's practical and technological knowledge of mine 720
surveying, mining machinery, and appliances; the proper 721
development and operation of mines; the best methods of working 722
and ventilating mines; the nature, properties, and powers of 723
noxious, poisonous, and explosive gases, particularly methane; 724
the best means and methods of detecting, preventing, and 725
removing the accumulation of such gases; the use and operation 726

of gas detecting devices and appliances; first aid to the 727
injured; and the uses and dangers of electricity as applied and 728
used in, at, and around mines. The applicant shall also hold a 729
certificate for foreperson of gaseous mines issued by the chief. 730

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

(C) An applicant for the position of electrical inspector 745
shall have had at least five years' practical experience in the 746
installation and maintenance of electrical circuits and 747
equipment in mines, and the applicant shall be thoroughly 748
familiar with the principles underlying the safety features of 749
permissible and approved equipment as authorized and used in 750
mines. 751

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

state. 757

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

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

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

Sec. 1571.012. An applicant for the position of gas 779
storage well inspector shall register the applicant's name with 780
the chief of the division of oil and gas resources management 781
and file with the chief an affidavit as to all matters of fact 782
establishing the applicant's right to take the examination for 783
that position and a certificate from a reputable and 784
disinterested physician, clinical nurse specialist, or certified 785
nurse practitioner as to the physical condition of the applicant 786

showing that the applicant is physically capable of performing 787
the duties of the position. The applicant also shall present 788
evidence satisfactory to the chief that the applicant has been a 789
resident and citizen of this state for at least two years next 790
preceding the date of application. 791

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

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

Sec. 1751.84. (A) Notwithstanding section 3901.71 of the 805
Revised Code, each individual and group health insuring 806
corporation policy, contract, or agreement providing basic 807
health care services that is delivered, issued for delivery, or 808
renewed in this state shall provide coverage for the screening, 809
diagnosis, and treatment of autism spectrum disorder. A health 810
insuring corporation shall not terminate an individual's 811
coverage, or refuse to deliver, execute, issue, amend, adjust, 812
or renew coverage to an individual solely because the individual 813
is diagnosed with or has received treatment for an autism 814
spectrum disorder. Nothing in this section shall be applied to 815
nongrandfathered plans in the individual and small group markets 816

or to medicare supplement, accident-only, specified disease, 817
hospital indemnity, disability income, long-term care, or other 818
limited benefit hospital insurance policies. Except as otherwise 819
provided in division (B) of this section, coverage under this 820
section shall not be subject to dollar limits, deductibles, or 821
coinsurance provisions that are less favorable to an enrollee 822
than the dollar limits, deductibles, or coinsurance provisions 823
that apply to substantially all medical and surgical benefits 824
under the policy, contract, or agreement. 825

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

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

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

(3) For mental or behavioral health outpatient services 838
for an enrollee under the age of fourteen that are performed by 839
~~a licensed psychologist, psychiatrist, or physician~~ any of the 840
following providing consultation, assessment, development, or 841
oversight of treatment plans, thirty visits per year: 842

(a) A licensed psychologist; 843

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

(c) A clinical nurse specialist or certified nurse 845

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

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

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

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

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

(D) (1) Except for inpatient services, if an enrollee is 864
receiving treatment for an autism spectrum disorder, a health 865
insuring corporation may review the treatment plan annually, 866
unless the health insuring corporation and the enrollee's 867
treating physician, clinical nurse specialist, certified nurse 868
practitioner, or psychologist agree that a more frequent review 869
is necessary. 870

(2) Any such agreement as described in division (D) (1) of 871
this section shall apply only to a particular enrollee being 872
treated for an autism spectrum disorder and shall not apply to 873
all individuals being treated for autism spectrum disorder by a 874

physician, clinical nurse specialist, certified nurse 875
practitioner, or psychologist. 876

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

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

(F) As used in this section: 883

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

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

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

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

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

following:	903
(i) A certified Ohio behavior analyst as defined in section 4783.01 of the Revised Code;	904 905
(ii) An individual licensed under Chapter 4732. of the Revised Code to practice psychology;	906 907
(iii) An individual licensed under Chapter 4757. of the Revised Code to practice professional counseling, social work, or marriage and family therapy.	908 909 910
(4) "Diagnosis of autism spectrum disorder" means medically necessary assessments, evaluations, or tests to diagnose whether an individual has an autism spectrum disorder.	911 912 913
(5) "Pharmacy care" means <u>prescribed</u> medications prescribed by a licensed physician and any health-related services considered medically necessary to determine the need or effectiveness of the medications.	914 915 916 917
(6) "Psychiatric care" means direct or consultative services provided by a psychiatrist <u>or psychiatric-mental health advanced practice registered nurse who is licensed</u> in the state in which the psychiatrist <u>or nurse</u> practices.	918 919 920 921
(7) " <u>Psychiatric-mental health advanced practice registered nurse</u> " means an advanced practice registered nurse <u>who is either of the following:</u>	922 923 924
<u>(a) A clinical nurse specialist who is certified as a psychiatric-mental health CNS by the American nurses credentialing center;</u>	925 926 927
<u>(b) A certified nurse practitioner who is certified as a psychiatric-mental health NP by the American nurses credentialing center.</u>	928 929 930

(8) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

~~(8)~~ (9) "Therapeutic care" means services provided by a speech therapist, occupational therapist, or physical therapist licensed or certified in the state in which the person practices.

~~(9)~~ (10) "Treatment for autism spectrum disorder" means evidence-based care and related equipment prescribed or ordered for an individual diagnosed with an autism spectrum disorder, by a licensed physician who is a developmental pediatrician ~~or a~~, licensed psychologist trained in autism, clinical nurse specialist or certified nurse practitioner specializing in pediatric health, or clinical nurse specialist or certified nurse practitioner trained in autism who determines the care and related equipment to be medically necessary, including any of the following:

- (a) Clinical therapeutic intervention;
- (b) Pharmacy care;
- (c) Psychiatric care;
- (d) Psychological care;
- (e) Therapeutic care.

(G) If any provision of this section or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the section and the application of such remainder to other persons or circumstances shall not be affected thereby.

Sec. 1753.21. (A) If a policy, contract, or agreement of a

health insuring corporation uses a restricted formulary of 959
prescription drugs, the health insuring corporation shall do 960
both of the following: 961

(1) Develop such a formulary in consultation with and with 962
the approval of a pharmacy and therapeutics committee, a 963
majority of the members of which are physicians or advanced 964
practice registered nurses affiliated with the health insuring 965
corporation who may prescribe prescription drugs and pharmacists 966
affiliated with the health insuring corporation; or in 967
consultation with and with the approval of a pharmacy and 968
therapeutics committee that is independent of the health 969
insuring corporation consisting of physicians or advanced 970
practice registered nurses who may prescribe prescription drugs 971
in their state of licensure and pharmacists who are authorized 972
to practice in their state of licensure; 973

(2) Establish a procedure by which an enrollee may obtain, 974
without penalty or additional cost sharing beyond that provided 975
for formulary drugs under the enrollee's contract with the 976
health insuring corporation, coverage of a specific nonformulary 977
drug when the prescriber documents in the enrollee's medical 978
record and certifies that the formulary alternative has been 979
ineffective in the treatment of the enrollee's disease or 980
condition, or that the formulary alternative causes or is 981
reasonably expected by the prescriber to cause a harmful or 982
adverse reaction in the enrollee. 983

(B) Nothing in this section shall be construed to require 984
a health insuring corporation to place any particular 985
pharmaceutical product or therapeutic class of product on any 986
formulary, or to prohibit a health insuring corporation from 987
restricting payments for any specific pharmaceutical product or 988

therapeutic class of product, including, but not limited to, a 989
requirement that the product be prescribed only by a defined 990
specialist or subspecialist. 991

Sec. 2108.16. (A) Except as provided in division (B) of 992
this section, a physician or technician may remove a donated 993
part from the body of a donor that the physician or technician 994
is qualified to remove. 995

(B) Neither the physician, certified nurse-midwife, 996
clinical nurse specialist, or certified nurse practitioner who 997
attends the decedent at death nor the physician, certified 998
nurse-midwife, clinical nurse specialist, or certified nurse 999
practitioner who determines the time of the decedent's death 1000
shall participate in the procedures for removing or 1001
transplanting a part from the decedent. 1002

Sec. 2111.031. In connection with an application for the 1003
appointment of a guardian for an alleged incompetent, the court 1004
may appoint physicians, clinical nurse specialists, certified 1005
nurse practitioners, and other qualified persons to examine, 1006
investigate, or represent the alleged incompetent, to assist the 1007
court in deciding whether a guardianship is necessary. If the 1008
person is determined to be an incompetent and a guardian is 1009
appointed for the person, the costs, fees, or expenses incurred 1010
to so assist the court shall be charged either against the 1011
estate of the person or against the applicant, unless the court 1012
determines, for good cause shown, that the costs, fees, or 1013
expenses are to be recovered from the county, in which case they 1014
shall be charged against the county. If the person is not 1015
determined to be an incompetent or a guardian is not appointed 1016
for the person, the costs, fees, or expenses incurred to so 1017
assist the court shall be charged against the applicant, unless 1018

the court determines, for good cause shown, that the costs, 1019
fees, or expenses are to be recovered from the county, in which 1020
case they shall be charged against the county. 1021

A court may require the applicant to make an advance 1022
deposit of an amount that the court determines is necessary to 1023
defray the anticipated costs of examinations of an alleged 1024
incompetent and to cover fees or expenses to be incurred to 1025
assist it in deciding whether a guardianship is necessary. 1026

This section does not affect or apply to the duties of a 1027
probate court investigator under sections 2111.04 and 2111.041 1028
of the Revised Code. 1029

Sec. 2111.49. (A) (1) Subject to division (A) (3) of this 1030
section, the guardian of an incompetent person shall file a 1031
guardian's report with the court two years after the date of the 1032
issuance of the guardian's letters of appointment and biennially 1033
after that time, or at any other time upon the motion or a rule 1034
of the probate court. The report shall be in a form prescribed 1035
by the court and shall include all of the following. 1036

(a) The present address of the place of residence of the 1037
ward; 1038

(b) The present address of the guardian; 1039

(c) If the place of residence of the ward is not the 1040
ward's personal home, the name of the facility at which the ward 1041
resides and the name of the person responsible for the ward's 1042
care; 1043

(d) The approximate number of times during the period 1044
covered by the report that the guardian has had contact with the 1045
ward, the nature of those contacts, and the date that the ward 1046
was last seen by the guardian; 1047

(e) Any major changes in the physical or mental condition	1048
of the ward observed by the guardian;	1049
(f) The opinion of the guardian as to the necessity for	1050
the continuation of the guardianship;	1051
(g) The opinion of the guardian as to the adequacy of the	1052
present care of the ward;	1053
(h) The date that the ward was last examined or otherwise	1054
seen by a physician, <u>clinical nurse specialist, or certified</u>	1055
<u>nurse practitioner</u> and the purpose of that visit;	1056
(i) A statement by a licensed physician, <u>licensed clinical</u>	1057
<u>nurse specialist, licensed certified nurse practitioner,</u>	1058
licensed clinical psychologist, licensed independent social	1059
worker, licensed professional clinical counselor, or	1060
developmental disability team that has evaluated or examined the	1061
ward within three months prior to the date of the report as to	1062
the need for continuing the guardianship.	1063
(2) The court shall review a report filed pursuant to	1064
division (A) (1) of this section to determine if a continued	1065
necessity for the guardianship exists. The court may direct a	1066
probate court investigator to verify aspects of the report.	1067
(3) Division (A) (1) of this section applies to guardians	1068
appointed prior to, as well as on or after, the effective date	1069
of this section. A guardian appointed prior to that date shall	1070
file the first report in accordance with any applicable court	1071
rule or motion, or, in the absence of such a rule or motion,	1072
upon the next occurring date on which a report would have been	1073
due if division (A) (1) of this section had been in effect on the	1074
date of appointment as guardian, and shall file all subsequently	1075
due reports biennially after that time.	1076

(B) If, upon review of any report required by division (A) 1077
(1) of this section, the court finds that it is necessary to 1078
intervene in a guardianship, the court shall take any action 1079
that it determines is necessary, including, but not limited to, 1080
terminating or modifying the guardianship. 1081

(C) Except as provided in this division, for any 1082
guardianship, upon written request by the ward, the ward's 1083
attorney, or any other interested party made at any time after 1084
the expiration of one hundred twenty days from the date of the 1085
original appointment of the guardian, a hearing shall be held in 1086
accordance with section 2111.02 of the Revised Code to evaluate 1087
the continued necessity of the guardianship. Upon written 1088
request, the court shall conduct a minimum of one hearing under 1089
this division in the calendar year in which the guardian was 1090
appointed, and upon written request, shall conduct a minimum of 1091
one hearing in each of the following calendar years. Upon its 1092
own motion or upon written request, the court may, in its 1093
discretion, conduct a hearing within the first one hundred 1094
twenty days after appointment of the guardian or conduct more 1095
than one hearing in a calendar year. If the ward alleges 1096
competence, the burden of proving incompetence shall be upon the 1097
applicant for guardianship or the guardian, by clear and 1098
convincing evidence. 1099

Sec. 2133.25. (A) The department of health, by rule 1100
adopted pursuant to Chapter 119. of the Revised Code, shall 1101
adopt a standardized method of procedure for the withholding of 1102
CPR by physicians, certified nurse-midwives, clinical nurse 1103
specialists, certified nurse practitioners, emergency medical 1104
services personnel, and health care facilities in accordance 1105
with sections 2133.21 to 2133.26 of the Revised Code. The 1106
standardized method shall specify criteria for determining when 1107

a do-not-resuscitate order ~~issued by a physician~~ is current. The 1108
standardized method so adopted shall be the "do-not-resuscitate 1109
protocol" for purposes of sections 2133.21 to 2133.26 of the 1110
Revised Code. The department also shall approve one or more 1111
standard forms of DNR identification to be used throughout this 1112
state. 1113

(B) The department of health shall adopt rules in 1114
accordance with Chapter 119. of the Revised Code for the 1115
administration of sections 2133.21 to 2133.26 of the Revised 1116
Code. 1117

(C) The department of health shall appoint an advisory 1118
committee to advise the department in the development of rules 1119
under this section. The advisory committee shall include, but 1120
shall not be limited to, representatives of each of the 1121
following organizations: 1122

(1) The ~~association for hospitals and health systems~~ 1123
~~(OHA)~~Ohio hospital association; 1124

(2) The Ohio state medical association; 1125

(3) The Ohio chapter of the American college of emergency 1126
physicians; 1127

(4) The Ohio hospice organization; 1128

(5) The Ohio council for home care and hospice; 1129

(6) The Ohio health care association; 1130

(7) The Ohio ambulance association; 1131

(8) The Ohio medical directors association; 1132

(9) The Ohio association of emergency medical services; 1133

(10) The bioethics network of Ohio; 1134

(11) The Ohio nurses association;	1135
(12) The Ohio academy of nursing homes;	1136
(13) The Ohio association of professional firefighters;	1137
(14) The department of developmental disabilities;	1138
(15) The Ohio osteopathic association;	1139
(16) The association of Ohio philanthropic homes, <u>and</u> housing and services for the aging;	1140 1141
(17) The catholic conference of Ohio;	1142
(18) The department of aging;	1143
(19) The department of mental health and addiction services;	1144 1145
(20) The Ohio private residential association;	1146
(21) The northern Ohio fire fighters association;	1147
<u>(22) The Ohio association of advanced practice nurses.</u>	1148
Sec. 2135.01. As used in sections 2135.01 to 2135.14 <u>2135.15</u> of the Revised Code:	1149 1150
(A) "Adult" means a person who is eighteen years of age or older.	1151 1152
(B) "Capacity to consent to mental health treatment decisions" means the functional ability to understand information about the risks of, benefits of, and alternatives to the proposed mental health treatment, to rationally use that information, to appreciate how that information applies to the declarant, and to express a choice about the proposed treatment.	1153 1154 1155 1156 1157 1158
(C) "Declarant" means an adult who has executed a	1159

declaration for mental health treatment in accordance with this 1160
chapter. 1161

(D) "Declaration for mental health treatment" or 1162
"declaration" means a written document declaring preferences or 1163
instructions regarding mental health treatment executed in 1164
accordance with this chapter. 1165

(E) "Designated physician" means the physician the 1166
declarant has named in a declaration for mental health treatment 1167
and has assigned the primary responsibility for the declarant's 1168
mental health treatment or, if the declarant has not so named a 1169
physician, the physician who has accepted that responsibility. 1170

(F) "Guardian" means a person appointed by a probate court 1171
pursuant to Chapter 2111. of the Revised Code to have the care 1172
and management of the person of an incompetent. 1173

(G) "Health care" means any care, treatment, service, or 1174
procedure to maintain, diagnose, or treat an individual's 1175
physical or mental condition or physical or mental health. 1176

(H) "Health care facility" has the same meaning as in 1177
section 1337.11 of the Revised Code. 1178

(I) "Incompetent" has the same meaning as in section 1179
2111.01 of the Revised Code. 1180

(J) "Informed consent" means consent voluntarily given by 1181
a person after a sufficient explanation and disclosure of the 1182
subject matter involved to enable that person to have a general 1183
understanding of the nature, purpose, and goal of the treatment 1184
or procedures, including the substantial risks and hazards 1185
inherent in the proposed treatment or procedures and any 1186
alternative treatment or procedures, and to make a knowing 1187
health care decision without coercion or undue influence. 1188

(K) "Medical record" means any document or combination of 1189
documents that pertains to a declarant's medical history, 1190
diagnosis, prognosis, or medical condition and that is generated 1191
and maintained in the process of the declarant's health care. 1192

(L) "Mental health treatment" means any care, treatment, 1193
service, or procedure to maintain, diagnose, or treat an 1194
individual's mental condition or mental health, including, but 1195
not limited to, electroconvulsive or other convulsive treatment, 1196
treatment of mental illness with medication, and admission to 1197
and retention in a health care facility. 1198

(M) "Mental health treatment decision" means informed 1199
consent, refusal to give informed consent, or withdrawal of 1200
informed consent to mental health treatment. 1201

(N) "Mental health treatment provider" means physicians, 1202
physician assistants, psychologists, licensed independent social 1203
workers, licensed professional clinical counselors, and 1204
psychiatric nurses. 1205

(O) "Physician" means a person who is authorized under 1206
Chapter 4731. of the Revised Code to practice medicine and 1207
surgery or osteopathic medicine and surgery. 1208

(P) "Professional disciplinary action" means action taken 1209
by the board or other entity that regulates the professional 1210
conduct of health care personnel, including, but not limited to, 1211
the state medical board, the state board of psychology, and the 1212
state board of nursing. 1213

(Q) "Proxy" means an adult designated to make mental 1214
health treatment decisions for a declarant under a valid 1215
declaration for mental health treatment. 1216

(R) "Psychiatric nurse" means a registered nurse who holds 1217

a master's degree or doctorate in nursing with a specialization 1218
in psychiatric nursing. 1219

(S) "Psychiatrist" has the same meaning as in section 1220
5122.01 of the Revised Code. 1221

(T) "Psychologist" has the same meaning as in section 1222
4732.01 of the Revised Code. 1223

(U) "Registered nurse" has the same meaning as in section 1224
4723.01 of the Revised Code. 1225

(V) "Tort action" means a civil action for damages for 1226
injury, death, or loss to person or property, other than a civil 1227
action for damages for a breach of contract or another agreement 1228
between persons. 1229

Sec. 2135.15. A person who holds a current, valid license 1230
issued under Chapter 4723. of the Revised Code to practice as an 1231
advanced practice registered nurse and also is a psychiatric 1232
nurse may take any action that may be taken by a designated 1233
physician or psychiatrist under sections 2135.01 to 2135.14 of 1234
the Revised Code. 1235

Sec. 2151.33. (A) Pending hearing of a complaint filed 1236
under section 2151.27 of the Revised Code or a motion filed or 1237
made under division (B) of this section and the service of 1238
citations, the juvenile court may make any temporary disposition 1239
of any child that it considers necessary to protect the best 1240
interest of the child and that can be made pursuant to division 1241
(B) of this section. Upon the certificate of one or more 1242
reputable practicing physicians, certified nurse-midwives, 1243
clinical nurse specialists, or certified nurse practitioners, 1244
the court may summarily provide for emergency medical and 1245
surgical treatment that appears to be immediately necessary to 1246

preserve the health and well-being of any child concerning whom 1247
a complaint or an application for care has been filed, pending 1248
the service of a citation upon the child's parents, guardian, or 1249
custodian. The court may order the parents, guardian, or 1250
custodian, if the court finds the parents, guardian, or 1251
custodian able to do so, to reimburse the court for the expense 1252
involved in providing the emergency medical or surgical 1253
treatment. Any person who disobeys the order for reimbursement 1254
may be adjudged in contempt of court and punished accordingly. 1255

If the emergency medical or surgical treatment is 1256
furnished to a child who is found at the hearing to be a 1257
nonresident of the county in which the court is located and if 1258
the expense of the medical or surgical treatment cannot be 1259
recovered from the parents, legal guardian, or custodian of the 1260
child, the board of county commissioners of the county in which 1261
the child has a legal settlement shall reimburse the court for 1262
the reasonable cost of the emergency medical or surgical 1263
treatment out of its general fund. 1264

(B) (1) After a complaint, petition, writ, or other 1265
document initiating a case dealing with an alleged or 1266
adjudicated abused, neglected, or dependent child is filed and 1267
upon the filing or making of a motion pursuant to division (C) 1268
of this section, the court, prior to the final disposition of 1269
the case, may issue any of the following temporary orders to 1270
protect the best interest of the child: 1271

(a) An order granting temporary custody of the child to a 1272
particular party; 1273

(b) An order for the taking of the child into custody 1274
pursuant to section 2151.31 of the Revised Code pending the 1275
outcome of the adjudicatory and dispositional hearings; 1276

(c) An order granting, limiting, or eliminating parenting time or visitation rights with respect to the child;	1277
	1278
(d) An order requiring a party to vacate a residence that will be lawfully occupied by the child;	1279
	1280
(e) An order requiring a party to attend an appropriate counseling program that is reasonably available to that party;	1281
	1282
(f) Any other order that restrains or otherwise controls the conduct of any party which conduct would not be in the best interest of the child.	1283
	1284
	1285
(2) Prior to the final disposition of a case subject to division (B) (1) of this section, the court shall do both of the following:	1286
	1287
	1288
(a) Issue an order pursuant to Chapters 3119. to 3125. of the Revised Code requiring the parents, guardian, or person charged with the child's support to pay support for the child.	1289
	1290
	1291
(b) Issue an order requiring the parents, guardian, or person charged with the child's support to continue to maintain any health insurance coverage for the child that existed at the time of the filing of the complaint, petition, writ, or other document, or to obtain health insurance coverage in accordance with sections 3119.29 to 3119.56 of the Revised Code.	1292
	1293
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(C) (1) A court may issue an order pursuant to division (B) of this section upon its own motion or if a party files a written motion or makes an oral motion requesting the issuance of the order and stating the reasons for it. Any notice sent by the court as a result of a motion pursuant to this division shall contain a notice that any party to a juvenile proceeding has the right to be represented by counsel and to have appointed counsel if the person is indigent.	1298
	1299
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(2) If a child is taken into custody pursuant to section 1306
2151.31 of the Revised Code and placed in shelter care, the 1307
public children services agency or private child placing agency 1308
with which the child is placed in shelter care shall file or 1309
make a motion as described in division (C)(1) of this section 1310
before the end of the next day immediately after the date on 1311
which the child was taken into custody and, at a minimum, shall 1312
request an order for temporary custody under division (B)(1)(a) 1313
of this section. 1314

(3) A court that issues an order pursuant to division (B) 1315
(1)(b) of this section shall comply with section 2151.419 of the 1316
Revised Code. 1317

(D) The court may grant an ex parte order upon its own 1318
motion or a motion filed or made pursuant to division (C) of 1319
this section requesting such an order if it appears to the court 1320
that the best interest and the welfare of the child require that 1321
the court issue the order immediately. The court, if acting on 1322
its own motion, or the person requesting the granting of an ex 1323
parte order, to the extent possible, shall give notice of its 1324
intent or of the request to the parents, guardian, or custodian 1325
of the child who is the subject of the request. If the court 1326
issues an ex parte order, the court shall hold a hearing to 1327
review the order within seventy-two hours after it is issued or 1328
before the end of the next day after the day on which it is 1329
issued, whichever occurs first. The court shall give written 1330
notice of the hearing to all parties to the action and shall 1331
appoint a guardian ad litem for the child prior to the hearing. 1332

The written notice shall be given by all means that are 1333
reasonably likely to result in the party receiving actual notice 1334
and shall include all of the following: 1335

(1) The date, time, and location of the hearing;	1336
(2) The issues to be addressed at the hearing;	1337
(3) A statement that every party to the hearing has a right to counsel and to court-appointed counsel, if the party is indigent;	1338 1339 1340
(4) The name, telephone number, and address of the person requesting the order;	1341 1342
(5) A copy of the order, except when it is not possible to obtain it because of the exigent circumstances in the case.	1343 1344
If the court does not grant an ex parte order pursuant to a motion filed or made pursuant to division (C) of this section or its own motion, the court shall hold a shelter care hearing on the motion within ten days after the motion is filed. The court shall give notice of the hearing to all affected parties in the same manner as set forth in the Juvenile Rules.	1345 1346 1347 1348 1349 1350
(E) The court, pending the outcome of the adjudicatory and dispositional hearings, shall not issue an order granting temporary custody of a child to a public children services agency or private child placing agency pursuant to this section, unless the court determines and specifically states in the order that the continued residence of the child in the child's current home will be contrary to the child's best interest and welfare and the court complies with section 2151.419 of the Revised Code.	1351 1352 1353 1354 1355 1356 1357 1358 1359
(F) Each public children services agency and private child placing agency that receives temporary custody of a child pursuant to this section shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child, including any adult relatives	1360 1361 1362 1363 1364

suggested by the parents, within thirty days of the child's 1365
removal from the custody of the child's parents, in accordance 1366
with 42 U.S.C. 671(a)(29). The agency shall also maintain in the 1367
child's case record written documentation that it has placed the 1368
child, to the extent that it is consistent with the best 1369
interest, welfare, and special needs of the child, in the most 1370
family-like setting available and in close proximity to the home 1371
of the parents, custodian, or guardian of the child. 1372

(G) For good cause shown, any court order that is issued 1373
pursuant to this section may be reviewed by the court at any 1374
time upon motion of any party to the action or upon the motion 1375
of the court. 1376

(H) (1) Pending the hearing of a complaint filed under 1377
section 2151.27 of the Revised Code or a motion filed or made 1378
under division (B) of this section and the service of citations, 1379
a public children services agency may request that the 1380
superintendent of the bureau of criminal identification and 1381
investigation conduct a criminal records check with respect to 1382
each parent, guardian, custodian, prospective custodian, or 1383
prospective placement whose actions resulted in a temporary 1384
disposition under division (A) of this section. The public 1385
children services agency may request that the superintendent 1386
obtain information from the federal bureau of investigation as 1387
part of the criminal records check of each parent, guardian, 1388
custodian, prospective custodian, or prospective placement. 1389

(2) Each public children services agency authorized by 1390
division (H) of this section to request a criminal records check 1391
shall do both of the following: 1392

(a) Provide to each parent, guardian, custodian, 1393
prospective custodian, or prospective placement for whom a 1394

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

(b) Forward the completed form and impression sheet to the 1402
superintendent of the bureau of criminal identification and 1403
investigation. 1404

(3) A parent, guardian, custodian, prospective custodian, 1405
or prospective placement who is given a form and fingerprint 1406
impression sheet under division (H) (2) (a) of this section and 1407
who fails to complete the form or provide fingerprint 1408
impressions may be held in contempt of court. 1409

Sec. 2151.3515. As used in sections 2151.3515 to 2151.3533 1410
of the Revised Code: 1411

(A) "Emergency medical service organization," "emergency 1412
medical technician-basic," "emergency medical technician- 1413
intermediate," "first responder," and "paramedic" have the same 1414
meanings as in section 4765.01 of the Revised Code. 1415

(B) "Emergency medical service worker" means a first 1416
responder, emergency medical technician-basic, emergency medical 1417
technician-intermediate, or paramedic. 1418

(C) "Hospital" has the same meaning as in section 3727.01 1419
of the Revised Code. 1420

(D) "Hospital employee" means any of the following 1421
persons: 1422

- (1) A physician or advanced practice registered nurse who 1423
has been granted privileges to practice at the hospital; 1424
- (2) A nurse, physician assistant, or nursing assistant 1425
employed by the hospital; 1426
- (3) An authorized person employed by the hospital who is 1427
acting under the direction of a physician or nurse described in 1428
division (D) (1) of this section. 1429
- (E) "Law enforcement agency" means an organization or 1430
entity made up of peace officers. 1431
- (F) "Nurse" means a person who is licensed under Chapter 1432
4723. of the Revised Code to practice as a registered nurse or 1433
licensed practical nurse. 1434
- (G) "Nursing assistant" means a person designated by a 1435
hospital as a nurse aide or nursing assistant whose job is to 1436
aid nurses, physicians, and physician assistants in the 1437
performance of their duties. 1438
- (H) "Peace officer" means a sheriff, deputy sheriff, 1439
constable, police officer of a township or joint police 1440
district, marshal, deputy marshal, municipal police officer, or 1441
a state highway patrol trooper. 1442
- (I) "Peace officer support employee" means an authorized 1443
person employed by a law enforcement agency who is acting under 1444
the direction of a peace officer. 1445
- (J) "Physician" means an individual authorized under 1446
Chapter 4731. of the Revised Code to practice medicine and 1447
surgery, osteopathic medicine and surgery, or podiatric medicine 1448
and surgery. 1449
- (K) "Physician assistant" means an individual who holds a 1450

current, valid license to practice as a physician assistant 1451
issued under Chapter 4730. of the Revised Code. 1452

(L) "Advanced practice registered nurse" has the same 1453
meaning as in section 4723.01 of the Revised Code. 1454

Sec. 2151.421. (A) (1) (a) No person described in division 1455
(A) (1) (b) of this section who is acting in an official or 1456
professional capacity and knows, or has reasonable cause to 1457
suspect based on facts that would cause a reasonable person in a 1458
similar position to suspect, that a child under eighteen years 1459
of age, or a person under twenty-one years of age with a 1460
developmental disability or physical impairment, has suffered or 1461
faces a threat of suffering any physical or mental wound, 1462
injury, disability, or condition of a nature that reasonably 1463
indicates abuse or neglect of the child shall fail to 1464
immediately report that knowledge or reasonable cause to suspect 1465
to the entity or persons specified in this division. Except as 1466
otherwise provided in this division or section 5120.173 of the 1467
Revised Code, the person making the report shall make it to the 1468
public children services agency or a peace officer in the county 1469
in which the child resides or in which the abuse or neglect is 1470
occurring or has occurred. If the person making the report is a 1471
peace officer, the officer shall make it to the public children 1472
services agency in the county in which the child resides or in 1473
which the abuse or neglect is occurring or has occurred. In the 1474
circumstances described in section 5120.173 of the Revised Code, 1475
the person making the report shall make it to the entity 1476
specified in that section. 1477

(b) Division (A) (1) (a) of this section applies to any 1478
person who is an attorney; health care professional; 1479
practitioner of a limited branch of medicine as specified in 1480

section 4731.15 of the Revised Code; licensed school 1481
psychologist; independent marriage and family therapist or 1482
marriage and family therapist; coroner; administrator or 1483
employee of a child care center; administrator or employee of a 1484
residential camp, child day camp, or private, nonprofit 1485
therapeutic wilderness camp; administrator or employee of a 1486
certified child care agency or other public or private children 1487
services agency; school teacher; school employee; school 1488
authority; peace officer; humane society agent; dog warden, 1489
deputy dog warden, or other person appointed to act as an animal 1490
control officer for a municipal corporation or township in 1491
accordance with state law, an ordinance, or a resolution; 1492
person, other than a cleric, rendering spiritual treatment 1493
through prayer in accordance with the tenets of a well- 1494
recognized religion; employee of a county department of job and 1495
family services who is a professional and who works with 1496
children and families; superintendent or regional administrator 1497
employed by the department of youth services; superintendent, 1498
board member, or employee of a county board of developmental 1499
disabilities; investigative agent contracted with by a county 1500
board of developmental disabilities; employee of the department 1501
of developmental disabilities; employee of a facility or home 1502
that provides respite care in accordance with section 5123.171 1503
of the Revised Code; employee of an entity that provides 1504
homemaker services; employee of a qualified organization as 1505
defined in section 2151.90 of the Revised Code; a host family as 1506
defined in section 2151.90 of the Revised Code; foster 1507
caregiver; a person performing the duties of an assessor 1508
pursuant to Chapter 3107. or 5103. of the Revised Code; third 1509
party employed by a public children services agency to assist in 1510
providing child or family related services; court appointed 1511
special advocate; or guardian ad litem. 1512

(c) If two or more health care professionals, after 1513
providing health care services to a child, determine or suspect 1514
that the child has been or is being abused or neglected, the 1515
health care professionals may designate one of the health care 1516
professionals to report the abuse or neglect. A single report 1517
made under this division shall meet the reporting requirements 1518
of division (A) (1) of this section. 1519

(2) Except as provided in division (A) (3) of this section, 1520
an attorney ~~or a~~, physician, or advanced practice registered 1521
nurse is not required to make a report pursuant to division (A) 1522
(1) of this section concerning any communication the attorney 1523
~~or~~, physician, or advanced practice registered nurse receives 1524
from a client or patient in an attorney-client ~~or~~, physician- 1525
patient, or advanced practice registered nurse-patient 1526
relationship, if, in accordance with division (A) or (B) of 1527
section 2317.02 of the Revised Code, the attorney ~~or~~, physician, 1528
or advanced practice registered nurse could not testify with 1529
respect to that communication in a civil or criminal proceeding. 1530

(3) The client or patient in an attorney-client ~~or~~, 1531
physician-patient, or advanced practice registered nurse-patient 1532
relationship described in division (A) (2) of this section is 1533
deemed to have waived any testimonial privilege under division 1534
(A) or (B) of section 2317.02 of the Revised Code with respect 1535
to any communication the attorney ~~or~~, physician, or advanced 1536
practice registered nurse receives from the client or patient in 1537
that ~~attorney-client or physician-patient~~ relationship, and the 1538
attorney ~~or~~, physician, or advanced practice registered nurse 1539
shall make a report pursuant to division (A) (1) of this section 1540
with respect to that communication, if all of the following 1541
apply: 1542

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

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

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

(4) (a) No cleric and no person, other than a volunteer, designated by any church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith who is acting in an official or professional capacity, who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, and who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that another cleric or another person, other than a volunteer, designated by

a church, religious society, or faith acting as a leader, 1573
official, or delegate on behalf of the church, religious 1574
society, or faith caused, or poses the threat of causing, the 1575
wound, injury, disability, or condition that reasonably 1576
indicates abuse or neglect shall fail to immediately report that 1577
knowledge or reasonable cause to believe to the entity or 1578
persons specified in this division. Except as provided in 1579
section 5120.173 of the Revised Code, the person making the 1580
report shall make it to the public children services agency or a 1581
peace officer in the county in which the child resides or in 1582
which the abuse or neglect is occurring or has occurred. In the 1583
circumstances described in section 5120.173 of the Revised Code, 1584
the person making the report shall make it to the entity 1585
specified in that section. 1586

(b) Except as provided in division (A) (4) (c) of this 1587
section, a cleric is not required to make a report pursuant to 1588
division (A) (4) (a) of this section concerning any communication 1589
the cleric receives from a penitent in a cleric-penitent 1590
relationship, if, in accordance with division (C) of section 1591
2317.02 of the Revised Code, the cleric could not testify with 1592
respect to that communication in a civil or criminal proceeding. 1593

(c) The penitent in a cleric-penitent relationship 1594
described in division (A) (4) (b) of this section is deemed to 1595
have waived any testimonial privilege under division (C) of 1596
section 2317.02 of the Revised Code with respect to any 1597
communication the cleric receives from the penitent in that 1598
cleric-penitent relationship, and the cleric shall make a report 1599
pursuant to division (A) (4) (a) of this section with respect to 1600
that communication, if all of the following apply: 1601

(i) The penitent, at the time of the communication, is a 1602

child under eighteen years of age or is a person under twenty- 1603
one years of age with a developmental disability or physical 1604
impairment. 1605

(ii) The cleric knows, or has reasonable cause to believe 1606
based on facts that would cause a reasonable person in a similar 1607
position to believe, as a result of the communication or any 1608
observations made during that communication, the penitent has 1609
suffered or faces a threat of suffering any physical or mental 1610
wound, injury, disability, or condition of a nature that 1611
reasonably indicates abuse or neglect of the penitent. 1612

(iii) The abuse or neglect does not arise out of the 1613
penitent's attempt to have an abortion performed upon a child 1614
under eighteen years of age or upon a person under twenty-one 1615
years of age with a developmental disability or physical 1616
impairment without the notification of her parents, guardian, or 1617
custodian in accordance with section 2151.85 of the Revised 1618
Code. 1619

(d) Divisions (A) (4) (a) and (c) of this section do not 1620
apply in a cleric-penitent relationship when the disclosure of 1621
any communication the cleric receives from the penitent is in 1622
violation of the sacred trust. 1623

(e) As used in divisions (A) (1) and (4) of this section, 1624
"cleric" and "sacred trust" have the same meanings as in section 1625
2317.02 of the Revised Code. 1626

(B) Anyone who knows, or has reasonable cause to suspect 1627
based on facts that would cause a reasonable person in similar 1628
circumstances to suspect, that a child under eighteen years of 1629
age, or a person under twenty-one years of age with a 1630
developmental disability or physical impairment, has suffered or 1631

faces a threat of suffering any physical or mental wound, 1632
injury, disability, or other condition of a nature that 1633
reasonably indicates abuse or neglect of the child may report or 1634
cause reports to be made of that knowledge or reasonable cause 1635
to suspect to the entity or persons specified in this division. 1636
Except as provided in section 5120.173 of the Revised Code, a 1637
person making a report or causing a report to be made under this 1638
division shall make it or cause it to be made to the public 1639
children services agency or to a peace officer. In the 1640
circumstances described in section 5120.173 of the Revised Code, 1641
a person making a report or causing a report to be made under 1642
this division shall make it or cause it to be made to the entity 1643
specified in that section. 1644

(C) Any report made pursuant to division (A) or (B) of 1645
this section shall be made forthwith either by telephone, in 1646
person, or electronically and shall be followed by a written 1647
report, if requested by the receiving agency or officer. The 1648
written report shall contain: 1649

(1) The names and addresses of the child and the child's 1650
parents or the person or persons having custody of the child, if 1651
known; 1652

(2) The child's age and the nature and extent of the 1653
child's injuries, abuse, or neglect that is known or reasonably 1654
suspected or believed, as applicable, to have occurred or of the 1655
threat of injury, abuse, or neglect that is known or reasonably 1656
suspected or believed, as applicable, to exist, including any 1657
evidence of previous injuries, abuse, or neglect; 1658

(3) Any other information, including, but not limited to, 1659
results and reports of any medical examinations, tests, or 1660
procedures performed under division (D) of this section, that 1661

might be helpful in establishing the cause of the injury, abuse, 1662
or neglect that is known or reasonably suspected or believed, as 1663
applicable, to have occurred or of the threat of injury, abuse, 1664
or neglect that is known or reasonably suspected or believed, as 1665
applicable, to exist. 1666

(D) (1) Any person, who is required by division (A) of this 1667
section to report child abuse or child neglect that is known or 1668
reasonably suspected or believed to have occurred, may take or 1669
cause to be taken color photographs of areas of trauma visible 1670
on a child and, if medically necessary for the purpose of 1671
diagnosing or treating injuries that are suspected to have 1672
occurred as a result of child abuse or child neglect, perform or 1673
cause to be performed radiological examinations and any other 1674
medical examinations of, and tests or procedures on, the child. 1675

(2) The results and any available reports of examinations, 1676
tests, or procedures made under division (D) (1) of this section 1677
shall be included in a report made pursuant to division (A) of 1678
this section. Any additional reports of examinations, tests, or 1679
procedures that become available shall be provided to the public 1680
children services agency, upon request. 1681

(3) If a health care professional provides health care 1682
services in a hospital, children's advocacy center, or emergency 1683
medical facility to a child about whom a report has been made 1684
under division (A) of this section, the health care professional 1685
may take any steps that are reasonably necessary for the release 1686
or discharge of the child to an appropriate environment. Before 1687
the child's release or discharge, the health care professional 1688
may obtain information, or consider information obtained, from 1689
other entities or individuals that have knowledge about the 1690
child. Nothing in division (D) (3) of this section shall be 1691

construed to alter the responsibilities of any person under 1692
sections 2151.27 and 2151.31 of the Revised Code. 1693

(4) A health care professional may conduct medical 1694
examinations, tests, or procedures on the siblings of a child 1695
about whom a report has been made under division (A) of this 1696
section and on other children who reside in the same home as the 1697
child, if the professional determines that the examinations, 1698
tests, or procedures are medically necessary to diagnose or 1699
treat the siblings or other children in order to determine 1700
whether reports under division (A) of this section are warranted 1701
with respect to such siblings or other children. The results of 1702
the examinations, tests, or procedures on the siblings and other 1703
children may be included in a report made pursuant to division 1704
(A) of this section. 1705

(5) Medical examinations, tests, or procedures conducted 1706
under divisions (D) (1) and (4) of this section and decisions 1707
regarding the release or discharge of a child under division (D) 1708
(3) of this section do not constitute a law enforcement 1709
investigation or activity. 1710

(E) (1) When a peace officer receives a report made 1711
pursuant to division (A) or (B) of this section, upon receipt of 1712
the report, the peace officer who receives the report shall 1713
refer the report to the appropriate public children services 1714
agency, in accordance with requirements specified under division 1715
(B) (6) of section 2151.4221 of the Revised Code, unless an 1716
arrest is made at the time of the report that results in the 1717
appropriate public children services agency being contacted 1718
concerning the possible abuse or neglect of a child or the 1719
possible threat of abuse or neglect of a child. 1720

(2) When a public children services agency receives a 1721

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

(a) Comply with section 2151.422 of the Revised Code; 1725

(b) If the county served by the agency is also served by a 1726
children's advocacy center and the report alleges sexual abuse 1727
of a child or another type of abuse of a child that is specified 1728
in the memorandum of understanding that creates the center as 1729
being within the center's jurisdiction, comply regarding the 1730
report with the protocol and procedures for referrals and 1731
investigations, with the coordinating activities, and with the 1732
authority or responsibility for performing or providing 1733
functions, activities, and services stipulated in the 1734
interagency agreement entered into under section 2151.428 of the 1735
Revised Code relative to that center; 1736

(c) Unless an arrest is made at the time of the report 1737
that results in the appropriate law enforcement agency being 1738
contacted concerning the possible abuse or neglect of a child or 1739
the possible threat of abuse or neglect of a child, and in 1740
accordance with requirements specified under division (B)(6) of 1741
section 2151.4221 of the Revised Code, notify the appropriate 1742
law enforcement agency of the report, if the public children 1743
services agency received either of the following: 1744

(i) A report of abuse of a child; 1745

(ii) A report of neglect of a child that alleges a type of 1746
neglect identified by the department of children and youth in 1747
rules adopted under division (L)(2) of this section. 1748

(F) No peace officer shall remove a child about whom a 1749
report is made pursuant to this section from the child's 1750

parents, stepparents, or guardian or any other persons having 1751
custody of the child without consultation with the public 1752
children services agency, unless, in the judgment of the 1753
officer, and, if the report was made by a physician or advanced 1754
practice registered nurse, the physician or nurse, immediate 1755
removal is considered essential to protect the child from 1756
further abuse or neglect. The agency that must be consulted 1757
shall be the agency conducting the investigation of the report 1758
as determined pursuant to section 2151.422 of the Revised Code. 1759

(G) (1) Except as provided in section 2151.422 of the 1760
Revised Code or in an interagency agreement entered into under 1761
section 2151.428 of the Revised Code that applies to the 1762
particular report, the public children services agency shall 1763
investigate, within twenty-four hours, each report of child 1764
abuse or child neglect that is known or reasonably suspected or 1765
believed to have occurred and of a threat of child abuse or 1766
child neglect that is known or reasonably suspected or believed 1767
to exist that is referred to it under this section to determine 1768
the circumstances surrounding the injuries, abuse, or neglect or 1769
the threat of injury, abuse, or neglect, the cause of the 1770
injuries, abuse, neglect, or threat, and the person or persons 1771
responsible. The investigation shall be made in cooperation with 1772
the law enforcement agency and in accordance with the memorandum 1773
of understanding prepared under sections 2151.4220 to 2151.4234 1774
of the Revised Code. A representative of the public children 1775
services agency shall, at the time of initial contact with the 1776
person subject to the investigation, inform the person of the 1777
specific complaints or allegations made against the person. The 1778
information shall be given in a manner that is consistent with 1779
division (I) (1) ~~and rules adopted under division (L) (3)~~ of this 1780
section and protects the rights of the person making the report 1781

under this section. 1782

A failure to make the investigation in accordance with the 1783
memorandum is not grounds for, and shall not result in, the 1784
dismissal of any charges or complaint arising from the report or 1785
the suppression of any evidence obtained as a result of the 1786
report and does not give, and shall not be construed as giving, 1787
any rights or any grounds for appeal or post-conviction relief 1788
to any person. The public children services agency shall report 1789
each case to the uniform statewide automated child welfare 1790
information system that the department of children and youth 1791
shall maintain in accordance with section 5101.13 of the Revised 1792
Code. The public children services agency shall submit a report 1793
of its investigation, in writing, to the law enforcement agency. 1794

(2) The public children services agency shall make any 1795
recommendations to the county prosecuting attorney or city 1796
director of law that it considers necessary to protect any 1797
children that are brought to its attention. 1798

(H) (1) (a) Except as provided in divisions (H) (1) (b) and 1799
(I) (3) of this section, any person, health care professional, 1800
hospital, institution, school, health department, or agency 1801
shall be immune from any civil or criminal liability for injury, 1802
death, or loss to person or property that otherwise might be 1803
incurred or imposed as a result of any of the following: 1804

(i) Participating in the making of reports pursuant to 1805
division (A) of this section or in the making of reports in good 1806
faith, pursuant to division (B) of this section; 1807

(ii) Participating in medical examinations, tests, or 1808
procedures under division (D) of this section; 1809

(iii) Providing information used in a report made pursuant 1810

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

(iv) Participating in a judicial proceeding resulting from 1814
a report made pursuant to division (A) of this section or 1815
participating in good faith in a proceeding resulting from a 1816
report made pursuant to division (B) of this section. 1817

(b) Immunity under division (H) (1) (a) (ii) of this section 1818
shall not apply when a health care provider has deviated from 1819
the standard of care applicable to the provider's profession. 1820

(c) Notwithstanding section 4731.22 of the Revised Code, 1821
the physician-patient privilege shall not be a ground for 1822
excluding evidence regarding a child's injuries, abuse, or 1823
neglect, or the cause of the injuries, abuse, or neglect in any 1824
judicial proceeding resulting from a report submitted pursuant 1825
to this section. 1826

(2) In any civil or criminal action or proceeding in which 1827
it is alleged and proved that participation in the making of a 1828
report under this section was not in good faith or participation 1829
in a judicial proceeding resulting from a report made under this 1830
section was not in good faith, the court shall award the 1831
prevailing party reasonable attorney's fees and costs and, if a 1832
civil action or proceeding is voluntarily dismissed, may award 1833
reasonable attorney's fees and costs to the party against whom 1834
the civil action or proceeding is brought. 1835

(I) (1) Except as provided in divisions (I) (4) and (N) of 1836
this section and sections 2151.423 and 2151.4210 of the Revised 1837
Code, a report made under this section is confidential. The 1838
information provided in a report made pursuant to this section 1839

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

(2) (a) Except as provided in division (I) (2) (b) of this 1855
section, no person shall permit or encourage the unauthorized 1856
dissemination of the contents of any report made under this 1857
section. 1858

(b) A health care professional that obtains the same 1859
information contained in a report made under this section from a 1860
source other than the report may disseminate the information, if 1861
its dissemination is otherwise permitted by law. 1862

(3) A person who knowingly makes or causes another person 1863
to make a false report under division (B) of this section that 1864
alleges that any person has committed an act or omission that 1865
resulted in a child being an abused child or a neglected child 1866
is guilty of a violation of section 2921.14 of the Revised Code. 1867

(4) If a report is made pursuant to division (A) or (B) of 1868
this section and the child who is the subject of the report dies 1869

for any reason at any time after the report is made, but before 1870
the child attains eighteen years of age, the public children 1871
services agency or peace officer to which the report was made or 1872
referred, on the request of the child fatality review board, the 1873
suicide fatality review committee, or the director of health 1874
pursuant to guidelines established under section 3701.70 of the 1875
Revised Code, shall submit a summary sheet of information 1876
providing a summary of the report to the review board or review 1877
committee of the county in which the deceased child resided at 1878
the time of death or to the director. On the request of the 1879
review board, review committee, or director, the agency or peace 1880
officer may, at its discretion, make the report available to the 1881
review board, review committee, or director. If the county 1882
served by the public children services agency is also served by 1883
a children's advocacy center and the report of alleged sexual 1884
abuse of a child or another type of abuse of a child is 1885
specified in the memorandum of understanding that creates the 1886
center as being within the center's jurisdiction, the agency or 1887
center shall perform the duties and functions specified in this 1888
division in accordance with the interagency agreement entered 1889
into under section 2151.428 of the Revised Code relative to that 1890
advocacy center. 1891

(5) Not later than five business days after the 1892
determination of a disposition, a public children services 1893
agency shall advise a person alleged to have inflicted abuse or 1894
neglect on a child who is the subject of a report made pursuant 1895
to this section, including a report alleging sexual abuse of a 1896
child or another type of abuse of a child referred to a 1897
children's advocacy center pursuant to an interagency agreement 1898
entered into under section 2151.428 of the Revised Code, in 1899
writing of the disposition of the investigation. The agency 1900

shall not provide to the person any information that identifies 1901
the person who made the report, statements of witnesses, or 1902
police or other investigative reports. The written notice of 1903
disposition shall be made in a form designated by the department 1904
of job and family services and shall inform the person of the 1905
right to appeal the disposition. 1906

(J) Any report that is required by this section, other 1907
than a report that is made to the state highway patrol as 1908
described in section 5120.173 of the Revised Code, shall result 1909
in protective services and emergency supportive services being 1910
made available by the public children services agency on behalf 1911
of the children about whom the report is made. The agency 1912
required to provide the services shall be the agency conducting 1913
the investigation of the report pursuant to section 2151.422 of 1914
the Revised Code. If a child is determined to be a candidate for 1915
prevention services, the agency also shall make efforts to 1916
prevent neglect or abuse, to enhance a child's welfare, and to 1917
preserve the family unit intact by referring a report for 1918
assessment and provision of services to an agency providing 1919
prevention services. 1920

(K) (1) Except as provided in division (K) (4) or (5) of 1921
this section, a person who is required to make a report under 1922
division (A) of this section may make a reasonable number of 1923
requests of the public children services agency that receives or 1924
is referred the report, or of the children's advocacy center 1925
that is referred the report if the report is referred to a 1926
children's advocacy center pursuant to an interagency agreement 1927
entered into under section 2151.428 of the Revised Code, to be 1928
provided with the following information: 1929

(a) Whether the agency or center has initiated an 1930

investigation of the report;	1931
(b) Whether the agency or center is continuing to	1932
investigate the report;	1933
(c) Whether the agency or center is otherwise involved	1934
with the child who is the subject of the report;	1935
(d) The general status of the health and safety of the	1936
child who is the subject of the report;	1937
(e) Whether the report has resulted in the filing of a	1938
complaint in juvenile court or of criminal charges in another	1939
court.	1940
(2) (a) A person may request the information specified in	1941
division (K) (1) of this section only if, at the time the report	1942
is made, the person's name, address, and telephone number are	1943
provided to the person who receives the report.	1944
(b) When a peace officer or employee of a public children	1945
services agency receives a report pursuant to division (A) or	1946
(B) of this section the recipient of the report shall inform the	1947
person of the right to request the information described in	1948
division (K) (1) of this section. The recipient of the report	1949
shall include in the initial child abuse or child neglect report	1950
that the person making the report was so informed and, if	1951
provided at the time of the making of the report, shall include	1952
the person's name, address, and telephone number in the report.	1953
(c) If the person making the report provides the person's	1954
name and contact information on making the report, the public	1955
children services agency that received or was referred the	1956
report shall send a written notice via United States mail or	1957
electronic mail, in accordance with the person's preference, to	1958
the person not later than seven calendar days after receipt of	1959

the report. The notice shall provide the status of the agency's 1960
investigation into the report made, who the person may contact 1961
at the agency for further information, and a description of the 1962
person's rights under division (K) (1) of this section. 1963

(d) Each request is subject to verification of the 1964
identity of the person making the report. If that person's 1965
identity is verified, the agency shall provide the person with 1966
the information described in division (K) (1) of this section a 1967
reasonable number of times, except that the agency shall not 1968
disclose any confidential information regarding the child who is 1969
the subject of the report other than the information described 1970
in those divisions. 1971

(3) A request made pursuant to division (K) (1) of this 1972
section is not a substitute for any report required to be made 1973
pursuant to division (A) of this section. 1974

(4) If an agency other than the agency that received or 1975
was referred the report is conducting the investigation of the 1976
report pursuant to section 2151.422 of the Revised Code, the 1977
agency conducting the investigation shall comply with the 1978
requirements of division (K) of this section. 1979

(5) A health care professional who made a report under 1980
division (A) of this section, or on whose behalf such a report 1981
was made as provided in division (A) (1) (c) of this section, may 1982
authorize a person to obtain the information described in 1983
division (K) (1) of this section if the person requesting the 1984
information is associated with or acting on behalf of the health 1985
care professional who provided health care services to the child 1986
about whom the report was made. 1987

(6) If the person making the report provides the person's 1988

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

(L) (1) The director of children and youth shall adopt 1997
rules in accordance with Chapter 119. of the Revised Code to 1998
implement this section. The department of children and youth may 1999
enter into a plan of cooperation with any other governmental 2000
entity to aid in ensuring that children are protected from abuse 2001
and neglect. The department shall make recommendations to the 2002
attorney general that the department determines are necessary to 2003
protect children from child abuse and child neglect. 2004

(2) The director of children and youth shall adopt rules 2005
in accordance with Chapter 119. of the Revised Code to identify 2006
the types of neglect of a child that a public children services 2007
agency shall be required to notify law enforcement of pursuant 2008
to division (E) (2) (c) (ii) of this section. 2009

(M) Whoever violates division (A) of this section is 2010
liable for compensatory and exemplary damages to the child who 2011
would have been the subject of the report that was not made. A 2012
person who brings a civil action or proceeding pursuant to this 2013
division against a person who is alleged to have violated 2014
division (A) (1) of this section may use in the action or 2015
proceeding reports of other incidents of known or suspected 2016
abuse or neglect, provided that any information in a report that 2017
would identify the child who is the subject of the report or the 2018

maker of the report, if the maker is not the defendant or an agent or employee of the defendant, has been redacted. 2019
2020

(N) (1) As used in this division: 2021

(a) "Out-of-home care" includes a nonchartered nonpublic school if the alleged child abuse or child neglect, or alleged threat of child abuse or child neglect, described in a report received by a public children services agency allegedly occurred in or involved the nonchartered nonpublic school and the alleged perpetrator named in the report holds a certificate, permit, or license issued by the state board of education under section 3301.071 or Chapter 3319. of the Revised Code. 2022
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(b) "Administrator, director, or other chief administrative officer" means the superintendent of the school district if the out-of-home care entity subject to a report made pursuant to this section is a school operated by the district. 2030
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(2) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse 2034
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or child neglect, that allegedly occurred in or involved the 2049
out-of-home care entity, the agency shall provide the written 2050
notice to the owner or governing board of the out-of-home care 2051
entity that is the subject of the report. The agency shall not 2052
provide witness statements or police or other investigative 2053
reports. 2054

(3) No later than three days after the day on which a 2055
public children services agency that conducted the investigation 2056
as determined pursuant to section 2151.422 of the Revised Code 2057
makes a disposition of an investigation involving a report of 2058
alleged child abuse or child neglect, or a report of an alleged 2059
threat of child abuse or child neglect, that allegedly occurred 2060
in or involved an out-of-home care entity, the agency shall send 2061
written notice of the disposition of the investigation to the 2062
administrator, director, or other chief administrative officer 2063
and the owner or governing board of the out-of-home care entity. 2064
The agency shall not provide witness statements or police or 2065
other investigative reports. 2066

(0) As used in this section: 2067

(1) "Children's advocacy center" and "sexual abuse of a 2068
child" have the same meanings as in section 2151.425 of the 2069
Revised Code. 2070

(2) "Health care professional" means an individual who 2071
provides health-related services ~~including~~. "Health care 2072
professional" includes all of the following: a physician, 2073
including a hospital intern or resident; a dentist; a 2074
podiatrist; a registered nurse, including such a nurse who is an 2075
advanced practice registered nurse; a licensed practical nurse; ~~—~~ 2076
visiting; a home care nurse; a licensed psychologist; ~~speech; a~~ 2077
speech-language pathologist; an audiologist; a person engaged 2078

in social work or the practice of professional counseling⁷¹ and 2079
an employee of a home health agency. "Health care professional" 2080
does not include a practitioner of a limited branch of medicine 2081
as specified in section 4731.15 of the Revised Code, licensed 2082
school psychologist, independent marriage and family therapist 2083
or marriage and family therapist, or coroner. 2084

(3) "Investigation" means the public children services 2085
agency's response to an accepted report of child abuse or 2086
neglect through either an alternative response or a traditional 2087
response. 2088

(4) "Peace officer" means a sheriff, deputy sheriff, 2089
constable, police officer of a township or joint police 2090
district, marshal, deputy marshal, municipal police officer, or 2091
a state highway patrol trooper. 2092

Sec. 2305.235. (A) As used in this section: 2093

(1) "Automated external defibrillation" means the process 2094
of applying a specialized defibrillator to a person in cardiac 2095
arrest, allowing the defibrillator to interpret the cardiac 2096
rhythm, and, if appropriate, delivering an electrical shock to 2097
the heart to allow it to resume effective electrical activity. 2098

(2) "Physician" has the same meaning as in section 4765.01 2099
of the Revised Code. 2100

(B) Except in the case of willful or wanton misconduct, no 2101
physician, certified nurse-midwife, clinical nurse specialist, 2102
or certified nurse practitioner shall be held liable in civil 2103
damages for injury, death, or loss to person or property for 2104
providing a prescription for an automated external defibrillator 2105
approved for use as a medical device by the United States food 2106
and drug administration or consulting with a person regarding 2107

the use and maintenance of a defibrillator. 2108

(C) Except in the case of willful or wanton misconduct, no 2109
person shall be held liable in civil damages for injury, death, 2110
or loss to person or property for doing any of the following: 2111

(1) Providing training in automated external 2112
defibrillation and cardiopulmonary resuscitation; 2113

(2) Authorizing, directing, or supervising the 2114
installation or placement of an automated external 2115
defibrillator; 2116

(3) Designing, managing, or operating a cardiopulmonary 2117
resuscitation or automated external defibrillation program; 2118

(4) Acquiring an automated external defibrillator; 2119

(5) Owning, managing, or having responsibility for a 2120
premises or location where an automated external defibrillator 2121
has been placed. 2122

(D) Except in the case of willful or wanton misconduct or 2123
when there is no good faith attempt to activate an emergency 2124
medical services system in accordance with section 3701.85 of 2125
the Revised Code, no person shall be held liable in civil 2126
damages for injury, death, or loss to person or property, or 2127
held criminally liable, for performing automated external 2128
defibrillation in good faith, regardless of whether the person 2129
has obtained appropriate training on how to perform automated 2130
external defibrillation or successfully completed a course in 2131
cardiopulmonary resuscitation. 2132

Sec. 2313.14. (A) Except as provided by section 2313.15 of 2133
the Revised Code, the court of common pleas or the commissioners 2134
of jurors shall not excuse a person who is liable to serve as a 2135

juror and who is drawn and notified, unless it is shown to the 2136
satisfaction of the judge or commissioners by either the juror 2137
or another person acquainted with the facts that one or more of 2138
the following applies: 2139

(1) The interests of the public will be materially injured 2140
by the juror's attendance. 2141

(2) The juror's spouse or a near relative of the juror or 2142
the juror's spouse has recently died or is dangerously ill. 2143

(3) The juror is a cloistered member of a religious 2144
organization. 2145

(4) The prospective juror has a mental or physical 2146
condition that causes the prospective juror to be incapable of 2147
performing jury service. The court or commissioners may require 2148
the prospective juror to provide the court with documentation, 2149
from a physician licensed to practice medicine or a certified 2150
nurse-midwife, clinical nurse specialist, or certified nurse 2151
practitioner, verifying that a mental or physical condition 2152
renders the prospective juror unfit for jury service for the 2153
remainder of the jury year. 2154

(5) Jury service would otherwise cause undue or extreme 2155
physical or financial hardship to the prospective juror or a 2156
person under the care or supervision of the prospective juror. A 2157
judge of the court for which the prospective juror was called to 2158
jury service shall make undue or extreme physical or financial 2159
hardship determinations. The judge may delegate the authority to 2160
make these determinations to an appropriate court employee 2161
appointed by the court. 2162

(6) The juror is over seventy-five years of age, and the 2163
juror requests to be excused. 2164

(7) The prospective juror is an active member of a 2165
recognized Amish sect and requests to be excused because of the 2166
prospective juror's sincere belief that as a result of that 2167
membership the prospective juror cannot pass judgment in a 2168
judicial matter. 2169

(8) The prospective juror is on active duty pursuant to an 2170
executive order of the president of the United States, an act of 2171
the congress of the United States, or section 5919.29 or 5923.21 2172
of the Revised Code. 2173

(B) (1) A prospective juror who requests to be excused from 2174
jury service under this section shall take all actions necessary 2175
to obtain a ruling on that request by not later than the date on 2176
which the prospective juror is scheduled to appear for jury 2177
duty. 2178

(2) A prospective juror who requests to be excused as 2179
provided in division (A) (6) of this section shall inform the 2180
appropriate court employee appointed by the court of the 2181
prospective juror's request to be so excused by not later than 2182
the date on which the prospective juror is scheduled to appear 2183
for jury duty. The prospective juror shall inform that court 2184
employee of the request to be so excused by appearing in person 2185
before the employee or contacting the employee by telephone, in 2186
writing, or by electronic mail. 2187

(C) (1) For purposes of this section, undue or extreme 2188
physical or financial hardship is limited to circumstances in 2189
which any of the following apply: 2190

(a) The prospective juror would be required to abandon a 2191
person under the prospective juror's personal care or 2192
supervision due to the impossibility of obtaining an appropriate 2193

substitute caregiver during the period of participation in the jury pool or on the jury. 2194
2195

(b) The prospective juror would incur costs that would 2196
have a substantial adverse impact on the payment of the 2197
prospective juror's necessary daily living expenses or on those 2198
for whom the prospective juror provides the principal means of 2199
support. 2200

(c) The prospective juror would suffer physical hardship 2201
that would result in illness or disease. 2202

(d) The prospective juror is a mother who is breast- 2203
feeding her baby, and the baby is one year of age or younger. 2204

(2) Undue or extreme physical or financial hardship does 2205
not exist solely based on the fact that a prospective juror will 2206
be required to be absent from the prospective juror's place of 2207
employment. 2208

(D) (1) A prospective juror who asks a judge to grant an 2209
excuse based on undue or extreme physical or financial hardship 2210
shall provide the judge with documentation that the judge finds 2211
to clearly support the request to be excused. If a prospective 2212
juror fails to provide satisfactory documentation, the court may 2213
deny the request to be excused. 2214

(2) A signed affidavit that a prospective juror described 2215
in division (C) (1) (d) of this section provides to the judge and 2216
states that the prospective juror is a mother who is breast- 2217
feeding her baby is satisfactory documentation to support the 2218
prospective juror's request to be excused based on undue or 2219
extreme physical or financial hardship. 2220

(E) An excuse, whether permanent or not, approved pursuant 2221
to this section shall not extend beyond that jury year. Every 2222

approved excuse shall be recorded and filed with the 2223
commissioners of jurors. A person is excused from jury service 2224
permanently only when the deciding judge determines that the 2225
underlying grounds for being excused are of a permanent nature. 2226

(F) No person shall be exempted or excused from jury 2227
service or be granted a postponement of jury service by reason 2228
of any financial contribution to any public or private 2229
organization. 2230

(G) The commissioners shall keep a record of all 2231
proceedings before them or in their office, of all persons who 2232
are granted an excuse or postponement, and of the time of and 2233
reasons for each excuse. 2234

Sec. 2317.47. Whenever it is relevant in a civil or 2235
criminal action or proceeding to determine the paternity or 2236
identity of any person, the trial court on motion shall order 2237
any party to the action and any person involved in the 2238
controversy or proceeding to submit to one or more blood- 2239
grouping tests, to be made by qualified physicians, clinical 2240
nurse specialists, or certified nurse practitioners or other 2241
qualified persons, not to exceed three, to be selected by the 2242
court and under such restrictions or directions as the court or 2243
judge deems proper. In cases where exclusion is established, the 2244
results of the tests together with the findings of the experts 2245
of the fact of nonpaternity are receivable in evidence. Such 2246
experts shall be subject to cross-examination by both parties 2247
after the court has caused them to disclose their findings to 2248
the court or to the court and jury. Whenever the court orders 2249
such blood-grouping tests to be taken and one of the parties 2250
refuses to submit to such test, such fact shall be disclosed 2251
upon the trial unless good cause is shown to the contrary. The 2252

court shall determine how and by whom the costs of such 2253
examination shall be paid. 2254

Sec. 3101.05. (A) The parties to a marriage shall make an 2255
application for a marriage license. Each of the persons seeking 2256
a marriage license shall personally appear in the probate court 2257
within the county where either resides, or, if neither is a 2258
resident of this state, where the marriage is expected to be 2259
solemnized. If neither party is a resident of this state, the 2260
marriage may be solemnized only in the county where the license 2261
is obtained. Each party shall make application and shall state 2262
upon oath, the party's name, age, residence, place of birth, 2263
occupation, father's name, and mother's maiden name, if known, 2264
and the name of the person who is expected to solemnize the 2265
marriage. If either party has been previously married, the 2266
application shall include the names of the parties to any 2267
previous marriage and of any minor children, and if divorced the 2268
jurisdiction, date, and case number of the decree. If either 2269
applicant is the age of seventeen years, the judge shall require 2270
the applicants to state that they received marriage counseling 2271
satisfactory to the court. Except as otherwise provided in this 2272
division, the application also shall include each party's social 2273
security number. In lieu of requiring each party's social 2274
security number on the application, the court may obtain each 2275
party's social security number, retain the social security 2276
numbers in a separate record, and allow a number other than the 2277
social security number to be used on the application for 2278
reference purposes. If a court allows the use of a number other 2279
than the social security number to be used on the application 2280
for reference purposes, the record containing the social 2281
security number is not a public record, except that, in any of 2282
the circumstances set forth in divisions (C) (1) to (5) of 2283

section 3101.051 of the Revised Code, the record containing the 2284
social security number shall be made available for inspection 2285
under section 149.43 of the Revised Code. 2286

Immediately upon receipt of an application for a marriage 2287
license, the court shall place the parties' record in a book 2288
kept for that purpose. If the probate judge is satisfied that 2289
there is no legal impediment and if one or both of the parties 2290
are present, the probate judge shall grant the marriage license. 2291

If the judge is satisfied from the affidavit of a 2292
reputable physician, clinical nurse specialist, or certified 2293
nurse practitioner in active practice and residing in the county 2294
where the probate court is located, that one of the parties is 2295
unable to appear in court, by reason of illness or other 2296
physical disability, a marriage license may be granted upon 2297
application and oath of the other party to the contemplated 2298
marriage; but in that case the person who is unable to appear in 2299
court, at the time of making application for a marriage license, 2300
shall make and file in that court, an affidavit setting forth 2301
the information required of applicants for a marriage license. 2302

A probate judge may grant a marriage license under this 2303
section at any time after the application is made. 2304

A marriage license issued shall not display the social 2305
security number of either party to the marriage. 2306

Each person seeking a marriage license shall present 2307
documentary proof of age in the form of any one of the 2308
following: 2309

(1) A copy of a birth record; 2310

(2) A birth certificate issued by the department of 2311
health, a local registrar of vital statistics, or other public 2312

office charged with similar duties by the laws of another state,	2313
territory, or country;	2314
(3) A baptismal record showing the person's date of birth;	2315
(4) A passport;	2316
(5) A license or permit to operate a motor vehicle as	2317
defined under section 4501.01 of the Revised Code;	2318
(6) Any government- or school-issued identification card	2319
showing the person's date of birth;	2320
(7) An immigration record showing the person's date of	2321
birth;	2322
(8) A naturalization record showing the person's date of	2323
birth;	2324
(9) A court record or any other document or record issued	2325
by a governmental entity showing the person's date of birth.	2326
(B) An applicant for a marriage license who knowingly	2327
makes a false statement in an application or affidavit	2328
prescribed by this section is guilty of falsification under	2329
section 2921.13 of the Revised Code.	2330
(C) No licensing officer shall issue a marriage license if	2331
the officer has not received the application, affidavit, or	2332
other statements prescribed by this section or if the officer	2333
has reason to believe that any of the statements in a marriage	2334
license application or in an affidavit prescribed by this	2335
section are false.	2336
(D) Any fine collected for violation of this section shall	2337
be paid to the use of the county together with the costs of	2338
prosecution.	2339

Sec. 3105.091. (A) At any time after thirty days from the 2340
service of summons or first publication of notice in an action 2341
for divorce, annulment, or legal separation, or at any time 2342
after the filing of a petition for dissolution of marriage, the 2343
court of common pleas, upon its own motion or the motion of one 2344
of the parties, may order the parties to undergo conciliation 2345
for the period of time not exceeding ninety days as the court 2346
specifies, and, if children are involved in the proceeding, the 2347
court may order the parties to take part in family counseling 2348
during the course of the proceeding or for any reasonable period 2349
of time as directed by the court. An order requiring 2350
conciliation shall set forth the conciliation procedure and name 2351
the conciliator. The conciliation procedures may include without 2352
limitation referrals to the conciliation judge as provided in 2353
Chapter 3117. of the Revised Code, public or private marriage 2354
counselors, family service agencies, community health services, 2355
physicians, certified nurse-midwives, clinical nurse 2356
specialists, certified nurse practitioners, licensed 2357
psychologists, or ~~clergymen~~ members of the clergy. The court, in 2358
its order requiring the parties to undergo family counseling, 2359
may name the counselor and shall set forth the required type of 2360
counseling, the length of time for the counseling, and any other 2361
specific conditions required by it. The court shall direct and 2362
order the manner in which the costs of any conciliation 2363
procedures and of any family counseling are to be paid. 2364

(B) No action for divorce, annulment, or legal separation, 2365
in which conciliation or family counseling has been ordered, 2366
shall be heard or decided until the conciliation or family 2367
counseling has concluded and been reported to the court. 2368

Sec. 3111.12. (A) In an action under sections 3111.01 to 2369
3111.18 of the Revised Code, the mother of the child and the 2370

alleged father are competent to testify and may be compelled to 2371
testify by subpoena. If a witness refuses to testify upon the 2372
ground that the testimony or evidence of the witness might tend 2373
to incriminate the witness and the court compels the witness to 2374
testify, the court may grant the witness immunity from having 2375
the testimony of the witness used against the witness in 2376
subsequent criminal proceedings. 2377

(B) Testimony of a physician or certified nurse-midwife 2378
concerning the medical circumstances of the mother's pregnancy 2379
and the condition and characteristics of the child upon birth is 2380
not privileged. 2381

(C) Testimony relating to sexual access to the mother by a 2382
man at a time other than the probable time of conception of the 2383
child is inadmissible in evidence, unless offered by the mother. 2384

(D) If, pursuant to section 3111.09 of the Revised Code, a 2385
court orders genetic tests to be conducted, orders disclosure of 2386
information regarding a DNA record stored in the DNA database 2387
pursuant to section 109.573 of the Revised Code, or intends to 2388
use a report of genetic test results obtained from tests 2389
conducted pursuant to former section 3111.21 or 3111.22 or 2390
sections 3111.38 to 3111.54 of the Revised Code, a party may 2391
object to the admission into evidence of any of the genetic test 2392
results or of the DNA record information by filing a written 2393
objection with the court that ordered the tests or disclosure or 2394
intends to use a report of genetic test results. The party shall 2395
file the written objection with the court no later than fourteen 2396
days after the report of the test results or the DNA record 2397
information is mailed to the attorney of record of a party or to 2398
a party. The party making the objection shall send a copy of the 2399
objection to all parties. 2400

If a party files a written objection, the report of the 2401
test results or the DNA record information shall be admissible 2402
into evidence as provided by the Rules of Evidence. If a written 2403
objection is not filed, the report of the test results or the 2404
DNA record information shall be admissible into evidence without 2405
the need for foundation testimony or other proof of authenticity 2406
or accuracy. 2407

(E) If a party intends to introduce into evidence invoices 2408
or other documents showing amounts expended to cover pregnancy 2409
and confinement and genetic testing, the party shall notify all 2410
other parties in writing of that intent and include copies of 2411
the invoices and documents. A party may object to the admission 2412
into evidence of the invoices or documents by filing a written 2413
objection with the court that is hearing the action no later 2414
than fourteen days after the notice and the copies of the 2415
invoices and documents are mailed to the attorney of record of 2416
each party or to each party. 2417

If a party files a written objection, the invoices and 2418
other documents shall be admissible into evidence as provided by 2419
the Rules of Evidence. If a written objection is not filed, the 2420
invoices or other documents are admissible into evidence without 2421
the need for foundation testimony or other evidence of 2422
authenticity or accuracy. 2423

(F) A juvenile court or other court with jurisdiction 2424
under section 2101.022 or 2301.03 of the Revised Code shall give 2425
priority to actions under sections 3111.01 to 3111.18 of the 2426
Revised Code and shall issue an order determining the existence 2427
or nonexistence of a parent and child relationship no later than 2428
one hundred twenty days after the date on which the action was 2429
brought in the juvenile court or other court with jurisdiction. 2430

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

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

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

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

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

(2) Compute a child support credit amount for each

parent's children who are not subject to this order by dividing 2460
the amount determined in division (C) (1) of this section by the 2461
total number of children whom the parent is obligated to support 2462
and multiplying that number by the number of the parent's 2463
children who are not subject to this order. 2464

(3) Determine the adjusted income of the parents by 2465
subtracting the credit for minor children not subject to this 2466
order computed under division (C) (2) of this section, from the 2467
annual income of each parent for the children each has a duty to 2468
support that are not subject to this order. 2469

(4) If the number of children is greater than six, 2470
multiply the amount for three children by: 2471

(a) 1.440 for seven children; 2472

(b) 1.540 for eight children; 2473

(c) 1.638 for nine children; 2474

(d) 1.734 for ten children; 2475

(e) 1.827 for eleven children; 2476

(f) 1.919 for twelve children; 2477

(g) 2.008 for thirteen children; 2478

(h) 2.096 for fourteen children; 2479

(i) 2.182 for more than fourteen children. 2480

(D) When the court or agency calculates the annual income 2481
of a parent, it shall include the lesser of the following as 2482
income from overtime and bonuses: 2483

(1) The yearly average of all overtime, commissions, and 2484
bonuses received during the three years immediately prior to the 2485

time when the person's child support obligation is being	2486
computed;	2487
(2) The total overtime, commissions, and bonuses received	2488
during the year immediately prior to the time when the person's	2489
child support obligation is being computed.	2490
(E) When the court or agency calculates the annual income	2491
of a parent, it shall not include any income earned by the	2492
spouse of that parent.	2493
(F) The court shall issue a separate medical support order	2494
for extraordinary medical expenses, including orthodontia,	2495
dental, optical, and psychological services.	2496
If the court makes an order for payment of private	2497
education, and other appropriate expenses, it shall do so by	2498
issuing a separate order.	2499
The court may consider these expenses in adjusting a child	2500
support order.	2501
(G) When a court or agency calculates the amount of child	2502
support to be paid pursuant to a court child support order or an	2503
administrative child support order, the following shall apply:	2504
(1) The court or agency shall apply the basic child	2505
support schedule to the parents' combined annual incomes and to	2506
each parent's individual income.	2507
(2) If the combined annual income of both parents or the	2508
individual annual income of a parent is an amount that is	2509
between two amounts set forth in the first column of the	2510
schedule, the court or agency may use the basic child support	2511
obligation that corresponds to the higher of the two amounts in	2512
the first column of the schedule, use the basic child support	2513

obligation that corresponds to the lower of the two amounts in 2514
the first column of the schedule, or calculate a basic child 2515
support obligation that is between those two amounts and 2516
corresponds proportionally to the parents' actual combined 2517
annual income or the individual parent's annual income. 2518

(3) If the annual individual income of either or both of 2519
the parents is within the self-sufficiency reserve in the basic 2520
child support schedule, the court or agency shall do both of the 2521
following: 2522

(a) Calculate the basic child support obligation for the 2523
parents using the schedule amount applicable to the combined 2524
annual income and the schedule amount applicable to the income 2525
in the self-sufficiency reserve; 2526

(b) Determine the lesser of the following amounts to be 2527
the applicable basic child support obligation: 2528

(i) The amount that results from using the combined annual 2529
income of the parents not in the self-sufficiency reserve of the 2530
schedule; or 2531

(ii) The amount that results from using the individual 2532
parent's income within the self-sufficiency reserve of the 2533
schedule. 2534

(H) When the court or agency calculates annual income, the 2535
court or agency, when appropriate, may average income over a 2536
reasonable period of years. 2537

(I) Unless it would be unjust or inappropriate and 2538
therefore not in the best interests of the child, a court or 2539
agency shall not determine a parent to be voluntarily unemployed 2540
or underemployed and shall not impute income to that parent if 2541
any of the following conditions exist: 2542

(1) The parent is receiving recurring monetary income from 2543
means-tested public assistance benefits, including cash 2544
assistance payments under the Ohio works first program 2545
established under Chapter 5107. of the Revised Code, general 2546
assistance under former Chapter 5113. of the Revised Code, 2547
supplemental security income, or means-tested veterans' 2548
benefits; 2549

(2) The parent is approved for social security disability 2550
insurance benefits because of a mental or physical disability, 2551
or the court or agency determines that the parent is unable to 2552
work based on medical documentation that includes ~~a physician's~~ 2553
the diagnosis of a physician, certified nurse-midwife, clinical 2554
nurse specialist, or certified nurse practitioner and ~~a the~~ 2555
physician's or nurse's opinion regarding the parent's mental or 2556
physical disability and inability to work. 2557

(3) The parent has proven that the parent has made 2558
continuous and diligent efforts without success to find and 2559
accept employment, including temporary employment, part-time 2560
employment, or employment at less than the parent's previous 2561
salary or wage. 2562

(4) The parent is complying with court-ordered family 2563
reunification efforts in a child abuse, neglect, or dependency 2564
proceeding, to the extent that compliance with those efforts 2565
limits the parent's ability to earn income. 2566

(5) The parent is institutionalized for a period of twelve 2567
months or more with no other available income or assets. 2568

(J) When a court or agency calculates the income of a 2569
parent, it shall not determine a parent to be voluntarily 2570
unemployed or underemployed and shall not impute income to that 2571

parent if the parent is incarcerated. 2572

(K) When a court or agency requires a parent to pay an 2573
amount for that parent's failure to support a child for a period 2574
of time prior to the date the court modifies or issues a court 2575
child support order or an agency modifies or issues an 2576
administrative child support order for the current support of 2577
the child, the court or agency shall calculate that amount using 2578
the basic child support schedule, worksheets, and child support 2579
laws in effect, and the incomes of the parents as they existed, 2580
for that prior period of time. 2581

(L) A court or agency may disregard a parent's additional 2582
income from overtime or additional employment when the court or 2583
agency finds that the additional income was generated primarily 2584
to support a new or additional family member or members, or 2585
under other appropriate circumstances. 2586

(M) If both parents involved in the immediate child 2587
support determination have a prior order for support relative to 2588
a minor child or children born to both parents, the court or 2589
agency shall collect information about the existing order or 2590
orders and consider those together with the current calculation 2591
for support to ensure that the total of all orders for all 2592
children of the parties does not exceed the amount that would 2593
have been ordered if all children were addressed in a single 2594
judicial or administrative proceeding. 2595

(N) A support obligation of a parent with annual income 2596
subject to the self-sufficiency reserve of the basic child 2597
support schedule shall not exceed the support obligation that 2598
would result from application of the schedule without the 2599
reserve. 2600

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

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

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

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

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

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

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

(2) When the annual income of the obligor is subject to the self-sufficiency reserve of the basic support schedule, the share of the child care cost paid by the obligor shall be equal to the lower of the obligor's income share of the child care

cost, or fifty per cent of the child care cost. 2630

(Q) As used in this section, a parent is considered 2631
"incarcerated" if the parent is confined under a sentence 2632
imposed for an offense or serving a term of imprisonment, jail, 2633
or local incarceration, or other term under a sentence imposed 2634
by a government entity authorized to order such confinement. 2635

Sec. 3119.54. A party to a child support order issued in 2636
accordance with section 3119.30 of the Revised Code shall notify 2637
any physician, clinical nurse specialist, certified nurse 2638
practitioner, hospital, or other provider of medical services 2639
that provides medical services to the child who is the subject 2640
of the child support order of the number of any health insurance 2641
or health care policy, contract, or plan that covers the child 2642
if the child is eligible for medicaid. The party shall include 2643
in the notice the name and address of the insurer. Any 2644
physician, clinical nurse specialist, certified nurse 2645
practitioner, hospital, or other provider of medical services 2646
covered by the medicaid program who is notified under this 2647
section of the existence of a health insurance or health care 2648
policy, contract, or plan with coverage for children who are 2649
eligible for medicaid shall first bill the insurer for any 2650
services provided for those children. If the insurer fails to 2651
pay all or any part of a claim filed under this section and the 2652
services for which the claim is filed are covered by the 2653
medicaid program, the physician, clinical nurse specialist, 2654
certified nurse practitioner, hospital, or other medical 2655
services provider shall bill the remaining unpaid costs of the 2656
services to the medicaid program. 2657

Sec. 3304.23. (A) As used in this section: 2658

(1) "Clinical nurse specialist" and "certified nurse 2659

practitioner" have the same meanings as in section 4723.01 of 2660
the Revised Code. 2661

(2) "Communication disability" means a human condition 2662
involving an impairment in the human's ability to receive, send, 2663
process, or comprehend concepts or verbal, nonverbal, or graphic 2664
symbol systems that may result in a primary disability or may be 2665
secondary to other disabilities. 2666

~~(2)~~(3) "Disability that can impair communication" means a 2667
human condition with symptoms that can impair the human's 2668
ability to receive, send, process, or comprehend concepts or 2669
verbal, nonverbal, or graphic symbol systems. 2670

~~(3)~~(4) "Guardian" has the same meaning as in section 2671
2111.01 of the Revised Code. 2672

~~(4)~~(5) "Physician" means a person licensed to practice 2673
medicine or surgery or osteopathic medicine and surgery under 2674
Chapter 4731. of the Revised Code. 2675

~~(5)~~(6) "Psychiatrist" has the same meaning as in section 2676
5122.01 of the Revised Code. 2677

~~(6)~~(7) "Psychologist" has the same meaning as in section 2678
4732.01 of the Revised Code. 2679

(B) The opportunities for Ohioans with disabilities agency 2680
shall develop a verification form for a person diagnosed with a 2681
communication disability or a disability that can impair 2682
communication to be submitted voluntarily to the department of 2683
public safety so that the person may be included in the database 2684
established under section 5502.08 of the Revised Code. The same 2685
form shall be used to indicate that the person wishes to be 2686
removed from the database in accordance with division (F) of 2687
section 5502.08 of the Revised Code. 2688

(C) The form shall include the following information:	2689
(1) The name of the person diagnosed with a communication disability or a disability that can impair communication;	2690 2691
(2) The name of the person completing the form on behalf of the person diagnosed with a communication disability or a disability that can impair communication, if applicable;	2692 2693 2694
(3) The relationship between the person completing the form and the person diagnosed with a communication disability or a disability that can impair communication, if applicable;	2695 2696 2697
(4) The driver's license number or state identification card number issued to the person diagnosed with a communication disability or a disability that can impair communication, if that person has such a number;	2698 2699 2700 2701
(5) The license plate number of each vehicle owned, operated, or regularly occupied by the person diagnosed with a communication disability or a disability that can impair communication or registered in that person's name;	2702 2703 2704 2705
(6) A physician, psychiatrist, or psychologist's signed certification that the person has been diagnosed with a communication disability or a disability that can impair communication, <u>signed by a psychiatrist or other physician, a psychologist, a clinical nurse specialist, or a certified nurse practitioner;</u>	2706 2707 2708 2709 2710 2711
(7) The name, business address, business telephone number, and medical professional license number of the physician, psychiatrist, or psychologist <u>professional</u> making the certification <u>described in division (C) (6) of this section;</u>	2712 2713 2714 2715
(8) The signature of the person diagnosed with a	2716

communication disability or a disability that can impair 2717
communication or the signature of the person completing the form 2718
on behalf of such a person; 2719

(9) A place where the person diagnosed with a 2720
communication disability or a disability that can impair 2721
communication or the person completing the form on behalf of 2722
such a person may indicate the desire to be removed from the 2723
database. 2724

(D) Any of the following persons may complete the 2725
verification form: 2726

(1) Any person diagnosed with a communication disability 2727
or a disability that can impair communication who is eighteen 2728
years of age or older; 2729

(2) The parent or parents of a minor child diagnosed with 2730
a communication disability or a disability that can impair 2731
communication; 2732

(3) The guardian of a person diagnosed with a 2733
communication disability or a disability that can impair 2734
communication, regardless of the age of the person. 2735

(E) The opportunities for Ohioans with disabilities agency 2736
and the department of public safety shall make the verification 2737
form electronically available on each of their respective web 2738
sites. 2739

Sec. 3309.22. (A) (1) As used in this division, "personal 2740
history record" means information maintained in any format by 2741
the board on an individual who is a member, former member, 2742
contributor, former contributor, retirant, or beneficiary that 2743
includes the address, electronic mail address, telephone number, 2744
social security number, record of contributions, correspondence 2745

with the system, and other information the board determines to be confidential. 2746
2747

(2) The records of the board shall be open to public inspection and may be made available in printed or electronic format, except for the following, which shall be excluded, except with the written authorization of the individual concerned: 2748
2749
2750
2751
2752

(a) The individual's statement of previous service and other information as provided for in section 3309.28 of the Revised Code; 2753
2754
2755

(b) Any information identifying by name and address the amount of a monthly allowance or benefit paid to the individual; 2756
2757

(c) The individual's personal history record. 2758

(B) All medical reports and recommendations required by the system are privileged except as follows: 2759
2760

(1) Copies of medical reports or recommendations shall be made available to the following: 2761
2762

(a) The individual concerned, on written request; 2763

(b) The personal physician, certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, attorney, or authorized agent of the individual concerned on written release received from the individual or the individual's agent; 2764
2765
2766
2767
2768

(c) The board assigned physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner. 2769
2770

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing 2771
2772

under that section. 2773

(C) Any person who is a contributor of the system shall be 2774
furnished, on written request, with a statement of the amount to 2775
the credit of the person's account. The board need not answer 2776
more than one such request of a person in any one year. 2777

(D) Notwithstanding the exceptions to public inspection in 2778
division (A) (2) of this section, the board may furnish the 2779
following information: 2780

(1) If a member, former member, contributor, former 2781
contributor, or retirant is subject to an order issued under 2782
section 2907.15 of the Revised Code or an order issued under 2783
division (A) or (B) of section 2929.192 of the Revised Code or 2784
is convicted of or pleads guilty to a violation of section 2785
2921.41 of the Revised Code, on written request of a prosecutor 2786
as defined in section 2935.01 of the Revised Code, the board 2787
shall furnish to the prosecutor the information requested from 2788
the individual's personal history record. 2789

(2) Pursuant to a court or administrative order issued 2790
under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of 2791
the Revised Code, the board shall furnish to a court or child 2792
support enforcement agency the information required under that 2793
section. 2794

(3) At the written request of any person, the board shall 2795
provide to the person a list of the names and addresses of 2796
members, former members, retirants, contributors, former 2797
contributors, or beneficiaries. The costs of compiling, copying, 2798
and mailing the list shall be paid by such person. 2799

(4) Within fourteen days after receiving from the director 2800
of job and family services a list of the names and social 2801

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

(5) The system shall comply with orders issued under 2813
section 3105.87 of the Revised Code. 2814

On the written request of an alternate payee, as defined 2815
in section 3105.80 of the Revised Code, the system shall furnish 2816
to the alternate payee information on the amount and status of 2817
any amounts payable to the alternate payee under an order issued 2818
under section 3105.171 or 3105.65 of the Revised Code. 2819

(6) At the request of any person, the board shall make 2820
available to the person copies of all documents, including 2821
resumes, in the board's possession regarding filling a vacancy 2822
of an employee member or retirant member of the board. The 2823
person who made the request shall pay the cost of compiling, 2824
copying, and mailing the documents. The information described in 2825
this division is a public record. 2826

(7) The system shall provide the notice required by 2827
section 3309.673 of the Revised Code to the prosecutor assigned 2828
to the case. 2829

(8) The system may provide information requested by the 2830

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

(E) A statement that contains information obtained from 2839
the system's records that is signed by an officer of the 2840
retirement system and to which the system's official seal is 2841
affixed, or copies of the system's records to which the 2842
signature and seal are attached, shall be received as true 2843
copies of the system's records in any court or before any 2844
officer of this state. 2845

Sec. 3309.41. (A) Notwithstanding any contrary provisions 2846
in Chapter 124. or 3319. of the Revised Code: 2847

(1) A disability benefit recipient whose benefit effective 2848
date was before ~~the effective date of this amendment~~ January 7, 2849
2013, shall retain membership status and shall be considered on 2850
leave of absence from employment during the first five years 2851
following the effective date of a disability benefit. 2852

(2) A disability benefit recipient whose benefit effective 2853
date is on or after ~~the effective date of this amendment~~ January 2854
7, 2013, shall retain membership status and shall be considered 2855
on leave of absence from employment during the first three years 2856
following the effective date of a disability benefit, except 2857
that, if the school employees retirement board has recommended 2858
medical treatment or vocational rehabilitation and the member is 2859
receiving treatment or rehabilitation acceptable to a physician, 2860

certified nurse-midwife, clinical nurse specialist, or certified 2861
nurse practitioner, or consultant selected by the board, the 2862
board may permit the recipient to retain membership status and 2863
be considered on leave of absence from employment for up to five 2864
years following the effective date of a disability benefit. 2865

(B) The board shall require a disability benefit recipient 2866
to undergo an annual medical examination, except that the board 2867
may waive the medical examination if one or more of the board's 2868
~~physician or physicians,~~ certified nurse-midwives, clinical 2869
nurse specialists, or certified nurse practitioners certify that 2870
the recipient's disability is ongoing. Should any disability 2871
benefit recipient refuse to submit to a medical examination, the 2872
recipient's disability benefit shall be suspended until 2873
withdrawal of the refusal. Should the refusal continue for one 2874
year, all the recipient's rights in and to the disability 2875
benefit shall be terminated as of the effective date of the 2876
original suspension. 2877

(C) On completion of the examination by ~~an examining~~ 2878
~~physician or one or more physicians,~~ certified nurse-midwives, 2879
clinical nurse specialists, or certified nurse practitioners 2880
selected by the board, the physician or ~~physicians~~ nurse shall 2881
report and certify to the board whether the disability benefit 2882
recipient meets the applicable standard for termination of a 2883
disability benefit. If the recipient's benefit effective date is 2884
~~before the effective date of this amendment~~ January 7, 2013, or 2885
the benefit effective date is after ~~the effective date of this~~ 2886
~~amendment~~ January 7, 2013, and the recipient is considered on a 2887
leave of absence under division (A) (2) of this section, the 2888
standard for termination is that the recipient is no longer 2889
physically and mentally incapable of resuming the service from 2890
which the recipient was found disabled. If the recipient's 2891

benefit effective date is on or after ~~the effective date of this~~ 2892
~~amendment~~ January 7, 2013, and the recipient is not considered on 2893
a leave of absence under division (A) (2) of this section, the 2894
standard is that the recipient is not physically or mentally 2895
incapable of performing the duties of a position that meets all 2896
of the following criteria: 2897

(1) Replaces not less than seventy-five per cent of the 2898
member's final average salary, adjusted each year by the actual 2899
average increase in the consumer price index prepared by the 2900
United States bureau of labor statistics (U.S. City Average for 2901
Urban Wage Earners and Clerical Workers: "All Items 1982- 2902
84=100"); 2903

(2) Is reasonably to be found in the member's regional job 2904
market; 2905

(3) Is one that the member is qualified for by experience 2906
or education. 2907

If the board concurs in the report that the disability 2908
benefit recipient meets the applicable standard for termination 2909
of a disability benefit, the payment of the disability benefit 2910
shall be terminated not later than three months after the date 2911
of the board's concurrence or upon employment as an employee. If 2912
the leave of absence has not expired, the retirement board shall 2913
certify to the disability benefit recipient's last employer 2914
before being found disabled that the recipient is no longer 2915
physically and mentally incapable of resuming service that is 2916
the same or similar to that from which the recipient was found 2917
disabled. The employer shall restore the recipient to the 2918
recipient's previous position and salary or to a position and 2919
salary similar thereto not later than the first day of the first 2920
month following termination of the disability benefit, unless 2921

the recipient was dismissed or resigned in lieu of dismissal for 2922
dishonesty, misfeasance, malfeasance, or conviction of a felony. 2923

(D) Each disability benefit recipient shall file with the 2924
board an annual statement of earnings, current medical 2925
information on the recipient's condition, and any other 2926
information required in rules adopted by the board. The board 2927
may waive the requirement that a disability benefit recipient 2928
file an annual statement of earnings or current medical 2929
information on the recipient's condition if one or more of the 2930
board's ~~physician or physicians, certified nurse-midwives,~~ 2931
clinical nurse specialists, or certified nurse practitioners 2932
certify that the recipient's disability is ongoing. 2933

The board shall annually examine the information submitted 2934
by the recipient. If a disability benefit recipient refuses to 2935
file the statement or information, the disability benefit shall 2936
be suspended until the statement and information are filed. If 2937
the refusal continues for one year, the recipient's right to the 2938
disability benefit shall be terminated as of the effective date 2939
of the original suspension. 2940

(E) If a disability benefit recipient is employed by an 2941
employer covered by this chapter, the recipient's disability 2942
benefit shall cease. 2943

(F) If disability retirement under section 3309.40 of the 2944
Revised Code is terminated for any reason, the annuity and 2945
pension reserves at that time in the annuity and pension reserve 2946
fund shall be transferred to the employees' savings fund and the 2947
employers' trust fund, respectively. If the total disability 2948
benefit paid is less than the amount of the accumulated 2949
contributions of the member transferred into the annuity and 2950
pension reserve fund at the time of the member's disability 2951

retirement, the difference shall be transferred from the annuity 2952
and pension reserve fund to another fund as may be required. In 2953
determining the amount of a member's account following the 2954
termination of disability retirement for any reason, the amount 2955
paid shall be charged against the member's refundable account. 2956

If a disability allowance paid under section 3309.401 of 2957
the Revised Code is terminated for any reason, the reserve on 2958
the allowance at that time in the annuity and pension reserve 2959
fund shall be transferred from that fund to the employers' trust 2960
fund. 2961

The board may terminate a disability benefit at the 2962
request of the recipient. 2963

(G) If a disability benefit is terminated and a former 2964
disability benefit recipient again becomes a contributor, other 2965
than as an other system retirant as defined in section 3309.341 2966
of the Revised Code, to this system, the public employees 2967
retirement system, or the state teachers retirement system, and 2968
completes an additional two years of service credit after the 2969
termination of the disability benefit, the former disability 2970
benefit recipient shall be entitled to receive up to two years 2971
of service credit for the period as a disability benefit 2972
recipient and may purchase service for the remaining period of 2973
the disability benefit. Total service credit received and 2974
purchased under this section shall not exceed the period of the 2975
disability benefit. 2976

For each year of credit purchased, the member shall pay to 2977
the system for credit to the member's accumulated account the 2978
sum of the following amounts: 2979

(1) The employee contribution rate in effect at the time 2980

the disability benefit commenced multiplied by the member's 2981
annual disability benefit; 2982

(2) The employer contribution rate in effect at the time 2983
the disability benefit commenced multiplied by the member's 2984
annual disability benefit; 2985

(3) Compound interest at a rate established by the board 2986
from the date the member is eligible to purchase the credit to 2987
the date of payment. 2988

The member may choose to purchase only part of such credit 2989
in any one payment, subject to board rules. 2990

(H) If any employer employs any member who is receiving a 2991
disability benefit, the employer shall file notice of employment 2992
with the retirement board, designating the date of employment. 2993
In case the notice is not filed, the total amount of the benefit 2994
paid during the period of employment prior to notice shall be 2995
paid from amounts allocated under Chapter 3317. of the Revised 2996
Code prior to its distribution to the school district in which 2997
the disability benefit recipient was so employed. 2998

Sec. 3309.45. Except as provided in division (C) (1) of 2999
this section, in lieu of accepting the payment of the 3000
accumulated account of a member who dies before service 3001
retirement, the beneficiary, as determined in section 3309.44 of 3002
the Revised Code, may elect to forfeit the accumulated account 3003
and to substitute certain other benefits either under division 3004
(A) or (B) of this section. 3005

(A) (1) If a deceased member was eligible for a service 3006
retirement allowance as provided in section 3309.36 or 3309.381 3007
of the Revised Code, a surviving spouse or other sole dependent 3008
beneficiary may elect to receive a monthly benefit computed as 3009

the joint-survivor allowance designated as "plan D" in section 3010
3309.46 of the Revised Code, which the member would have 3011
received had the member retired on the last day of the month of 3012
death and had the member at that time selected such joint- 3013
survivor plan. Payment shall begin with the month subsequent to 3014
the member's death. 3015

(2) Beginning on a date selected by the school employees 3016
retirement board, which shall be not later than July 1, 2004, a 3017
surviving spouse or other sole dependent beneficiary may elect, 3018
in lieu of a monthly payment under division (A) (1) of this 3019
section, a plan of payment consisting of both of the following: 3020

(a) A lump sum in an amount the surviving spouse or other 3021
sole dependent beneficiary designates that constitutes a portion 3022
of the allowance that would be payable under division (A) (1) of 3023
this section; 3024

(b) The remainder of that allowance in monthly payments. 3025

The total amount paid as a lump sum and a monthly benefit 3026
shall be the actuarial equivalent of the amount that would have 3027
been paid had the lump sum not been selected. 3028

The lump sum amount designated by the surviving spouse or 3029
other sole dependent beneficiary under division (A) (2) (a) of 3030
this section shall be not less than six times and not more than 3031
thirty-six times the monthly amount that would be payable to the 3032
surviving spouse or other sole dependent beneficiary under 3033
division (A) (1) of this section and shall not result in a 3034
monthly benefit that is less than fifty per cent of that monthly 3035
amount. 3036

(B) If the deceased member had completed at least one and 3037
one-half years of credit for Ohio service, with at least one- 3038

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

3046

	1	2	3
A	(1) (a) Number of Qualified survivors affecting the benefit	Annual Benefit as a Per Cent of Decedent's Final Average Salary	Or Monthly Benefit shall not be less than
B	1	25%	\$95
C	2	40	186
D	3	50	236
E	4	55	236
F	5 or more	60	236

3047

	1	2
A	(b) Years of Service	Annual Benefit as a Per Cent of Member's Final Average

		Salary
B	20	29%
C	21	33
D	22	37
E	23	41
F	24	45
G	25	48
H	26	51
I	27	54
J	28	57
K	29 or more	60

(2) Benefits shall begin as qualified survivors meet 3048
eligibility requirements as follows: 3049

(a) A qualified spouse is the surviving spouse of the 3050
deceased member who is age sixty-two, or regardless of age if 3051
the deceased member had ten or more years of Ohio service 3052
credit, or regardless of age if caring for a surviving child, or 3053
regardless of age if adjudged physically or mentally 3054
incompetent. 3055

(b) A qualified child whose benefit began before January 3056
7, 2013, is any child of the deceased member who has never been 3057
married and to whom one of the following applies: 3058

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

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

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

(i) Is under age nineteen;

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

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

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

(4) Benefits to a qualified survivor shall terminate upon a first marriage, abandonment, adoption, or during active

military service. Benefits to a deceased member's surviving spouse that were terminated under a former version of this section that required termination due to remarriage and were not resumed prior to September 16, 1998, shall resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board.

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

Benefits shall begin or resume on the first day of the month following the attainment of eligibility and shall terminate on the first day of the month following loss of eligibility.

(5) (a) If a benefit is payable under division (B) (1) (a) of this section, benefits to a qualified spouse shall be paid in the amount determined for the first qualifying survivor in division (B) (1) (a) of this section, but shall not be less than one hundred six dollars per month if the deceased member had ten or more years of Ohio service credit. All other qualifying survivors shall share equally in the benefit or remaining portion thereof.

(b) All qualifying survivors shall share equally in a 3118
benefit payable under division (B) (1) (b) of this section, except 3119
that if there is a surviving spouse, the surviving spouse shall 3120
receive no less than the greater of the amount determined for 3121
the first qualifying survivor in division (B) (1) (a) of this 3122
section or one hundred six dollars per month. 3123

(6) The beneficiary of a member who is also a member of 3124
the public employees retirement system, or of the state teachers 3125
retirement system, must forfeit the member's accumulated 3126
contributions in those systems, if the beneficiary takes a 3127
survivor benefit. Such benefit shall be exclusively governed by 3128
section 3309.35 of the Revised Code. 3129

(C) (1) Regardless of whether the member is survived by a 3130
spouse or designated beneficiary, if the school employees 3131
retirement system receives notice that a deceased member 3132
described in division (A) or (B) of this section has one or more 3133
qualified children, all persons who are qualified survivors 3134
under division (B) of this section shall receive monthly 3135
benefits as provided in division (B) of this section. 3136

If, after determining the monthly benefits to be paid 3137
under division (B) of this section, the system receives notice 3138
that there is a qualified survivor who was not considered when 3139
the determination was made, the system shall, notwithstanding 3140
section 3309.661 of the Revised Code, recalculate the monthly 3141
benefits with that qualified survivor included, even if the 3142
benefits to qualified survivors already receiving benefits are 3143
reduced as a result. The benefits shall be calculated as if the 3144
qualified survivor who is the subject of the notice became 3145
eligible on the date the notice was received and shall be paid 3146
to qualified survivors effective on the first day of the first 3147

month following the system's receipt of the notice. 3148

If the retirement system did not receive notice that a 3149
deceased member has one or more qualified children prior to 3150
making payment under section 3309.44 of the Revised Code to a 3151
beneficiary as determined by the retirement system, the payment 3152
is a full discharge and release of the system from any future 3153
claims under this section or section 3309.44 of the Revised 3154
Code. 3155

(2) If benefits under division (C) (1) of this section to 3156
all persons, or to all persons other than a surviving spouse or 3157
other sole beneficiary, terminate, there are no qualified 3158
children, and the surviving spouse or beneficiary qualifies for 3159
benefits under division (A) of this section, the surviving 3160
spouse or beneficiary may elect to receive benefits under 3161
division (A) of this section. Benefits shall be effective on the 3162
first day of the month following receipt by the board of an 3163
application for benefits under division (A) of this section. 3164

(D) The final average salary used in the calculation of a 3165
benefit payable pursuant to division (A) or (B) of this section 3166
to a survivor or beneficiary of a disability benefit recipient 3167
shall be adjusted for each year between the disability benefit's 3168
effective date and the recipient's date of death by the lesser 3169
of three per cent or the actual average percentage increase in 3170
the consumer price index prepared by the United States bureau of 3171
labor statistics (U.S. City Average for Urban Wage Earners and 3172
Clerical Workers: "All Items 1982-84=100"). 3173

(E) If the survivor benefits due and paid under this 3174
section are in a total amount less than the member's accumulated 3175
account that was transferred from the employees' savings fund, 3176
the state teachers retirement fund, and the public employees 3177

retirement fund to the survivors' benefit fund, then the 3178
difference between the total amount of the benefits paid shall 3179
be paid to the beneficiary under section 3309.44 of the Revised 3180
Code. 3181

Sec. 3313.64. (A) As used in this section and in section 3182
3313.65 of the Revised Code: 3183

(1) (a) Except as provided in division (A) (1) (b) of this 3184
section, "parent" means either parent, unless the parents are 3185
separated or divorced or their marriage has been dissolved or 3186
annulled, in which case "parent" means the parent who is the 3187
residential parent and legal custodian of the child. When a 3188
child is in the legal custody of a government agency or a person 3189
other than the child's natural or adoptive parent, "parent" 3190
means the parent with residual parental rights, privileges, and 3191
responsibilities. When a child is in the permanent custody of a 3192
government agency or a person other than the child's natural or 3193
adoptive parent, "parent" means the parent who was divested of 3194
parental rights and responsibilities for the care of the child 3195
and the right to have the child live with the parent and be the 3196
legal custodian of the child and all residual parental rights, 3197
privileges, and responsibilities. 3198

(b) When a child is the subject of a power of attorney 3199
executed under sections 3109.51 to 3109.62 of the Revised Code, 3200
"parent" means the grandparent designated as attorney in fact 3201
under the power of attorney. When a child is the subject of a 3202
caretaker authorization affidavit executed under sections 3203
3109.64 to 3109.73 of the Revised Code, "parent" means the 3204
grandparent that executed the affidavit. 3205

(2) "Legal custody," "permanent custody," and "residual 3206
parental rights, privileges, and responsibilities" have the same 3207

meanings as in section 2151.011 of the Revised Code. 3208

(3) "School district" or "district" means a city, local, 3209
or exempted village school district and excludes any school 3210
operated in an institution maintained by the department of youth 3211
services. 3212

(4) Except as used in division (C)(2) of this section, 3213
"home" means a home, institution, foster home, group home, or 3214
other residential facility in this state that receives and cares 3215
for children, to which any of the following applies: 3216

(a) The home is licensed, certified, or approved for such 3217
purpose by the state or is maintained by the department of youth 3218
services. 3219

(b) The home is operated by a person who is licensed, 3220
certified, or approved by the state to operate the home for such 3221
purpose. 3222

(c) The home accepted the child through a placement by a 3223
person licensed, certified, or approved to place a child in such 3224
a home by the state. 3225

(d) The home is a children's home created under section 3226
5153.21 or 5153.36 of the Revised Code. 3227

(5) "Agency" means all of the following: 3228

(a) A public children services agency; 3229

(b) An organization that holds a certificate issued by the 3230
department of children and youth in accordance with the 3231
requirements of section 5103.03 of the Revised Code and assumes 3232
temporary or permanent custody of children through commitment, 3233
agreement, or surrender, and places children in family homes for 3234
the purpose of adoption; 3235

(c) Comparable agencies of other states or countries that 3236
have complied with applicable requirements of section 2151.39 of 3237
the Revised Code or as applicable, sections 5103.20 to 5103.22 3238
or 5103.23 to 5103.237 of the Revised Code. 3239

(6) A child is placed for adoption if either of the 3240
following occurs: 3241

(a) An agency to which the child has been permanently 3242
committed or surrendered enters into an agreement with a person 3243
pursuant to section 5103.16 of the Revised Code for the care and 3244
adoption of the child. 3245

(b) The child's natural parent places the child pursuant 3246
to section 5103.16 of the Revised Code with a person who will 3247
care for and adopt the child. 3248

(7) "Preschool child with a disability" has the same 3249
meaning as in section 3323.01 of the Revised Code. 3250

(8) "Child," unless otherwise indicated, includes 3251
preschool children with disabilities. 3252

(9) "Active duty" means active duty pursuant to an 3253
executive order of the president of the United States, an act of 3254
the congress of the United States, or section 5919.29 or 5923.21 3255
of the Revised Code. 3256

(B) Except as otherwise provided in section 3321.01 of the 3257
Revised Code for admittance to kindergarten and first grade, a 3258
child who is at least five but under twenty-two years of age and 3259
any preschool child with a disability shall be admitted to 3260
school as provided in this division. 3261

(1) A child shall be admitted to the schools of the school 3262
district in which the child's parent resides. 3263

(2) Except as provided in division (B) of section 2151.362 3264
and section 3317.30 of the Revised Code, a child who does not 3265
reside in the district where the child's parent resides shall be 3266
admitted to the schools of the district in which the child 3267
resides if any of the following applies: 3268

(a) The child is in the legal or permanent custody of a 3269
government agency or a person other than the child's natural or 3270
adoptive parent. 3271

(b) The child resides in a home. 3272

(c) The child requires special education. 3273

(3) A child who is not entitled under division (B) (2) of 3274
this section to be admitted to the schools of the district where 3275
the child resides and who is residing with a resident of this 3276
state with whom the child has been placed for adoption shall be 3277
admitted to the schools of the district where the child resides 3278
unless either of the following applies: 3279

(a) The placement for adoption has been terminated. 3280

(b) Another school district is required to admit the child 3281
under division (B) (1) of this section. 3282

Division (B) of this section does not prohibit the board 3283
of education of a school district from placing a child with a 3284
disability who resides in the district in a special education 3285
program outside of the district or its schools in compliance 3286
with Chapter 3323. of the Revised Code. 3287

(C) A district shall not charge tuition for children 3288
admitted under division (B) (1) or (3) of this section. If the 3289
district admits a child under division (B) (2) of this section, 3290
tuition shall be paid to the district that admits the child as 3291

provided in divisions (C) (1) to (3) of this section, unless 3292
division (C) (4) of this section applies to the child: 3293

(1) If the child receives special education in accordance 3294
with Chapter 3323. of the Revised Code, the school district of 3295
residence, as defined in section 3323.01 of the Revised Code, 3296
shall pay tuition for the child in accordance with section 3297
3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code 3298
regardless of who has custody of the child or whether the child 3299
resides in a home. 3300

(2) For a child that does not receive special education in 3301
accordance with Chapter 3323. of the Revised Code, except as 3302
otherwise provided in division (C) (2) (d) of this section, if the 3303
child is in the permanent or legal custody of a government 3304
agency or person other than the child's parent, tuition shall be 3305
paid by: 3306

(a) The district in which the child's parent resided at 3307
the time the court removed the child from home or at the time 3308
the court vested legal or permanent custody of the child in the 3309
person or government agency, whichever occurred first; 3310

(b) If the parent's residence at the time the court 3311
removed the child from home or placed the child in the legal or 3312
permanent custody of the person or government agency is unknown, 3313
tuition shall be paid by the district in which the child resided 3314
at the time the child was removed from home or placed in legal 3315
or permanent custody, whichever occurred first; 3316

(c) If a school district cannot be established under 3317
division (C) (2) (a) or (b) of this section, tuition shall be paid 3318
by the district determined as required by section 2151.362 of 3319
the Revised Code by the court at the time it vests custody of 3320

the child in the person or government agency; 3321

(d) If at the time the court removed the child from home 3322
or vested legal or permanent custody of the child in the person 3323
or government agency, whichever occurred first, one parent was 3324
in a residential or correctional facility or a juvenile 3325
residential placement and the other parent, if living and not in 3326
such a facility or placement, was not known to reside in this 3327
state, tuition shall be paid by the district determined under 3328
division (D) of section 3313.65 of the Revised Code as the 3329
district required to pay any tuition while the parent was in 3330
such facility or placement; 3331

(e) If the department of education and workforce has 3332
determined, pursuant to division (A)(2) of section 2151.362 of 3333
the Revised Code, that a school district other than the one 3334
named in the court's initial order, or in a prior determination 3335
of the department, is responsible to bear the cost of educating 3336
the child, the district so determined shall be responsible for 3337
that cost. 3338

(3) If the child is not in the permanent or legal custody 3339
of a government agency or person other than the child's parent 3340
and the child resides in a home, tuition shall be paid by one of 3341
the following: 3342

(a) The school district in which the child's parent 3343
resides; 3344

(b) If the child's parent is not a resident of this state, 3345
the home in which the child resides. 3346

(4) Division (C)(4) of this section applies to any child 3347
who is admitted to a school district under division (B)(2) of 3348
this section, resides in a home that is not a foster home, a 3349

home maintained by the department of youth services, a detention 3350
facility established under section 2152.41 of the Revised Code, 3351
or a juvenile facility established under section 2151.65 of the 3352
Revised Code, and receives educational services at the home or 3353
facility in which the child resides pursuant to a contract 3354
between the home or facility and the school district providing 3355
those services. 3356

If a child to whom division (C) (4) of this section applies 3357
is a special education student, a district may choose whether to 3358
receive a tuition payment for that child under division (C) (4) 3359
of this section or to receive a payment for that child under 3360
section 3323.14 of the Revised Code. If a district chooses to 3361
receive a payment for that child under section 3323.14 of the 3362
Revised Code, it shall not receive a tuition payment for that 3363
child under division (C) (4) of this section. 3364

If a child to whom division (C) (4) of this section applies 3365
is not a special education student, a district shall receive a 3366
tuition payment for that child under division (C) (4) of this 3367
section. 3368

In the case of a child to which division (C) (4) of this 3369
section applies, the total educational cost to be paid for the 3370
child shall be determined by a formula approved by the 3371
department of education and workforce, which formula shall be 3372
designed to calculate a per diem cost for the educational 3373
services provided to the child for each day the child is served 3374
and shall reflect the total actual cost incurred in providing 3375
those services. The department shall certify the total 3376
educational cost to be paid for the child to both the school 3377
district providing the educational services and, if different, 3378
the school district that is responsible to pay tuition for the 3379

child. The department shall deduct the certified amount from the 3380
state basic aid funds payable under Chapter 3317. of the Revised 3381
Code to the district responsible to pay tuition and shall pay 3382
that amount to the district providing the educational services 3383
to the child. 3384

(D) Tuition required to be paid under divisions (C) (2) and 3385
(3) (a) of this section shall be computed in accordance with 3386
section 3317.08 of the Revised Code. Tuition required to be paid 3387
under division (C) (3) (b) of this section shall be computed in 3388
accordance with section 3317.081 of the Revised Code. If a home 3389
fails to pay the tuition required by division (C) (3) (b) of this 3390
section, the board of education providing the education may 3391
recover in a civil action the tuition and the expenses incurred 3392
in prosecuting the action, including court costs and reasonable 3393
attorney's fees. If the prosecuting attorney or city director of 3394
law represents the board in such action, costs and reasonable 3395
attorney's fees awarded by the court, based upon the prosecuting 3396
attorney's, director's, or one of their designee's time spent 3397
preparing and presenting the case, shall be deposited in the 3398
county or city general fund. 3399

(E) A board of education may enroll a child free of any 3400
tuition obligation for a period not to exceed sixty days, on the 3401
sworn statement of an adult resident of the district that the 3402
resident has initiated legal proceedings for custody of the 3403
child. 3404

(F) In the case of any individual entitled to attend 3405
school under this division, no tuition shall be charged by the 3406
school district of attendance and no other school district shall 3407
be required to pay tuition for the individual's attendance. 3408
Notwithstanding division (B), (C), or (E) of this section: 3409

(1) All persons at least eighteen but under twenty-two 3410
years of age who live apart from their parents, support 3411
themselves by their own labor, and have not successfully 3412
completed the high school curriculum or the individualized 3413
education program developed for the person by the high school 3414
pursuant to section 3323.08 of the Revised Code, are entitled to 3415
attend school in the district in which they reside. 3416

(2) Any child under eighteen years of age who is married 3417
is entitled to attend school in the child's district of 3418
residence. 3419

(3) A child is entitled to attend school in the district 3420
in which either of the child's parents is employed if the child 3421
has a medical condition that may require emergency medical 3422
attention. The parent of a child entitled to attend school under 3423
division (F)(3) of this section shall submit to the board of 3424
education of the district in which the parent is employed a 3425
statement from the child's physician, certified nurse-midwife, 3426
clinical nurse specialist, or certified nurse practitioner 3427
certifying that the child's medical condition may require 3428
emergency medical attention. The statement shall be supported by 3429
such other evidence as the board may require. 3430

(4) Any child residing with a person other than the 3431
child's parent is entitled, for a period not to exceed twelve 3432
months, to attend school in the district in which that person 3433
resides if the child's parent files an affidavit with the 3434
superintendent of the district in which the person with whom the 3435
child is living resides stating all of the following: 3436

(a) That the parent is serving outside of the state in the 3437
armed services of the United States; 3438

(b) That the parent intends to reside in the district upon 3439
returning to this state; 3440

(c) The name and address of the person with whom the child 3441
is living while the parent is outside the state. 3442

(5) Any child under the age of twenty-two years who, after 3443
the death of a parent, resides in a school district other than 3444
the district in which the child attended school at the time of 3445
the parent's death is entitled to continue to attend school in 3446
the district in which the child attended school at the time of 3447
the parent's death for the remainder of the school year, subject 3448
to approval of that district board. 3449

(6) A child under the age of twenty-two years who resides 3450
with a parent who is having a new house built in a school 3451
district outside the district where the parent is residing is 3452
entitled to attend school for a period of time in the district 3453
where the new house is being built. In order to be entitled to 3454
such attendance, the parent shall provide the district 3455
superintendent with the following: 3456

(a) A sworn statement explaining the situation, revealing 3457
the location of the house being built, and stating the parent's 3458
intention to reside there upon its completion; 3459

(b) A statement from the builder confirming that a new 3460
house is being built for the parent and that the house is at the 3461
location indicated in the parent's statement. 3462

(7) A child under the age of twenty-two years residing 3463
with a parent who has a contract to purchase a house in a school 3464
district outside the district where the parent is residing and 3465
who is waiting upon the date of closing of the mortgage loan for 3466
the purchase of such house is entitled to attend school for a 3467

period of time in the district where the house is being 3468
purchased. In order to be entitled to such attendance, the 3469
parent shall provide the district superintendent with the 3470
following: 3471

(a) A sworn statement explaining the situation, revealing 3472
the location of the house being purchased, and stating the 3473
parent's intent to reside there; 3474

(b) A statement from a real estate broker or bank officer 3475
confirming that the parent has a contract to purchase the house, 3476
that the parent is waiting upon the date of closing of the 3477
mortgage loan, and that the house is at the location indicated 3478
in the parent's statement. 3479

The district superintendent shall establish a period of 3480
time not to exceed ninety days during which the child entitled 3481
to attend school under division (F) (6) or (7) of this section 3482
may attend without tuition obligation. A student attending a 3483
school under division (F) (6) or (7) of this section shall be 3484
eligible to participate in interscholastic athletics under the 3485
auspices of that school, provided the board of education of the 3486
school district where the student's parent resides, by a formal 3487
action, releases the student to participate in interscholastic 3488
athletics at the school where the student is attending, and 3489
provided the student receives any authorization required by a 3490
public agency or private organization of which the school 3491
district is a member exercising authority over interscholastic 3492
sports. 3493

(8) A child whose parent is a full-time employee of a 3494
city, local, or exempted village school district, or of an 3495
educational service center, may be admitted to the schools of 3496
the district where the child's parent is employed, or in the 3497

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

(9) A child who is with the child's parent under the care 3510
of a shelter for victims of domestic violence, as defined in 3511
section 3113.33 of the Revised Code, is entitled to attend 3512
school free in the district in which the child is with the 3513
child's parent, and no other school district shall be required 3514
to pay tuition for the child's attendance in that school 3515
district. 3516

The enrollment of a child in a school district under this 3517
division shall not be denied due to a delay in the school 3518
district's receipt of any records required under section 3519
3313.672 of the Revised Code or any other records required for 3520
enrollment. Any days of attendance and any credits earned by a 3521
child while enrolled in a school district under this division 3522
shall be transferred to and accepted by any school district in 3523
which the child subsequently enrolls. The department of 3524
education and workforce shall adopt rules to ensure compliance 3525
with this division. 3526

(10) Any child under the age of twenty-two years whose 3527

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

(11) As used in this division, "grandparent" means a 3541
parent of a parent of a child. A child under the age of twenty- 3542
two years who is in the custody of the child's parent, resides 3543
with a grandparent, and does not require special education is 3544
entitled to attend the schools of the district in which the 3545
child's grandparent resides, provided that, prior to such 3546
attendance in any school year, the board of education of the 3547
school district in which the child's grandparent resides and the 3548
board of education of the school district in which the child's 3549
parent resides enter into a written agreement specifying that 3550
good cause exists for such attendance, describing the nature of 3551
this good cause, and consenting to such attendance. 3552

In lieu of a consent form signed by a parent, a board of 3553
education may request the grandparent of a child attending 3554
school in the district in which the grandparent resides pursuant 3555
to division (F)(11) of this section to complete any consent form 3556
required by the district, including any authorization required 3557
by sections 3313.712, 3313.713, 3313.716, and 3313.718 of the 3558

Revised Code. Upon request, the grandparent shall complete any consent form required by the district. A school district shall not incur any liability solely because of its receipt of a consent form from a grandparent in lieu of a parent.

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

(12) A child under the age of twenty-two years is entitled to attend school in a school district other than the district in which the child is entitled to attend school under division (B), (C), or (E) of this section provided that, prior to such attendance in any school year, both of the following occur:

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

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

While an agreement is in effect under this division for a student who is not receiving special education under Chapter 3323. of the Revised Code and notwithstanding Chapter 3327. of

the Revised Code, the board of education of neither school 3588
district involved in the agreement is required to provide 3589
transportation for the student to and from the school where the 3590
student attends. 3591

A student attending a school of a district pursuant to 3592
this division shall be allowed to participate in all student 3593
activities, including interscholastic athletics, at the school 3594
where the student is attending on the same basis as any student 3595
who has always attended the schools of that district while of 3596
compulsory school age. 3597

(13) All school districts shall comply with the "McKinney- 3598
Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et seq., for 3599
the education of homeless children. Each city, local, and 3600
exempted village school district shall comply with the 3601
requirements of that act governing the provision of a free, 3602
appropriate public education, including public preschool, to 3603
each homeless child. 3604

When a child loses permanent housing and becomes a 3605
homeless person, as defined in 42 U.S.C.A. 11481(5), or when a 3606
child who is such a homeless person changes temporary living 3607
arrangements, the child's parent or guardian shall have the 3608
option of enrolling the child in either of the following: 3609

(a) The child's school of origin, as defined in 42 3610
U.S.C.A. 11432(g) (3) (C); 3611

(b) The school that is operated by the school district in 3612
which the shelter where the child currently resides is located 3613
and that serves the geographic area in which the shelter is 3614
located. 3615

(14) A child under the age of twenty-two years who resides 3616

with a person other than the child's parent is entitled to 3617
attend school in the school district in which that person 3618
resides if both of the following apply: 3619

(a) That person has been appointed, through a military 3620
power of attorney executed under section 574(a) of the "National 3621
Defense Authorization Act for Fiscal Year 1994," 107 Stat. 1674 3622
(1993), 10 U.S.C. 1044b, or through a comparable document 3623
necessary to complete a family care plan, as the parent's agent 3624
for the care, custody, and control of the child while the parent 3625
is on active duty as a member of the national guard or a reserve 3626
unit of the armed forces of the United States or because the 3627
parent is a member of the armed forces of the United States and 3628
is on a duty assignment away from the parent's residence. 3629

(b) The military power of attorney or comparable document 3630
includes at least the authority to enroll the child in school. 3631

The entitlement to attend school in the district in which 3632
the parent's agent under the military power of attorney or 3633
comparable document resides applies until the end of the school 3634
year in which the military power of attorney or comparable 3635
document expires. 3636

(G) A board of education, after approving admission, may 3637
waive tuition for students who will temporarily reside in the 3638
district and who are either of the following: 3639

(1) Residents or domiciliaries of a foreign nation who 3640
request admission as foreign exchange students; 3641

(2) Residents or domiciliaries of the United States but 3642
not of Ohio who request admission as participants in an exchange 3643
program operated by a student exchange organization. 3644

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3645

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

(I) (1) Notwithstanding anything to the contrary in this 3650
section or section 3313.65 of the Revised Code, a child under 3651
twenty-two years of age may attend school in the school district 3652
in which the child, at the end of the first full week of October 3653
of the school year, was entitled to attend school as otherwise 3654
provided under this section or section 3313.65 of the Revised 3655
Code, if at that time the child was enrolled in the schools of 3656
the district but since that time the child or the child's parent 3657
has relocated to a new address located outside of that school 3658
district and within the same county as the child's or parent's 3659
address immediately prior to the relocation. The child may 3660
continue to attend school in the district, and at the school to 3661
which the child was assigned at the end of the first full week 3662
of October of the current school year, for the balance of the 3663
school year. Division (I) (1) of this section applies only if 3664
both of the following conditions are satisfied: 3665

(a) The board of education of the school district in which 3666
the child was entitled to attend school at the end of the first 3667
full week in October and of the district to which the child or 3668
child's parent has relocated each has adopted a policy to enroll 3669
children described in division (I) (1) of this section. 3670

(b) The child's parent provides written notification of 3671
the relocation outside of the school district to the 3672
superintendent of each of the two school districts. 3673

(2) At the beginning of the school year following the 3674
school year in which the child or the child's parent relocated 3675

outside of the school district as described in division (I) (1) 3676
of this section, the child is not entitled to attend school in 3677
the school district under that division. 3678

(3) Any person or entity owing tuition to the school 3679
district on behalf of the child at the end of the first full 3680
week in October, as provided in division (C) of this section, 3681
shall continue to owe such tuition to the district for the 3682
child's attendance under division (I) (1) of this section for the 3683
lesser of the balance of the school year or the balance of the 3684
time that the child attends school in the district under 3685
division (I) (1) of this section. 3686

(4) A pupil who may attend school in the district under 3687
division (I) (1) of this section shall be entitled to 3688
transportation services pursuant to an agreement between the 3689
district and the district in which the child or child's parent 3690
has relocated unless the districts have not entered into such 3691
agreement, in which case the child shall be entitled to 3692
transportation services in the same manner as a pupil attending 3693
school in the district under interdistrict open enrollment as 3694
described in division (E) of section 3313.981 of the Revised 3695
Code, regardless of whether the district has adopted an open 3696
enrollment policy as described in division (B) (1) (b) or (c) of 3697
section 3313.98 of the Revised Code. 3698

(J) This division does not apply to a child receiving 3699
special education. 3700

A school district required to pay tuition pursuant to 3701
division (C) (2) or (3) of this section or section 3313.65 of the 3702
Revised Code shall have an amount deducted under division (C) of 3703
section 3317.023 of the Revised Code equal to its own tuition 3704
rate for the same period of attendance. A school district 3705

entitled to receive tuition pursuant to division (C) (2) or (3) 3706
of this section or section 3313.65 of the Revised Code shall 3707
have an amount credited under division (C) of section 3317.023 3708
of the Revised Code equal to its own tuition rate for the same 3709
period of attendance. If the tuition rate credited to the 3710
district of attendance exceeds the rate deducted from the 3711
district required to pay tuition, the department of education 3712
and workforce shall pay the district of attendance the 3713
difference from amounts deducted from all districts' payments 3714
under division (C) of section 3317.023 of the Revised Code but 3715
not credited to other school districts under such division and 3716
from appropriations made for such purpose. The treasurer of each 3717
school district shall, by the fifteenth day of January and July, 3718
furnish the director of education and workforce a report of the 3719
names of each child who attended the district's schools under 3720
divisions (C) (2) and (3) of this section or section 3313.65 of 3721
the Revised Code during the preceding six calendar months, the 3722
duration of the attendance of those children, the school 3723
district responsible for tuition on behalf of the child, and any 3724
other information that the director requires. 3725

Upon receipt of the report the director, pursuant to 3726
division (C) of section 3317.023 of the Revised Code, shall 3727
deduct each district's tuition obligations under divisions (C) 3728
(2) and (3) of this section or section 3313.65 of the Revised 3729
Code and pay to the district of attendance that amount plus any 3730
amount required to be paid by the state. 3731

(K) In the event of a disagreement, the director of 3732
education and workforce shall determine the school district in 3733
which the parent resides. 3734

(L) Nothing in this section requires or authorizes, or 3735

shall be construed to require or authorize, the admission to a 3736
public school in this state of a pupil who has been permanently 3737
excluded from public school attendance by the director pursuant 3738
to sections 3301.121 and 3313.662 of the Revised Code. 3739

(M) In accordance with division (B)(1) of this section, a 3740
child whose parent is a member of the national guard or a 3741
reserve unit of the armed forces of the United States and is 3742
called to active duty, or a child whose parent is a member of 3743
the armed forces of the United States and is ordered to a 3744
temporary duty assignment outside of the district, may continue 3745
to attend school in the district in which the child's parent 3746
lived before being called to active duty or ordered to a 3747
temporary duty assignment outside of the district, as long as 3748
the child's parent continues to be a resident of that district, 3749
and regardless of where the child lives as a result of the 3750
parent's active duty status or temporary duty assignment. 3751
However, the district is not responsible for providing 3752
transportation for the child if the child lives outside of the 3753
district as a result of the parent's active duty status or 3754
temporary duty assignment. 3755

Sec. 3313.716. (A) Notwithstanding section 3313.713 of the 3756
Revised Code or any policy adopted under that section, a student 3757
of a school operated by a city, local, exempted village, or 3758
joint vocational school district or a student of a chartered 3759
nonpublic school may possess and use a metered dose inhaler or a 3760
dry powder inhaler to alleviate asthmatic symptoms, or before 3761
exercise to prevent the onset of asthmatic symptoms, if both of 3762
the following conditions are satisfied: 3763

(1) The student has the written approval of the student's 3764
physician, clinical nurse specialist, or certified nurse 3765

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

(a) The student's name and address; 3771

(b) The names and dose of the medication contained in the 3772
inhaler; 3773

(c) The date the administration of the medication is to 3774
begin; 3775

(d) The date, if known, that the administration of the 3776
medication is to cease; 3777

(e) Written instructions that outline procedures school 3778
personnel should follow in the event that the asthma medication 3779
does not produce the expected relief from the student's asthma 3780
attack; 3781

(f) Any severe adverse reactions that may occur to the 3782
child using the inhaler and that should be reported to the 3783
physician or nurse; 3784

(g) Any severe adverse reactions that may occur to another 3785
child, for whom the inhaler is not prescribed, should such a 3786
child receive a dose of the medication; 3787

(h) At least one emergency telephone number for contacting 3788
the physician or nurse in an emergency; 3789

(i) At least one emergency telephone number for contacting 3790
the parent, guardian, or other person having care or charge of 3791
the student in an emergency; 3792

(j) Any other special instructions from the physician or 3793
nurse. 3794

(2) The school principal and, if a school nurse is 3795
assigned to the student's school building, the school nurse has 3796
received copies of the written approvals required by division 3797
(A) (1) of this section. 3798

If these conditions are satisfied, the student may possess 3799
and use the inhaler at school or at any activity, event, or 3800
program sponsored by or in which the student's school is a 3801
participant. 3802

(B) (1) A school district, member of a school district 3803
board of education, or school district employee is not liable in 3804
damages in a civil action for injury, death, or loss to person 3805
or property allegedly arising from a district employee's 3806
prohibiting a student from using an inhaler because of the 3807
employee's good faith belief that the conditions of divisions 3808
(A) (1) and (2) of this section had not been satisfied. A school 3809
district, member of a school district board of education, or 3810
school district employee is not liable in damages in a civil 3811
action for injury, death, or loss to person or property 3812
allegedly arising from a district employee's permitting a 3813
student to use an inhaler because of the employee's good faith 3814
belief that the conditions of divisions (A) (1) and (2) of this 3815
section had been satisfied. Furthermore, when a school district 3816
is required by this section to permit a student to possess and 3817
use an inhaler because the conditions of divisions (A) (1) and 3818
(2) of this section have been satisfied, the school district, 3819
any member of the school district board of education, or any 3820
school district employee is not liable in damages in a civil 3821
action for injury, death, or loss to person or property 3822

allegedly arising from the use of the inhaler by a student for 3823
whom it was not prescribed. 3824

This section does not eliminate, limit, or reduce any 3825
other immunity or defense that a school district, member of a 3826
school district board of education, or school district employee 3827
may be entitled to under Chapter 2744. or any other provision of 3828
the Revised Code or under the common law of this state. 3829

(2) A chartered nonpublic school or any officer, director, 3830
or employee of the school is not liable in damages in a civil 3831
action for injury, death, or loss to person or property 3832
allegedly arising from a school employee's prohibiting a student 3833
from using an inhaler because of the employee's good faith 3834
belief that the conditions of divisions (A) (1) and (2) of this 3835
section had not been satisfied. A chartered nonpublic school or 3836
any officer, director, or employee of the school is not liable 3837
in damages in a civil action for injury, death, or loss to 3838
person or property allegedly arising from a school employee's 3839
permitting a student to use an inhaler because of the employee's 3840
good faith belief that the conditions of divisions (A) (1) and 3841
(2) of this section had been satisfied. Furthermore, when a 3842
chartered nonpublic school is required by this section to permit 3843
a student to possess and use an inhaler because the conditions 3844
of divisions (A) (1) and (2) of this section have been satisfied, 3845
the chartered nonpublic school or any officer, director, or 3846
employee of the school is not liable in damages in a civil 3847
action for injury, death, or loss to person or property 3848
allegedly arising from the use of the inhaler by a student for 3849
whom it was not prescribed. 3850

Sec. 3313.72. The board of education of a city, exempted 3851
village, or local school district may enter into a contract with 3852

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

Sec. 3319.141. Each person who is employed by any board of 3858
education in this state, except for substitutes, adult education 3859
instructors who are scheduled to work the full-time equivalent 3860
of less than one hundred twenty days per school year, or persons 3861
who are employed on an as-needed, seasonal, or intermittent 3862
basis, shall be entitled to fifteen days sick leave with pay, 3863
for each year under contract, which shall be credited at the 3864
rate of one and one-fourth days per month. Teachers and regular 3865
nonteaching school employees, upon approval of the responsible 3866
administrative officer of the school district, may use sick 3867
leave for absence due to personal illness, pregnancy, injury, 3868
exposure to contagious disease which could be communicated to 3869
others, and for absence due to illness, injury, or death in the 3870
employee's immediate family. Unused sick leave shall be 3871
cumulative up to one hundred twenty work days, unless more than 3872
one hundred twenty days are approved by the employing board of 3873
education. The previously accumulated sick leave of a person who 3874
has been separated from public service, whether accumulated 3875
pursuant to section 124.38 of the Revised Code or pursuant to 3876
this section, shall be placed to the person's credit upon re- 3877
employment in the public service, provided that such re- 3878
employment takes place within ten years of the date of the last 3879
termination from public service. A teacher or nonteaching school 3880
employee who transfers from one public agency to another shall 3881
be credited with the unused balance of the teacher's or 3882
nonteaching employee's accumulated sick leave up to the maximum 3883

of the sick leave accumulation permitted in the public agency to 3884
which the employee transfers. Teachers and nonteaching school 3885
employees who render regular part-time, per diem, or hourly 3886
service shall be entitled to sick leave for the time actually 3887
worked at the same rate as that granted like full-time 3888
employees, calculated in the same manner as the ratio of sick 3889
leave granted to hours of service established by section 124.38 3890
of the Revised Code. Each board of education may establish 3891
regulations for the entitlement, crediting and use of sick leave 3892
by those substitute teachers employed by such board pursuant to 3893
section 3319.10 of the Revised Code who are not otherwise 3894
entitled to sick leave pursuant to such section. A board of 3895
education shall require a teacher or nonteaching school employee 3896
to furnish a written, signed statement on forms prescribed by 3897
such board to justify the use of sick leave. If medical 3898
attention is required, the employee's statement shall list the 3899
name and address of the attending physician, certified nurse- 3900
midwife, clinical nurse specialist, or certified nurse 3901
practitioner and the dates when the physician or nurse was 3902
consulted. Nothing in this section shall be construed to waive 3903
the physician-patient or advanced practice registered nurse- 3904
patient privilege provided by section 2317.02 of the Revised 3905
Code. Falsification of a statement is grounds for suspension or 3906
termination of employment under sections 3311.82, 3319.081, and 3907
3319.16 of the Revised Code. No sick leave shall be granted or 3908
credited to a teacher after the teacher's retirement or 3909
termination of employment. 3910

Except to the extent used as sick leave, leave granted 3911
under regulations adopted by a board of education pursuant to 3912
section 3311.77 or 3319.08 of the Revised Code shall not be 3913
charged against sick leave earned or earnable under this 3914

section. Nothing in this section shall be construed to affect in 3915
any other way the granting of leave pursuant to section 3311.77 3916
or 3319.08 of the Revised Code and any granting of sick leave 3917
pursuant to such section shall be charged against sick leave 3918
accumulated pursuant to this section. 3919

This section shall not be construed to interfere with any 3920
unused sick leave credit in any agency of government where 3921
attendance records are maintained and credit has been given for 3922
unused sick leave. Unused sick leave accumulated by teachers and 3923
nonteaching school employees under section 124.38 of the Revised 3924
Code shall continue to be credited toward the maximum 3925
accumulation permitted in accordance with this section. Each 3926
newly hired regular nonteaching and each regular nonteaching 3927
employee of any board of education who has exhausted the 3928
employee's accumulated sick leave shall be entitled to an 3929
advancement of not less than five days of sick leave each year, 3930
as authorized by rules which each board shall adopt, to be 3931
charged against the sick leave the employee subsequently 3932
accumulates under this section. 3933

This section shall be uniformly administered. 3934

Sec. 3319.143. Notwithstanding section 3319.141 of the 3935
Revised Code, the board of education of a city, exempted 3936
village, local or joint vocational school district may adopt a 3937
policy of assault leave by which an employee who is absent due 3938
to physical disability resulting from an assault which occurs in 3939
the course of board employment will be maintained on full pay 3940
status during the period of such absence. A board of education 3941
electing to effect such a policy of assault leave shall 3942
establish rules for the entitlement, crediting, and use of 3943
assault leave and file a copy of same with the department of 3944

education and workforce. A board of education adopting this 3945
policy shall require an employee to furnish a signed statement 3946
on forms prescribed by such board to justify the use of assault 3947
leave. If medical attention is required, a certificate from a 3948
licensed physician, certified nurse-midwife, clinical nurse 3949
specialist, or certified nurse practitioner stating the nature 3950
of the disability and its duration shall be required before 3951
assault leave can be approved for payment. Falsification of 3952
either ~~a signed the~~ statement or ~~a physician's the~~ certificate 3953
is ~~ground grounds~~ for suspension or termination of employment 3954
under section 3311.82 or 3319.16 of the Revised Code. 3955

Assault leave granted under rules adopted by a board of 3956
education pursuant to this section shall not be charged against 3957
sick leave earned or earnable under section 3319.141 of the 3958
Revised Code or leave granted under rules adopted by a board of 3959
education pursuant to section 3311.77 or 3319.08 of the Revised 3960
Code. This section shall be uniformly administered in those 3961
districts where such policy is adopted. 3962

Sec. 3321.04. Notwithstanding division (D) of section 3963
3311.19 and division (D) of section 3311.52 of the Revised Code, 3964
this section does not apply to any joint vocational or 3965
cooperative education school district or its superintendent. 3966

Every parent of any child of compulsory school age who is 3967
not employed under an age and schooling certificate or exempt 3968
under section 3321.042 of the Revised Code must send such child 3969
to a school or a special education program that conforms to the 3970
minimum standards prescribed by the director of education and 3971
workforce, for the full time the school or program attended is 3972
in session, which shall not be for less than thirty-two weeks 3973
per school year. Such attendance must begin within the first 3974

week of the school term or program or within one week of the 3975
date on which the child begins to reside in the district or 3976
within one week after the child's withdrawal from employment. 3977

For the purpose of operating a school or program on a 3978
trimester plan, "full time the school attended is in session," 3979
as used in this section means the two trimesters to which the 3980
child is assigned by the board of education. For the purpose of 3981
operating a school or program on a quarterly plan, "full time 3982
the school attended is in session," as used in this section, 3983
means the three quarters to which the child is assigned by the 3984
board of education. For the purpose of operating a school or 3985
program on a pentamester plan, "full time the school is in 3986
session," as used in this section, means the four pentamesters 3987
to which the child is assigned by the board of education. 3988

Excuses from future attendance at or past absence from 3989
school or a special education program may be granted for the 3990
causes, by the authorities, and under the following conditions: 3991

(A) The superintendent of the school district in which the 3992
child resides may excuse a child enrolled in the district from 3993
attendance for any part of the remainder of the current school 3994
year upon satisfactory showing of either of the following facts: 3995

(1) That the child's bodily or mental condition does not 3996
permit attendance at school or a special education program 3997
during such period; this fact is certified in writing by a 3998
licensed physician, clinical nurse specialist, or certified 3999
nurse practitioner or, in the case of a mental condition, by a 4000
licensed physician, a licensed clinical nurse specialist or 4001
certified nurse practitioner, a licensed psychologist, licensed 4002
school psychologist, or a certificated school psychologist; and 4003
provision is made for appropriate instruction of the child, in 4004

accordance with Chapter 3323. of the Revised Code; 4005

(2) That the child is being instructed at home by a person 4006
qualified to teach the branches in which instruction is 4007
required, and such additional branches, as the advancement and 4008
needs of the child may, in the opinion of such superintendent, 4009
require. In each such case the issuing superintendent shall file 4010
in the superintendent's office, with a copy of the excuse, 4011
papers showing how the inability of the child to attend school 4012
or a special education program or the qualifications of the 4013
person instructing the child at home were determined. All such 4014
excuses shall become void and subject to recall upon the removal 4015
of the disability of the child or the cessation of home 4016
instruction; and thereupon the child or the child's parents may 4017
be proceeded against after due notice whether such excuse be 4018
recalled or not. 4019

(B) The department of education and workforce may adopt 4020
rules authorizing the superintendent of schools of the district 4021
in which the child resides to excuse a child over fourteen years 4022
of age from attendance for a future limited period for the 4023
purpose of performing necessary work directly and exclusively 4024
for the child's parents or legal guardians. 4025

All excuses provided for in divisions (A) and (B) of this 4026
section shall be in writing and shall show the reason for 4027
excusing the child. A copy thereof shall be sent to the person 4028
in charge of the child. 4029

(C) The board of education of the school district or the 4030
governing authorities of a private or parochial school may in 4031
the rules governing the discipline in such schools, prescribe 4032
the authority by which and the manner in which any child may be 4033
excused for absence from such school for good and sufficient 4034

reasons. 4035

The department may by rule prescribe conditions governing 4036
the issuance of excuses, which shall be binding upon the 4037
authorities empowered to issue them. 4038

Sec. 3501.382. (A) (1) A registered voter who, by reason of 4039
disability, is unable to physically sign the voter's name as a 4040
candidate, signer, or circulator on a declaration of candidacy 4041
and petition, nominating petition, other petition, or other 4042
document under Title XXXV of the Revised Code may authorize a 4043
legally competent resident of this state who is eighteen years 4044
of age or older as an attorney in fact to sign that voter's name 4045
to the petition or other election document, at the voter's 4046
direction and in the voter's presence, in accordance with either 4047
of the following procedures: 4048

(a) The voter may file with the board of elections of the 4049
voter's county of residence a notarized form that includes or 4050
has attached all of the following: 4051

(i) The name of the voter who is authorizing an attorney 4052
in fact to sign petitions or other election documents on that 4053
voter's behalf, at the voter's direction and in the voter's 4054
presence; 4055

(ii) An attestation of the voter that the voter, by reason 4056
of disability, is unable to sign physically petitions or other 4057
election documents and that the voter desires the attorney in 4058
fact to sign them on the voter's behalf, at the direction of the 4059
voter and in the voter's presence; 4060

(iii) The name, residence address, date of birth, and, if 4061
applicable, Ohio supreme court registration number of the 4062
attorney in fact authorized to sign on the voter's behalf, at 4063

the voter's direction and in the voter's presence. A photocopy 4064
of the attorney in fact's driver's license or state 4065
identification card issued under section 4507.50 of the Revised 4066
Code shall be attached to the notarized form. 4067

(iv) The form of the signature that the attorney in fact 4068
will use in signing petitions or other election documents on the 4069
voter's behalf, at the voter's direction and in the voter's 4070
presence. 4071

(b) The voter may acknowledge, before an election 4072
official, and file with the board of elections of the voter's 4073
county of residence a form that includes or has attached all of 4074
the following: 4075

(i) The name of the voter who is authorizing an attorney 4076
in fact to sign petitions or other election documents on that 4077
voter's behalf, at the voter's direction and in the voter's 4078
presence; 4079

(ii) An attestation of the voter that the voter, by reason 4080
of disability, is physically unable to sign petitions or other 4081
election documents and that the voter desires the attorney in 4082
fact to sign them on the voter's behalf, at the direction of the 4083
voter and in the voter's presence; 4084

(iii) An attestation from a licensed physician, clinical 4085
nurse specialist, or certified nurse practitioner that the voter 4086
is disabled and, by reason of that disability, is physically 4087
unable to sign petitions or other election documents; 4088

(iv) The name, residence address, date of birth, and, if 4089
applicable, Ohio supreme court registration number of the 4090
attorney in fact authorized to sign on the voter's behalf, at 4091
the voter's direction and in the voter's presence. A photocopy 4092

of the attorney in fact's driver's license or state 4093
identification card issued under section 4507.50 of the Revised 4094
Code shall be attached to the notarized form. 4095

(v) The form of the signature that the attorney in fact 4096
will use in signing petitions or other election documents on the 4097
voter's behalf, at the voter's direction and in the voter's 4098
presence. 4099

(2) In addition to performing customary notarial acts with 4100
respect to the power of attorney form described in division (A) 4101
(1) (a) of this section, the notary public shall acknowledge that 4102
the voter in question affirmed in the presence of the notary 4103
public the information listed in divisions (A) (1) (a) (i), (ii), 4104
and (iii) of this section. A notary public shall not perform any 4105
notarial acts with respect to such a power of attorney form 4106
unless the voter first gives such an affirmation. Only a notary 4107
public satisfying the requirements of section 147.01 of the 4108
Revised Code may perform notarial acts with respect to such a 4109
power of attorney form. 4110

(B) A board of elections that receives a form under 4111
division (A) (1) of this section from a voter shall do both of 4112
the following: 4113

(1) Use the signature provided in accordance with division 4114
(A) (1) (a) (iv) or (A) (1) (b) (v) of this section for the purpose of 4115
verifying the voter's signature on all declarations of candidacy 4116
and petitions, nominating petitions, other petitions, or other 4117
documents signed by that voter under Title XXXV of the Revised 4118
Code; 4119

(2) Cause the poll list or signature pollbook for the 4120
relevant precinct to identify the voter in question as having 4121

authorized an attorney in fact to sign petitions or other 4122
election documents on the voter's behalf, at the voter's 4123
direction and in the voter's presence. 4124

(C) Notwithstanding division (D) of section 3501.38 or any 4125
other provision of the Revised Code to the contrary, an attorney 4126
in fact authorized to sign petitions or other election documents 4127
on a disabled voter's behalf, at the direction of and in the 4128
presence of that voter, in accordance with division (A) of this 4129
section may sign that voter's name to any petition or other 4130
election document under Title XXXV of the Revised Code after the 4131
power of attorney has been filed with the board of elections in 4132
accordance with division (A) (1) of this section. The signature 4133
shall be deemed to be that of the disabled voter, and the voter 4134
shall be deemed to be the signer. 4135

(D) (1) Notwithstanding division (F) of section 3501.38 or 4136
any other provision of the Revised Code to the contrary, the 4137
circulator of a petition may knowingly permit an attorney in 4138
fact to sign the petition on a disabled voter's behalf, at the 4139
direction of and in the presence of that voter, in accordance 4140
with division (A) (1) of this section. 4141

(2) Notwithstanding division (F) of section 3501.38 or any 4142
other provision of the Revised Code to the contrary, no petition 4143
paper shall be invalidated on the ground that the circulator 4144
knowingly permitted an attorney in fact to write a name other 4145
than the attorney in fact's own name on a petition paper, if 4146
that attorney in fact signed the petition on a disabled voter's 4147
behalf, at the direction of and in the presence of that voter, 4148
in accordance with division (C) of this section. 4149

(E) The secretary of state shall prescribe the form and 4150
content of the form for the power of attorney prescribed under 4151

division (A) (1) of this section and also shall prescribe the 4152
form and content of a distinct form to revoke such a power of 4153
attorney. 4154

(F) As used in this section, "unable to physically sign" 4155
means that the person with a disability cannot comply with the 4156
provisions of section 3501.011 of the Revised Code. A person is 4157
not "unable to physically sign" if the person is able to comply 4158
with section 3501.011 through reasonable accommodation, 4159
including the use of assistive technology or augmentative 4160
devices. 4161

Sec. 3701.031. (A) The director of health shall accept and 4162
administer grants received from the federal government or other 4163
sources, public or private, that are made available for use in 4164
monitoring, studying, and preventing pregnancy losses. To the 4165
extent that funding from grants is available, the director shall 4166
do the following: 4167

(1) Establish a population-based pregnancy loss registry 4168
to monitor the incidence of various types of pregnancy losses 4169
that occur in this state, make appropriate epidemiological 4170
studies to determine any causal relations of the pregnancy 4171
losses with occupational, nutritional, environmental, genetic, 4172
or infectious conditions, and determine what can be done to 4173
prevent such losses; 4174

(2) Advise, consult, cooperate with, and assist, by 4175
contract or otherwise, agencies of the state and federal 4176
government, agencies of governments of other states, agencies of 4177
political subdivisions of this state, universities, private 4178
organizations, corporations, and associations for the purpose of 4179
division (A) (1) of this section. 4180

(B) The director may adopt rules pursuant to Chapter 119. 4181
of the Revised Code to specify the reporting requirements for 4182
physicians, certified nurse-midwives, clinical nurse 4183
specialists, or certified nurse practitioners as necessary to 4184
accomplish the purposes of this section. 4185

(C) As used in this section, "~~Pregnancy~~ pregnancy loss" 4186
means a termination of pregnancy within the first twenty weeks 4187
of pregnancy either spontaneously or by means other than the 4188
purposeful termination of a pregnancy as described in section 4189
2919.11 of the Revised Code. 4190

Sec. 3701.046. The director of health is authorized to 4191
make grants for women's health services from funds appropriated 4192
for that purpose by the general assembly. 4193

None of the funds received through grants for women's 4194
health services shall be used to provide abortion services. None 4195
of the funds received through these grants shall be used for 4196
counseling for or referrals for abortion, except in the case of 4197
a medical emergency. These funds shall be distributed by the 4198
director to programs that the department of health determines 4199
will provide services that are physically and financially 4200
separate from abortion-providing and abortion-promoting 4201
activities, and that do not include counseling for or referrals 4202
for abortion, other than in the case of medical emergency. 4203

These women's health services include and are limited to 4204
the following: pelvic examinations and laboratory testing; 4205
breast examinations and patient education on breast cancer; 4206
screening for cervical cancer; screening and treatment for 4207
sexually transmitted diseases and HIV screening; voluntary 4208
choice of contraception, including abstinence and natural family 4209
planning; patient education and pre-pregnancy counseling on the 4210

dangers of smoking, alcohol, and drug use during pregnancy; 4211
education on sexual coercion and violence in relationships; and 4212
prenatal care or referral for prenatal care. These health care 4213
services shall be provided in a medical clinic setting by 4214
persons authorized under Chapter 4731. of the Revised Code to 4215
practice medicine and surgery or osteopathic medicine and 4216
surgery; authorized under Chapter 4730. of the Revised Code to 4217
practice as a physician assistant; licensed under Chapter 4723. 4218
of the Revised Code as a registered nurse, including an advanced 4219
practice registered nurse, or as a licensed practical nurse; or 4220
licensed under Chapter 4757. of the Revised Code as a social 4221
worker, independent social worker, licensed professional 4222
clinical counselor, or licensed professional counselor. 4223

The director shall adopt rules under Chapter 119. of the 4224
Revised Code specifying reasonable eligibility standards that 4225
must be met to receive the state funding and provide reasonable 4226
methods by which a grantee wishing to be eligible for federal 4227
funding may comply with these requirements for state funding 4228
without losing its eligibility for federal funding. 4229

Each applicant for these funds shall provide sufficient 4230
assurance to the director of all of the following: 4231

(A) The program shall not discriminate in the provision of 4232
services based on an individual's religion, race, national 4233
origin, disability, age, sex, number of pregnancies, or marital 4234
status; 4235

(B) The program shall provide services without subjecting 4236
individuals to any coercion to accept services or to employ any 4237
particular methods of family planning; 4238

(C) Acceptance of services shall be solely on a voluntary 4239

basis and may not be made a prerequisite to eligibility for, or 4240
receipt of, any other service, assistance from, or participation 4241
in, any other program of the service provider; 4242

(D) Any charges for services provided by the program shall 4243
be based on the patient's ability to pay and priority in the 4244
provision of services shall be given to persons from low-income 4245
families. 4246

In distributing these grant funds, the director shall give 4247
priority to grant requests from local departments of health for 4248
women's health services to be provided directly by personnel of 4249
the local department of health. The director shall issue a 4250
single request for proposals for all grants for women's health 4251
services. The director shall send a notification of this request 4252
for proposals to every local department of health in this state 4253
and shall place a notification on the department's web site. The 4254
director shall allow at least thirty days after issuing this 4255
notification before closing the period to receive applications. 4256

After the closing date for receiving grant applications, 4257
the director shall first consider grant applications from local 4258
departments of health that apply for grants for women's health 4259
services to be provided directly by personnel of the local 4260
department of health. Local departments of health that apply for 4261
grants for women's health services to be provided directly by 4262
personnel of the local department of health need not provide all 4263
the listed women's health services in order to qualify for a 4264
grant. However, in prioritizing awards among local departments 4265
of health that qualify for funding under this paragraph, the 4266
director may consider, among other reasonable factors, the 4267
comprehensiveness of the women's health services to be offered, 4268
provided that no local department of health shall be 4269

discriminated against in the process of awarding these grant 4270
funds because the applicant does not provide contraception. 4271

If funds remain after awarding grants to all local 4272
departments of health that qualify for the priority, the 4273
director may make grants to other applicants. Awards to other 4274
applicants may be made to those applicants that will offer all 4275
eight of the listed women's health services or that will offer 4276
all of the services except contraception. No applicant shall be 4277
discriminated against in the process of awarding these grant 4278
funds because the applicant does not provide contraception. 4279

Sec. 3701.144. (A) As used in this section, "cost sharing" 4280
has the same meaning as in section 3923.85 of the Revised Code. 4281

(B) The department of health shall administer the state's 4282
participation in the national breast and cervical cancer early 4283
detection program (NBCCEDP), which shall be known as the Ohio 4284
breast and cervical cancer project. The project shall be 4285
administered in accordance with Title XV of the "Public Health 4286
Service Act," 42 U.S.C. 300k et seq., and the department's 4287
NBCCEDP grant agreement with the United States centers for 4288
disease control and prevention. 4289

(C) In administering the project, the department shall set 4290
eligibility requirements for services provided through the 4291
project as follows: 4292

(1) The woman must have countable family income not 4293
exceeding three hundred per cent of the federal poverty line. 4294

(2) One of the following must be the case: 4295

(a) The woman is not covered by health insurance. 4296

(b) The woman is covered by health insurance that does not 4297

include the screening or diagnostic services the woman seeks 4298
through the project. 4299

(c) The woman is covered by health insurance that imposes 4300
cost sharing for the screening or diagnostic services the woman 4301
seeks through the project that exceeds the limit specified ~~by~~ 4302
~~the director of health~~ in rules adopted under division (D) of 4303
this section. 4304

(3) In the case of a woman seeking cervical cancer 4305
screening and diagnostic services through the project, the woman 4306
must be at least twenty-one and less than sixty-five years of 4307
age. 4308

(4) In the case of a woman seeking breast cancer screening 4309
and diagnostic services through the project, either of the 4310
following must be the case: 4311

(a) The woman is at least forty years of age. 4312

(b) The woman is at least twenty-one and less than forty 4313
years of age and has been determined by a physician, certified 4314
nurse-midwife, clinical nurse specialist, or certified nurse 4315
practitioner to need breast cancer screening and diagnostic 4316
services due to the results of a clinical breast examination, 4317
the woman's family history, or other factors. 4318

(D) The director of health shall adopt rules for purposes 4319
of division (C) (2) (c) of this section specifying the cost 4320
sharing limit for each screening and diagnostic service that may 4321
be obtained through the project. The director may adopt other 4322
rules as necessary to implement this section. The rules shall be 4323
adopted in accordance with Chapter 119. of the Revised Code. 4324

Sec. 3701.146. (A) In taking actions regarding 4325
tuberculosis, the director of health has all of the following 4326

duties and powers: 4327

(1) The director shall maintain registries of hospitals, 4328
clinics, physicians, certified nurse-midwives, clinical nurse 4329
specialists, certified nurse practitioners, or other care 4330
providers to whom the director shall refer persons who make 4331
inquiries to the department of health regarding possible 4332
exposure to tuberculosis. 4333

(2) The director shall engage in tuberculosis surveillance 4334
activities, including the collection and analysis of 4335
epidemiological information relative to the frequency of 4336
tuberculosis infection, demographic and geographic distribution 4337
of tuberculosis cases, and trends pertaining to tuberculosis. 4338

(3) The director shall maintain a tuberculosis registry to 4339
record the incidence of tuberculosis in this state. 4340

(4) The director may appoint physicians, certified nurse- 4341
midwives, clinical nurse specialists, or certified nurse 4342
practitioners to serve as tuberculosis consultants for 4343
geographic regions of the state specified by the director. Each 4344
tuberculosis consultant shall act in accordance with rules the 4345
director establishes and shall be responsible for advising and 4346
assisting physicians, certified nurse-midwives, clinical nurse 4347
specialists, certified nurse practitioners, and other health 4348
care practitioners who participate in tuberculosis control 4349
activities and for reviewing medical records pertaining to the 4350
treatment provided to individuals with tuberculosis. 4351

(B) (1) The director shall adopt rules establishing 4352
standards for the following: 4353

(a) Performing tuberculosis screenings; 4354

(b) Performing examinations of individuals who have been 4355

exposed to tuberculosis and individuals who are suspected of 4356
having tuberculosis; 4357

(c) Providing treatment to individuals with tuberculosis; 4358

(d) Preventing individuals with communicable tuberculosis 4359
from infecting other individuals; 4360

(e) Performing laboratory tests for tuberculosis and 4361
studies of the resistance of tuberculosis to one or more drugs; 4362

(f) Selecting laboratories that provide in a timely 4363
fashion the results of a laboratory test for tuberculosis. The 4364
standards shall include a requirement that first consideration 4365
be given to laboratories located in this state. 4366

(2) Rules adopted pursuant to this section shall be 4367
adopted in accordance with Chapter 119. of the Revised Code and 4368
may be consistent with any recommendations or guidelines on 4369
tuberculosis issued by the United States centers for disease 4370
control and prevention or by the American thoracic society. The 4371
rules shall apply to county or district tuberculosis control 4372
units, physicians, certified nurse-midwives, clinical nurse 4373
specialists, and certified nurse practitioners who examine and 4374
treat individuals for tuberculosis, and laboratories that 4375
perform tests for tuberculosis. 4376

Sec. 3701.162. Any licensed physician, certified nurse- 4377
midwife if authorized as described in section 4723.438 of the 4378
Revised Code, clinical nurse specialist, or certified nurse 4379
practitioner practicing in this state, or the superintendent of 4380
any state or county institution, may receive without charge the 4381
quantities of antitoxin as the physician, nurse, or 4382
superintendent requires for the treatment or prevention of 4383
diphtheria in indigent persons, provided such antitoxin shall be 4384

used only for persons residing in the state, and that a 4385
sufficient supply is available for distribution. 4386

Sec. 3701.243. (A) Except as provided in this section or 4387
section 3701.248 of the Revised Code, no person or agency of 4388
state or local government that acquires the information while 4389
providing any health care service or while in the employ of a 4390
health care facility or health care provider shall disclose or 4391
compel another to disclose any of the following: 4392

(1) The identity of any individual on whom an HIV test is 4393
performed; 4394

(2) The results of an HIV test in a form that identifies 4395
the individual tested; 4396

(3) The identity of any individual diagnosed as having 4397
AIDS or an AIDS-related condition. 4398

(B) (1) Except as provided in divisions (B) (2), (C), (D), 4399
and (F) of this section, the results of an HIV test or the 4400
identity of an individual on whom an HIV test is performed or 4401
who is diagnosed as having AIDS or an AIDS-related condition may 4402
be disclosed only to the following: 4403

(a) The individual who was tested or the individual's 4404
legal guardian, and the individual's spouse or any sexual 4405
partner; 4406

(b) A person to whom disclosure is authorized by a written 4407
release, executed by the individual tested or by the 4408
individual's legal guardian and specifying to whom disclosure of 4409
the test results or diagnosis is authorized and the time period 4410
during which the release is to be effective; 4411

(c) Any physician, certified nurse-midwife, clinical nurse 4412

specialist, or certified nurse practitioner who treats the 4413
individual; 4414

(d) The department of health or a health commissioner to 4415
which reports are made under section 3701.24 of the Revised 4416
Code; 4417

(e) A health care facility or provider that procures, 4418
processes, distributes, or uses a human body part from a 4419
deceased individual, donated for a purpose specified in Chapter 4420
2108. of the Revised Code, and that needs medical information 4421
about the deceased individual to ensure that the body part is 4422
medically acceptable for its intended purpose; 4423

(f) Health care facility staff committees or accreditation 4424
or oversight review organizations conducting program monitoring, 4425
program evaluation, or service reviews; 4426

(g) A health care provider, emergency medical services 4427
worker, or peace officer who sustained a significant exposure to 4428
the body fluids of another individual, if that individual was 4429
tested pursuant to division (E)(6) of section 3701.242 of the 4430
Revised Code, except that the identity of the individual tested 4431
shall not be revealed; 4432

(h) To law enforcement authorities pursuant to a search 4433
warrant or a subpoena issued by or at the request of a grand 4434
jury, a prosecuting attorney, a city director of law or similar 4435
chief legal officer of a municipal corporation, or a village 4436
solicitor, in connection with a criminal investigation or 4437
prosecution. 4438

(2) The results of an HIV test or a diagnosis of AIDS or 4439
an AIDS-related condition may be disclosed to a health care 4440
provider, or an authorized agent or employee of a health care 4441

facility or a health care provider, if the provider, agent, or 4442
employee has a medical need to know the information and is 4443
participating in the diagnosis, care, or treatment of the 4444
individual on whom the test was performed or who has been 4445
diagnosed as having AIDS or an AIDS-related condition. 4446

This division does not impose a standard of disclosure 4447
different from the standard for disclosure of all other specific 4448
information about a patient to health care providers and 4449
facilities. Disclosure may not be requested or made solely for 4450
the purpose of identifying an individual who has a positive HIV 4451
test result or has been diagnosed as having AIDS or an AIDS- 4452
related condition in order to refuse to treat the individual. 4453
Referral of an individual to another health care provider or 4454
facility based on reasonable professional judgment does not 4455
constitute refusal to treat the individual. 4456

(3) Not later than ninety days after November 1, 1989, 4457
each health care facility in this state shall establish a 4458
protocol to be followed by employees and individuals affiliated 4459
with the facility in making disclosures authorized by division 4460
(B) (2) of this section. A person employed by or affiliated with 4461
a health care facility who determines in accordance with the 4462
protocol established by the facility that a disclosure is 4463
authorized by division (B) (2) of this section is immune from 4464
liability to any person in a civil action for damages for 4465
injury, death, or loss to person or property resulting from the 4466
disclosure. 4467

(C) (1) Any person or government agency may seek access to 4468
or authority to disclose the HIV test records of an individual 4469
in accordance with the following provisions: 4470

(a) The person or government agency shall bring an action 4471

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

(b) The court may issue an order granting the plaintiff 4482
access to or authority to disclose the test results only if the 4483
court finds by clear and convincing evidence that the plaintiff 4484
has demonstrated a compelling need for disclosure of the 4485
information that cannot be accommodated by other means. In 4486
assessing compelling need, the court shall weigh the need for 4487
disclosure against the privacy right of the individual tested 4488
and against any disservice to the public interest that might 4489
result from the disclosure, such as discrimination against the 4490
individual or the deterrence of others from being tested. 4491

(c) If the court issues an order, it shall guard against 4492
unauthorized disclosure by specifying the persons who may have 4493
access to the information, the purposes for which the 4494
information shall be used, and prohibitions against future 4495
disclosure. 4496

(2) A person or government agency that considers it 4497
necessary to disclose the results of an HIV test of a specific 4498
individual in an action in which it is a party may seek 4499
authority for the disclosure by filing an in camera motion with 4500
the court in which the action is being heard. In hearing the 4501

motion, the court shall employ procedures for confidentiality 4502
similar to those specified in division (C)(1) of this section. 4503
The court shall grant the motion only if it finds by clear and 4504
convincing evidence that a compelling need for the disclosure 4505
has been demonstrated. 4506

(3) Except for an order issued in a criminal prosecution 4507
or an order under division (C)(1) or (2) of this section 4508
granting disclosure of the result of an HIV test of a specific 4509
individual, a court shall not compel a blood bank, hospital 4510
blood center, or blood collection facility to disclose the 4511
result of HIV tests performed on the blood of voluntary donors 4512
in a way that reveals the identity of any donor. 4513

(4) In a civil action in which the plaintiff seeks to 4514
recover damages from an individual defendant based on an 4515
allegation that the plaintiff contracted the HIV virus as a 4516
result of actions of the defendant, the prohibitions against 4517
disclosure in this section do not bar discovery of the results 4518
of any HIV test given to the defendant or any diagnosis that the 4519
defendant has AIDS or an AIDS-related condition. 4520

(D) The results of an HIV test or the identity of an 4521
individual on whom an HIV test is performed or who is diagnosed 4522
as having AIDS or an AIDS-related condition may be disclosed to 4523
a federal, state, or local government agency, or the official 4524
representative of such an agency, for purposes of the medicaid 4525
program, the medicare program, or any other public assistance 4526
program. 4527

(E) Any disclosure pursuant to this section shall be in 4528
writing and accompanied by a written statement that includes the 4529
following or substantially similar language: "This information 4530
has been disclosed to you from confidential records protected 4531

from disclosure by state law. You shall make no further 4532
disclosure of this information without the specific, written, 4533
and informed release of the individual to whom it pertains, or 4534
as otherwise permitted by state law. A general authorization for 4535
the release of medical or other information is not sufficient 4536
for the purpose of the release of HIV test results or 4537
diagnoses." 4538

(F) An individual who knows that the individual has 4539
received a positive result on an HIV test or has been diagnosed 4540
as having AIDS or an AIDS-related condition shall disclose this 4541
information to any other person with whom the individual intends 4542
to make common use of a hypodermic needle or engage in sexual 4543
conduct as defined in section 2907.01 of the Revised Code. An 4544
individual's compliance with this division does not prohibit a 4545
prosecution of the individual for a violation of division (B) of 4546
section 2903.11 of the Revised Code. 4547

(G) Nothing in this section prohibits the introduction of 4548
evidence concerning an HIV test of a specific individual in a 4549
criminal proceeding. 4550

Sec. 3701.245. (A) No state agency as defined in section 4551
1.60 of the Revised Code, political subdivision, agency of local 4552
government, or private nonprofit corporation receiving state or 4553
local government funds shall refuse to admit as a patient, or to 4554
provide services to, any individual solely because ~~he~~ the 4555
individual refuses to consent to an HIV test or to disclose HIV 4556
test results. 4557

(B) The prohibition contained in division (A) of this 4558
section does not prevent a physician, certified nurse-midwife, 4559
clinical nurse specialist, certified nurse practitioner, or a 4560
person licensed to practice dentistry under Chapter 4715. of the 4561

Revised Code from referring an individual ~~to the physician,~~ 4562
nurse, or dentist has reason to believe may have AIDS or an 4563
AIDS-related condition to an appropriate health care provider or 4564
facility, if the referral is based on reasonable professional 4565
judgment and not solely on grounds of the refusal of the 4566
individual to consent to an HIV test or to disclose the result 4567
of an HIV test. 4568

Sec. 3701.262. (A) As used in this section: 4569

(1) "Physician" means a person authorized under Chapter 4570
4731. of the Revised Code to practice medicine and surgery or 4571
osteopathic medicine and surgery. 4572

(2) "Dentist" means a person who is licensed under Chapter 4573
4715. of the Revised Code to practice dentistry. 4574

(3) "Hospital" has the same meaning as in section 3727.01 4575
of the Revised Code. 4576

(4) "Cancer" includes those diseases specified by rule of 4577
the director of health under division (B) (2) of this section. 4578

(5) "Certified nurse-midwife," "clinical nurse 4579
specialist," and "certified nurse practitioner" have the same 4580
meanings as in section 4723.01 of the Revised Code. 4581

(B) The director of health shall adopt rules in accordance 4582
with Chapter 119. of the Revised Code to do all of the 4583
following: 4584

(1) Establish the Ohio cancer incidence surveillance 4585
system required by section 3701.261 of the Revised Code; 4586

(2) Specify the types of cancer and other tumorous and 4587
precancerous diseases to be reported to the department of health 4588
under division (D) of this section; 4589

(3) Establish reporting requirements for information 4590
concerning diagnosed cancer cases as the director considers 4591
necessary to conduct epidemiologic surveys of cancer in this 4592
state; 4593

(4) Establish standards that must be met by research 4594
projects to be eligible to receive information concerning 4595
individual cancer patients from the department of health. 4596

(C) The department of health shall record in the registry 4597
all reports of cancer received by it. In the development and 4598
administration of the cancer registry the department may use 4599
information compiled by public or private cancer registries and 4600
may contract for the collection and analysis of, and research 4601
related to, the information recorded under this section. 4602

(D) (1) Each physician, certified nurse-midwife, clinical 4603
nurse specialist, certified nurse practitioner, dentist, 4604
hospital, or person providing diagnostic or treatment services 4605
to patients with cancer shall report each case of cancer to the 4606
department. Any person required to report pursuant to this 4607
section may elect to report to the department through an 4608
existing cancer registry if the registry meets the reporting 4609
standards established by the director and reports to the 4610
department. 4611

(2) No person shall fail to make the cancer reports 4612
required by division (D) (1) of this section. 4613

(E) All physicians, certified nurse-midwives, clinical 4614
nurse specialists, certified nurse practitioners, dentists, 4615
hospitals, or persons providing diagnostic or treatment services 4616
to patients with cancer shall grant to the department or its 4617
authorized representative access to all records that identify 4618

cases of cancer or establish characteristics of cancer, the 4619
treatment of cancer, or the medical status of any identified 4620
cancer patient. 4621

(F) The Arthur G. James cancer hospital and Richard J. 4622
Solove research institute of the Ohio state university, shall 4623
analyze and evaluate the cancer reports collected pursuant to 4624
this section. The department shall publish and make available to 4625
the public reports summarizing the information collected. 4626
Reports shall be made on a calendar year basis and published not 4627
later than ninety days after the end of each calendar year. 4628

(G) Furnishing information, including records, reports, 4629
statements, notes, memoranda, or other information, to the 4630
department of health, either voluntarily or as required by this 4631
section, or to a person or governmental entity designated as a 4632
medical research project by the department, does not subject a 4633
physician, certified nurse-midwife, clinical nurse specialist, 4634
certified nurse practitioner, dentist, hospital, or person 4635
providing diagnostic or treatment services to patients with 4636
cancer to liability in an action for damages or other relief for 4637
furnishing the information. 4638

(H) This section does not affect the authority of any 4639
person or facility providing diagnostic or treatment services to 4640
patients with cancer to maintain facility-based tumor 4641
registries, in addition to complying with the reporting 4642
requirements of this section. 4643

Sec. 3701.47. As used in sections 3701.46 to 3701.50 of 4644
the Revised Code, the standard tests for syphilis and gonorrhea 4645
are tests approved by the department of health, and shall be 4646
made at a laboratory approved to make such tests by the 4647
department. Such tests as are required shall, on request of the 4648

physician, certified nurse-midwife, clinical nurse specialist, 4649
or certified nurse practitioner submitting the specimens, be 4650
made without charge by the department. 4651

Sec. 3701.48. The approved laboratory making the standard 4652
tests for syphilis and gonorrhoea shall make a report to the 4653
physician, certified nurse-midwife, clinical nurse specialist, 4654
certified nurse practitioner, or health commissioner submitting 4655
the specimens. Such laboratory shall forthwith report any 4656
reactive syphilis test or positive gonorrhoea test to the 4657
department of health on forms prescribed and furnished by the 4658
director of health. 4659

Sec. 3701.50. Every physician, certified nurse-midwife, 4660
clinical nurse specialist, or certified nurse practitioner who 4661
attends any pregnant woman for conditions relating to pregnancy 4662
during the period of gestation shall take specimens of such 4663
woman at the time of first examination or within ten days 4664
thereof, and shall submit such specimens to an approved 4665
laboratory for standard syphilis and gonorrhoea tests. If, in the 4666
opinion of the physician or nurse attending such woman, her 4667
condition does not permit the taking of specimens for submission 4668
to an approved laboratory, then no specimens shall be taken 4669
prior to delivery. If no specimens are taken prior to delivery 4670
because of the woman's condition, then such specimens shall be 4671
taken as soon after delivery as the physician or nurse deems it 4672
advisable. 4673

The health commissioner of the city or general health 4674
district, wherein any person required to be tested for syphilis 4675
and gonorrhoea under this section or section 3701.49 of the 4676
Revised Code resides, may waive the requirements of such 4677
sections if the commissioner is satisfied by written affidavit 4678

or other written proof that the tests required are contrary to 4679
the tenets or practices of the religious creed of which the 4680
person is an adherent, and that the public health and welfare 4681
would not be injuriously affected by such waiver. 4682

Sec. 3701.505. (A) (1) Each hospital and each freestanding 4683
birthing center shall do all of the following: 4684

(a) Conduct a hearing screening on each newborn or infant 4685
born in the hospital or center unless the newborn or infant is 4686
transferred to another hospital; 4687

(b) Promptly notify the newborn's or infant's attending 4688
physician, certified nurse-midwife, clinical nurse specialist, 4689
or certified nurse practitioner of the screening results; 4690

(c) Notify the department of health of the screening 4691
results for each newborn or infant screened. 4692

(2) A hearing screening conducted under this section shall 4693
be conducted under the direction of an audiologist ~~or,~~ 4694
physician, certified nurse-midwife, clinical nurse specialist, 4695
or certified nurse practitioner or in collaboration with a 4696
physician, certified nurse-midwife, clinical nurse specialist, 4697
or certified nurse practitioner. Notwithstanding the licensure 4698
requirements of Chapter 4753. of the Revised Code, a screening 4699
may be conducted by a person who is not licensed under that 4700
chapter. 4701

(3) Each hospital and freestanding birthing center shall 4702
take the actions required by divisions (A) (1) and (2) of this 4703
section in accordance with the rules adopted under section 4704
3701.508 of the Revised Code. A hospital or freestanding 4705
birthing center may commence taking these actions at any time 4706
after the effective date of the rules but not later than June 4707

30, 2004, unless an extension is granted. The director may grant 4708
an extension to delay for up to one year after June 30, 2004, 4709
the requirement of compliance with the rules if the hospital or 4710
freestanding birthing center requesting the extension 4711
demonstrates justifiable cause for the extension. Justifiable 4712
cause may include having ordered but not yet received hearing 4713
screening equipment, ongoing efforts to obtain financing for the 4714
equipment, or any other cause accepted by the director. 4715

(B) Any hospital or freestanding birthing center providing 4716
a hearing screening in accordance with division (A) of this 4717
section shall be reimbursed by the department of health at a 4718
rate determined by the director of health, if both of the 4719
following are the case: 4720

(1) The screening is performed before the newborn or 4721
infant is discharged from the hospital or freestanding birthing 4722
center. 4723

(2) The parent, guardian, or custodian is financially 4724
unable to pay for the hearing screening and the hospital or 4725
freestanding birthing center is not reimbursed by a third-party 4726
payer as determined pursuant to rules adopted under section 4727
3701.508 of the Revised Code. 4728

(C) A hospital, clinic, or other health care facility at 4729
which a hearing evaluation is performed on a newborn or infant 4730
shall report the results of the evaluation to the attending 4731
physician, certified nurse-midwife, clinical nurse specialist, 4732
or certified nurse practitioner of the newborn or infant. 4733

Sec. 3701.5010. (A) As used in this section: 4734

(1) "Critical congenital heart defects screening" means 4735
the identification of a newborn that may have a critical 4736

congenital heart defect, through the use of a physiologic test. 4737

(2) "Freestanding birthing center" has the same meaning as 4738
in section 3701.503 of the Revised Code. 4739

(3) "Hospital," "maternity unit," "newborn," and 4740
"physician" have the same meanings as in section 3701.503 of the 4741
Revised Code. 4742

(4) "Pulse oximetry" means a noninvasive test that 4743
estimates the percentage of hemoglobin in blood that is 4744
saturated with oxygen. 4745

(B) Except as provided in division (C) of this section, 4746
each hospital and each freestanding birthing center shall 4747
conduct a critical congenital heart defects screening on each 4748
newborn born in the hospital or center, unless the newborn is 4749
being transferred to another hospital. The screening shall be 4750
performed before discharge. If the newborn is transferred to 4751
another hospital, that hospital shall conduct the screening when 4752
determined to be medically appropriate. The hospital or center 4753
shall promptly notify the newborn's parent, guardian, or 4754
custodian and attending physician, certified nurse-midwife, 4755
clinical nurse specialist, or certified nurse practitioner of 4756
the screening results. 4757

(C) A hospital or freestanding birthing center shall not 4758
conduct a critical congenital heart defects screening if the 4759
newborn's parent objects on the grounds that the screening 4760
conflicts with the parent's religious tenets and practices. 4761

(D) (1) The director of health shall adopt rules in 4762
accordance with Chapter 119. of the Revised Code establishing 4763
standards and procedures for the screening required by this 4764
section, including all of the following: 4765

(a) Designating the person or persons responsible for causing the screening to be performed;	4766 4767
(b) Specifying screening equipment and methods;	4768
(c) Identifying when the screening should be performed;	4769
(d) Providing notice of the required screening to the newborn's parent, guardian, or custodian;	4770 4771
(e) Communicating screening results to the newborn's parent, guardian, or custodian and attending physician, <u>certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner;</u>	4772 4773 4774 4775
(f) Reporting screening results to the department of health;	4776 4777
(g) Referring newborns that receive abnormal screening results to providers of follow-up services.	4778 4779
(2) In adopting rules under division (D) (1) (b) of this section, the director shall specify screening equipment and methods that include the use of pulse oximetry or other screening equipment and methods that detect critical congenital heart defects at least as accurately as pulse oximetry. The screening equipment and methods specified shall be consistent with recommendations issued by nationally recognized organizations that advocate on behalf of medical professionals or individuals with cardiovascular conditions.	4780 4781 4782 4783 4784 4785 4786 4787 4788
Sec. 3701.59. (A) As used in this section:	4789
(1) "Addiction services" and "alcohol and drug addiction services" have the same meanings as in section 5119.01 of the Revised Code.	4790 4791 4792

(2) "Controlled substance" has the same meaning as in 4793
section 3719.01 of the Revised Code. 4794

(B) Any of the following health care professionals who 4795
attends a pregnant woman for conditions relating to pregnancy 4796
before the end of the twentieth week of pregnancy and who has 4797
reason to believe that the woman is using or has used a 4798
controlled substance in a manner that may place the woman's 4799
fetus in jeopardy shall encourage the woman to enroll in a drug 4800
treatment program offered by a provider of addiction services or 4801
alcohol and drug addiction services: 4802

(1) Physicians authorized under Chapter 4731. of the 4803
Revised Code to practice medicine and surgery or osteopathic 4804
medicine and surgery; 4805

(2) Registered nurses licensed under Chapter 4723. of the 4806
Revised Code, including certified nurse-midwives, clinical nurse 4807
specialists, and certified nurse practitioners, and licensed 4808
practical nurses licensed under ~~Chapter 4723. of the Revised~~ 4809
~~Code that chapter;~~ 4810

(3) Physician assistants licensed under Chapter 4730. of 4811
the Revised Code. 4812

(C) A health care professional is immune from civil 4813
liability and is not subject to criminal prosecution with regard 4814
to both of the following: 4815

(1) Failure to recognize that a pregnant woman has used or 4816
is using a controlled substance in a manner that may place the 4817
woman's fetus in jeopardy; 4818

(2) Any action taken in good faith compliance with this 4819
section. 4820

Sec. 3701.74. (A) As used in this section and section 4821
3701.741 of the Revised Code: 4822

(1) "Ambulatory care facility" means a facility that 4823
provides medical, diagnostic, or surgical treatment to patients 4824
who do not require hospitalization, including a dialysis center, 4825
ambulatory surgical facility, cardiac catheterization facility, 4826
diagnostic imaging center, extracorporeal shock wave lithotripsy 4827
center, home health agency, inpatient hospice, birthing center, 4828
radiation therapy center, emergency facility, and an urgent care 4829
center. "Ambulatory care facility" does not include the private 4830
office of a physician, advanced practice registered nurse, or 4831
dentist, whether the office is for an individual or group 4832
practice. 4833

(2) "Chiropractor" means an individual licensed under 4834
Chapter 4734. of the Revised Code to practice chiropractic. 4835

(3) "Emergency facility" means a hospital emergency 4836
department or any other facility that provides emergency medical 4837
services. 4838

(4) "Health care practitioner" means all of the following: 4839

(a) A dentist or dental hygienist licensed under Chapter 4840
4715. of the Revised Code; 4841

(b) A registered nurse licensed under Chapter 4723. of the 4842
Revised Code, including an advanced practice registered nurse, 4843
or a licensed practical nurse licensed under Chapter 4723. of 4844
the Revised Code that chapter; 4845

(c) An optometrist licensed under Chapter 4725. of the 4846
Revised Code; 4847

(d) A dispensing optician, spectacle dispensing optician, 4848

or spectacle-contact lens dispensing optician licensed under	4849
Chapter 4725. of the Revised Code;	4850
(e) A pharmacist licensed under Chapter 4729. of the	4851
Revised Code;	4852
(f) A physician;	4853
(g) A physician assistant authorized under Chapter 4730.	4854
of the Revised Code to practice as a physician assistant;	4855
(h) A practitioner of a limited branch of medicine issued	4856
a <u>license or certificate</u> under Chapter 4731. of the Revised	4857
Code;	4858
(i) A psychologist licensed under Chapter 4732. of the	4859
Revised Code;	4860
(j) A chiropractor;	4861
(k) A hearing aid dealer or fitter licensed under Chapter	4862
4747. of the Revised Code;	4863
(l) A speech-language pathologist or audiologist licensed	4864
under Chapter 4753. of the Revised Code;	4865
(m) An occupational therapist or occupational therapy	4866
assistant licensed under Chapter 4755. of the Revised Code;	4867
(n) A physical therapist or physical therapy assistant	4868
licensed under Chapter 4755. of the Revised Code;	4869
(o) A licensed professional clinical counselor, licensed	4870
professional counselor, social worker, independent social	4871
worker, independent marriage and family therapist, or marriage	4872
and family therapist licensed, or a social work assistant	4873
registered, under Chapter 4757. of the Revised Code;	4874
(p) A dietitian licensed under Chapter 4759. of the	4875

Revised Code;	4876
(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	4877 4878
(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	4879 4880 4881 4882
(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.	4883 4884 4885
(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	4886 4887
(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility, as defined in section 5165.01 of the Revised Code; a skilled nursing facility, as defined in section 5165.01 of the Revised Code; and an intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code.	4888 4889 4890 4891 4892 4893 4894 4895 4896 4897 4898
(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.	4899 4900 4901 4902
(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider,	4903 4904

or is compensated for doing so by a health care provider, and 4905
charges a fee for providing medical records to a patient or 4906
patient's representative. 4907

(10) "Patient" means either of the following: 4908

(a) An individual who received health care treatment from 4909
a health care provider; 4910

(b) A guardian, as defined in section 1337.11 of the 4911
Revised Code, of an individual described in division (A) (10) (a) 4912
of this section. 4913

(11) "Patient's personal representative" means a minor 4914
patient's parent or other person acting in loco parentis, a 4915
court-appointed guardian, or a person with durable power of 4916
attorney for health care for a patient, the executor or 4917
administrator of the patient's estate, or the person responsible 4918
for the patient's estate if it is not to be probated. "Patient's 4919
personal representative" does not include an insurer authorized 4920
under Title XXXIX of the Revised Code to do the business of 4921
sickness and accident insurance in this state, a health insuring 4922
corporation holding a certificate of authority under Chapter 4923
1751. of the Revised Code, or any other person not named in this 4924
division. 4925

(12) "Pharmacy" has the same meaning as in section 4729.01 4926
of the Revised Code. 4927

(13) "Physician" means a person authorized under Chapter 4928
4731. of the Revised Code to practice medicine and surgery, 4929
osteopathic medicine and surgery, or podiatric medicine and 4930
surgery. 4931

(14) "Authorized person" means a person to whom a patient 4932
has given written authorization to act on the patient's behalf 4933

regarding the patient's medical record. 4934

(15) "Advanced practice registered nurse" has the same 4935
meaning as in section 4723.01 of the Revised Code. 4936

(B) A patient, a patient's personal representative, or an 4937
authorized person who wishes to examine or obtain a copy of part 4938
or all of a medical record shall submit to the health care 4939
provider a written request signed by the patient, personal 4940
representative, or authorized person dated not more than one 4941
year before the date on which it is submitted. The request shall 4942
indicate whether the copy is to be sent to the requestor, sent 4943
to a physician, advanced practice registered nurse, or 4944
chiropractor, or held for the requestor at the office of the 4945
health care provider. Within a reasonable time after receiving a 4946
request that meets the requirements of this division and 4947
includes sufficient information to identify the record 4948
requested, a health care provider that has the patient's medical 4949
records shall permit the patient to examine the record during 4950
regular business hours without charge or, on request, shall 4951
provide a copy of the record in accordance with section 3701.741 4952
of the Revised Code, except that if a physician, advanced 4953
practice registered nurse, psychologist, licensed professional 4954
clinical counselor, licensed professional counselor, independent 4955
social worker, social worker, independent marriage and family 4956
therapist, marriage and family therapist, or chiropractor who 4957
has treated the patient determines for clearly stated treatment 4958
reasons that disclosure of the requested record is likely to 4959
have an adverse effect on the patient, the health care provider 4960
shall provide the record to a physician, advanced practice 4961
registered nurse, psychologist, licensed professional clinical 4962
counselor, licensed professional counselor, independent social 4963
worker, social worker, independent marriage and family 4964

therapist, marriage and family therapist, or chiropractor 4965
designated by the patient. The health care provider shall take 4966
reasonable steps to establish the identity of the person making 4967
the request to examine or obtain a copy of the patient's record. 4968

(C) If a health care provider fails to furnish a medical 4969
record as required by division (B) of this section, the patient, 4970
personal representative, or authorized person who requested the 4971
record may bring a civil action to enforce the patient's right 4972
of access to the record. 4973

(D) (1) This section does not apply to medical records 4974
whose release is covered by section 173.20 or 3721.13 of the 4975
Revised Code, by Chapter 1347., 5119., or 5122. of the Revised 4976
Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug 4977
Abuse Patient Records," or by 42 C.F.R. 483.10. 4978

(2) Nothing in this section is intended to supersede the 4979
confidentiality provisions of sections 2305.24, 2305.25, 4980
2305.251, and 2305.252 of the Revised Code. 4981

Sec. 3701.76. (A) The director of health shall establish 4982
and maintain a statewide public information campaign on the 4983
effects of diethylstilbestrol or other nonsteroidal synthetic 4984
estrogens for the purpose of educating the public concerning the 4985
potential hazards related to exposure to diethylstilbestrol or 4986
other nonsteroidal synthetic estrogens and encouraging persons 4987
exposed to diethylstilbestrol or other nonsteroidal synthetic 4988
estrogens, including those exposed before birth, to seek medical 4989
attention for the identification and treatment of any conditions 4990
resulting from this exposure. 4991

(B) The director shall maintain a registry of hospitals, 4992
clinics, physicians, certified nurse-midwives, clinical nurse 4993

specialists, certified nurse practitioners, or other health care 4994
providers to whom the director shall refer persons who make 4995
inquiries to the department of health regarding possible 4996
exposure to diethylstilbestrol or other nonsteroidal synthetic 4997
estrogens. In order to be eligible for listing in the registry, 4998
a health care provider shall make an application to the 4999
director, and shall have the necessary experience, facilities, 5000
and equipment to make examinations for possible effects of 5001
diethylstilbestrol or other nonsteroidal synthetic estrogens. 5002

(C) The director shall maintain a registry of persons who 5003
have been exposed to diethylstilbestrol or other nonsteroidal 5004
synthetic estrogens, including persons exposed before birth, for 5005
the purpose of studying and monitoring conditions caused by 5006
exposure to diethylstilbestrol or other nonsteroidal synthetic 5007
estrogen. No person shall be listed in the registry without the 5008
director's consent. 5009

(D) The director shall make an annual report to the 5010
general assembly on the effectiveness of the programs 5011
established under this section, and shall make recommendations 5012
concerning the programs and possible legislation relating to 5013
them. 5014

(E) No insurance company doing business under Title XXXIX 5015
and no health insuring corporation holding a certificate of 5016
authority under Chapter 1751. of the Revised Code shall cancel 5017
or refuse to renew a policy, contract, certificate, or agreement 5018
or limit benefits provided under a policy, contract, 5019
certificate, or agreement solely because a policyholder, 5020
subscriber, or applicant for a policy, contract, certificate, or 5021
agreement has been exposed to diethylstilbestrol or other 5022
nonsteroidal synthetic estrogens. 5023

Sec. 3705.30. (A) As used in this section:	5024
(1) <u>"Certified nurse-midwife," "clinical nurse specialist," and "certified nurse practitioner" have the same meanings as in section 4723.01 of the Revised Code.</u>	5025 5026 5027
(2) <u>"Freestanding birthing center" has the same meaning as in section 3701.503 of the Revised Code.</u>	5028 5029
(2) (3) <u>"Hospital" has the same meaning as in section 3722.01 of the Revised Code.</u>	5030 5031
(3) (4) <u>"Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.</u>	5032 5033 5034
(B) The director of health shall establish and, if funds for this purpose are available, implement a statewide birth defects information system for the collection of information concerning congenital anomalies, stillbirths, and abnormal conditions of newborns.	5035 5036 5037 5038 5039
(C) If the system is implemented under division (B) of this section, all of the following apply:	5040 5041
(1) The director may require each physician, <u>certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, hospital, and freestanding birthing center</u> to report to the system information concerning all patients under five years of age with a primary diagnosis of a congenital anomaly or abnormal condition. The director shall not require a hospital, freestanding birthing center, or physician, <u>certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner</u> to report to the system any information that is reported to the director or department of health under another provision of the Revised Code or Administrative Code.	5042 5043 5044 5045 5046 5047 5048 5049 5050 5051 5052

(2) On request, each physician, certified nurse-midwife, 5053
clinical nurse specialist, certified nurse practitioner, 5054
hospital, and freestanding birthing center shall give the 5055
director or authorized employees of the department of health 5056
access to the medical records of any patient described in 5057
division (C) (1) of this section. The department shall pay the 5058
costs of copying any medical records pursuant to this division. 5059

(3) The director may review vital statistics records and 5060
shall consider expanding the list of congenital anomalies and 5061
abnormal conditions of newborns reported on birth certificates 5062
pursuant to section 3705.08 of the Revised Code. 5063

(D) A physician, certified nurse-midwife, clinical nurse 5064
specialist, certified nurse practitioner, hospital, or 5065
freestanding birthing center that provides information to the 5066
system under division (C) of this section shall not be subject 5067
to criminal or civil liability for providing the information. 5068

Sec. 3705.33. As used in this section, "local health 5069
department" means a health department operated by the board of 5070
health of a city or general health district or the authority 5071
having the duties of a board of health under section 3709.05 of 5072
the Revised Code. 5073

A child's parent or legal guardian who wants information 5074
concerning the child removed from the birth defects information 5075
system shall request from the local health department or the 5076
child's physician, certified nurse-midwife, clinical nurse 5077
specialist, or certified nurse practitioner a form prepared by 5078
the director of health. On request, a local health department 5079
~~or,~~ physician, certified nurse-midwife, clinical nurse 5080
specialist, or certified nurse practitioner shall provide the 5081
form to the child's parent or legal guardian. The individual 5082

providing the form shall discuss with the child's parent or 5083
legal guardian the information contained in the system. If the 5084
child's parent or legal guardian signs the form, the department 5085
~~or, physician, or nurse~~ shall forward it to the director. On 5086
receipt of the signed form, the director shall remove from the 5087
system any information that identifies the child. 5088

Sec. 3705.35. Not later than one hundred eighty days after 5089
October 5, 2000, the director of health shall adopt rules in 5090
accordance with Chapter 119. of the Revised Code to do all of 5091
the following: 5092

(A) Implement the birth defects information system; 5093

(B) Specify the types of congenital anomalies and abnormal 5094
conditions of newborns to be reported to the system under 5095
section 3705.30 of the Revised Code; 5096

(C) Establish reporting requirements for information 5097
concerning diagnosed congenital anomalies and abnormal 5098
conditions of newborns; 5099

(D) Establish standards that must be met by persons or 5100
government entities that seek access to the system; 5101

(E) Establish a form for use by parents or legal guardians 5102
who seek to have information regarding their children removed 5103
from the system and a method of distributing the form to local 5104
health departments, as defined in section 3705.33 of the Revised 5105
Code, and to physicians, certified nurse-midwives, clinical 5106
nurse specialists, and certified nurse practitioners. The method 5107
of distribution must include making the form available on the 5108
internet. 5109

Sec. 3707.08. When a person known to have been exposed to 5110
a communicable disease declared quarantinable by the board of 5111

health of a city or general health district or the department of 5112
health is reported within its jurisdiction, the board shall at 5113
once restrict such person to ~~his~~ the person's place of residence 5114
or other suitable place, prohibit entrance to or exit from such 5115
place without the board's written permission in such manner as 5116
to prevent effective contact with individuals not so exposed, 5117
and enforce such restrictive measures as are prescribed by the 5118
department. 5119

When a person has, or is suspected of having, a 5120
communicable disease for which isolation is required by the 5121
board or the department, the board shall at once cause such 5122
person to be separated from susceptible persons in such places 5123
and under such circumstances as will prevent the conveyance of 5124
the infectious agents to susceptible persons, prohibit entrance 5125
to or exit from such places without the board's written 5126
permission, and enforce such restrictive measures as are 5127
prescribed by the department. 5128

When persons have, or are exposed to, a communicable 5129
disease for which placarding of premises is required by the 5130
board or the department, the board shall at once place in a 5131
conspicuous position on the premises where such a person is 5132
isolated or quarantined a placard having printed on it, in large 5133
letters, the name of the disease. No person shall remove, mar, 5134
deface, or destroy such placard, which shall remain in place 5135
until after the persons restricted have been released from 5136
isolation or quarantine. 5137

Physicians, certified nurse-midwives, clinical nurse 5138
specialists, and certified nurse practitioners attending a 5139
person affected with a communicable disease shall use such 5140
precautionary measures to prevent its spread as are required by 5141

the board or the department. 5142

No person isolated or quarantined by a board shall leave 5143
the premises to which ~~he~~ the person has been restricted without 5144
the written permission of such board until released from 5145
isolation or quarantine by it in ~~accordance~~ accordance with the 5146
rules and regulations of the department. 5147

Sec. 3707.10. When a person affected with yellow fever, 5148
typhus fever, or diphtheria has recovered and is no longer 5149
liable to communicate the disease to others, or has died, the 5150
attending physician, certified nurse-midwife, clinical nurse 5151
specialist, or certified nurse practitioner shall furnish a 5152
certificate of the recovery or death to the board of health of 5153
the city or general health district. As soon thereafter as the 5154
board considers it advisable, its health commissioner shall 5155
thoroughly disinfect and purify the house and contents of the 5156
house in which the affected person has been ill or has died, in 5157
accordance with the rules adopted by the department of health. 5158

Sec. 3707.72. (A) (1) If a board of health establishes a 5159
fetal-infant mortality review board under section 3707.71 of the 5160
Revised Code, the board, by a majority vote of a quorum of its 5161
members, shall select the board's members. Members may include 5162
the following professionals or individuals representing the 5163
following constituencies: 5164

(a) Fetal-infant mortality review coordinators; 5165

(b) Physicians who are board-certified in obstetrics and 5166
gynecology by a certifying board recognized by the American 5167
board of medical specialties; 5168

(c) Key community leaders from the board of health's 5169
jurisdiction; 5170

(d) Health care providers;	5171
(e) Human services providers;	5172
(f) Consumer and advocacy groups;	5173
(g) Community action teams;	5174
<u>(h) Certified nurse-midwives.</u>	5175
(2) A majority of the board members specified in division	5176
(A) (1) of this section may invite additional individuals to	5177
serve on the board. The additional members shall serve for a	5178
period of time determined by a majority of the board members	5179
specified in division (A) (1) of this section and shall have the	5180
same authority, duties, and responsibilities as members	5181
specified in that division.	5182
(3) A board, by a majority vote of a quorum of its	5183
members, shall select an individual to serve as its chairperson.	5184
(B) A vacancy on a board shall be filled in the same	5185
manner as the original appointment.	5186
(C) A board member shall not receive any compensation for,	5187
and shall not be paid for any expenses incurred pursuant to,	5188
fulfilling the member's duties on the board.	5189
(D) A board may work in conjunction with, or be a	5190
component of, a child fatality review board or regional child	5191
fatality review board created under section 307.621 of the	5192
Revised Code.	5193
(E) A board shall convene at least once a year at the call	5194
of the board's chairperson.	5195
Sec. 3709.11. Within thirty days after the appointment of	5196
the members of the board of health in a general health district,	5197

they shall organize by selecting one of the members as president 5198
and another member as president pro tempore. ~~The~~ 5199

The board shall appoint a health commissioner upon such 5200
terms, and for such period of time, not exceeding five years, as 5201
may be prescribed by the board. The person appointed as 5202
commissioner shall be one of the following: a licensed 5203
physician; a person who is licensed as a certified nurse- 5204
midwife, clinical nurse specialist, or certified nurse 5205
practitioner and who specializes in public health; a licensed 5206
dentist; a licensed veterinarian; a licensed podiatrist; a 5207
licensed chiropractor; or the holder of a master's degree in 5208
public health or an equivalent master's degree in a related 5209
health field as determined by the members of the board of health 5210
in a general health district. ~~He~~ Notice of such appointment 5211
shall be filed with the director of health. 5212

The commissioner shall be secretary of the board, and 5213
shall devote such time to the duties of ~~his~~ office as may be 5214
fixed by contract with the board. ~~Notice of such appointment~~ 5215
~~shall be filed with the director of health.~~ The commissioner 5216
shall be the executive officer of the board and shall carry out 5217
all orders of the board and of the department of health. ~~He~~ The 5218
commissioner shall be charged with the enforcement of all 5219
sanitary laws and regulations in the district. The commissioner 5220
shall keep the public informed in regard to all matters 5221
affecting the health of the district. ~~When~~ 5222

When the commissioner is not a physician, certified nurse- 5223
midwife, clinical nurse specialist, or certified nurse 5224
practitioner, the board shall provide for adequate medical 5225
direction of all personal health and nursing services by the 5226
employment of a licensed physician, certified nurse-midwife, 5227

clinical nurse specialist, or certified nurse practitioner as 5228
medical director on either a full-time or part-time basis. The 5229
medical director shall be responsible to the board of health. 5230

Sec. 3709.13. In any general health district the board of 5231
health may, upon the recommendation of the health commissioner, 5232
appoint for full or part time service a public health nurse and 5233
a clerk and such additional public health nurses, physicians, 5234
certified nurse-midwives, clinical nurse specialists, certified 5235
nurse practitioners, and other persons as are necessary for the 5236
proper conduct of its work. Such number of public health nurses 5237
may be employed as is necessary to provide adequate public 5238
health nursing service to all parts of the district. Employees 5239
of the board, other than the commissioner, shall be in the 5240
classified service of the state, and all employees of the board 5241
may be removed for cause by a majority of the board. 5242

Sec. 3709.241. Notwithstanding any other provision of law, 5243
a minor may give consent for the diagnosis or treatment of any 5244
~~venereal disease~~ sexually transmitted infection by a licensed 5245
physician, certified nurse-midwife, clinical nurse specialist, 5246
or certified nurse practitioner. Such consent is not subject to 5247
disaffirmance because of minority. The consent of the parent, 5248
parents, or guardian of a minor is not required for such 5249
diagnosis or treatment. The parent, parents, or guardian of a 5250
minor giving consent under this section are not liable for 5251
payment for any diagnostic or treatment service provided under 5252
this section without their consent. 5253

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard 5254
abatement project, an asbestos hazard abatement contractor shall 5255
do all of the following: 5256

(1) Prepare a written respiratory protection program as 5257

defined by the director of environmental protection pursuant to 5258
rule, and make the program available to the environmental 5259
protection agency, and workers at the job site if the contractor 5260
is a public entity or prepare a written respiratory protection 5261
program, consistent with 29 C.F.R. 1910.134 and make the program 5262
available to the agency, and workers at the job site if the 5263
contractor is a business entity; 5264

(2) Ensure that each worker who will be involved in any 5265
asbestos hazard abatement project has been examined within the 5266
preceding year and has been declared by a physician, clinical 5267
nurse specialist, or certified nurse practitioner to be 5268
physically capable of working while wearing a respirator; 5269

(3) Ensure that each of the contractor's employees or 5270
agents who will come in contact with asbestos-containing 5271
materials or will be responsible for an asbestos hazard 5272
abatement project receives the appropriate certification or 5273
licensure required by this chapter and the following training: 5274

(a) An initial course approved by the agency pursuant to 5275
section 3710.10 of the Revised Code, completed before engaging 5276
in any asbestos hazard abatement activity; and 5277

(b) An annual review course approved by the agency 5278
pursuant to section 3710.10 of the Revised Code. 5279

(B) After obtaining or renewing a license, an asbestos 5280
hazard abatement contractor shall notify the agency, on a form 5281
approved by the director, at least ten working days before 5282
beginning each asbestos hazard abatement project conducted 5283
during the term of the contractor's license. 5284

(C) In addition to any other fee imposed under this 5285
chapter, an asbestos hazard abatement contractor shall pay, at 5286

the time of providing notice under division (B) of this section, 5287
the agency a fee of sixty-five dollars for each asbestos hazard 5288
abatement project conducted. 5289

Sec. 3715.872. (A) As used in this section, "health care 5290
professional" means any of the following who provide medical, 5291
dental, or other health-related diagnosis, care, or treatment: 5292

(1) Individuals authorized under Chapter 4731. of the 5293
Revised Code to practice medicine and surgery, osteopathic 5294
medicine and surgery, or podiatric medicine and surgery; 5295

(2) Registered nurses licensed under Chapter 4723. of the 5296
Revised Code, including advanced practice registered nurses, and 5297
licensed practical nurses licensed under ~~Chapter 4723. of the~~ 5298
~~Revised Code~~ that chapter; 5299

(3) Physician assistants licensed under Chapter 4730. of 5300
the Revised Code; 5301

(4) Dentists and dental hygienists licensed under Chapter 5302
4715. of the Revised Code; 5303

(5) Optometrists licensed under Chapter 4725. of the 5304
Revised Code; 5305

(6) Pharmacists licensed under Chapter 4729. of the 5306
Revised Code. 5307

(B) For matters related to activities conducted under the 5308
drug repository program, all of the following apply: 5309

(1) A pharmacy, drug manufacturer, health care facility, 5310
or other person or government entity that donates or gives drugs 5311
to the program, and any person or government entity that 5312
facilitates the donation or gift, shall not be subject to 5313
liability in tort or other civil action for injury, death, or 5314

loss to person or property. 5315

(2) A pharmacy, hospital, or nonprofit clinic that accepts 5316
or distributes drugs under the program shall not be subject to 5317
liability in tort or other civil action for injury, death, or 5318
loss to person or property, unless an action or omission of the 5319
pharmacy, hospital, or nonprofit clinic constitutes willful and 5320
wanton misconduct. 5321

(3) A health care professional who accepts, dispenses, or 5322
personally furnishes drugs under the program on behalf of a 5323
pharmacy, hospital, or nonprofit clinic participating in the 5324
program, and the pharmacy, hospital, or nonprofit clinic that 5325
employs or otherwise uses the services of the health care 5326
professional, shall not be subject to liability in tort or other 5327
civil action for injury, death, or loss to person or property, 5328
unless an action or omission of the health care professional, 5329
pharmacy, hospital, or nonprofit clinic constitutes willful and 5330
wanton misconduct. 5331

(4) The state board of pharmacy shall not be subject to 5332
liability in tort or other civil action for injury, death, or 5333
loss to person or property, unless an action or omission of the 5334
board constitutes willful and wanton misconduct. 5335

(5) In addition to the civil immunity granted under 5336
division (B)(1) of this section, a pharmacy, drug manufacturer, 5337
health care facility, or other person or government entity that 5338
donates or gives drugs to the program, and any person or 5339
government entity that facilitates the donation or gift, shall 5340
not be subject to criminal prosecution for matters related to 5341
activities that it conducts or another party conducts under the 5342
program, unless an action or omission of the party that donates, 5343
gives, or facilitates the donation or gift of the drugs does not 5344

comply with the provisions of this chapter or the rules adopted 5345
under it. 5346

(6) In the case of a drug manufacturer, the immunities 5347
from civil liability and criminal prosecution granted to another 5348
party under divisions (B) (1) and (5) of this section extend to 5349
the manufacturer when any drug it manufactures is the subject of 5350
an activity conducted under the program. This extension of 5351
immunities includes, but is not limited to, immunity from 5352
liability or prosecution for failure to transfer or communicate 5353
product or consumer information or the expiration date of a drug 5354
that is donated or given. 5355

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 5356
and 3721.99 of the Revised Code: 5357

(1) (a) "Home" means an institution, residence, or facility 5358
that provides, for a period of more than twenty-four hours, 5359
whether for a consideration or not, accommodations to three or 5360
more unrelated individuals who are dependent upon the services 5361
of others, including a nursing home, residential care facility, 5362
home for the aging, and a veterans' home operated under Chapter 5363
5907. of the Revised Code. 5364

(b) "Home" also means both of the following: 5365

(i) Any facility that a person, as defined in section 5366
3702.51 of the Revised Code, proposes for certification as a 5367
skilled nursing facility or nursing facility under Title XVIII 5368
or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 5369
U.S.C.A. 301, as amended, and for which a certificate of need, 5370
other than a certificate to recategorize hospital beds as 5371
described in section 3702.521 of the Revised Code or division 5372
(R) (7) (d) of the version of section 3702.51 of the Revised Code 5373

in effect immediately prior to April 20, 1995, has been granted 5374
to the person under sections 3702.51 to 3702.62 of the Revised 5375
Code after August 5, 1989; 5376

(ii) A county home or district home that is or has been 5377
licensed as a residential care facility. 5378

(c) "Home" does not mean any of the following: 5379

(i) Except as provided in division (A)(1)(b) of this 5380
section, a public hospital or hospital as defined in section 5381
3701.01 or 5122.01 of the Revised Code; 5382

(ii) A residential facility as defined in section 5119.34 5383
of the Revised Code; 5384

(iii) A residential facility as defined in section 5123.19 5385
of the Revised Code; 5386

(iv) A community addiction services provider as defined in 5387
section 5119.01 of the Revised Code; 5388

(v) A facility licensed under section 5119.37 of the 5389
Revised Code to operate an opioid treatment program; 5390

(vi) A facility providing services under contract with the 5391
department of developmental disabilities under section 5123.18 5392
of the Revised Code; 5393

(vii) A facility operated by a hospice care program 5394
licensed under section 3712.04 of the Revised Code that is used 5395
exclusively for care of hospice patients; 5396

(viii) A facility operated by a pediatric respite care 5397
program licensed under section 3712.041 of the Revised Code that 5398
is used exclusively for the care of pediatric respite care 5399
patients or a location operated by a pediatric transition care 5400

program registered under section 3712.042 of the Revised Code 5401
that is used exclusively for the care of pediatric transition 5402
care patients; 5403

(ix) A facility, infirmary, or other entity that is 5404
operated by a religious order, provides care exclusively to 5405
members of religious orders who take vows of celibacy and live 5406
by virtue of their vows within the orders as if related, and 5407
does not participate in the medicare program or the medicaid 5408
program if on January 1, 1994, the facility, infirmary, or 5409
entity was providing care exclusively to members of the 5410
religious order; 5411

(x) A county home or district home that has never been 5412
licensed as a residential care facility. 5413

(2) "Unrelated individual" means one who is not related to 5414
the owner or operator of a home or to the spouse of the owner or 5415
operator as a parent, grandparent, child, grandchild, brother, 5416
sister, niece, nephew, aunt, uncle, or as the child of an aunt 5417
or uncle. 5418

(3) "Mental impairment" does not mean mental illness, as 5419
defined in section 5122.01 of the Revised Code, or developmental 5420
disability, as defined in section 5123.01 of the Revised Code. 5421

(4) "Skilled nursing care" means procedures that require 5422
technical skills and knowledge beyond those the untrained person 5423
possesses and that are commonly employed in providing for the 5424
physical, mental, and emotional needs of the ill or otherwise 5425
incapacitated. "Skilled nursing care" includes, but is not 5426
limited to, the following: 5427

(a) Irrigations, catheterizations, application of 5428
dressings, and supervision of special diets; 5429

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5) (a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, certified nurse practitioner, or ~~a~~-licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in division (A) (4) of this section. A facility need not provide more than one of the services listed

in division (A) (5) (a) of this section to be considered to be 5458
providing personal care services. 5459

(6) "Nursing home" means a home used for the reception and 5460
care of individuals who by reason of illness or physical or 5461
mental impairment require skilled nursing care and of 5462
individuals who require personal care services but not skilled 5463
nursing care. A nursing home is licensed to provide personal 5464
care services and skilled nursing care. 5465

(7) "Residential care facility" means a home that provides 5466
either of the following: 5467

(a) Accommodations for seventeen or more unrelated 5468
individuals and supervision and personal care services for three 5469
or more of those individuals who are dependent on the services 5470
of others by reason of age or physical or mental impairment; 5471

(b) Accommodations for three or more unrelated 5472
individuals, supervision and personal care services for at least 5473
three of those individuals who are dependent on the services of 5474
others by reason of age or physical or mental impairment, and, 5475
to at least one of those individuals, any of the skilled nursing 5476
care authorized by section 3721.011 of the Revised Code. 5477

(8) "Home for the aging" means a home that provides 5478
services as a residential care facility and a nursing home, 5479
except that the home provides its services only to individuals 5480
who are dependent on the services of others by reason of both 5481
age and physical or mental impairment. 5482

The part or unit of a home for the aging that provides 5483
services only as a residential care facility is licensed as a 5484
residential care facility. The part or unit that may provide 5485
skilled nursing care beyond the extent authorized by section 5486

3721.011 of the Revised Code is licensed as a nursing home.	5487
(9) "County home" and "district home" mean a county home	5488
or district home operated under Chapter 5155. of the Revised	5489
Code.	5490
(10) "Change of operator" has the same meaning as in	5491
section 5165.01 of the Revised Code.	5492
(11) "Related party" has the same meaning as in section	5493
5165.01 of the Revised Code.	5494
(12) "SFF list" means the list of nursing facilities	5495
created by the United States department of health and human	5496
services under the special focus facility program.	5497
(13) "Special focus facility program" means the program	5498
conducted by the United States secretary of health and human	5499
services pursuant to section 1919(f) (10) of the "Social Security	5500
Act," 42 U.S.C. 1396r(f) (10).	5501
(14) "Real and present danger" means immediate danger of	5502
serious physical or life-threatening harm to one or more	5503
occupants of a home.	5504
(B) The director of health may further classify homes. For	5505
the purposes of this chapter, any residence, institution, hotel,	5506
congregate housing project, or similar facility that meets the	5507
definition of a home under this section is such a home	5508
regardless of how the facility holds itself out to the public.	5509
(C) For purposes of this chapter, personal care services	5510
or skilled nursing care shall be considered to be provided by a	5511
facility if they are provided by a person employed by or	5512
associated with the facility or by another person pursuant to an	5513
agreement to which neither the resident who receives the	5514

services nor the resident's sponsor is a party. 5515

(D) Nothing in division (A) (4) of this section shall be 5516
construed to permit skilled nursing care to be imposed on an 5517
individual who does not require skilled nursing care. 5518

Nothing in division (A) (5) of this section shall be 5519
construed to permit personal care services to be imposed on an 5520
individual who is capable of performing the activity in question 5521
without assistance. 5522

(E) Division (A) (1) (c) (ix) of this section does not 5523
prohibit a facility, infirmary, or other entity described in 5524
that division from seeking licensure under sections 3721.01 to 5525
3721.09 of the Revised Code or certification under Title XVIII 5526
or XIX of the "Social Security Act." However, such a facility, 5527
infirmary, or entity that applies for licensure or certification 5528
must meet the requirements of those sections or titles and the 5529
rules adopted under them and obtain a certificate of need from 5530
the director of health under section 3702.52 of the Revised 5531
Code. 5532

(F) Nothing in this chapter, or rules adopted pursuant to 5533
it, shall be construed as authorizing the supervision, 5534
regulation, or control of the spiritual care or treatment of 5535
residents or patients in any home who rely upon treatment by 5536
prayer or spiritual means in accordance with the creed or tenets 5537
of any recognized church or religious denomination. 5538

Sec. 3721.011. (A) In addition to providing 5539
accommodations, supervision, and personal care services to its 5540
residents, a residential care facility may do the following: 5541

(1) Provide the following skilled nursing care to its 5542
residents: 5543

(a) Supervision of special diets;	5544
(b) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code;	5545 5546
(c) Subject to division (B) (1) of this section, administration of medication.	5547 5548
(2) Subject to division (C) of this section, provide other skilled nursing care on a part-time, intermittent basis for not more than a total of one hundred twenty days in a twelve-month period;	5549 5550 5551 5552
(3) Provide skilled nursing care for more than one hundred twenty days in a twelve-month period to a resident when the requirements of division (D) of this section are met.	5553 5554 5555
A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section.	5556 5557 5558 5559 5560
(B) (1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician, <u>certified nurse-midwife if</u> <u>authorized as described in section 4723.438 of the Revised Code,</u> <u>clinical nurse specialist, or certified nurse practitioner</u> has determined in writing that the individual is capable of self- administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C. 1395, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is	5561 5562 5563 5564 5565 5566 5567 5568 5569 5570 5571 5572

qualified to perform medication administration. Medication may 5573
be administered in a residential care facility only by the 5574
following persons authorized by law to administer medication: 5575

(a) A registered nurse licensed under Chapter 4723. of the 5576
Revised Code, including a certified nurse-midwife, clinical 5577
nurse specialist, or certified nurse practitioner; 5578

(b) A licensed practical nurse licensed under Chapter 5579
4723. of the Revised Code who holds proof of successful 5580
completion of a course in medication administration approved by 5581
the board of nursing and who administers the medication only at 5582
the direction of a registered nurse or a physician authorized 5583
under Chapter 4731. of the Revised Code to practice medicine and 5584
surgery or osteopathic medicine and surgery; 5585

(c) A medication aide certified under Chapter 4723. of the 5586
Revised Code; 5587

(d) A physician authorized under Chapter 4731. of the 5588
Revised Code to practice medicine and surgery or osteopathic 5589
medicine and surgery. 5590

(2) In assisting a resident with self-administration of 5591
medication, any member of the staff of a residential care 5592
facility may do the following: 5593

(a) Remind a resident when to take medication and watch to 5594
ensure that the resident follows the directions on the 5595
container; 5596

(b) Assist a resident by taking the medication from the 5597
locked area where it is stored, in accordance with rules adopted 5598
pursuant to section 3721.04 of the Revised Code, and handing it 5599
to the resident. If the resident is physically unable to open 5600
the container, a staff member may open the container for the 5601

resident. 5602

(c) Assist a resident who is physically impaired but 5603
mentally alert, such as a resident with arthritis, cerebral 5604
palsy, or Parkinson's disease, in removing oral or topical 5605
medication from containers and in consuming or applying the 5606
medication, upon request by or with the consent of the resident. 5607
If a resident is physically unable to place a dose of medicine 5608
to the resident's mouth without spilling it, a staff member may 5609
place the dose in a container and place the container to the 5610
mouth of the resident. 5611

(C) Except as provided in division (D) of this section, a 5612
residential care facility may admit or retain individuals who 5613
require skilled nursing care beyond the supervision of special 5614
diets, application of dressings, or administration of 5615
medication, only if the care will be provided on a part-time, 5616
intermittent basis for not more than a total of one hundred 5617
twenty days in any twelve-month period. In accordance with 5618
Chapter 119. of the Revised Code, the director of health shall 5619
adopt rules specifying what constitutes the need for skilled 5620
nursing care on a part-time, intermittent basis. The director 5621
shall adopt rules that are consistent with rules pertaining to 5622
home health care adopted by the medicaid director for the 5623
medicaid program. Skilled nursing care provided pursuant to this 5624
division may be provided by a home health agency certified for 5625
participation in the medicare program, a hospice care program 5626
licensed under Chapter 3712. of the Revised Code, or a member of 5627
the staff of a residential care facility who is qualified to 5628
perform skilled nursing care. 5629

A residential care facility that provides skilled nursing 5630
care pursuant to this division shall do both of the following: 5631

(1) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident receiving the care.

(D) (1) A residential care facility may admit or retain an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following:

(a) The individual or individual's sponsor;

(b) The individual's personal physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner;

(c) Unless the individual's personal physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner oversees the skilled nursing care, the provider of the skilled nursing care;

(d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code.

(2) The agreement required by division (D) (1) of this section shall include all of the following provisions:

(a) That the individual will be provided skilled nursing care in the facility only if a determination has been made that the individual's needs can be met at the facility;

(b) That the individual will be retained in the facility

only if periodic redeterminations are made that the individual's 5660
needs are being met at the facility; 5661

(c) That the redeterminations will be made according to a 5662
schedule specified in the agreement; 5663

(d) If the individual is a hospice patient, that the 5664
individual has been given an opportunity to choose the hospice 5665
care program that best meets the individual's needs; 5666

(e) Unless the individual is a hospice patient, that the 5667
individual's personal physician, certified nurse-midwife, 5668
clinical nurse specialist, or certified nurse practitioner has 5669
determined that the skilled nursing care the individual needs is 5670
routine. 5671

(E) Notwithstanding any other provision of this chapter, a 5672
residential care facility in which residents receive skilled 5673
nursing care pursuant to this section is not a nursing home. 5674

Sec. 3721.041. (A) As used in this section: 5675

(1) "Advisory committee" means the advisory committee on 5676
immunization practices of the United States centers for disease 5677
control and prevention or a successor committee or agency. 5678

(2) ~~"Home" has the same meaning as in section 3721.01~~ 5679
"Certified nurse-midwife," "clinical nurse specialist," and 5680
"certified nurse practitioner" have the same meanings as in 5681
section 4723.01 of the Revised Code. 5682

(3) "Physician" means an individual authorized under 5683
Chapter 4731. of the Revised Code to practice medicine and 5684
surgery or osteopathic medicine and surgery. 5685

(B) (1) Each home shall, on an annual basis, offer to each 5686
resident, in accordance with guidelines issued by the advisory 5687

committee, vaccination against influenza, unless a physician, 5688
certified nurse-midwife if authorized as described in section 5689
4723.438 of the Revised Code, clinical nurse specialist, or 5690
certified nurse practitioner has determined that vaccination of 5691
the resident is medically inappropriate. The vaccine shall be of 5692
a form approved by the advisory committee for that calendar 5693
year. A resident may refuse vaccination. 5694

(2) Each home shall obtain the influenza vaccine 5695
information sheet described in section 3701.138 of the Revised 5696
Code and post the sheet in a conspicuous location that is 5697
accessible to all residents, employees, and visitors. Not later 5698
than the first day of August each year, the home shall determine 5699
whether the information sheet it has posted is the most recent 5700
version available. If it is not, the home shall replace the 5701
information sheet with the updated version. Nothing in this 5702
division requires an older adult to be vaccinated against 5703
influenza. 5704

Failure to comply with the requirement to post the 5705
information sheet shall not be taken into account when any 5706
survey or inspection of the home is conducted and shall not be 5707
used as the basis for imposing any penalty against the home. 5708

(C) Each home shall offer to each resident, in accordance 5709
with guidelines issued by the advisory committee, vaccination 5710
against pneumococcal pneumonia, unless the resident has already 5711
received such vaccination or a physician, certified nurse- 5712
midwife if authorized as described in section 4723.438 of the 5713
Revised Code, clinical nurse specialist, or certified nurse 5714
practitioner has determined that vaccination of the resident is 5715
medically inappropriate. Each vaccine shall be of a form 5716
approved by the advisory committee for that calendar year. A 5717

resident may refuse vaccination. 5718

(D) The director of health may adopt rules under Chapter 5719
119. of the Revised Code as the director considers appropriate 5720
to implement this section. 5721

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of 5722
the Revised Code: 5723

(A) "Long-term care facility" means either of the 5724
following: 5725

(1) A nursing home as defined in section 3721.01 of the 5726
Revised Code; 5727

(2) A facility or part of a facility that is certified as 5728
a skilled nursing facility or a nursing facility under Title 5729
XVIII or XIX of the "Social Security Act." 5730

(B) "Residential care facility" has the same meaning as in 5731
section 3721.01 of the Revised Code. 5732

(C) "Abuse" means any of the following: 5733

(1) Physical abuse; 5734

(2) Psychological abuse; 5735

(3) Sexual abuse. 5736

(D) "Neglect" means recklessly failing to provide a 5737
resident with any treatment, care, goods, or service necessary 5738
to maintain the health or safety of the resident when the 5739
failure results in serious physical harm to the resident. 5740
"Neglect" does not include allowing a resident, at the 5741
resident's option, to receive only treatment by spiritual means 5742
through prayer in accordance with the tenets of a recognized 5743
religious denomination. 5744

(E) "Exploitation" means taking advantage of a resident, 5745
regardless of whether the action was for personal gain, whether 5746
the resident knew of the action, or whether the resident was 5747
harmed. 5748

(F) "Misappropriation" means depriving, defrauding, or 5749
otherwise obtaining the real or personal property of a resident 5750
by any means prohibited by the Revised Code, including 5751
violations of Chapter 2911. or 2913. of the Revised Code. 5752

(G) "Resident" includes a resident, patient, former 5753
resident or patient, or deceased resident or patient of a long- 5754
term care facility or a residential care facility. 5755

(H) "Physical abuse" means knowingly causing physical harm 5756
or recklessly causing serious physical harm to a resident 5757
through either of the following: 5758

(1) Physical contact with the resident; 5759

(2) The use of physical restraint, chemical restraint, 5760
medication that does not constitute a chemical restraint, or 5761
isolation, if the restraint, medication, or isolation is 5762
excessive, for punishment, for staff convenience, a substitute 5763
for treatment, or in an amount that precludes habilitation and 5764
treatment. 5765

(I) "Psychological abuse" means knowingly or recklessly 5766
causing psychological harm to a resident, whether verbally or by 5767
action. 5768

(J) "Sexual abuse" means sexual conduct or sexual contact 5769
with a resident, as those terms are defined in section 2907.01 5770
of the Revised Code. 5771

(K) "Physical restraint" has the same meaning as in 5772

section 3721.10 of the Revised Code. 5773

(L) "Chemical restraint" has the same meaning as in 5774
section 3721.10 of the Revised Code. 5775

(M) "Nursing and nursing-related services" means the 5776
personal care services and other services not constituting 5777
skilled nursing care that are specified in rules the director of 5778
health shall adopt in accordance with Chapter 119. of the 5779
Revised Code. 5780

(N) "Personal care services" has the same meaning as in 5781
section 3721.01 of the Revised Code. 5782

(O) (1) Except as provided in division (O) (2) of this 5783
section, "nurse aide" means an individual who provides nursing 5784
and nursing-related services to residents in a long-term care 5785
facility, either as a member of the staff of the facility for 5786
monetary compensation or as a volunteer without monetary 5787
compensation. 5788

(2) "Nurse aide" does not include either of the following: 5789

(a) A licensed health professional practicing within the 5790
scope of the professional's license; 5791

(b) An individual providing nursing and nursing-related 5792
services in a religious nonmedical health care institution, if 5793
the individual has been trained in the principles of nonmedical 5794
care and is recognized by the institution as being competent in 5795
the administration of care within the religious tenets practiced 5796
by the residents of the institution. 5797

(P) "Licensed health professional" means all of the 5798
following: 5799

(1) An occupational therapist or occupational therapy 5800

assistant licensed under Chapter 4755. of the Revised Code;	5801
(2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	5802 5803
(3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;	5804 5805 5806
(4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	5807 5808
(5) A registered nurse <u>licensed under Chapter 4723. of the</u> <u>Revised Code, including an advanced practice registered nurse,</u> or <u>a licensed practical nurse licensed under Chapter 4723. of</u> <u>the Revised Code that chapter;</u>	5809 5810 5811 5812
(6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;	5813 5814 5815
(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	5816 5817
(8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	5818 5819
(9) An optometrist licensed under Chapter 4725. of the Revised Code;	5820 5821
(10) A pharmacist licensed under Chapter 4729. of the Revised Code;	5822 5823
(11) A psychologist licensed under Chapter 4732. of the Revised Code;	5824 5825
(12) A chiropractor licensed under Chapter 4734. of the Revised Code;	5826 5827

(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;	5828 5829
(14) A licensed professional counselor or licensed professional clinical counselor licensed under Chapter 4757. of the Revised Code;	5830 5831 5832
(15) A marriage and family therapist or independent marriage and family therapist licensed under Chapter 4757. of the Revised Code.	5833 5834 5835
(Q) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended.	5836 5837 5838 5839 5840 5841 5842 5843
(R) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated.	5844 5845 5846
(S) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services.	5847 5848 5849
Sec. 3727.09. (A) As used in this section and sections 3727.10 and 3727.101 of the Revised Code:	5850 5851
(1) "Trauma," "trauma care," "trauma center," "trauma patient," "pediatric," and "adult" have the same meanings as in section 4765.01 of the Revised Code.	5852 5853 5854
(2) "Stabilize" and "transfer" have the same meanings as	5855

in section 1753.28 of the Revised Code. 5856

(B) On and after November 3, 2002, each hospital in this 5857
state that is not a trauma center shall adopt protocols for 5858
adult and pediatric trauma care provided in or by that hospital; 5859
each hospital in this state that is an adult trauma center and 5860
not a level I or level II pediatric trauma center shall adopt 5861
protocols for pediatric trauma care provided in or by that 5862
hospital; each hospital in this state that is a pediatric trauma 5863
center and not a level I and II adult trauma center shall adopt 5864
protocols for adult trauma care provided in or by that hospital. 5865
In developing its trauma care protocols, each hospital shall 5866
consider the guidelines for trauma care established by the 5867
American college of surgeons, the American college of emergency 5868
physicians, American academy of emergency nurse practitioners, 5869
and the American academy of pediatrics. Trauma care protocols 5870
shall be written, comply with applicable federal and state laws, 5871
and include policies and procedures with respect to all of the 5872
following: 5873

(1) Evaluation of trauma patients, including criteria for 5874
prompt identification of trauma patients who require a level of 5875
adult or pediatric trauma care that exceeds the hospital's 5876
capabilities; 5877

(2) Emergency treatment and stabilization of trauma 5878
patients prior to transfer to an appropriate adult or pediatric 5879
trauma center; 5880

(3) Timely transfer of trauma patients to appropriate 5881
adult or pediatric trauma centers based on a patient's medical 5882
needs. Trauma patient transfer protocols shall specify all of 5883
the following: 5884

(a) Confirmation of the ability of the receiving trauma center to provide prompt adult or pediatric trauma care appropriate to a patient's medical needs;	5885 5886 5887
(b) Procedures for selecting an appropriate alternative adult or pediatric trauma center to receive a patient when it is not feasible or safe to transport the patient to a particular trauma center;	5888 5889 5890 5891
(c) Advance notification and appropriate medical consultation with the trauma center to which a trauma patient is being, or will be, transferred;	5892 5893 5894
(d) Procedures for selecting an appropriate method of transportation and the hospital responsible for arranging or providing the transportation;	5895 5896 5897
(e) Confirmation of the ability of the persons and vehicle that will transport a trauma patient to provide appropriate adult or pediatric trauma care;	5898 5899 5900
(f) Assured communication with, and appropriate medical direction of, the persons transporting a trauma patient to a trauma center;	5901 5902 5903
(g) Identification and timely transfer of appropriate medical records of the trauma patient being transferred;	5904 5905
(h) The hospital responsible for care of a patient in transit;	5906 5907
(i) The responsibilities of the physician, <u>certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner</u> attending a patient and, if different, the physician, <u>certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner</u> who authorizes a transfer of the	5908 5909 5910 5911 5912

patient; 5913

(j) Procedures for determining, in consultation with an 5914
appropriate adult or pediatric trauma center and the persons who 5915
will transport a trauma patient, when transportation of the 5916
patient to a trauma center may be delayed for either of the 5917
following reasons: 5918

(i) Immediate transfer of the patient is unsafe due to 5919
adverse weather or ground conditions. 5920

(ii) No trauma center is able to provide appropriate adult 5921
or pediatric trauma care to the patient without undue delay. 5922

(4) Peer review and quality assurance procedures for adult 5923
and pediatric trauma care provided in or by the hospital. 5924

(C) (1) On and after November 3, 2002, each hospital shall 5925
enter into all of the following written agreements unless 5926
otherwise provided in division (C) (2) of this section: 5927

(a) An agreement with one or more adult trauma centers in 5928
each level of categorization as a trauma center higher than the 5929
hospital that governs the transfer of adult trauma patients from 5930
the hospital to those trauma centers; 5931

(b) An agreement with one or more pediatric trauma centers 5932
in each level of categorization as a trauma center higher than 5933
the hospital that governs the transfer of pediatric trauma 5934
patients from the hospital to those trauma centers. 5935

(2) A level I or level II adult trauma center is not 5936
required to enter into an adult trauma patient transfer 5937
agreement with another hospital. A level I or level II pediatric 5938
trauma center is not required to enter into a pediatric trauma 5939
patient transfer agreement with another hospital. A hospital is 5940

not required to enter into an adult trauma patient transfer 5941
agreement with a level III or level IV adult trauma center, or 5942
enter into a pediatric trauma patient transfer agreement with a 5943
level III or level IV pediatric trauma center, if no trauma 5944
center of that type is reasonably available to receive trauma 5945
patients transferred from the hospital. 5946

(3) A trauma patient transfer agreement entered into by a 5947
hospital under division (C)(1) of this section shall comply with 5948
applicable federal and state laws and contain provisions 5949
conforming to the requirements for trauma care protocols set 5950
forth in division (B) of this section. 5951

(D) A hospital shall make trauma care protocols it adopts 5952
under division (B) of this section and trauma patient transfer 5953
agreements it adopts under division (C) of this section 5954
available for public inspection during normal working hours. A 5955
hospital shall furnish a copy of such documents upon request and 5956
may charge a reasonable and necessary fee for doing so, provided 5957
that upon request it shall furnish a copy of such documents to 5958
the director of health free of charge. 5959

(E) A hospital that ceases to operate as an adult or 5960
pediatric trauma center under provisional status is not in 5961
violation of divisions (B) and (C) of this section during the 5962
time it develops different trauma care protocols and enters into 5963
different patient transfer agreements pursuant to division (D) 5964
(2) (c) of section 3727.101 of the Revised Code. 5965

Sec. 3727.19. (A) As used in this section: 5966

(1) "Advisory committee" means the advisory committee on 5967
immunization practices of the United States centers for disease 5968
control and prevention or its successor agency. 5969

(2) "Certified nurse-midwife," "clinical nurse specialist," and "certified nurse practitioner" have the same meanings as in section 4723.01 of the Revised Code. 5970
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(3) "Physician" means an individual authorized under 5973
Chapter 4731. of the Revised Code to practice medicine and 5974
surgery or osteopathic medicine and surgery. 5975

(B) Each hospital shall offer to each patient who is 5976
admitted to the hospital, in accordance with guidelines issued 5977
by the advisory committee, vaccination against influenza, unless 5978
a physician, certified nurse-midwife if authorized as described 5979
in section 4723.438 of the Revised Code, clinical nurse 5980
specialist, or certified nurse practitioner has determined that 5981
vaccination of the patient is medically inappropriate. The 5982
vaccine shall be of a form approved by the advisory committee 5983
for that calendar year. A patient may refuse vaccination. 5984

(C) Each hospital shall offer to each patient who is 5985
admitted to the hospital, in accordance with guidelines issued 5986
by the advisory committee, vaccination against pneumococcal 5987
pneumonia, unless a physician, certified nurse-midwife if 5988
authorized as described in section 4723.438 of the Revised Code, 5989
clinical nurse specialist, or certified nurse practitioner has 5990
determined that vaccination of the patient is medically 5991
inappropriate. Each vaccine shall be of a form approved by the 5992
advisory committee for that calendar year. A patient may refuse 5993
vaccination. 5994

(D) The director of health may adopt rules under Chapter 5995
119. of the Revised Code as the director considers appropriate 5996
to implement this section. 5997

Sec. 3742.03. The director of health shall adopt rules in 5998

accordance with Chapter 119. of the Revised Code for the 5999
administration and enforcement of sections 3742.01 to 3742.19 6000
and 3742.99 of the Revised Code. The rules shall specify all of 6001
the following: 6002

(A) Procedures to be followed by a lead abatement 6003
contractor, lead abatement project designer, lead abatement 6004
worker, lead inspector, or lead risk assessor licensed under 6005
section 3742.05 of the Revised Code for undertaking lead 6006
abatement activities and procedures to be followed by a 6007
clearance technician, lead inspector, or lead risk assessor in 6008
performing a clearance examination; 6009

(B) (1) Requirements for training and licensure, in 6010
addition to those established under section 3742.08 of the 6011
Revised Code, to include levels of training and periodic 6012
refresher training for each class of worker, and to be used for 6013
licensure under section 3742.05 of the Revised Code. Except in 6014
the case of clearance technicians, these requirements shall 6015
include at least twenty-four classroom hours of training based 6016
on the Occupational Safety and Health Act training program for 6017
lead set forth in 29 C.F.R. 1926.62. For clearance technicians, 6018
the training requirements to obtain an initial license shall not 6019
exceed six hours and the requirements for refresher training 6020
shall not exceed two hours every four years. In establishing the 6021
training and licensure requirements, the director shall consider 6022
the core of information that is needed by all licensed persons, 6023
and establish the training requirements so that persons who 6024
would seek licenses in more than one area would not have to take 6025
duplicative course work. 6026

(2) Persons certified by the American board of industrial 6027
hygiene as a certified industrial hygienist or as an industrial 6028

hygienist-in-training, and persons registered as ~~a~~an 6029
environmental health specialist or environmental health 6030
specialist in training under Chapter 3776. of the Revised Code, 6031
shall be exempt from any training requirements for initial 6032
licensure established under this chapter, but shall be required 6033
to take any examinations for licensure required under section 6034
3742.05 of the Revised Code. 6035

(C) Fees for licenses issued under section 3742.05 of the 6036
Revised Code and for their renewal; 6037

(D) Procedures to be followed by lead inspectors, lead 6038
abatement contractors, environmental lead analytical 6039
laboratories, lead risk assessors, lead abatement project 6040
designers, and lead abatement workers to prevent public exposure 6041
to lead hazards and ensure worker protection during lead 6042
abatement projects; 6043

(E) (1) Record-keeping and reporting requirements for 6044
clinical laboratories, environmental lead analytical 6045
laboratories, lead inspectors, lead abatement contractors, lead 6046
risk assessors, lead abatement project designers, and lead 6047
abatement workers for lead abatement projects and record-keeping 6048
and reporting requirements for clinical laboratories, 6049
environmental lead analytical laboratories, and clearance 6050
technicians for clearance examinations; 6051

(2) Record-keeping and reporting requirements regarding 6052
lead poisoning ~~for~~to be followed by physicians, certified 6053
nurse-midwives if authorized as described in section 4723.438 of 6054
the Revised Code, clinical nurse specialists, and certified 6055
nurse practitioners; 6056

(3) Information that is required to be reported under 6057

rules based on divisions (E) (1) and (2) of this section and that 6058
is a medical record is not a public record under section 149.43 6059
of the Revised Code and shall not be released, except in 6060
aggregate statistical form. 6061

(F) Environmental sampling techniques for use in 6062
collecting samples of air, water, dust, paint, and other 6063
materials; 6064

(G) Requirements for a respiratory protection plan 6065
prepared in accordance with section 3742.07 of the Revised Code; 6066

(H) Requirements under which a manufacturer of 6067
encapsulants must demonstrate evidence of the safety and 6068
durability of its encapsulants by providing results of testing 6069
from an independent laboratory indicating that the encapsulants 6070
meet the standards developed by the "E06.23.30 task group on 6071
encapsulants," which is the task group of the lead hazards 6072
associated with buildings subcommittee of the performance of 6073
buildings committee of the American society for testing and 6074
materials. 6075

Sec. 3742.04. (A) The director of health shall do all of 6076
the following: 6077

(1) Administer and enforce the requirements of sections 6078
3742.01 to 3742.19 and 3742.99 of the Revised Code and the rules 6079
adopted pursuant to those sections; 6080

(2) Examine records and reports submitted by lead 6081
inspectors, lead abatement contractors, lead risk assessors, 6082
lead abatement project designers, lead abatement workers, and 6083
clearance technicians in accordance with section 3742.05 of the 6084
Revised Code to determine whether the requirements of this 6085
chapter are being met; 6086

- (3) Examine records and reports submitted by physicians, certified nurse-midwives if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialists, and certified nurse practitioners pursuant to rules adopted under section 3742.03 of the Revised Code and by clinical laboratories and environmental lead analytical laboratories under section 3742.09 of the Revised Code; 6087
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- (4) Issue approval to manufacturers of encapsulants that have done all of the following: 6094
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- (a) Submitted an application for approval to the director on a form prescribed by the director; 6096
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- (b) Paid the application fee established by the director; 6098
- (c) Submitted results from an independent laboratory indicating that the manufacturer's encapsulants satisfy the requirements established in rules adopted under division (H) of section 3742.03 of the Revised Code; 6099
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- (d) Complied with rules adopted by the director regarding durability and safety to workers and residents. 6103
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- (5) Establish liaisons and cooperate with the directors or agencies in states having lead abatement, licensing, accreditation, certification, and approval programs to promote consistency between the requirements of this chapter and those of other states in order to facilitate reciprocity of the programs among states; 6105
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- (6) Establish a program to monitor and audit the quality of work of lead inspectors, lead risk assessors, lead abatement project designers, lead abatement contractors, lead abatement workers, and clearance technicians. The director may refer improper work discovered through the program to the attorney 6111
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general for appropriate action. 6116

(B) In addition to any other authority granted by this 6117
chapter, the director of health may do any of the following: 6118

(1) Employ persons who have received training from a 6119
program the director has determined provides the necessary 6120
background. The appropriate training may be obtained in a state 6121
that has an ongoing lead abatement program under which it 6122
conducts educational programs. 6123

(2) Cooperate with the United States environmental 6124
protection agency in any joint oversight procedures the agency 6125
may propose for laboratories that offer lead analysis services 6126
and are accredited under the agency's laboratory accreditation 6127
program; 6128

(3) Advise, consult, cooperate with, or enter into 6129
contracts or cooperative agreements with any person, government 6130
entity, interstate agency, or the federal government as the 6131
director considers necessary to fulfill the requirements of this 6132
chapter and the rules adopted under it. 6133

Sec. 3742.07. (A) Prior to engaging in any lead abatement 6134
project on a residential unit, child care facility, or school, 6135
the lead abatement contractor primarily responsible for the 6136
project shall do all of the following: 6137

(1) Prepare a written respiratory protection plan that 6138
meets requirements established by rule adopted under section 6139
3742.03 of the Revised Code and make the plan available to the 6140
department of health and all lead abatement workers at the 6141
project site; 6142

(2) Ensure that each lead abatement worker who is or will 6143
be involved in a lead abatement project has been examined ~~by a~~ 6144

~~licensed physician~~ within the preceding calendar year by a 6145
physician, certified nurse-midwife if authorized as described in 6146
section 4723.438 of the Revised Code, clinical nurse specialist, 6147
or certified nurse practitioner and has been declared by the 6148
physician or nurse to be physically capable of working while 6149
wearing a respirator; 6150

(3) Ensure that each employee or agent who will come in 6151
contact with lead hazards or will be responsible for a lead 6152
abatement project receives a license and appropriate training as 6153
required by this chapter before engaging in a lead abatement 6154
project; 6155

(4) At least ten days prior to the commencement of a 6156
project, notify the department of health, on a form prescribed 6157
by the director of health, of the date a lead abatement project 6158
will commence. 6159

(B) During each lead abatement project, the lead abatement 6160
contractor primarily responsible for the project shall ensure 6161
that all persons involved in the project follow the worker 6162
protection standards established under 29 C.F.R. 1926.62 by the 6163
United States occupational safety and health administration. 6164

Sec. 3742.32. (A) The director of health shall appoint an 6165
advisory council to assist in the ongoing development and 6166
implementation of the child lead poisoning prevention program 6167
created under section 3742.31 of the Revised Code. The advisory 6168
council shall consist of the following members: 6169

(1) A representative of the department of medicaid; 6170

(2) A representative of the bureau of child care in the 6171
department of job and family services; 6172

(3) A representative of the department of environmental 6173

protection;	6174
(4) A representative of the department of education and workforce;	6175 6176
(5) A representative of the department of development;	6177
(6) A representative of the department of children and youth;	6178 6179
(7) A representative of the Ohio apartment owner's association;	6180 6181
(8) A representative of the Ohio healthy homes network;	6182
(9) A representative of the Ohio environmental health association;	6183 6184
(10) An Ohio representative of the American coatings association;	6185 6186
(11) A representative from Ohio realtors;	6187
(12) A representative of the Ohio housing finance agency;	6188
(13) A physician knowledgeable in the field of lead poisoning prevention;	6189 6190
(14) <u>A certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner knowledgeable in the field of lead poisoning prevention;</u>	6191 6192 6193
<u>(15)</u> A representative of the public.	6194
(B) The advisory council shall do both of the following:	6195
(1) Provide the director with advice regarding the policies the child lead poisoning prevention program should emphasize, preferred methods of financing the program, and any other matter relevant to the program's operation;	6196 6197 6198 6199

(2) Submit a report of the state's activities to the 6200
governor, president of the senate, and speaker of the house of 6201
representatives on or before the first day of March each year. 6202

(C) The advisory council is not subject to sections 101.82 6203
to 101.87 of the Revised Code. 6204

Sec. 3901.56. An insurer may offer a wellness or health 6205
improvement program that provides rewards or incentives, 6206
including merchandise; gift cards; debit cards; premium 6207
discounts or rebates; contributions to a health savings account; 6208
modifications to copayment, deductible, or coinsurance amounts; 6209
or any combination of these incentives, to encourage 6210
participation or to reward participation in the program. 6211

A wellness or health improvement program offered by an 6212
insurer under this section shall not be construed to violate 6213
division (E) of section 1751.31 or division (G) of section 6214
3901.21 of the Revised Code if the program is disclosed in the 6215
policy or plan. 6216

The insured may be required to provide verification, such 6217
as a statement from ~~their~~ the individual's physician, certified 6218
nurse-midwife, clinical nurse specialist, or certified nurse 6219
practitioner, that a medical condition makes it unreasonably 6220
difficult or medically inadvisable for the individual to 6221
participate in the wellness or health improvement program. 6222

Nothing in this section shall prohibit an insurer from 6223
offering incentives or rewards to members for adherence to 6224
wellness or health improvement programs if otherwise allowed by 6225
federal law. 6226

Nothing under division (C) (1) of section 3923.571 or 6227
section 3924.25 of the Revised Code shall be construed as 6228

prohibiting an insurer from offering a wellness or health 6229
improvement program or restricting the amount an employee is 6230
charged for coverage under a group policy after the application 6231
of any premium discounts or rebates, or modifying otherwise 6232
applicable copayments or deductibles for adherence to wellness 6233
or health improvement programs. 6234

For purposes of this section, "insurer" means a life 6235
insurance company, sickness and accident insurer, multiple 6236
employer welfare arrangement, public employee benefit plan, or 6237
health insuring corporation. 6238

Sec. 3916.01. As used in this chapter: 6239

(A) "Advertising" means any written, electronic, or 6240
printed communication or any communication by means of recorded 6241
telephone messages or transmitted on radio, television, the 6242
internet, or similar communications media, including, but not 6243
limited to, film strips, motion pictures, and videos, that is 6244
published, disseminated, circulated, or placed directly or 6245
indirectly before the public in this state for the purpose of 6246
creating an interest in or inducing a person to purchase or 6247
sell, assign, devise, bequest, or transfer the death benefit or 6248
ownership of a policy pursuant to a viatical settlement 6249
contract. 6250

(B) "Business of viatical settlements" means an activity 6251
involved, but not limited to, in the offering, solicitation, 6252
negotiation, procurement, effectuation, purchasing, investing, 6253
financing, monitoring, tracking, underwriting, selling, 6254
transferring, assigning, pledging, or hypothecating or in any 6255
other manner acquiring an interest in a policy by means of 6256
viatical settlement contracts. 6257

(C) "Chronically ill" means having been certified within 6258
the preceding twelve-month period by a licensed health 6259
professional as: 6260

(1) Being unable to perform, without substantial 6261
assistance from another individual, at least two activities of 6262
daily living, including, but not limited to, eating, toileting, 6263
transferring, bathing, dressing, or continence for at least 6264
ninety days due to a loss of functional capacity; or 6265

(2) Requiring substantial supervision to protect the 6266
individual from threats to health and safety due to severe 6267
cognitive impairment; or 6268

(3) Having a level of disability similar to that described 6269
in division (C) (1) of this section, as determined under 6270
regulations prescribed by the United States secretary of the 6271
treasury in consultation with the United States secretary of 6272
health and human services. 6273

(D) "Escrow agent" means an independent third-party person 6274
who, pursuant to a written agreement signed by the viatical 6275
settlement provider and viator, provides escrow services related 6276
to the acquisition of a policy pursuant to a viatical settlement 6277
contract. "Escrow agent" does not include any person associated 6278
with, affiliated with, or under the control of a person licensed 6279
under this chapter or described in division (C) of section 6280
3916.02 of the Revised Code. 6281

(E) (1) "Financing entity" means an underwriter, placement 6282
agent, lender, purchaser of securities, purchaser of a policy 6283
from a viatical settlement provider, credit enhancer, or any 6284
other person that has a direct ownership interest in a policy 6285
that is the subject of a viatical settlement contract and to 6286

which both of the following apply: 6287

(a) Its principal activity related to the transaction is 6288
providing funds to effect the business of viatical settlements 6289
or the purchase of one or more viaticated policies. 6290

(b) It has an agreement in writing with one or more 6291
licensed viatical settlement providers to finance the 6292
acquisition of viatical settlement contracts. 6293

(2) "Financing entity" does not include a non-accredited 6294
investor or viatical settlement purchaser. 6295

(F) "Recklessly" has the same meaning as in section 6296
2901.22 of the Revised Code. 6297

(G) "Defraud" has the same meaning as in section 2913.01 6298
of the Revised Code. 6299

(H) "Life expectancy" means an opinion or evaluation as to 6300
how long a particular person is going to live. 6301

(I) Notwithstanding section 1.59 of the Revised Code, 6302
"person" means a natural person or a legal entity, including, 6303
but not limited to, an individual, partnership, limited 6304
liability company, limited liability partnership, association, 6305
trust, business trust, or corporation. 6306

(J) "Policy" means an individual or group policy, group 6307
certificate, or other contract or arrangement of life insurance 6308
affecting the rights of a resident of this state or bearing a 6309
reasonable relation to this state, regardless of whether 6310
delivered or issued for delivery in this state. 6311

(K) "Related provider trust" means a titling trust or any 6312
other trust established by a licensed viatical settlement 6313
provider or a financing entity for the sole purpose of holding 6314

ownership or beneficial interest in purchased policies in 6315
connection with a financing transaction, provided that the trust 6316
has a written agreement with the licensed viatical settlement 6317
provider under which the licensed viatical settlement provider 6318
is responsible for ensuring compliance with all statutory and 6319
regulatory requirements and under which the trust agrees to make 6320
all records and files related to viatical settlement 6321
transactions available to the superintendent of insurance as if 6322
those records and files were maintained directly by the licensed 6323
viatical settlement provider. 6324

(L) "Special purpose entity" means a corporation, 6325
partnership, trust, limited liability company or other similar 6326
entity formed solely for one of the following purposes: 6327

(i) To provide access, either directly or indirectly, to 6328
institutional capital markets for a financing entity or licensed 6329
viatical settlement provider; 6330

(ii) In connection with a transaction in which the 6331
securities in the special purpose entity are acquired by 6332
qualified institutional buyers. 6333

(M) "Terminally ill" means certified by a physician, 6334
certified nurse-midwife, clinical nurse specialist, or certified 6335
nurse practitioner as having an illness or physical condition 6336
that can reasonably be expected to result in death in twenty- 6337
four months or less. 6338

(N) "Viatical settlement broker" means a person that, on 6339
behalf of a viator and for a fee, commission, or other valuable 6340
consideration, offers or attempts to negotiate viatical 6341
settlements between a viator and one or more viatical settlement 6342
providers or viatical settlement brokers. "Viatical settlement 6343

broker" does not include an attorney, a certified public 6344
accountant, or a financial planner accredited by a nationally 6345
recognized accreditation agency, who is retained to represent 6346
the viator, whose compensation is not paid directly or 6347
indirectly by the viatical settlement provider or purchaser. 6348

(O) (1) "Viatical settlement contract" means any of the 6349
following: 6350

(a) A written agreement between a viator and a viatical 6351
settlement provider that establishes the terms under which 6352
compensation or anything of value, that is less than the 6353
expected death benefit of the policy is or will be paid in 6354
return for the viator's present or future assignment, transfer, 6355
sale, release, devise, or bequest of the death benefit or 6356
ownership of any portion of the policy or any beneficial 6357
interest in the policy or its ownership; 6358

(b) The transfer or acquisition for compensation or 6359
anything of value for ownership or beneficial interest in a 6360
trust or an interest in another person that owns such a policy 6361
if the trust or other person was formed or availed of for the 6362
principal purpose of acquiring one or more life insurance 6363
policies; 6364

(c) A premium finance loan made for a policy by a lender 6365
to a viator on, before, or after the date of issuance of the 6366
policy in either of the following situations: 6367

(i) The viator or the insured receives a guarantee of the 6368
viatical settlement value of the policy. 6369

(ii) The viator or the insured agrees on, before, or after 6370
the issuance of the policy to sell the policy or any portion of 6371
the policy's death benefit. 6372

(2) "Viatical settlement contracts" include but are not 6373
limited to contracts that are commonly termed "life settlement 6374
contracts" and "senior settlement contracts." 6375

(3) "Viatical settlement contract" does not include any of 6376
the following unless part of a plan, scheme, device, or artifice 6377
to avoid the application of this chapter: 6378

(a) A policy loan or accelerated death benefit made by the 6379
insurer pursuant to the policy's terms whether issued with the 6380
original policy or a rider; 6381

(b) Loan proceeds that are used solely to pay premiums for 6382
the policy and the costs of the loan including interest, 6383
arrangement fees, utilization fees and similar fees, closing 6384
costs, legal fees and expenses, trustee fees and expenses, and 6385
third-party collateral provider fees and expenses, including 6386
fees payable to letter of credit issuers; 6387

(c) A loan made by a regulated financial institution in 6388
which the lender takes an interest in a policy solely to secure 6389
repayment of a loan or, if there is a default on the loan and 6390
the policy is transferred, the transfer of such a policy by the 6391
lender, provided that neither the default itself nor the 6392
transfer is pursuant to an agreement or understanding with any 6393
other person for the purpose of evading regulation under this 6394
chapter; 6395

(d) A premium finance loan made by a lender that does not 6396
violate sections 1321.71 to 1321.83 of the Revised Code, if the 6397
premium finance loan is not described in division (O) (1) (c) of 6398
this section; 6399

(e) An agreement where all parties are closely related to 6400
the insured by blood or law or have a lawful substantial 6401

economic interest in the continued life, health, and bodily 6402
safety of the person insured, or are persons or trusts 6403
established primarily for the benefit of such parties; 6404

(f) Any designation, consent, or agreement by an insured 6405
who is an employee of an employer in connection with the 6406
purchase by the employer, or trust established by the employer, 6407
of life insurance on the life of the employee as described in 6408
section 3911.091 of the Revised Code; 6409

(g) Any business succession planning arrangement 6410
including, but not limited to all of the following if the 6411
arrangements are bona fide arrangements: 6412

(i) An arrangement between one or more shareholders in a 6413
corporation or between a corporation and one or more of its 6414
shareholders or one or more persons or trusts established by its 6415
shareholders; 6416

(ii) An arrangement between one or more partners in a 6417
partnership or between a partnership and one or more of its 6418
partners or one or more trusts established by its partners; 6419

(iii) An arrangement between one or more members in a 6420
limited liability company or between a limited liability company 6421
and one or more of its members or one or more trusts established 6422
by its members. 6423

(h) An agreement entered into by a service recipient, a 6424
trust established by the service recipient and a service 6425
provider, or a trust established by the service provider who 6426
performs significant services for the service recipient's trade 6427
or business; 6428

(i) An arrangement or agreement with a special purpose 6429
entity; 6430

(j) Any other contract, transaction, or arrangement 6431
exempted from the definition of viatical settlement contract by 6432
rule adopted by the superintendent based on the superintendent's 6433
determination that the contract, transaction, or arrangement is 6434
not of the type regulated by this chapter. 6435

(P) (1) "Viatical settlement provider" means a person, 6436
other than a viator, that enters into or effectuates a viatical 6437
settlement contract. 6438

(2) "Viatical settlement provider" does not include any of 6439
the following: 6440

(a) A bank, savings bank, savings and loan association, 6441
credit union, or other regulated financial institution that 6442
takes an assignment of a policy solely as a collateral for a 6443
loan; 6444

(b) A premium finance company exempted under section 6445
1321.72 of the Revised Code from the licensure requirements of 6446
section 3921.73 of the Revised Code that takes an assignment of 6447
a policy solely as collateral for a premium finance loan; 6448

(c) The issuer of a policy; 6449

(d) An individual who enters into or effectuates not more 6450
than one viatical settlement contract in any calendar year for 6451
the transfer of life insurance policies for any value less than 6452
the expected death benefit; 6453

(e) An authorized or eligible insurer that provides stop 6454
loss coverage or financial guarantee insurance to a viatical 6455
settlement provider, purchaser, financing entity, special 6456
purpose entity, or related provider trust; 6457

(f) A financing entity; 6458

(g) A special purpose entity;	6459
(h) A related provider trust;	6460
(i) A viatical settlement purchaser;	6461
(j) Any other person the superintendent determines is not consistent with the definition of viatical settlement provider.	6462 6463
(Q) "Viaticated policy" means a policy that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.	6464 6465 6466
(R) "Viator" means the owner of a policy or a certificate holder under a group policy that has not previously been viaticated who, in return for compensation or anything of value that is less than the expected death benefit of the policy or certificate, assigns, transfers, sells, releases, devises, or bequests the death benefit or ownership of any portion of the policy or certificate of insurance. For the purposes of this chapter, a "viator" is not limited to an owner of a policy or a certificate holder under a group policy insuring the life of an individual who is terminally or chronically ill except where specifically addressed. "Viator" does not include any of the following:	6467 6468 6469 6470 6471 6472 6473 6474 6475 6476 6477 6478
(1) A licensee under this chapter;	6479
(2) A qualified institutional buyer;	6480
(3) A financing entity;	6481
(4) A special purpose entity;	6482
(5) A related provider trust.	6483
(S) "Viatical settlement purchaser" means a person who provides a sum of money as consideration for a policy or an	6484 6485

interest in the death benefits of a policy from a viatical settlement provider that is the subject of a viatical settlement contract, or a person who owns, acquires, or is entitled to a beneficial interest in a trust or person that owns a viatical settlement contract or is the beneficiary of a policy that is the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. "Viatical settlement purchaser" does not include any of the following:

- (1) A licensee under this chapter;
- (2) A qualified institutional buyer;
- (3) A financing entity;
- (4) A special purpose entity;
- (5) A related provider trust.

(T) "Qualified institutional buyer" has the same meaning as in 17 C.F.R. 230.144A as that regulation exists on September 11, 2008.

(U) "Licensee" means a person licensed as a viatical settlement provider or viatical settlement broker under this chapter.

(V) "NAIC" means the national association of insurance commissioners.

~~(X)~~ (W) "Regulated financial institution" means a bank, a savings association, or credit union operating under authority granted by the superintendent of financial institutions, the regulatory authority of any other state of the United States, the national credit union administration, or the office of the comptroller of the currency.

~~(W) (1)~~ (X) (1) "Stranger-originated life insurance," or 6513
"STOLI," means a practice, arrangement, or agreement initiated 6514
at or prior to the issuance of a policy that includes both of 6515
the following: 6516

(a) The purchase or acquisition of a policy primarily 6517
benefiting one or more persons who, at the time of issuance of 6518
the policy, lack insurable interest in the person insured under 6519
the policy; 6520

(b) The transfer at any time of the legal or beneficial 6521
ownership of the policy or benefits of the policy or both, in 6522
whole or in part, including through an assumption or forgiveness 6523
of a loan to fund premiums. 6524

(2) "Stranger-originated life insurance" also includes 6525
trusts or other persons that are created to give the appearance 6526
of insurable interest and are used to initiate one or more 6527
policies for investors but violate insurable interest laws and 6528
the prohibition against wagering on life. 6529

(3) "Stranger-originated life insurance" does not include 6530
viatical settlement transactions specifically described in 6531
division (O) (3) of this section. 6532

Sec. 3916.07. (A) A viatical settlement provider entering 6533
into a viatical settlement contract shall first obtain all of 6534
the following: 6535

(1) If the viator is the insured, a written statement from 6536
an attending physician, certified nurse-midwife, clinical nurse 6537
specialist, or certified nurse practitioner that the viator is 6538
of sound mind and under no constraint or undue influence to 6539
enter into a viatical settlement contract. As used in this 6540
division, "physician" means a person authorized under Chapter 6541

4731. of the Revised Code to practice medicine and surgery or 6542
osteopathic medicine and surgery. 6543

(2) A document in which the insured consents in writing, 6544
as required by division (E) of section 3916.13 of the Revised 6545
Code, to the release of the insured's medical records to a 6546
viatical settlement provider or viatical settlement broker and 6547
to the insurance company that issued the policy covering the 6548
life of the insured. 6549

(B) Within twenty days after a viator executes documents 6550
necessary to transfer any rights under a policy or within twenty 6551
days of entering any expressed or implied agreement, option, 6552
promise, or other form of understanding to viaticate the policy, 6553
the viatical settlement provider shall give written notice to 6554
the insurer that issued that policy that the policy has or will 6555
become a viaticated policy. The notice shall be accompanied by 6556
the documents required by division (C) of this section. 6557

(C) The viatical settlement provider shall deliver a copy 6558
of the medical release required under division (A) (2) of this 6559
section, a copy of the viator's application for the viatical 6560
settlement contract, the notice required under division (B) of 6561
this section, and a request for verification of coverage to the 6562
insurer that issued the policy that is the subject of the 6563
viatical transaction. The viatical settlement provider shall use 6564
the NAIC's form for verification of coverage unless another form 6565
is developed or approved by the superintendent of insurance. 6566

(D) The insurer shall respond to a request for 6567
verification of coverage submitted on an approved form by a 6568
viatical settlement provider or viatical settlement broker 6569
within thirty calendar days after the date the request is 6570
received and shall indicate whether, based on the medical 6571

evidence and documents provided, the insurer intends to pursue 6572
an investigation at that time regarding possible fraud or the 6573
validity of the life insurance policy that is the subject of the 6574
request. The insurer shall accept an original or facsimile or 6575
electronic copy of such request and any accompanying 6576
authorization signed by the viator. 6577

(E) Prior to or at the time of execution of the viatical 6578
settlement contract, the viatical settlement provider shall 6579
obtain a witnessed document in which the viator consents to the 6580
viatical settlement contract, represents that the viator has a 6581
full and complete understanding of the viatical settlement 6582
contract and a full and complete understanding of the benefits 6583
of the policy, and acknowledges that the viator is entering into 6584
the viatical settlement contract freely and voluntarily and, for 6585
persons who are terminally or chronically ill, acknowledges that 6586
the insured is terminally or chronically ill and that the 6587
terminal or chronic illness was diagnosed after the policy was 6588
issued. 6589

(F) If a viatical settlement broker performs any of the 6590
activities specified in this section on behalf of the viatical 6591
settlement provider, the viatical settlement provider is deemed 6592
to have fulfilled the requirements of this section. 6593

(G) All medical information solicited or obtained by any 6594
licensee shall be subject to the applicable provisions of state 6595
law relating to confidentiality of medical information. 6596

Sec. 3916.16. (A) (1) It is a violation of this chapter for 6597
any person to enter into a viatical settlement contract prior to 6598
the application for or issuance of a policy that is the subject 6599
of the viatical settlement contract. 6600

(2) It is a violation of this chapter for any person to 6601
issue, solicit, market, or otherwise promote the purchase of a 6602
policy for the purpose of or with an emphasis on selling the 6603
policy. 6604

(B) It is a violation of this chapter for any person to 6605
enter into a viatical settlement contract within a five-year 6606
period commencing with the date of issuance of the policy unless 6607
the viator certifies to the viatical settlement provider that 6608
one or more of the following conditions have been met within 6609
five years after the issuance of the policy: 6610

(1) The policy was issued upon the viator's exercise of 6611
conversion rights arising out of a group policy, provided the 6612
total of the time covered under the conversion policy plus the 6613
time covered under the prior policy is at least sixty months. 6614
The time covered under a group policy shall be calculated 6615
without regard to any change in insurance carriers, provided the 6616
coverage has been continuous and under the same group 6617
sponsorship. 6618

(2) The viator is a charitable organization with an 6619
insurable interest pursuant to division (B) of section 3911.09 6620
the Revised Code that has received from the Internal Revenue 6621
Service a determination letter that is currently in effect, 6622
stating that the charitable organization is exempt from federal 6623
income taxation under subsection 501(a) and described in section 6624
501(c) (3) of the "Internal Revenue Code." 6625

(3) The viator certifies and submits independent evidence 6626
to the viatical settlement provider that one or more of the 6627
following conditions have arisen after the issuance of the 6628
policy: 6629

- (a) The viator or insured is terminally or chronically ill. 6630
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- (b) The viator's spouse dies. 6632
- (c) The viator divorces the viator's spouse. 6633
- (d) The viator retires from full-time employment. 6634
- (e) The viator becomes physically or mentally disabled, 6635
and a physician, certified nurse-midwife, clinical nurse 6636
specialist, or certified nurse practitioner determines that the 6637
disability prevents the viator from maintaining full-time 6638
employment. 6639
- (f) A court of competent jurisdiction enters a final 6640
order, judgment, or decree on the application of a creditor of 6641
the viator and adjudicates the viator bankrupt or insolvent or 6642
approves a petition seeking reorganization of the viator or 6643
appointing a receiver, trustee, or liquidator to all or a 6644
substantial part of the viator's assets. 6645
- (g) The sole beneficiary of the policy is a family member 6646
of the viator and the beneficiary dies. 6647
- (4) The viator enters into a viatical settlement contract 6648
more than two years after the date of issuance of a policy and 6649
certifies that all of the following are true: 6650
- (a) The viator has funded the policy using personal 6651
assets, which may include an interest in the life insurance 6652
policy being viaticated up to the cash surrender value of the 6653
policy or any financing agreement to fund the policy premiums 6654
entered into prior to policy issuance or within two years of 6655
policy issuance was provided to the insurer within thirty days 6656
of the date the agreement was executed and the financing 6657

agreement was secured with personal assets. 6658

(b) The viator had no agreement or understanding with any 6659
other person to viaticate the policy or transfer the benefits of 6660
the policy, including through an assumption or forgiveness of a 6661
premium finance loan at any time prior to issuance of the policy 6662
or during the two years after the date of issuance of the 6663
policy. 6664

(c) If requested by the insurer, the viator both disclosed 6665
to the insurer whether a person other than the insurer obtained 6666
a life expectancy evaluation for settlement purposes in 6667
connection with the application, underwriting, and issuance of 6668
the policy and provided a copy of any such life expectancy 6669
evaluation to the insurer at the time of application. 6670

(d) The viator disclosed any financial arrangement, trust, 6671
or other arrangement, transaction, or device that conceals the 6672
ownership or beneficial interest of the policy to the insurer 6673
prior to the issuance of the policy. 6674

(C) Copies of the independent evidence described in 6675
division (B) (3) of this section and documents required by 6676
section 3916.07 of the Revised Code shall be submitted to the 6677
insurer when the viatical settlement provider or any other party 6678
entering into a viatical settlement contract with a viator 6679
submits a request to the insurer for verification of coverage. 6680
The copies shall be accompanied by a letter of attestation from 6681
the viatical settlement provider that the copies are true and 6682
correct copies of the documents received by the viatical 6683
settlement provider. 6684

(D) If the viatical settlement provider submits to the 6685
insurer a copy of the owner or insured's certification and 6686

independent evidence described in division (B)(3) of this 6687
section when the viatical settlement provider submits a request 6688
to the insurer to effect the transfer of the policy or 6689
certificate to the viatical settlement provider, the copy 6690
conclusively establishes that the viatical settlement contract 6691
satisfies the requirements of this section, and the insurer 6692
shall timely respond to the request. 6693

(E) No insurer, as a condition of responding to a request 6694
for verification of coverage or effecting the transfer of a 6695
policy pursuant to a viatical settlement contract, may require 6696
the viator, insured, viatical settlement provider, or viatical 6697
settlement broker to sign any form, disclosure, consent, or 6698
waiver form that has not been approved by the superintendent of 6699
insurance for use in connection with viatical settlement 6700
contracts. 6701

(F) Upon receipt of a properly completed request for 6702
change of ownership or beneficiary of a policy, the insurer 6703
shall respond in writing within thirty calendar days to confirm 6704
that the insurer has made the change or specify reasons that the 6705
change cannot be processed. No insurer shall unreasonably delay 6706
effecting change in ownership or beneficiary or seek to 6707
interfere with any viatical settlement contract lawfully entered 6708
into in this state. 6709

(G) A viatical settlement provider or viatical settlement 6710
broker that is party to a plan, transaction, or series of 6711
transactions to originate, renew, continue, or finance a policy 6712
with the insurer for the purpose of engaging in the business of 6713
viatical settlements at any time prior to or during the first 6714
five years after the insurer issues the policy shall fully 6715
disclose the plan, transaction, or series of transactions to the 6716

superintendent of insurance.

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Sec. 3923.25. Every certificate furnished by an insurer in connection with, or pursuant to any provision of any group sickness and accident insurance policy delivered, issued for delivery, renewed, or used in this state, provided such policy was delivered, issued for delivery, or renewed on or after July 1, 1972, and every policy of sickness and accident insurance delivered, issued for delivery, renewed, or used in this state, provided such policy was delivered, issued for delivery, or renewed on or after July 1, 1972, which provides for kidney dialysis benefits, shall be deemed to include such benefits on an equal basis if the dialysis is performed on an out-patient basis. For purposes of this section, "out-patient basis" includes care rendered at any location whether or not at a hospital, upon approval by the attending physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner.

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Sec. 3923.84. (A) Notwithstanding section 3901.71 of the Revised Code, each individual and group sickness and accident insurance policy that is delivered, issued for delivery, or renewed in this state shall provide coverage for the screening, diagnosis, and treatment of autism spectrum disorder. A sickness and accident insurer shall not terminate an individual's coverage, or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for an autism spectrum disorder. Nothing in this section shall be applied to nongrandfathered plans in the individual and small group markets or to medicare supplement, accident-only, specified disease, hospital indemnity, disability income, long-term care, or other

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limited benefit hospital insurance policies. Except as otherwise 6748
provided in division (B) of this section, coverage under this 6749
section shall not be subject to dollar limits, deductibles, or 6750
coinsurance provisions that are less favorable to an insured 6751
than the dollar limits, deductibles, or coinsurance provisions 6752
that apply to substantially all medical and surgical benefits 6753
under the policy. 6754

(B) Benefits provided under this section shall cover, at 6755
minimum, all of the following: 6756

(1) For speech and language therapy or occupational 6757
therapy for an insured under the age of fourteen that is 6758
performed by a licensed therapist, twenty visits per year for 6759
each service; 6760

(2) For clinical therapeutic intervention for an insured 6761
under the age of fourteen that is provided by or under the 6762
supervision of a professional who is licensed, certified, or 6763
registered by an appropriate agency of this state to perform 6764
such services in accordance with a health treatment plan, twenty 6765
hours per week; 6766

(3) For mental or behavioral health outpatient services 6767
for an insured under the age of fourteen that are performed by a- 6768
~~licensed psychologist, psychiatrist, or physician~~ any of the 6769
following providing consultation, assessment, development, or 6770
oversight of treatment plans, thirty visits per year: 6771

(a) A licensed psychologist; 6772

(b) A licensed physician, including a psychiatrist; 6773

(c) A clinical nurse specialist or certified nurse 6774
practitioner, including a psychiatric-mental health advanced 6775
practice registered nurse or a clinical nurse specialist or 6776

certified nurse practitioner specializing in pediatric or family health. 6777
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(C) (1) Except as provided in division (C) (2) of this section, this section shall not be construed as limiting benefits that are otherwise available to an insured under a policy. 6779
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(2) A policy of sickness and accident insurance shall stipulate that coverage provided under this section be contingent upon both of the following: 6783
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(a) The covered individual receiving prior authorization for the services in question; 6786
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(b) The services in question being prescribed or ordered by ~~either a developmental pediatrician or a psychologist trained in autism,~~ a developmental pediatrician, or a clinical nurse specialist or certified nurse practitioner specializing in pediatric health. 6788
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(D) (1) Except for inpatient services, if an insured is receiving treatment for an autism spectrum disorder, a sickness and accident insurer may review the treatment plan annually, unless the insurer and the insured's treating physician, clinical nurse specialist, certified nurse practitioner, or psychologist agree that a more frequent review is necessary. 6793
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(2) Any such agreement as described in division (D) (1) of this section shall apply only to a particular insured being treated for an autism spectrum disorder and shall not apply to all individuals being treated for autism spectrum disorder by a physician, clinical nurse specialist, certified nurse practitioner, or psychologist. 6799
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(3) The insurer shall cover the cost of obtaining any 6805

review or treatment plan. 6806

(E) This section shall not be construed as affecting any 6807
obligation to provide services to an insured under an 6808
individualized family service plan, an individualized education 6809
program, or an individualized service plan. 6810

(F) As used in this section: 6811

(1) "Applied behavior analysis" means the design, 6812
implementation, and evaluation of environmental modifications, 6813
using behavioral stimuli and consequences, to produce socially 6814
significant improvement in human behavior, including the use of 6815
direct observation, measurement, and functional analysis of the 6816
relationship between environment and behavior. 6817

(2) "Autism spectrum disorder" means any of the pervasive 6818
developmental disorders or autism spectrum disorder as defined 6819
by the most recent edition of the diagnostic and statistical 6820
manual of mental disorders published by the American psychiatric 6821
association available at the time an individual is first 6822
evaluated for suspected developmental delay. 6823

(3) "Clinical therapeutic intervention" means therapies 6824
supported by empirical evidence, which include, but are not 6825
limited to, applied behavioral analysis, that satisfy both of 6826
the following: 6827

(a) Are necessary to develop, maintain, or restore, to the 6828
maximum extent practicable, the function of an individual; 6829

(b) Are provided by or under the supervision of any of the 6830
following: 6831

(i) A certified Ohio behavior analyst as defined in 6832
section 4783.01 of the Revised Code; 6833

- (ii) An individual licensed under Chapter 4732. of the Revised Code to practice psychology; 6834
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- (iii) An individual licensed under Chapter 4757. of the Revised Code to practice professional counseling, social work, or marriage and family therapy. 6836
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- (4) "Diagnosis of autism spectrum disorder" means medically necessary assessment, evaluations, or tests to diagnose whether an individual has an autism spectrum disorder. 6839
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- (5) "Pharmacy care" means prescribed medications ~~prescribed by a licensed physician~~ and any health-related services considered medically necessary to determine the need or effectiveness of the medications. 6842
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- (6) "Psychiatric care" means direct or consultative services provided by a psychiatrist or psychiatric-mental health advanced practice registered nurse who is licensed in the state in which the psychiatrist or nurse practices. 6846
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- (7) "Psychiatric-mental health advanced practice registered nurse" means an advanced practice registered nurse who is either of the following: 6850
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- (a) A clinical nurse specialist who is certified as a psychiatric-mental health CNS by the American nurses credentialing center; 6853
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- (b) A certified nurse practitioner who is certified as a psychiatric-mental health NP by the American nurses credentialing center. 6856
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- (8) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices. 6859
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~~(8)~~ (9) "Therapeutic care" means services provided by a 6862
speech therapist, occupational therapist, or physical therapist 6863
licensed or certified in the state in which the person 6864
practices. 6865

~~(9)~~ (10) "Treatment for autism spectrum disorder" means 6866
evidence-based care and related equipment prescribed or ordered 6867
for an individual diagnosed with an autism spectrum disorder, by 6868
a licensed physician who is a developmental pediatrician ~~or a,~~ 6869
licensed psychologist trained in autism, clinical nurse 6870
specialist or certified nurse practitioner specializing in 6871
pediatric health, or clinical nurse specialist or certified 6872
nurse practitioner trained in autism who determines the care and 6873
related equipment to be medically necessary, including any of 6874
the following: 6875

- (a) Clinical therapeutic intervention; 6876
- (b) Pharmacy care; 6877
- (c) Psychiatric care; 6878
- (d) Psychological care; 6879
- (e) Therapeutic care. 6880

(G) If any provision of this section or the application 6881
thereof to any person or circumstances is for any reason held to 6882
be invalid, the remainder of the section and the application of 6883
such remainder to other persons or circumstances shall not be 6884
affected thereby. 6885

Sec. 3929.62. As used in sections 3929.62 to 3929.70 of 6886
the Revised Code and any rules adopted pursuant to those 6887
sections: 6888

- (A) "Applicant" means any licensed physician, podiatrist, 6889

or hospital, as those terms are defined in section 2305.113 of 6890
the Revised Code, or any certified nurse-midwife, clinical nurse 6891
specialist, or certified nurse practitioner. 6892

(B) "Medical liability underwriting association" means a 6893
nonprofit unincorporated underwriting association for medical 6894
liability insurance established under section 3929.63 of the 6895
Revised Code. 6896

(C) "Medical liability insurance" means insurance coverage 6897
against the legal liability of the insured and against loss, 6898
damage, or expense incident to a claim arising out of the death, 6899
disease, or injury of any person as the result of negligence or 6900
malpractice in rendering professional service or related to the 6901
credentialing or accreditation of any medical professional or 6902
hospital by any licensed physician, podiatrist, or hospital, as 6903
those terms are defined in section 2305.113 of the Revised Code, 6904
any certified nurse-midwife, clinical nurse specialist, or 6905
certified nurse practitioner, or any employee or agent acting 6906
within the scope of their duties for a physician, podiatrist, 6907
certified nurse-midwife, clinical nurse specialist, certified 6908
nurse practitioner, or hospital. 6909

Sec. 3929.63. (A) A medical liability underwriting 6910
association for medical liability insurance may be created for 6911
one or more classes of insurance by rule of the superintendent 6912
of insurance pursuant to Chapter 119. of the Revised Code upon a 6913
finding by the superintendent that both of the following 6914
circumstances exist: 6915

(1) A substantial number of applicants for such class or 6916
classes of medical liability insurance have not been placed with 6917
insurers authorized to write medical liability insurance in this 6918
state, and are insurable risks. For purposes of this section, 6919

"insurable risk" means that the physician, podiatrist, certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, or hospital is licensed, certified, or accredited as required by law.

(2) The lack of such class or classes of medical liability insurance threatens the availability of health care for any group of individuals in this state.

(B) The medical liability underwriting association may:

(1) Issue or cause to be issued policies of insurance to applicants, including incidental coverages, subject to terms, conditions, exclusions, and limits, established by the medical liability underwriting association's board of governors subject to the superintendent's approval. Coverages under such policies may be made available as primary or excess protection, provided limits of primary protection under one policy shall not exceed one million dollars for each claim and three million dollars in any year unless otherwise provided for in the plan of operation.

(2) Underwrite the insurance and adjust and pay losses with respect thereto, or appoint service companies or associations to perform those functions;

(3) Assume reinsurance;

(4) Cede reinsurance.

Sec. 3929.64. (A) (1) A board of governors consisting of nine members shall govern the medical liability underwriting association. The members shall be appointed by the governor with the advice of the superintendent of insurance. Five shall be selected from insurers licensed to write and writing liability insurance in this state, at least two of which insurers must write medical liability insurance in this state. One shall be a

licensed physician, certified nurse-midwife, clinical nurse 6949
specialist, or certified nurse practitioner and one shall be 6950
from a hospital operating in this state. One shall be an 6951
insurance agent licensed and writing medical liability insurance 6952
in this state. One shall represent the interests of consumers 6953
and shall neither be a member of, or associated with, a health 6954
insuring corporation holding a certificate of authority under 6955
Chapter 1751. of the Revised Code or an insurance company. The 6956
members of the board of governors shall serve without 6957
compensation but shall be reimbursed for their actual and 6958
necessary expenses incurred in the discharge of their official 6959
duties. The directors of the stabilization reserve fund shall 6960
serve as ex officio members of the medical liability 6961
underwriting association's board of governors. 6962

(2) Of the initial member appointments made under division 6963
(A) (1) of this section, three shall be for terms of one year, 6964
three shall be for terms of two years, and three shall be for 6965
terms of three years, with the members' terms determined from 6966
the date the medical liability underwriting association is 6967
created under section 3929.63 of the Revised Code. Thereafter, 6968
terms of office for appointed members shall be for three years, 6969
each term ending on the same day of the same month of the year 6970
as did the term it succeeds. A vacancy shall be filled in the 6971
same manner as the original appointment. Members may be 6972
reappointed to the board of governors. 6973

(B) The board of governors may employ, compensate, and 6974
prescribe the duties and powers of as many employees and 6975
consultants as are necessary to carry out the purposes of 6976
sections 3929.62 to 3929.70 of the Revised Code. 6977

Sec. 3929.67. (A) A medical liability insurance policy 6978

that insures a physician ~~or~~, podiatrist, or advanced practice 6979
registered nurse, written by or on behalf of the medical 6980
liability underwriting association pursuant to sections 3929.62 6981
to 3929.70 of the Revised Code, may ~~only~~ be cancelled only 6982
during the term of the policy for one of the following reasons: 6983

(1) Nonpayment of premiums; 6984

(2) The license of the insured to practice medicine and 6985
surgery, osteopathic medicine and surgery, ~~or~~ podiatric medicine 6986
and surgery, or advanced practice registered nursing has been 6987
suspended or revoked; 6988

(3) The insured's failure to meet minimum eligibility and 6989
underwriting standards; 6990

(4) The occurrence of a change in the individual risk that 6991
substantially increases any hazard insured against after the 6992
coverage has been issued or renewed, except to the extent that 6993
the medical liability underwriting association reasonably should 6994
have foreseen the change or contemplated the risk in writing the 6995
policy; 6996

(5) Discovery of fraud or material misrepresentation in 6997
the procurement of insurance or with respect to any claim 6998
submitted thereunder. 6999

(B) A medical liability insurance policy that insures a 7000
hospital, written by or on behalf of the medical liability 7001
underwriting association pursuant to sections 3929.62 to 3929.70 7002
of the Revised Code, may only be cancelled during the term of 7003
the policy for one of the following reasons: 7004

(1) Nonpayment of premiums; 7005

(2) The hospital is not licensed under Chapter 3722. of 7006

the Revised Code; 7007

(3) An injunction against the hospital has been granted 7008
under section 3722.08 of the Revised Code; 7009

(4) The insured's failure to meet minimum eligibility and 7010
underwriting standards; 7011

(5) The occurrence of a change in the individual risk that 7012
substantially increases any hazard insured against after the 7013
coverage has been issued or renewed, except to the extent that 7014
the medical liability underwriting association reasonably should 7015
have foreseen the change or contemplated the risk in writing the 7016
policy; 7017

(6) Discovery of fraud or material misrepresentation in 7018
the procurement of insurance or with respect to any claim 7019
submitted thereunder. 7020

Sec. 4113.23. (A) No employer ~~or~~, and no physician, 7021
certified nurse-midwife, clinical nurse specialist, or certified 7022
nurse practitioner, other health care professional, hospital, or 7023
laboratory that contracts with the employer to provide medical 7024
information pertaining to employees, shall refuse upon written 7025
request of an employee, including a former employee, to furnish 7026
to the employee ~~or former employee or their~~ the employee's 7027
designated representative a copy of any medical report 7028
pertaining to the employee. The requirements of this section 7029
extend to any medical report arising out of any physical 7030
examination by a physician, certified nurse-midwife, clinical 7031
nurse specialist, certified nurse practitioner, or other health 7032
care professional and any hospital or laboratory tests which 7033
examinations or tests are required by the employer as a 7034
condition of employment or arising out of any injury or disease 7035

related to the employee's employment. However, if a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner concludes that presentation of all or any part of an employee's medical record directly to the employee will result in serious medical harm to the employee, ~~he~~ the physician or nurse shall so indicate on the medical record, in which case a copy thereof shall be given to a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner designated in writing by the employee.

(B) The employer may require the employee to pay the cost of furnishing copies of the medical reports described in division (A) of this section but in no case shall the employer charge more than twenty-five cents for each page of a report.

(C) As used in this section, "employer" has the same meaning as contained in the definition of that term found in section 4123.01 of the Revised Code.

(D) Any employer who refuses to furnish the reports to which an employee is entitled is guilty of a minor misdemeanor for each violation. The bureau of workers' compensation shall enforce this section.

Sec. 4121.121. (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an organization or organizations of substantial size and complexity. A person appointed to the position of administrator also shall possess a minimum of five years of experience in the field of workers' compensation insurance or in another insurance industry, except as otherwise provided when the conditions specified in division

(C) of this section are satisfied. The governor shall appoint the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4125., 4127., 4131., 4133., 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 7096
Chapters 4123., 4125., 4127., 4131., 4133., and 4167. of the 7097
Revised Code, except the acts and the exercise of authority and 7098
power that is required of and vested in the bureau of workers' 7099
compensation board of directors or the industrial commission 7100
pursuant to those chapters. The treasurer of state shall honor 7101
all warrants signed by the administrator, or by one or more of 7102
the administrator's employees, authorized by the administrator 7103
in writing, or bearing the facsimile signature of the 7104
administrator or such employee under sections 4123.42 and 7105
4123.44 of the Revised Code. 7106

(2) Employ, direct, and supervise all employees required 7107
in connection with the performance of the duties assigned to the 7108
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 7109
4133., and 4167. of the Revised Code, including an actuary, and 7110
may establish job classification plans and compensation for all 7111
employees of the bureau provided that this grant of authority 7112
shall not be construed as affecting any employee for whom the 7113
state employment relations board has established an appropriate 7114
bargaining unit under section 4117.06 of the Revised Code. All 7115
positions of employment in the bureau are in the classified 7116
civil service except those employees the administrator may 7117
appoint to serve at the administrator's pleasure in the 7118
unclassified civil service pursuant to section 124.11 of the 7119
Revised Code. The administrator shall fix the salaries of 7120
employees the administrator appoints to serve at the 7121
administrator's pleasure, including the chief operating officer, 7122
staff physicians, staff certified nurse-midwives, staff clinical 7123
nurse specialists, staff certified nurse practitioners, and 7124
other senior management personnel of the bureau and shall 7125
establish the compensation of staff attorneys of the bureau's 7126

legal section and their immediate supervisors, and take whatever 7127
steps are necessary to provide adequate compensation for other 7128
staff attorneys. 7129

The administrator may appoint a person who holds a 7130
certified position in the classified service within the bureau 7131
to a position in the unclassified service within the bureau. A 7132
person appointed pursuant to this division to a position in the 7133
unclassified service shall retain the right to resume the 7134
position and status held by the person in the classified service 7135
immediately prior to the person's appointment in the 7136
unclassified service, regardless of the number of positions the 7137
person held in the unclassified service. An employee's right to 7138
resume a position in the classified service may only be 7139
exercised when the administrator demotes the employee to a pay 7140
range lower than the employee's current pay range or revokes the 7141
employee's appointment to the unclassified service. An employee 7142
who holds a position in the classified service and who is 7143
appointed to a position in the unclassified service on or after 7144
January 1, 2016, shall have the right to resume a position in 7145
the classified service under this division only within five 7146
years after the effective date of the employee's appointment in 7147
the unclassified service. An employee forfeits the right to 7148
resume a position in the classified service when the employee is 7149
removed from the position in the unclassified service due to 7150
incompetence, inefficiency, dishonesty, drunkenness, immoral 7151
conduct, insubordination, discourteous treatment of the public, 7152
neglect of duty, violation of this chapter or Chapter 124., 7153
4123., 4125., 4127., 4131., 4133., or 4167. of the Revised Code, 7154
violation of the rules of the director of administrative 7155
services or the administrator, any other failure of good 7156
behavior, any other acts of misfeasance, malfeasance, or 7157

nonfeasance in office, or conviction of a felony while employed 7158
in the civil service. An employee also forfeits the right to 7159
resume a position in the classified service upon transfer to a 7160
different agency. 7161

Reinstatement to a position in the classified service 7162
shall be to a position substantially equal to that position in 7163
the classified service held previously, as certified by the 7164
department of administrative services. If the position the 7165
person previously held in the classified service has been placed 7166
in the unclassified service or is otherwise unavailable, the 7167
person shall be appointed to a position in the classified 7168
service within the bureau that the director of administrative 7169
services certifies is comparable in compensation to the position 7170
the person previously held in the classified service. Service in 7171
the position in the unclassified service shall be counted as 7172
service in the position in the classified service held by the 7173
person immediately prior to the person's appointment in the 7174
unclassified service. When a person is reinstated to a position 7175
in the classified service as provided in this division, the 7176
person is entitled to all rights, status, and benefits accruing 7177
to the position during the person's time of service in the 7178
position in the unclassified service. 7179

(3) Reorganize the work of the bureau, its sections, 7180
departments, and offices to the extent necessary to achieve the 7181
most efficient performance of its functions and to that end may 7182
establish, change, or abolish positions and assign and reassign 7183
duties and responsibilities of every employee of the bureau. All 7184
persons employed by the commission in positions that, after 7185
November 3, 1989, are supervised and directed by the 7186
administrator under this section are transferred to the bureau 7187
in their respective classifications but subject to reassignment 7188

and reclassification of position and compensation as the 7189
administrator determines to be in the interest of efficient 7190
administration. The civil service status of any person employed 7191
by the commission is not affected by this section. Personnel 7192
employed by the bureau or the commission who are subject to 7193
Chapter 4117. of the Revised Code shall retain all of their 7194
rights and benefits conferred pursuant to that chapter as it 7195
presently exists or is hereafter amended and nothing in this 7196
chapter or Chapter 4123. of the Revised Code shall be construed 7197
as eliminating or interfering with Chapter 4117. of the Revised 7198
Code or the rights and benefits conferred under that chapter to 7199
public employees or to any bargaining unit. 7200

(4) Provide offices, equipment, supplies, and other 7201
facilities for the bureau. 7202

(5) Prepare and submit to the board information the 7203
administrator considers pertinent or the board requires, 7204
together with the administrator's recommendations, in the form 7205
of administrative rules, for the advice and consent of the 7206
board, for classifications of occupations or industries, for 7207
premium rates and contributions, for the amount to be credited 7208
to the surplus fund, for rules and systems of rating, rate 7209
revisions, and merit rating. The administrator shall obtain, 7210
prepare, and submit any other information the board requires for 7211
the prompt and efficient discharge of its duties. 7212

(6) Keep the accounts required by division (A) of section 7213
4123.34 of the Revised Code and all other accounts and records 7214
necessary to the collection, administration, and distribution of 7215
the workers' compensation funds and shall obtain the statistical 7216
and other information required by section 4123.19 of the Revised 7217
Code. 7218

(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 7249
may be undertaken at or near the place of injury or the 7250
residence of the claimant and for that purpose establish 7251
regional offices, in such places as the administrator considers 7252
proper, capable of discharging as many of the functions of the 7253
bureau as is practicable so as to promote prompt and efficient 7254
administration in the processing of claims. All active and 7255
inactive lost-time claims files shall be held at the service 7256
office responsible for the claim. A claimant, at the claimant's 7257
request, shall be provided with information by telephone as to 7258
the location of the file pertaining to the claimant's claim. The 7259
administrator shall ensure that all service office employees 7260
report directly to the director for their service office. 7261

(11) Provide a written binder on new coverage where the 7262
administrator considers it to be in the best interest of the 7263
risk. The administrator, or any other person authorized by the 7264
administrator, shall grant the binder upon submission of a 7265
request for coverage by the employer. A binder is effective for 7266
a period of thirty days from date of issuance and is 7267
nonrenewable. Payroll reports and premium charges shall coincide 7268
with the effective date of the binder. 7269

(12) Set standards for the reasonable and maximum handling 7270
time of claims payment functions, ensure, by rules, the 7271
impartial and prompt treatment of all claims and employer risk 7272
accounts, and establish a secure, accurate method of time 7273
stamping all incoming mail and documents hand delivered to 7274
bureau employees. 7275

(13) Ensure that all employees of the bureau follow the 7276
orders and rules of the commission as such orders and rules 7277
relate to the commission's overall adjudicatory policy-making 7278

and management duties under this chapter and Chapters 4123.,	7279
4127., and 4131. of the Revised Code.	7280
(14) Manage and operate a data processing system with a	7281
common data base for the use of both the bureau and the	7282
commission and, in consultation with the commission, using	7283
electronic data processing equipment, shall develop a claims	7284
tracking system that is sufficient to monitor the status of a	7285
claim at any time and that lists appeals that have been filed	7286
and orders or determinations that have been issued pursuant to	7287
section 4123.511 or 4123.512 of the Revised Code, including the	7288
dates of such filings and issuances.	7289
(15) Establish and maintain a medical section within the	7290
bureau. The medical section shall do all of the following:	7291
(a) Assist the administrator in establishing standard	7292
medical fees, approving medical procedures, and determining	7293
eligibility and reasonableness of the compensation payments for	7294
medical, hospital, and nursing services, and in establishing	7295
guidelines for payment policies which recognize usual,	7296
customary, and reasonable methods of payment for covered	7297
services;	7298
(b) Provide a resource to respond to questions from claims	7299
examiners for employees of the bureau;	7300
(c) Audit fee bill payments;	7301
(d) Implement a program to utilize, to the maximum extent	7302
possible, electronic data processing equipment for storage of	7303
information to facilitate authorizations of compensation	7304
payments for medical, hospital, drug, and nursing services;	7305
(e) Perform other duties assigned to it by the	7306
administrator.	7307

(16) Appoint, as the administrator determines necessary, 7308
panels to review and advise the administrator on disputes 7309
arising over a determination that a health care service or 7310
supply provided to a claimant is not covered under this chapter 7311
or Chapter 4123., 4127., or 4131. of the Revised Code or is 7312
medically unnecessary. If an individual health care provider is 7313
involved in the dispute, the panel shall consist of individuals 7314
licensed pursuant to the same section of the Revised Code as 7315
such health care provider. 7316

(17) Pursuant to section 4123.65 of the Revised Code, 7317
approve applications for the final settlement of claims for 7318
compensation or benefits under this chapter and Chapters 4123., 7319
4127., and 4131. of the Revised Code as the administrator 7320
determines appropriate, except in regard to the applications of 7321
self-insuring employers and their employees. 7322

(18) Comply with section 3517.13 of the Revised Code, and 7323
except in regard to contracts entered into pursuant to the 7324
authority contained in section 4121.44 of the Revised Code, 7325
comply with the competitive bidding procedures set forth in the 7326
Revised Code for all contracts into which the administrator 7327
enters provided that those contracts fall within the type of 7328
contracts and dollar amounts specified in the Revised Code for 7329
competitive bidding and further provided that those contracts 7330
are not otherwise specifically exempt from the competitive 7331
bidding procedures contained in the Revised Code. 7332

(19) Adopt, with the advice and consent of the board, 7333
rules for the operation of the bureau. 7334

(20) Prepare and submit to the board information the 7335
administrator considers pertinent or the board requires, 7336
together with the administrator's recommendations, in the form 7337

of administrative rules, for the advice and consent of the 7338
board, for the health partnership program and the qualified 7339
health plan system, as provided in sections 4121.44, 4121.441, 7340
and 4121.442 of the Revised Code. 7341

(C) The administrator, with the advice and consent of the 7342
senate, shall appoint a chief operating officer who has a 7343
minimum of five years of experience in the field of workers' 7344
compensation insurance or in another similar insurance industry 7345
if the administrator does not possess such experience. The chief 7346
operating officer shall not commence the chief operating 7347
officer's duties until after the senate consents to the chief 7348
operating officer's appointment. The chief operating officer 7349
shall serve in the unclassified civil service of the state. 7350

Sec. 4121.31. (A) The administrator of workers' 7351
compensation and the industrial commission jointly shall adopt 7352
rules covering the following general topics with respect to this 7353
chapter and Chapter 4123. of the Revised Code: 7354

(1) Rules that set forth any general policy and the 7355
principal operating procedures of the bureau of workers' 7356
compensation or commission, including but not limited to: 7357

(a) Assignment to various operational units of any duties 7358
placed upon the administrator or the commission by statute; 7359

(b) Procedures for decision-making; 7360

(c) Procedures governing the appearances of a claimant, 7361
employer, or their representatives before the agency in a 7362
hearing; 7363

(d) Procedures that inform claimants, on request, of the 7364
status of a claim and any actions necessary to maintain the 7365
claim; 7366

- (e) Time goals for activities of the bureau or commission; 7367
- (f) Designation of the person or persons authorized to 7368
issue directives with directives numbered and distributed from a 7369
central distribution point to persons on a list maintained for 7370
that purpose. 7371
- (2) A rule barring any employee of the bureau or 7372
commission from having a workers' compensation claims file in 7373
the employee's possession unless the file is necessary to the 7374
performance of the employee's duties. 7375
- (3) All claims, whether of a state fund or self-insuring 7376
employer, be processed in an orderly, uniform, and timely 7377
fashion. 7378
- (4) Rules governing the submission and sending of 7379
applications, notices, evidence, and other documents by 7380
electronic means. The rules shall provide that where this 7381
chapter or Chapter 4123., 4127., or 4131. of the Revised Code 7382
requires that a document be in writing or requires a signature, 7383
the administrator and the commission, to the extent of their 7384
respective jurisdictions, may approve of and provide for the 7385
electronic submission and sending of those documents, and the 7386
use of an electronic signature on those documents. 7387
- (5) Rules allowing a certified nurse-midwife, clinical 7388
nurse specialist, or certified nurse practitioner to act in the 7389
same capacity as a physician for purposes of this chapter and 7390
Chapters 4123., 4127., and 4131. of the Revised Code, including 7391
the ability to complete medical reports to support payment or 7392
nonpayment of disability, provided that any medical report 7393
completed by a certified nurse-midwife, clinical nurse 7394
specialist, or certified nurse practitioner for purposes of this 7395

chapter and Chapters 4123., 4127., and 4131. of the Revised Code 7396
shall be reviewed, approved, and signed by a physician. 7397

(B) As used in this section: 7398

(1) "Electronic" includes electrical, digital, magnetic, 7399
optical, electromagnetic, facsimile, or any other form of 7400
technology that entails capabilities similar to these 7401
technologies. 7402

(2) "Electronic record" means a record generated, 7403
communicated, received, or stored by electronic means for use in 7404
an information system or for transmission from one information 7405
system to another. 7406

(3) "Electronic signature" means a signature in electronic 7407
form attached to or logically associated with an electronic 7408
record. 7409

Sec. 4121.32. (A) The rules covering operating procedure 7410
and criteria for decision-making that the administrator of 7411
workers' compensation and the industrial commission are required 7412
to adopt pursuant to section 4121.31 of the Revised Code shall 7413
be supplemented with operating manuals setting forth the 7414
procedural steps in detail for performing each of the assigned 7415
tasks of each section of the bureau of workers' compensation and 7416
commission. The administrator and commission jointly shall adopt 7417
such manuals. No employee may deviate from manual procedures 7418
without authorization of the section chief. 7419

(B) Manuals shall set forth the procedure for the 7420
assignment and transfer of claims within sections and be 7421
designed to provide performance objectives and may require 7422
employees to record sufficient data to reasonably measure the 7423
efficiency of functions in all sections. The bureau shall 7424

perform periodic cost-effectiveness analyses that shall be made 7425
available to the general assembly, the governor, and to the 7426
public during normal working hours. 7427

(C) The bureau and commission jointly shall develop, 7428
adopt, and use a policy manual setting forth the guidelines and 7429
bases for decision-making for any decision which is the 7430
responsibility of the bureau, district hearing officers, staff 7431
hearing officers, or the commission. Guidelines shall be set 7432
forth in the policy manual by the bureau and commission to the 7433
extent of their respective jurisdictions for deciding at least 7434
the following specific matters: 7435

(1) Reasonable ambulance services; 7436

(2) Relationship of drugs to injury; 7437

(3) Awarding lump-sum advances for creditors; 7438

(4) Awarding lump-sum advances for attorney's fees; 7439

(5) Placing a claimant into rehabilitation; 7440

(6) Transferring costs of a claim from employer costs to 7441
the statutory surplus fund pursuant to section 4123.343 of the 7442
Revised Code; 7443

(7) Utilization of physician or nurse specialist reports; 7444

(8) Determining the percentage of permanent partial 7445
disability, temporary partial disability, temporary total 7446
disability, violations of specific safety requirements, an award 7447
under division (B) of section 4123.57 of the Revised Code, and 7448
permanent total disability. 7449

(D) The bureau shall establish, adopt, and implement 7450
policy guidelines and bases for decisions involving 7451

reimbursement issues including, but not limited to, the 7452
adjustment of invoices, the reduction of payments for future 7453
services when an internal audit concludes that a health care 7454
provider was overpaid or improperly paid for past services, 7455
reimbursement fees, or other adjustments to payments. These 7456
policy guidelines and bases for decisions, and any changes to 7457
the guidelines and bases, shall be set forth in a reimbursement 7458
manual and provider bulletins. 7459

Neither the policy guidelines nor the bases set forth in 7460
the reimbursement manual or provider bulletins referred to in 7461
this division is a rule as defined in section 119.01 of the 7462
Revised Code. 7463

(E) With respect to any determination of disability under 7464
Chapter 4123. of the Revised Code, when the physician, certified 7465
nurse-midwife, clinical nurse specialist, or certified nurse 7466
practitioner makes a determination based upon statements or 7467
information furnished by the claimant or upon subjective 7468
evidence, the physician or nurse shall clearly indicate this 7469
fact in the physician's or nurse's report. 7470

(F) The administrator shall publish the manuals and make 7471
copies of all manuals available to interested parties at cost. 7472

Sec. 4121.36. (A) The industrial commission shall adopt 7473
rules as to the conduct of all hearings before the commission 7474
and its staff and district hearing officers and the rendering of 7475
a decision and shall focus such rules on managing, directing, 7476
and otherwise ensuring a fair, equitable, and uniform hearing 7477
process. These rules shall provide for at least the following 7478
steps and procedures: 7479

(1) Adequate notice to all parties and their 7480

representatives to ensure that no hearing is conducted unless	7481
all parties have the opportunity to be present and to present	7482
evidence and arguments in support of their positions or in	7483
rebuttal to the evidence or arguments of other parties;	7484
(2) A public hearing;	7485
(3) Written decisions;	7486
(4) Impartial assignment of staff and district hearing	7487
officers and assignment of appeals from a decision of the	7488
administrator of workers' compensation to a district hearing	7489
officer located at the commission service office that is the	7490
closest in geographic proximity to the claimant's residence;	7491
(5) Publication of a docket;	7492
(6) The securing of the attendance or testimony of	7493
witnesses;	7494
(7) Prehearing rules, including rules relative to	7495
discovery, the taking of depositions, and exchange of	7496
information relevant to a claim prior to the conduct of a	7497
hearing;	7498
(8) The issuance of orders by the district or staff	7499
hearing officer who renders the decision.	7500
(B) Every decision by a staff or district hearing officer	7501
or the commission shall be in writing and contain all of the	7502
following elements:	7503
(1) A concise statement of the order or award;	7504
(2) A notation as to notice provided and as to appearance	7505
of parties;	7506
(3) Signatures of each commissioner or appropriate hearing	7507

officer on the original copy of the decision only, verifying the 7508
commissioner's or hearing officer's vote; 7509

(4) Description of the part of the body and nature of the 7510
disability recognized in the claim. 7511

(C) The commission shall adopt rules that require the 7512
regular rotation of district hearing officers with respect to 7513
the types of matters under consideration and that ensure that no 7514
district or staff hearing officer or the commission hears a 7515
claim unless all interested and affected parties have the 7516
opportunity to be present and to present evidence and arguments 7517
in support of their positions or in rebuttal to the evidence or 7518
arguments of other parties. 7519

(D) All matters which, at the request of one of the 7520
parties or on the initiative of the administrator and any 7521
commissioner, are to be expedited, shall require at least forty- 7522
eight hours' notice, a public hearing, and a statement in any 7523
order of the circumstances that justified such expeditious 7524
hearings. 7525

(E) All meetings of the commission and district and staff 7526
hearing officers shall be public with adequate notice, including 7527
if necessary, to the claimant, the employer, their 7528
representatives, and the administrator. Confidentiality of 7529
medical evidence presented at a hearing does not constitute a 7530
sufficient ground to relieve the requirement of a public 7531
hearing, but the presentation of privileged or confidential 7532
evidence shall not create any greater right of public inspection 7533
of evidence than presently exists. 7534

(F) The commission shall compile all of its original 7535
memorandums, orders, and decisions in a journal and make the 7536

journal available to the public with sufficient indexing to 7537
allow orderly review of documents. The journal shall indicate 7538
the vote of each commissioner. 7539

(G) (1) All original orders, rules, and memoranda, and 7540
decisions of the commission shall contain the signatures of two 7541
of the three commissioners and state whether adopted at a 7542
meeting of the commission or by circulation to individual 7543
commissioners. Any facsimile or secretarial signature, initials 7544
of commissioners, and delegated employees, and any printed 7545
record of the "yes" and "no" vote of a commission member or of a 7546
hearing officer on such original is invalid. 7547

(2) Written copies of final decisions of district or staff 7548
hearing officers or the commission that are mailed to the 7549
administrator, employee, employer, and their respective 7550
representatives need not contain the signatures of the hearing 7551
officer or commission members if the hearing officer or 7552
commission members have complied with divisions (B) (3) and (G) 7553
(1) of this section. 7554

(H) The commission shall do both of the following: 7555

(1) Appoint an individual as a hearing officer trainer who 7556
is in the unclassified civil service of the state and who serves 7557
at the pleasure of the commission. The trainer shall be an 7558
attorney registered to practice law in this state and have 7559
experience in training or education, and the ability to furnish 7560
the necessary training for district and staff hearing officers. 7561

The hearing officer trainer shall develop and periodically 7562
update a training manual and such other training materials and 7563
courses as will adequately prepare district and staff hearing 7564
officers for their duties under this chapter and Chapter 4123. 7565

of the Revised Code. All district and staff hearing officers 7566
shall undergo the training courses developed by the hearing 7567
officer trainer, the cost of which the commission shall pay. The 7568
commission shall make the hearing officer manual and all 7569
revisions thereto available to the public at cost. 7570

The commission shall have the final right of approval over 7571
all training manuals, courses, and other materials the hearing 7572
officer trainer develops and updates. 7573

(2) Appoint a hearing administrator, who shall be in the 7574
classified civil service of the state, for each bureau service 7575
office, and sufficient support personnel for each hearing 7576
administrator, which support personnel shall be under the direct 7577
supervision of the hearing administrator. The hearing 7578
administrator shall do all of the following: 7579

(a) Assist the commission in ensuring that district 7580
hearing officers comply with the time limitations for the 7581
holding of hearings and issuance of orders under section 7582
4123.511 of the Revised Code. For that purpose, each hearing 7583
administrator shall prepare a monthly report identifying the 7584
status of all claims in its office and identifying specifically 7585
the claims which have not been decided within the time limits 7586
set forth in section 4123.511 of the Revised Code. The 7587
commission shall submit an annual report of all such reports to 7588
the standing committees of the house of representatives and of 7589
the state to which matters concerning workers' compensation are 7590
normally referred. 7591

(b) Provide information to requesting parties or their 7592
representatives on the status of their claim; 7593

(c) Issue compliance letters, upon a finding of good cause 7594

and without a formal hearing in all of the following areas:	7595
(i) Divisions (B) and (C) of section 4123.651 of the Revised Code;	7596 7597
(ii) Requests for the taking of depositions of bureau and commission physicians, <u>certified nurse-midwives, clinical nurse specialists, or certified nurse practitioners</u> ;	7598 7599 7600
(iii) The issuance of subpoenas;	7601
(iv) The granting or denying of requests for continuances;	7602
(v) Matters involving section 4123.522 of the Revised Code;	7603 7604
(vi) Requests for conducting telephone pre-hearing conferences;	7605 7606
(vii) Any other matter that will cause a free exchange of information prior to the formal hearing.	7607 7608
(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;	7609 7610 7611
(e) Ensure that for occupational disease claims under section 4123.68 of the Revised Code that require a medical examination the medical examination is conducted prior to the hearing;	7612 7613 7614 7615
(f) Take the necessary steps to prepare a claim to proceed to a hearing where the parties agree and advise the hearing administrator that the claim is not ready for a hearing.	7616 7617 7618
(I) The commission shall permit any person direct access to information contained in electronic data processing equipment regarding the status of a claim in the hearing process. The	7619 7620 7621

information shall indicate the number of days that the claim has 7622
been in process, the number of days the claim has been in its 7623
current location, and the number of days in the current point of 7624
the process within that location. 7625

(J) (1) The industrial commission may establish an 7626
alternative dispute resolution process for workers' compensation 7627
claims that are within the commission's jurisdiction under 7628
Chapters 4121., 4123., 4127., and 4131. of the Revised Code when 7629
the commission determines that such a process is necessary. 7630
Notwithstanding sections 4121.34 and 4121.35 of the Revised 7631
Code, the commission may enter into personal service contracts 7632
with individuals who are qualified because of their education 7633
and experience to act as facilitators in the commission's 7634
alternative dispute resolution process. 7635

(2) The parties' use of the alternative dispute resolution 7636
process is voluntary, and requires the agreement of all 7637
necessary parties. The use of the alternative dispute resolution 7638
process does not alter the rights or obligations of the parties, 7639
nor does it delay the timelines set forth in section 4123.511 of 7640
the Revised Code. 7641

(3) The commission shall prepare monthly reports and 7642
submit those reports to the governor, the president of the 7643
senate, and the speaker of the house of representatives 7644
describing all of the following: 7645

(a) The names of each facilitator employed under a 7646
personal service contract; 7647

(b) The hourly amount of money and the total amount of 7648
money paid to each facilitator; 7649

(c) The number of disputed issues resolved during that 7650

month by each facilitator; 7651

(d) The number of decisions of each facilitator that were 7652
appealed by a party; 7653

(e) A certification by the commission that the alternative 7654
dispute resolution process did not delay any hearing timelines 7655
as set forth in section 4123.511 of the Revised Code for any 7656
disputed issue. 7657

(4) The commission may adopt rules in accordance with 7658
Chapter 119. of the Revised Code for the administration of any 7659
alternative dispute resolution process that the commission 7660
establishes. 7661

Sec. 4121.38. (A) The industrial commission shall: 7662

(1) Implement a program of impairment evaluation training 7663
for its staff physicians, certified nurse-midwives, clinical 7664
nurse specialists, and certified nurse practitioners; 7665

(2) Issue a manual of commission policy as to impairment 7666
evaluation so as to increase consistency of medical reports. 7667
This manual shall be available to the public at cost but shall 7668
be provided free to all physicians, certified nurse-midwives, 7669
clinical nurse specialists, and certified nurse practitioners 7670
who treat claimants or to whom claimants are referred for 7671
evaluation. The commission shall take steps to ensure that the 7672
manual receives the widest possible distribution to physicians, 7673
certified nurse-midwives, clinical nurse specialists, and 7674
certified nurse practitioners. 7675

(3) Develop a method of peer review of medical reports 7676
prepared by the commission referral ~~doctors~~ physicians; 7677

(4) Issue a policy manual as to the basis upon which 7678

referrals to other than commission specialists will be made; 7679

(5) Designate two hearing examiners and two medical staff 7680
members who shall be specially trained in medical-legal 7681
analysis. The specialists shall write evaluations of medical- 7682
legal problems upon assignment by other hearing examiners or the 7683
commission. The director of administrative services upon 7684
commission advice shall assign such employees to a salary 7685
schedule commensurate with expertise required of them. 7686

(6) Require that prior to any examination, a physician, 7687
certified nurse-midwife, clinical nurse specialist, or certified 7688
nurse practitioner to whom a claimant is referred for 7689
examination receives all necessary medical information in the 7690
claim file about the claimant and a complete statement as to the 7691
purpose of the examination. 7692

(B) The commission may establish a medical section within 7693
the commission to perform the duties assigned to the commission 7694
under this section. 7695

Sec. 4121.45. (A) There is hereby created a workers' 7696
compensation ombudsperson system to assist claimants and 7697
employers in matters dealing with the bureau of workers' 7698
compensation and the industrial commission. The industrial 7699
commission nominating council shall appoint a chief 7700
ombudsperson. The chief ombudsperson, with the advice and 7701
consent of the nominating council, may appoint such assistant 7702
ombudspersons as the nominating council deems necessary. The 7703
position of chief ombudsperson is for a term of six years. A 7704
person appointed to the position of chief ombudsperson shall 7705
serve at the pleasure of the nominating council. The chief 7706
ombudsperson may not be transferred, demoted, or suspended 7707
during the person's tenure and may be removed by the nominating 7708

council only upon a vote of not fewer than nine members of the 7709
nominating council. The chief ombudsperson shall devote the 7710
chief ombudsperson's full time and attention to the duties of 7711
the ombudsperson's office. The administrator of workers' 7712
compensation shall furnish the chief ombudsperson with the 7713
office space, supplies, and clerical assistance that will enable 7714
the chief ombudsperson and the ombudsperson system staff to 7715
perform their duties effectively. The ombudsperson program shall 7716
be funded out of the budget of the bureau and the chief 7717
ombudsperson and the ombudsperson system staff shall be carried 7718
on the bureau payroll. The chief ombudsperson and the 7719
ombudsperson system shall be under the direction of the 7720
nominating council. The administrator and all employees of the 7721
bureau and the commission shall give the ~~the~~ ombudsperson system 7722
staff full and prompt cooperation in all matters relating to the 7723
duties of the chief ombudsperson. 7724

(B) The ombudsperson system staff shall: 7725

(1) Answer inquiries or investigate complaints made by 7726
employers or claimants under this chapter and Chapter 4123. of 7727
the Revised Code as they relate to the processing of a claim for 7728
workers' compensation benefits; 7729

(2) Provide claimants and employers with information 7730
regarding problems which arise out of the functions of the 7731
bureau, commission hearing officers, and the commission and the 7732
procedures employed in the processing of claims; 7733

(3) Answer inquiries or investigate complaints of an 7734
employer as they relate to reserves established and premiums 7735
charged in connection with the employer's account; 7736

(4) Comply with Chapter 102. and sections 2921.42 and 7737

2921.43 of the Revised Code and the nominating council's human 7738
resource and ethics policies; 7739

(5) Not express any opinions as to the merit of a claim or 7740
the correctness of a decision by the various officers or 7741
agencies as the decision relates to a claim for benefits or 7742
compensation. 7743

For the purpose of carrying out the chief ombudsperson's 7744
duties, the chief ombudsperson or the ombudsperson system staff, 7745
notwithstanding sections 4123.27 and 4123.88 of the Revised 7746
Code, has the right at all reasonable times to examine the 7747
contents of a claim file and discuss with parties in interest 7748
the contents of the file as long as the ombudsperson does not 7749
divulge information that would tend to prejudice the case of 7750
either party to a claim or that would tend to compromise a 7751
privileged attorney-client or doctor-patient relationship, 7752
physician-patient relationship, or advanced practice registered 7753
nurse-patient relationship. 7754

(C) The chief ombudsperson shall: 7755

(1) Assist any service office in its duties whenever it 7756
requires assistance or information that can best be obtained 7757
from central office personnel or records; 7758

(2) Annually assemble reports from each assistant 7759
ombudsperson as to their activities for the preceding year 7760
together with their recommendations as to changes or 7761
improvements in the operations of the workers' compensation 7762
system. The chief ombudsperson shall prepare a written report 7763
summarizing the activities of the ombudsperson system together 7764
with a digest of recommendations. The chief ombudsperson shall 7765
transmit the report to the nominating council. 7766

(3) Comply with Chapter 102. and sections 2921.42 and 7767
2921.43 of the Revised Code and the nominating council's human 7768
resource and ethics policies. 7769

(D) No ombudsperson or assistant ombudsperson shall: 7770

(1) Represent a claimant or employer in claims pending 7771
before or to be filed with the administrator, a district or 7772
staff hearing officer, the commission, or the courts of the 7773
state, nor shall an ombudsperson or assistant ombudsperson 7774
undertake any such representation for a period of one year after 7775
the ombudsperson's or assistant ombudsperson's employment 7776
terminates or be eligible for employment by the bureau or the 7777
commission or as a district or staff hearing officer for one 7778
year; 7779

(2) Express any opinions as to the merit of a claim or the 7780
correctness of a decision by the various officers or agencies as 7781
the decision relates to a claim for benefits or compensation. 7782

(E) The chief ombudsperson and assistant ombudspersons 7783
shall receive compensation at a level established by the 7784
nominating council commensurate with the individual's 7785
background, education, and experience in workers' compensation 7786
or related fields. The chief ombudsperson and assistant 7787
ombudspersons are full-time permanent employees in the 7788
unclassified service of the state and are entitled to all 7789
benefits that accrue to such employees, including, without 7790
limitation, sick, vacation, and personal leaves. Assistant 7791
ombudspersons serve at the pleasure of the chief ombudsperson. 7792

(F) In the event of a vacancy in the position of chief 7793
ombudsperson, the nominating council may appoint a person to 7794
serve as acting chief ombudsperson until a chief ombudsperson is 7795

appointed. The acting chief ombudsperson shall be under the 7796
direction and control of the nominating council and may be 7797
removed by the nominating council with or without just cause. 7798

Sec. 4123.19. The bureau of workers' compensation may make 7799
necessary expenditures to obtain statistical and other 7800
information to establish the classes provided for in section 7801
4123.29 of the Revised Code. 7802

The salaries and compensation of all of the actuaries, 7803
accountants, inspectors, examiners, experts, clerks, physicians, 7804
nurses, stenographers, and other assistants of the bureau, and 7805
all other expenses of the bureau, including the premium to be 7806
paid for the bond to be furnished by the treasurer of state 7807
pursuant to section 4123.42 of the Revised Code, shall be paid 7808
out of the workers' compensation fund pursuant to warrants 7809
signed by the administrator of workers' compensation. 7810

Sec. 4123.511. (A) Within seven days after receipt of any 7811
claim under this chapter, the bureau of workers' compensation 7812
shall notify the claimant and the employer of the claimant of 7813
the receipt of the claim and of the facts alleged therein. If 7814
the bureau receives from a person other than the claimant 7815
written or facsimile information or information communicated 7816
verbally over the telephone indicating that an injury or 7817
occupational disease has occurred or been contracted which may 7818
be compensable under this chapter, the bureau shall notify the 7819
employee and the employer of the information. If the information 7820
is provided verbally over the telephone, the person providing 7821
the information shall provide written verification of the 7822
information to the bureau according to division (E) of section 7823
4123.84 of the Revised Code. The receipt of the information in 7824
writing or facsimile, or if initially by telephone, the 7825

subsequent written verification, and the notice by the bureau 7826
shall be considered an application for compensation under 7827
section 4123.84 or 4123.85 of the Revised Code, provided that 7828
the conditions of division (E) of section 4123.84 of the Revised 7829
Code apply to information provided verbally over the telephone. 7830
Upon receipt of a claim, the bureau shall advise the claimant of 7831
the claim number assigned and the claimant's right to 7832
representation in the processing of a claim or to elect no 7833
representation. If the bureau determines that a claim is 7834
determined to be a compensable lost-time claim, the bureau shall 7835
notify the claimant and the employer of the availability of 7836
rehabilitation services. No bureau or industrial commission 7837
employee shall directly or indirectly convey any information in 7838
derogation of this right. This section shall in no way abrogate 7839
the bureau's responsibility to aid and assist a claimant in the 7840
filing of a claim and to advise the claimant of the claimant's 7841
rights under the law. 7842

The administrator of workers' compensation shall assign 7843
all claims and investigations to the bureau service office from 7844
which investigation and determination may be made most 7845
expeditiously. 7846

The bureau shall investigate the facts concerning an 7847
injury or occupational disease and ascertain such facts in 7848
whatever manner is most appropriate and may obtain statements ~~of~~ 7849
in whatever manner is most appropriate from any of the 7850
following: employee; employer; attending physician, certified 7851
nurse-midwife, clinical nurse specialist, or certified nurse 7852
practitioner; and witnesses ~~in whatever manner is most~~ 7853
appropriate. 7854

The administrator, with the advice and consent of the 7855

bureau of workers' compensation board of directors, may adopt 7856
rules that identify specified medical conditions that have a 7857
historical record of being allowed whenever included in a claim. 7858
The administrator may grant immediate allowance of any medical 7859
condition identified in those rules upon the filing of a claim 7860
involving that medical condition and may make immediate payment 7861
of medical bills for any medical condition identified in those 7862
rules that is included in a claim. If an employer contests the 7863
allowance of a claim involving any medical condition identified 7864
in those rules, and the claim is disallowed, payment for the 7865
medical condition included in that claim shall be charged to and 7866
paid from the surplus fund created under section 4123.34 of the 7867
Revised Code. 7868

(B) (1) Except as provided in division (B) (2) of this 7869
section, in claims other than those in which the employer is a 7870
self-insuring employer, if the administrator determines under 7871
division (A) of this section that a claimant is or is not 7872
entitled to an award of compensation or benefits, the 7873
administrator shall issue an order no later than twenty-eight 7874
days after the sending of the notice under division (A) of this 7875
section, granting or denying the payment of the compensation or 7876
benefits, or both as is appropriate to the claimant. 7877
Notwithstanding the time limitation specified in this division 7878
for the issuance of an order, if a medical examination of the 7879
claimant is required by statute, the administrator promptly 7880
shall schedule the claimant for that examination and shall issue 7881
an order no later than twenty-eight days after receipt of the 7882
report of the examination. The administrator shall notify the 7883
claimant and the employer of the claimant and their respective 7884
representatives in writing of the nature of the order and the 7885
amounts of compensation and benefit payments involved. The 7886

employer or claimant may appeal the order pursuant to division 7887
(C) of this section within fourteen days after the date of the 7888
receipt of the order. The employer and claimant may waive, in 7889
writing, their rights to an appeal under this division. 7890

(2) Notwithstanding the time limitation specified in 7891
division (B)(1) of this section for the issuance of an order, if 7892
the employer certifies a claim for payment of compensation or 7893
benefits, or both, to a claimant, and the administrator has 7894
completed the investigation of the claim, the payment of 7895
benefits or compensation, or both, as is appropriate, shall 7896
commence upon the later of the date of the certification or 7897
completion of the investigation and issuance of the order by the 7898
administrator, provided that the administrator shall issue the 7899
order no later than the time limitation specified in division 7900
(B)(1) of this section. 7901

(3) If an appeal is made under division (B)(1) or (2) of 7902
this section, the administrator shall forward the claim file to 7903
the appropriate district hearing officer within seven days of 7904
the appeal. In contested claims other than state fund claims, 7905
the administrator shall forward the claim within seven days of 7906
the administrator's receipt of the claim to the industrial 7907
commission, which shall refer the claim to an appropriate 7908
district hearing officer for a hearing in accordance with 7909
division (C) of this section. 7910

(C) If an employer or claimant timely appeals the order of 7911
the administrator issued under division (B) of this section or 7912
in the case of other contested claims other than state fund 7913
claims, the commission shall refer the claim to an appropriate 7914
district hearing officer according to rules the commission 7915
adopts under section 4121.36 of the Revised Code. The district 7916

hearing officer shall notify the parties and their respective 7917
representatives of the time and place of the hearing. 7918

The district hearing officer shall hold a hearing on a 7919
disputed issue or claim within forty-five days after the filing 7920
of the appeal under this division and issue a decision within 7921
seven days after holding the hearing. The district hearing 7922
officer shall notify the parties and their respective 7923
representatives in writing of the order. Any party may appeal an 7924
order issued under this division pursuant to division (D) of 7925
this section within fourteen days after receipt of the order 7926
under this division. 7927

(D) Upon the timely filing of an appeal of the order of 7928
the district hearing officer issued under division (C) of this 7929
section, the commission shall refer the claim file to an 7930
appropriate staff hearing officer according to its rules adopted 7931
under section 4121.36 of the Revised Code. The staff hearing 7932
officer shall hold a hearing within forty-five days after the 7933
filing of an appeal under this division and issue a decision 7934
within seven days after holding the hearing under this division. 7935
The staff hearing officer shall notify the parties and their 7936
respective representatives in writing of the staff hearing 7937
officer's order. Any party may appeal an order issued under this 7938
division pursuant to division (E) of this section within 7939
fourteen days after receipt of the order under this division. 7940

(E) Upon the filing of a timely appeal of the order of the 7941
staff hearing officer issued under division (D) of this section, 7942
the commission or a designated staff hearing officer, on behalf 7943
of the commission, shall determine whether the commission will 7944
hear the appeal. If the commission or the designated staff 7945
hearing officer decides to hear the appeal, the commission or 7946

the designated staff hearing officer shall notify the parties 7947
and their respective representatives in writing of the time and 7948
place of the hearing. The commission shall hold the hearing 7949
within forty-five days after the filing of the notice of appeal 7950
and, within seven days after the conclusion of the hearing, the 7951
commission shall issue its order affirming, modifying, or 7952
reversing the order issued under division (D) of this section. 7953
The commission shall notify the parties and their respective 7954
representatives in writing of the order. If the commission or 7955
the designated staff hearing officer determines not to hear the 7956
appeal, within fourteen days after the expiration of the period 7957
in which an appeal of the order of the staff hearing officer may 7958
be filed as provided in division (D) of this section, the 7959
commission or the designated staff hearing officer shall issue 7960
an order to that effect and notify the parties and their 7961
respective representatives in writing of that order. 7962

Except as otherwise provided in this chapter and Chapters 7963
4121., 4127., and 4131. of the Revised Code, any party may 7964
appeal an order issued under this division to the court pursuant 7965
to section 4123.512 of the Revised Code within sixty days after 7966
receipt of the order, subject to the limitations contained in 7967
that section. 7968

(F) Every notice of an appeal from an order issued under 7969
divisions (B), (C), (D), and (E) of this section shall state the 7970
names of the claimant and employer, the number of the claim, the 7971
date of the decision appealed from, and the fact that the 7972
appellant appeals therefrom. 7973

(G) All of the following apply to the proceedings under 7974
divisions (C), (D), and (E) of this section: 7975

(1) The parties shall proceed promptly and without 7976

continuances except for good cause; 7977

(2) The parties, in good faith, shall engage in the free 7978
exchange of information relevant to the claim prior to the 7979
conduct of a hearing according to the rules the commission 7980
adopts under section 4121.36 of the Revised Code; 7981

(3) The administrator is a party and may appear and 7982
participate at all administrative proceedings on behalf of the 7983
state insurance fund. However, in cases in which the employer is 7984
represented, the administrator shall neither present arguments 7985
nor introduce testimony that is cumulative to that presented or 7986
introduced by the employer or the employer's representative. The 7987
administrator may file an appeal under this section on behalf of 7988
the state insurance fund; however, except in cases arising under 7989
section 4123.343 of the Revised Code, the administrator only may 7990
appeal questions of law or issues of fraud when the employer 7991
appears in person or by representative. 7992

(H) Except as provided in section 4121.63 of the Revised 7993
Code and division (K) of this section, payments of compensation 7994
to a claimant or on behalf of a claimant as a result of any 7995
order issued under this chapter shall commence upon the earlier 7996
of the following: 7997

(1) Fourteen days after the date the administrator issues 7998
an order under division (B) of this section, unless that order 7999
is appealed; 8000

(2) The date when the employer has waived the right to 8001
appeal a decision issued under division (B) of this section; 8002

(3) If no appeal of an order has been filed under this 8003
section or to a court under section 4123.512 of the Revised 8004
Code, the expiration of the time limitations for the filing of 8005

an appeal of an order; 8006

(4) The date of receipt by the employer of an order of a 8007
district hearing officer, a staff hearing officer, or the 8008
industrial commission issued under division (C), (D), or (E) of 8009
this section. 8010

(I) Except as otherwise provided in division (B) of 8011
section 4123.66 of the Revised Code, payments of medical 8012
benefits payable under this chapter or Chapter 4121., 4127., or 8013
4131. of the Revised Code shall commence upon the earlier of the 8014
following: 8015

(1) The date of the issuance of the staff hearing 8016
officer's order under division (D) of this section; 8017

(2) The date of the final administrative or judicial 8018
determination. 8019

(J) The administrator shall charge the compensation 8020
payments made in accordance with division (H) of this section or 8021
medical benefits payments made in accordance with division (I) 8022
of this section to an employer's experience immediately after 8023
the employer has exhausted the employer's administrative appeals 8024
as provided in this section or has waived the employer's right 8025
to an administrative appeal under division (B) of this section, 8026
subject to the adjustment specified in division (H) of section 8027
4123.512 of the Revised Code. 8028

(K) Upon the final administrative or judicial 8029
determination under this section or section 4123.512 of the 8030
Revised Code of an appeal of an order to pay compensation, if a 8031
claimant is found to have received compensation pursuant to a 8032
prior order which is reversed upon subsequent appeal, the 8033
claimant's employer, if a self-insuring employer, or the bureau, 8034

shall withhold from any amount to which the claimant becomes 8035
entitled pursuant to any claim, past, present, or future, under 8036
Chapter 4121., 4123., 4127., or 4131. of the Revised Code, the 8037
amount of previously paid compensation to the claimant which, 8038
due to reversal upon appeal, the claimant is not entitled, 8039
pursuant to the following criteria: 8040

(1) No withholding for the first twelve weeks of temporary 8041
total disability compensation pursuant to section 4123.56 of the 8042
Revised Code shall be made; 8043

(2) Forty per cent of all awards of compensation paid 8044
pursuant to sections 4123.56 and 4123.57 of the Revised Code, 8045
until the amount overpaid is refunded; 8046

(3) Twenty-five per cent of any compensation paid pursuant 8047
to section 4123.58 of the Revised Code until the amount overpaid 8048
is refunded; 8049

(4) If, pursuant to an appeal under section 4123.512 of 8050
the Revised Code, the court of appeals or the supreme court 8051
reverses the allowance of the claim, then no amount of any 8052
compensation will be withheld. 8053

The administrator and self-insuring employers, as 8054
appropriate, are subject to the repayment schedule of this 8055
division only with respect to an order to pay compensation that 8056
was properly paid under a previous order, but which is 8057
subsequently reversed upon an administrative or judicial appeal. 8058
The administrator and self-insuring employers are not subject 8059
to, but may utilize, the repayment schedule of this division, or 8060
any other lawful means, to collect payment of compensation made 8061
to a person who was not entitled to the compensation due to 8062
fraud as determined by the administrator or the industrial 8063

commission. 8064

(L) If a staff hearing officer or the commission fails to 8065
issue a decision or the commission fails to refuse to hear an 8066
appeal within the time periods required by this section, 8067
payments to a claimant shall cease until the staff hearing 8068
officer or commission issues a decision or hears the appeal, 8069
unless the failure was due to the fault or neglect of the 8070
employer or the employer agrees that the payments should 8071
continue for a longer period of time. 8072

(M) Except as otherwise provided in this section or 8073
section 4123.522 of the Revised Code, no appeal is timely filed 8074
under this section unless the appeal is filed with the time 8075
limits set forth in this section. 8076

(N) No person who is not an employee of the bureau or 8077
commission or who is not by law given access to the contents of 8078
a claims file shall have a file in the person's possession. 8079

(O) Upon application of a party who resides in an area in 8080
which an emergency or disaster is declared, the industrial 8081
commission and hearing officers of the commission may waive the 8082
time frame within which claims and appeals of claims set forth 8083
in this section must be filed upon a finding that the applicant 8084
was unable to comply with a filing deadline due to an emergency 8085
or a disaster. 8086

As used in this division: 8087

(1) "Emergency" means any occasion or instance for which 8088
the governor of Ohio or the president of the United States 8089
publicly declares an emergency and orders state or federal 8090
assistance to save lives and protect property, the public health 8091
and safety, or to lessen or avert the threat of a catastrophe. 8092

(2) "Disaster" means any natural catastrophe or fire, 8093
flood, or explosion, regardless of the cause, that causes damage 8094
of sufficient magnitude that the governor of Ohio or the 8095
president of the United States, through a public declaration, 8096
orders state or federal assistance to alleviate damage, loss, 8097
hardship, or suffering that results from the occurrence. 8098

Sec. 4123.512. (A) The claimant or the employer may appeal 8099
an order of the industrial commission made under division (E) of 8100
section 4123.511 of the Revised Code in any injury or 8101
occupational disease case, other than a decision as to the 8102
extent of disability to the court of common pleas of the county 8103
in which the injury was inflicted or in which the contract of 8104
employment was made if the injury occurred outside the state, or 8105
in which the contract of employment was made if the exposure 8106
occurred outside the state. If no common pleas court has 8107
jurisdiction for the purposes of an appeal by the use of the 8108
jurisdictional requirements described in this division, the 8109
appellant may use the venue provisions in the Rules of Civil 8110
Procedure to vest jurisdiction in a court. If the claim is for 8111
an occupational disease, the appeal shall be to the court of 8112
common pleas of the county in which the exposure which caused 8113
the disease occurred. Like appeal may be taken from an order of 8114
a staff hearing officer made under division (D) of section 8115
4123.511 of the Revised Code from which the commission has 8116
refused to hear an appeal. Except as otherwise provided in this 8117
division, the appellant shall file the notice of appeal with a 8118
court of common pleas within sixty days after the date of the 8119
receipt of the order appealed from or the date of receipt of the 8120
order of the commission refusing to hear an appeal of a staff 8121
hearing officer's decision under division (D) of section 8122
4123.511 of the Revised Code. Either the claimant or the 8123

employer may file a notice of an intent to settle the claim 8124
within thirty days after the date of the receipt of the order 8125
appealed from or of the order of the commission refusing to hear 8126
an appeal of a staff hearing officer's decision. The claimant or 8127
employer shall file notice of intent to settle with the 8128
administrator of workers' compensation, and the notice shall be 8129
served on the opposing party and the party's representative. The 8130
filing of the notice of intent to settle extends the time to 8131
file an appeal to one hundred fifty days, unless the opposing 8132
party files an objection to the notice of intent to settle 8133
within fourteen days after the date of the receipt of the notice 8134
of intent to settle. The party shall file the objection with the 8135
administrator, and the objection shall be served on the party 8136
that filed the notice of intent to settle and the party's 8137
representative. The filing of the notice of the appeal with the 8138
court is the only act required to perfect the appeal. 8139

If an action has been commenced in a court of a county 8140
other than a court of a county having jurisdiction over the 8141
action, the court, upon notice by any party or upon its own 8142
motion, shall transfer the action to a court of a county having 8143
jurisdiction. 8144

Notwithstanding anything to the contrary in this section, 8145
if the commission determines under section 4123.522 of the 8146
Revised Code that an employee, employer, or their respective 8147
representatives have not received written notice of an order or 8148
decision which is appealable to a court under this section and 8149
which grants relief pursuant to section 4123.522 of the Revised 8150
Code, the party granted the relief has sixty days from receipt 8151
of the order under section 4123.522 of the Revised Code to file 8152
a notice of appeal under this section. 8153

(B) The notice of appeal shall state the names of the administrator of workers' compensation, the claimant, and the employer; the number of the claim; the date of the order appealed from; and the fact that the appellant appeals therefrom.

The administrator, the claimant, and the employer shall be parties to the appeal and the court, upon the application of the commission, shall make the commission a party. The party filing the appeal shall serve a copy of the notice of appeal on the administrator at the central office of the bureau of workers' compensation in Columbus. The administrator shall notify the employer that if the employer fails to become an active party to the appeal, then the administrator may act on behalf of the employer and the results of the appeal could have an adverse effect upon the employer's premium rates or may result in a recovery from the employer if the employer is determined to be a noncomplying employer under section 4123.75 of the Revised Code.

(C) The attorney general or one or more of the attorney general's assistants or special counsel designated by the attorney general shall represent the administrator and the commission. In the event the attorney general or the attorney general's designated assistants or special counsel are absent, the administrator or the commission shall select one or more of the attorneys in the employ of the administrator or the commission as the administrator's attorney or the commission's attorney in the appeal. Any attorney so employed shall continue the representation during the entire period of the appeal and in all hearings thereof except where the continued representation becomes impractical.

(D) Upon receipt of notice of appeal, the clerk of courts

shall provide notice to all parties who are appellees and to the 8184
commission. 8185

The claimant shall, within thirty days after the filing of 8186
the notice of appeal, file a petition containing a statement of 8187
facts in ordinary and concise language showing a cause of action 8188
to participate or to continue to participate in the fund and 8189
setting forth the basis for the jurisdiction of the court over 8190
the action. Further pleadings shall be had in accordance with 8191
the Rules of Civil Procedure, provided that service of summons 8192
on such petition shall not be required and provided that the 8193
claimant may not dismiss the complaint without the employer's 8194
consent if the employer is the party that filed the notice of 8195
appeal to court pursuant to this section. The clerk of the court 8196
shall, upon receipt thereof, transmit by certified mail a copy 8197
thereof to each party named in the notice of appeal other than 8198
the claimant. Any party may file with the clerk prior to the 8199
trial of the action a deposition of any physician, certified 8200
nurse-midwife, clinical nurse specialist, or certified nurse 8201
practitioner taken in accordance with the provisions of the 8202
Revised Code, which deposition may be read in the trial of the 8203
action even though the physician or nurse is a resident of or 8204
subject to service in the county in which the trial is had. The 8205
bureau of workers' compensation shall pay the cost of the 8206
deposition filed in court and of copies of the deposition for 8207
each party from the surplus fund and charge the costs thereof 8208
against the unsuccessful party if the claimant's right to 8209
participate or continue to participate is finally sustained or 8210
established in the appeal. In the event the deposition is taken 8211
and filed, the physician or nurse whose deposition is taken is 8212
not required to respond to any subpoena issued in the trial of 8213
the action. The court, or the jury under the instructions of the 8214

court, if a jury is demanded, shall determine the right of the 8215
claimant to participate or to continue to participate in the 8216
fund upon the evidence adduced at the hearing of the action. 8217

(E) The court shall certify its decision to the commission 8218
and the certificate shall be entered in the records of the 8219
court. Appeals from the judgment are governed by the law 8220
applicable to the appeal of civil actions. 8221

(F) The cost of any legal proceedings authorized by this 8222
section, including an attorney's fee to the claimant's attorney 8223
to be fixed by the trial judge, based upon the effort expended, 8224
in the event the claimant's right to participate or to continue 8225
to participate in the fund is established upon the final 8226
determination of an appeal, shall be taxed against the employer 8227
or the commission if the commission or the administrator rather 8228
than the employer contested the right of the claimant to 8229
participate in the fund. The attorney's fee shall not exceed 8230
five thousand dollars. 8231

(G) If the finding of the court or the verdict of the jury 8232
is in favor of the claimant's right to participate in the fund, 8233
the commission and the administrator shall thereafter proceed in 8234
the matter of the claim as if the judgment were the decision of 8235
the commission, subject to the power of modification provided by 8236
section 4123.52 of the Revised Code. 8237

(H) (1) An appeal from an order issued under division (E) 8238
of section 4123.511 of the Revised Code or any action filed in 8239
court in a case in which an award of compensation or medical 8240
benefits has been made shall not stay the payment of 8241
compensation or medical benefits under the award, or payment for 8242
subsequent periods of total disability or medical benefits 8243
during the pendency of the appeal. If, in a final administrative 8244

or judicial action, it is determined that payments of 8245
compensation or benefits, or both, made to or on behalf of a 8246
claimant should not have been made, the amount thereof shall be 8247
charged to the surplus fund account under division (B) of 8248
section 4123.34 of the Revised Code. In the event the employer 8249
is a state risk, the amount shall not be charged to the 8250
employer's experience, and the administrator shall adjust the 8251
employer's account accordingly. In the event the employer is a 8252
self-insuring employer, the self-insuring employer shall deduct 8253
the amount from the paid compensation the self-insuring employer 8254
reports to the administrator under division (L) of section 8255
4123.35 of the Revised Code. If an employer is a state risk and 8256
has paid an assessment for a violation of a specific safety 8257
requirement, and, in a final administrative or judicial action, 8258
it is determined that the employer did not violate the specific 8259
safety requirement, the administrator shall reimburse the 8260
employer from the surplus fund account under division (B) of 8261
section 4123.34 of the Revised Code for the amount of the 8262
assessment the employer paid for the violation. 8263

(2) (a) Notwithstanding a final determination that payments 8264
of benefits made to or on behalf of a claimant should not have 8265
been made, the administrator or self-insuring employer shall 8266
award payment of medical or vocational rehabilitation services 8267
submitted for payment after the date of the final determination 8268
if all of the following apply: 8269

(i) The services were approved and were rendered by the 8270
provider in good faith prior to the date of the final 8271
determination. 8272

(ii) The services were payable under division (I) of 8273
section 4123.511 of the Revised Code prior to the date of the 8274

final determination. 8275

(iii) The request for payment is submitted within the time 8276
limit set forth in section 4123.52 of the Revised Code. 8277

(b) Payments made under division (H) (1) of this section 8278
shall be charged to the surplus fund account under division (B) 8279
of section 4123.34 of the Revised Code. If the employer of the 8280
employee who is the subject of a claim described in division (H) 8281
(2) (a) of this section is a state fund employer, the payments 8282
made under that division shall not be charged to the employer's 8283
experience. If that employer is a self-insuring employer, the 8284
self-insuring employer shall deduct the amount from the paid 8285
compensation the self-insuring employer reports to the 8286
administrator under division (L) of section 4123.35 of the 8287
Revised Code. 8288

(c) Division (H) (2) of this section shall apply only to a 8289
claim under this chapter or Chapter 4121., 4127., or 4131. of 8290
the Revised Code arising on or after July 29, 2011. 8291

(3) A self-insuring employer may elect to pay compensation 8292
and benefits under this section directly to an employee or an 8293
employee's dependents by filing an application with the bureau 8294
of workers' compensation not more than one hundred eighty days 8295
and not less than ninety days before the first day of the 8296
employer's next six-month coverage period. If the self-insuring 8297
employer timely files the application, the application is 8298
effective on the first day of the employer's next six-month 8299
coverage period, provided that the administrator shall compute 8300
the employer's assessment for the surplus fund account due with 8301
respect to the period during which that application was filed 8302
without regard to the filing of the application. On and after 8303
the effective date of the employer's election, the self-insuring 8304

employer shall pay directly to an employee or to an employee's 8305
dependents compensation and benefits under this section 8306
regardless of the date of the injury or occupational disease, 8307
and the employer shall receive no money or credits from the 8308
surplus fund account on account of those payments and shall not 8309
be required to pay any amounts into the surplus fund account on 8310
account of this section. The election made under this division 8311
is irrevocable. 8312

(I) All actions and proceedings under this section which 8313
are the subject of an appeal to the court of common pleas or the 8314
court of appeals shall be preferred over all other civil actions 8315
except election causes, irrespective of position on the 8316
calendar. 8317

This section applies to all decisions of the commission or 8318
the administrator on November 2, 1959, and all claims filed 8319
thereafter are governed by sections 4123.511 and 4123.512 of the 8320
Revised Code. 8321

Any action pending in common pleas court or any other 8322
court on January 1, 1986, under this section is governed by 8323
former sections 4123.514, 4123.515, 4123.516, and 4123.519 and 8324
section 4123.522 of the Revised Code. 8325

Sec. 4123.54. (A) Except as otherwise provided in this 8326
division or divisions (I) and (K) of this section, every 8327
employee, who is injured or who contracts an occupational 8328
disease, and the dependents of each employee who is killed, or 8329
dies as the result of an occupational disease contracted in the 8330
course of employment, wherever the injury has occurred or 8331
occupational disease has been contracted, is entitled to receive 8332
the compensation for loss sustained on account of the injury, 8333
occupational disease, or death, and the medical, nurse, and 8334

hospital services and medicines, and the amount of funeral 8335
expenses in case of death, as are provided by this chapter. The 8336
compensation and benefits shall be provided, as applicable, 8337
directly from the employee's self-insuring employer as provided 8338
in section 4123.35 of the Revised Code or from the state 8339
insurance fund. An employee or dependent is not entitled to 8340
receive compensation or benefits under this division if the 8341
employee's injury or occupational disease is either of the 8342
following: 8343

(1) Purposely self-inflicted; 8344

(2) Caused by the employee being intoxicated, under the 8345
influence of a controlled substance not prescribed by a 8346
physician, certified nurse-midwife, clinical nurse specialist, 8347
or certified nurse practitioner, or under the influence of 8348
marihuana if being intoxicated, under the influence of a 8349
controlled substance not prescribed by a physician, certified 8350
nurse-midwife, clinical nurse specialist, or certified nurse 8351
practitioner, or under the influence of marihuana was the 8352
proximate cause of the injury. 8353

(B) For the purpose of this section, provided that an 8354
employer has posted written notice to employees that the results 8355
of, or the employee's refusal to submit to, any chemical test 8356
described under this division may affect the employee's 8357
eligibility for compensation and benefits pursuant to this 8358
chapter and Chapter 4121. of the Revised Code, there is a 8359
rebuttable presumption that an employee is intoxicated, under 8360
the influence of a controlled substance not prescribed by the 8361
employee's physician, certified nurse-midwife, clinical nurse 8362
specialist, or certified nurse practitioner, or under the 8363
influence of marihuana and that being intoxicated, under the 8364

influence of a controlled substance not prescribed by the 8365
employee's physician, certified nurse-midwife, clinical nurse 8366
specialist, or certified nurse practitioner, or under the 8367
influence of marihuana is the proximate cause of an injury under 8368
either of the following conditions: 8369

(1) When any one or more of the following is true: 8370

(a) The employee, through a qualifying chemical test 8371
administered within eight hours of an injury, is determined to 8372
have an alcohol concentration level equal to or in excess of the 8373
levels established in divisions (A) (1) (b) to (i) of section 8374
4511.19 of the Revised Code. 8375

(b) The employee, through a qualifying chemical test 8376
administered within thirty-two hours of an injury, is determined 8377
to have a controlled substance not prescribed by the employee's 8378
physician, certified nurse-midwife, clinical nurse specialist, 8379
or certified nurse practitioner or marihuana in the employee's 8380
system at a level equal to or in excess of the cutoff 8381
concentration level for the particular substance as provided in 8382
section 40.87 of Title 49 of the Code of Federal Regulations, 49 8383
C.F.R. 40.87, as amended. 8384

(c) The employee, through a qualifying chemical test 8385
administered within thirty-two hours of an injury, is determined 8386
to have barbiturates, benzodiazepines, or methadone in the 8387
employee's system that tests above levels established by 8388
laboratories certified by the United States department of health 8389
and human services. 8390

(2) When the employee refuses to submit to a requested 8391
chemical test, on the condition that that employee is or was 8392
given notice that the refusal to submit to any chemical test 8393

described in division (B) (1) of this section may affect the 8394
employee's eligibility for compensation and benefits under this 8395
chapter and Chapter 4121. of the Revised Code. 8396

(C) (1) For purposes of division (B) of this section, a 8397
chemical test is a qualifying chemical test if it is 8398
administered to an employee after an injury under at least one 8399
of the following conditions: 8400

(a) When the employee's employer had reasonable cause to 8401
suspect that the employee may be intoxicated, under the 8402
influence of a controlled substance not prescribed by the 8403
employee's physician, certified nurse-midwife, clinical nurse 8404
specialist, or certified nurse practitioner, or under the 8405
influence of marihuana; 8406

(b) At the request of a police officer pursuant to section 8407
4511.191 of the Revised Code, and not at the request of the 8408
employee's employer; 8409

(c) At the request of a licensed physician, certified 8410
nurse-midwife, clinical nurse specialist, or certified nurse 8411
practitioner who is not employed by the employee's employer, and 8412
not at the request of the employer's employer. 8413

(2) As used in division (C) (1) (a) of this section, 8414
"reasonable cause" means, but is not limited to, evidence that 8415
an employee is or was using alcohol, a controlled substance, or 8416
marihuana drawn from specific, objective facts and reasonable 8417
inferences drawn from these facts in light of experience and 8418
training. These facts and inferences may be based on, but are 8419
not limited to, any of the following: 8420

(a) Observable phenomena, such as direct observation of 8421
use, possession, or distribution of alcohol, a controlled 8422

substance, or marihuana, or of the physical symptoms of being 8423
under the influence of alcohol, a controlled substance, or 8424
marihuana, such as but not limited to slurred speech; dilated 8425
pupils; odor of alcohol, a controlled substance, or marihuana; 8426
changes in affect; or dynamic mood swings; 8427

(b) A pattern of abnormal conduct, erratic or aberrant 8428
behavior, or deteriorating work performance such as frequent 8429
absenteeism, excessive tardiness, or recurrent accidents, that 8430
appears to be related to the use of alcohol, a controlled 8431
substance, or marihuana, and does not appear to be attributable 8432
to other factors; 8433

(c) The identification of an employee as the focus of a 8434
criminal investigation into unauthorized possession, use, or 8435
trafficking of a controlled substance or marihuana; 8436

(d) A report of use of alcohol, a controlled substance, or 8437
marihuana provided by a reliable and credible source; 8438

(e) Repeated or flagrant violations of the safety or work 8439
rules of the employee's employer, that are determined by the 8440
employee's supervisor to pose a substantial risk of physical 8441
injury or property damage and that appear to be related to the 8442
use of alcohol, a controlled substance, or marihuana and that do 8443
not appear attributable to other factors. 8444

(D) Nothing in this section shall be construed to affect 8445
the rights of an employer to test employees for alcohol or 8446
controlled substance abuse. 8447

(E) For the purpose of this section, laboratories 8448
certified by the United States department of health and human 8449
services or laboratories that meet or exceed the standards of 8450
that department for laboratory certification shall be used for 8451

processing the test results of a qualifying chemical test. 8452

(F) The written notice required by division (B) of this 8453
section shall be the same size or larger than the proof of 8454
workers' compensation coverage furnished by the bureau of 8455
workers' compensation and shall be posted by the employer in the 8456
same location as the proof of workers' compensation coverage or 8457
the certificate of self-insurance. 8458

(G) If a condition that pre-existed an injury is 8459
substantially aggravated by the injury, and that substantial 8460
aggravation is documented by objective diagnostic findings, 8461
objective clinical findings, or objective test results, no 8462
compensation or benefits are payable because of the pre-existing 8463
condition once that condition has returned to a level that would 8464
have existed without the injury. 8465

(H) (1) Whenever, with respect to an employee of an 8466
employer who is subject to and has complied with this chapter, 8467
there is possibility of conflict with respect to the application 8468
of workers' compensation laws because the contract of employment 8469
is entered into and all or some portion of the work is or is to 8470
be performed in a state or states other than Ohio, the employer 8471
and the employee may agree to be bound by the laws of this state 8472
or by the laws of some other state in which all or some portion 8473
of the work of the employee is to be performed. The agreement 8474
shall be in writing and shall be filed with the bureau of 8475
workers' compensation within ten days after it is executed and 8476
shall remain in force until terminated or modified by agreement 8477
of the parties similarly filed. If the agreement is to be bound 8478
by the laws of this state and the employer has complied with 8479
this chapter, then the employee is entitled to compensation and 8480
benefits regardless of where the injury occurs or the disease is 8481

contracted and the rights of the employee and the employee's 8482
dependents under the laws of this state are the exclusive remedy 8483
against the employer on account of injury, disease, or death in 8484
the course of and arising out of the employee's employment. If 8485
the agreement is to be bound by the laws of another state and 8486
the employer has complied with the laws of that state, the 8487
rights of the employee and the employee's dependents under the 8488
laws of that state are the exclusive remedy against the employer 8489
on account of injury, disease, or death in the course of and 8490
arising out of the employee's employment without regard to the 8491
place where the injury was sustained or the disease contracted. 8492
If an employer and an employee enter into an agreement under 8493
this division, the fact that the employer and the employee 8494
entered into that agreement shall not be construed to change the 8495
status of an employee whose continued employment is subject to 8496
the will of the employer or the employee, unless the agreement 8497
contains a provision that expressly changes that status. 8498

(2) If an employee or the employee's dependents receive an 8499
award of compensation or benefits under this chapter or Chapter 8500
4121., 4127., or 4131. of the Revised Code for the same injury, 8501
occupational disease, or death for which the employee or the 8502
employee's dependents previously pursued or otherwise elected to 8503
accept workers' compensation benefits and received a decision on 8504
the merits as defined in section 4123.542 of the Revised Code 8505
under the laws of another state or recovered damages under the 8506
laws of another state, the claim shall be disallowed and the 8507
administrator or any self-insuring employer, by any lawful 8508
means, may collect from the employee or the employee's 8509
dependents any of the following: 8510

(a) The amount of compensation or benefits paid to or on 8511
behalf of the employee or the employee's dependents by the 8512

administrator or a self-insuring employer pursuant to this 8513
chapter or Chapter 4121., 4127., or 4131. of the Revised Code 8514
for that award; 8515

(b) Any interest, attorney's fees, and costs the 8516
administrator or the self-insuring employer incurs in collecting 8517
that payment. 8518

(3) If an employee or the employee's dependents receive an 8519
award of compensation or benefits under this chapter or Chapter 8520
4121., 4127., or 4131. of the Revised Code and subsequently 8521
pursue or otherwise elect to accept workers' compensation 8522
benefits or damages under the laws of another state for the same 8523
injury, occupational disease, or death the claim under this 8524
chapter or Chapter 4121., 4127., or 4131. of the Revised Code 8525
shall be disallowed. The administrator or a self-insuring 8526
employer, by any lawful means, may collect from the employee or 8527
the employee's dependents or other-states' insurer any of the 8528
following: 8529

(a) The amount of compensation or benefits paid to or on 8530
behalf of the employee or the employee's dependents by the 8531
administrator or the self-insuring employer pursuant to this 8532
chapter or Chapter 4121., 4127., or 4131. of the Revised Code 8533
for that award; 8534

(b) Any interest, costs, and attorney's fees the 8535
administrator or the self-insuring employer incurs in collecting 8536
that payment; 8537

(c) Any costs incurred by an employer in contesting or 8538
responding to any claim filed by the employee or the employee's 8539
dependents for the same injury, occupational disease, or death 8540
that was filed after the original claim for which the employee 8541

or the employee's dependents received a decision on the merits 8542
as described in section 4123.542 of the Revised Code. 8543

(4) If the employee's employer pays premiums into the 8544
state insurance fund, the administrator shall not charge the 8545
amount of compensation or benefits the administrator collects 8546
pursuant to division (H) (2) or (3) of this section to the 8547
employer's experience. If the administrator collects any costs 8548
incurred by an employer in contesting or responding to any claim 8549
pursuant to division (H) (2) or (3) of this section, the 8550
administrator shall forward the amount collected to that 8551
employer. If the employee's employer is a self-insuring 8552
employer, the self-insuring employer shall deduct the amount of 8553
compensation or benefits the self-insuring employer collects 8554
pursuant to this division from the paid compensation the self- 8555
insuring employer reports to the administrator under division 8556
(L) of section 4123.35 of the Revised Code. 8557

(5) If an employee is a resident of a state other than 8558
this state and is insured under the workers' compensation law or 8559
similar laws of a state other than this state, the employee and 8560
the employee's dependents are not entitled to receive 8561
compensation or benefits under this chapter, on account of 8562
injury, disease, or death arising out of or in the course of 8563
employment while temporarily within this state, and the rights 8564
of the employee and the employee's dependents under the laws of 8565
the other state are the exclusive remedy against the employer on 8566
account of the injury, disease, or death. 8567

(6) An employee, or the dependent of an employee, who 8568
elects to receive compensation and benefits under this chapter 8569
or Chapter 4121., 4127., or 4131. of the Revised Code for a 8570
claim may not receive compensation and benefits under the 8571

workers' compensation laws of any state other than this state 8572
for that same claim. For each claim submitted by or on behalf of 8573
an employee, the administrator or, if the employee is employed 8574
by a self-insuring employer, the self-insuring employer, shall 8575
request the employee or the employee's dependent to sign an 8576
election that affirms the employee's or employee's dependent's 8577
acceptance of electing to receive compensation and benefits 8578
under this chapter or Chapter 4121., 4127., or 4131. of the 8579
Revised Code for that claim that also affirmatively waives and 8580
releases the employee's or the employee's dependent's right to 8581
file for and receive compensation and benefits under the laws of 8582
any state other than this state for that claim. The employee or 8583
employee's dependent shall sign the election form within twenty- 8584
eight days after the administrator or self-insuring employer 8585
submits the request or the administrator or self-insuring 8586
employer shall dismiss that claim. 8587

In the event a workers' compensation claim has been filed 8588
in another jurisdiction on behalf of an employee or the 8589
dependents of an employee, and the employee or dependents 8590
subsequently elect to receive compensation, benefits, or both 8591
under this chapter or Chapter 4121., 4127., or 4131. of the 8592
Revised Code, the employee or dependent shall withdraw or refuse 8593
acceptance of the workers' compensation claim filed in the other 8594
jurisdiction in order to pursue compensation or benefits under 8595
the laws of this state. If the employee or dependents were 8596
awarded workers' compensation benefits or had recovered damages 8597
under the laws of the other state, any compensation and benefits 8598
awarded under this chapter or Chapter 4121., 4127., or 4131. of 8599
the Revised Code shall be paid only to the extent to which those 8600
payments exceed the amounts paid under the laws of the other 8601
state. If the employee or dependent fails to withdraw or to 8602

refuse acceptance of the workers' compensation claim in the 8603
other jurisdiction within twenty-eight days after a request made 8604
by the administrator or a self-insuring employer, the 8605
administrator or self-insuring employer shall dismiss the 8606
employee's or employee's dependents' claim made in this state. 8607

(I) If an employee who is covered under the federal 8608
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 8609
33 U.S.C. 901 et seq., is injured or contracts an occupational 8610
disease or dies as a result of an injury or occupational 8611
disease, and if that employee's or that employee's dependents' 8612
claim for compensation or benefits for that injury, occupational 8613
disease, or death is subject to the jurisdiction of that act, 8614
the employee or the employee's dependents are not entitled to 8615
apply for and shall not receive compensation or benefits under 8616
this chapter and Chapter 4121. of the Revised Code. The rights 8617
of such an employee and the employee's dependents under the 8618
federal "Longshore and Harbor Workers' Compensation Act," 98 8619
Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy 8620
against the employer for that injury, occupational disease, or 8621
death. 8622

(J) Compensation or benefits are not payable to a claimant 8623
or a dependent during the period of confinement of the claimant 8624
or dependent in any state or federal correctional institution, 8625
or in any county jail in lieu of incarceration in a state or 8626
federal correctional institution, whether in this or any other 8627
state for conviction of violation of any state or federal 8628
criminal law. 8629

(K) An employer, upon the approval of the administrator, 8630
may provide for workers' compensation coverage for the 8631
employer's employees who are professional athletes and coaches 8632

by submitting to the administrator proof of coverage under a 8633
league policy issued under the laws of another state under 8634
either of the following circumstances: 8635

(1) The employer administers the payroll and workers' 8636
compensation insurance for a professional sports team subject to 8637
a collective bargaining agreement, and the collective bargaining 8638
agreement provides for the uniform administration of workers' 8639
compensation benefits and compensation for professional 8640
athletes. 8641

(2) The employer is a professional sports league, or is a 8642
member team of a professional sports league, and all of the 8643
following apply: 8644

(a) The professional sports league operates as a single 8645
entity, whereby all of the players and coaches of the sports 8646
league are employees of the sports league and not of the 8647
individual member teams. 8648

(b) The professional sports league at all times maintains 8649
workers' compensation insurance that provides coverage for the 8650
players and coaches of the sports league. 8651

(c) Each individual member team of the professional sports 8652
league, pursuant to the organizational or operating documents of 8653
the sports league, is obligated to the sports league to pay to 8654
the sports league any workers' compensation claims that are not 8655
covered by the workers' compensation insurance maintained by the 8656
sports league. 8657

If the administrator approves the employer's proof of 8658
coverage submitted under division (K) of this section, a 8659
professional athlete or coach who is an employee of the employer 8660
and the dependents of the professional athlete or coach are not 8661

entitled to apply for and shall not receive compensation or 8662
benefits under this chapter and Chapter 4121. of the Revised 8663
Code. The rights of such an athlete or coach and the dependents 8664
of such an athlete or coach under the laws of the state where 8665
the policy was issued are the exclusive remedy against the 8666
employer for the athlete or coach if the athlete or coach 8667
suffers an injury or contracts an occupational disease in the 8668
course of employment, or for the dependents of the athlete or 8669
the coach if the athlete or coach is killed as a result of an 8670
injury or dies as a result of an occupational disease, 8671
regardless of the location where the injury was suffered or the 8672
occupational disease was contracted. 8673

Sec. 4123.56. (A) Except as provided in division (D) of 8674
this section, in the case of temporary disability, an employee 8675
shall receive sixty-six and two-thirds per cent of the 8676
employee's average weekly wage so long as such disability is 8677
total, not to exceed a maximum amount of weekly compensation 8678
which is equal to the statewide average weekly wage as defined 8679
in division (C) of section 4123.62 of the Revised Code, and not 8680
less than a minimum amount of compensation which is equal to 8681
thirty-three and one-third per cent of the statewide average 8682
weekly wage as defined in division (C) of section 4123.62 of the 8683
Revised Code unless the employee's wage is less than thirty- 8684
three and one-third per cent of the minimum statewide average 8685
weekly wage, in which event the employee shall receive 8686
compensation equal to the employee's full wages; provided that 8687
for the first twelve weeks of total disability the employee 8688
shall receive seventy-two per cent of the employee's full weekly 8689
wage, but not to exceed a maximum amount of weekly compensation 8690
which is equal to the lesser of the statewide average weekly 8691
wage as defined in division (C) of section 4123.62 of the 8692

Revised Code or one hundred per cent of the employee's net take-home weekly wage. In the case of a self-insuring employer, payments shall be for a duration based upon the medical reports of the attending physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner. If the employer disputes the attending physician's or attending nurse's report, payments may be terminated only upon application and hearing by a district hearing officer pursuant to division (C) of section 4123.511 of the Revised Code. Payments shall continue pending the determination of the matter, however payment shall not be made for the period when any employee has returned to work, when an employee's treating physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner has made a written statement that the employee is capable of returning to the employee's former position of employment, when work within the physical capabilities of the employee is made available by the employer or another employer, or when the employee has reached the maximum medical improvement. Where the employee is capable of work activity, but the employee's employer is unable to offer the employee any employment, the employee shall register with the director of job and family services, who shall assist the employee in finding suitable employment. The termination of temporary total disability, whether by order or otherwise, does not preclude the commencement of temporary total disability at another point in time if the employee again becomes temporarily totally disabled.

After two hundred weeks of temporary total disability benefits, the bureau of workers' compensation may schedule the claimant for an examination for an evaluation to determine whether or not the temporary disability has become permanent. A self-insuring employer shall notify the bureau immediately after

payment of two hundred weeks of temporary total disability. The 8724
self-insuring employer may request that the bureau schedule the 8725
claimant for an examination to determine whether the temporary 8726
disability has become permanent. 8727

When the employee is awarded compensation for temporary 8728
total disability for a period for which the employee has 8729
received benefits under Chapter 4141. of the Revised Code, the 8730
bureau shall pay an amount equal to the amount received from the 8731
award to the director of job and family services and the 8732
director shall credit the amount to the accounts of the 8733
employers to whose accounts the payment of benefits was charged 8734
or is chargeable to the extent it was charged or is chargeable. 8735

If any compensation under this section has been paid for 8736
the same period or periods for which temporary nonoccupational 8737
accident and sickness insurance is or has been paid pursuant to 8738
an insurance policy or program to which the employer has made 8739
the entire contribution or payment for providing insurance or 8740
under a nonoccupational accident and sickness program fully 8741
funded by the employer, except as otherwise provided in this 8742
division compensation paid under this section for the period or 8743
periods shall be paid only to the extent by which the payment or 8744
payments exceeds the amount of the nonoccupational insurance or 8745
program paid or payable. Offset of the compensation shall be 8746
made only upon the prior order of the bureau or industrial 8747
commission or agreement of the claimant. If an employer provides 8748
supplemental sick leave benefits in addition to temporary total 8749
disability compensation paid under this section, and if the 8750
employer and an employee agree in writing to the payment of the 8751
supplemental sick leave benefits, temporary total disability 8752
benefits may be paid without an offset for those supplemental 8753
sick leave benefits. 8754

As used in this division, "net take-home weekly wage" 8755
means the amount obtained by dividing an employee's total 8756
remuneration, as defined in section 4141.01 of the Revised Code, 8757
paid to or earned by the employee during the first four of the 8758
last five completed calendar quarters which immediately precede 8759
the first day of the employee's entitlement to benefits under 8760
this division, by the number of weeks during which the employee 8761
was paid or earned remuneration during those four quarters, less 8762
the amount of local, state, and federal income taxes deducted 8763
for each such week. 8764

(B) (1) If an employee in a claim allowed under this 8765
chapter suffers a wage loss as a result of returning to 8766
employment other than the employee's former position of 8767
employment due to an injury or occupational disease, the 8768
employee shall receive compensation at sixty-six and two-thirds 8769
per cent of the difference between the employee's average weekly 8770
wage and the employee's present earnings not to exceed the 8771
statewide average weekly wage. The payments may continue for up 8772
to a maximum of two hundred weeks, but the payments shall be 8773
reduced by the corresponding number of weeks in which the 8774
employee receives payments pursuant to division (A) (2) of 8775
section 4121.67 of the Revised Code. 8776

(2) If an employee in a claim allowed under this chapter 8777
suffers a wage loss as a result of being unable to find 8778
employment consistent with the employee's disability resulting 8779
from the employee's injury or occupational disease, the employee 8780
shall receive compensation at sixty-six and two-thirds per cent 8781
of the difference between the employee's average weekly wage and 8782
the employee's present earnings, not to exceed the statewide 8783
average weekly wage. The payments may continue for up to a 8784
maximum of fifty-two weeks. The first twenty-six weeks of 8785

payments under division (B) (2) of this section shall be in 8786
addition to the maximum of two hundred weeks of payments allowed 8787
under division (B) (1) of this section. If an employee in a claim 8788
allowed under this chapter receives compensation under division 8789
(B) (2) of this section in excess of twenty-six weeks, the number 8790
of weeks of compensation allowable under division (B) (1) of this 8791
section shall be reduced by the corresponding number of weeks in 8792
excess of twenty-six, and up to fifty-two, that is allowable 8793
under division (B) (1) of this section. 8794

(3) The number of weeks of wage loss payable to an 8795
employee under divisions (B) (1) and (2) of this section shall 8796
not exceed two hundred and twenty-six weeks in the aggregate. 8797

(C) In the event an employee of a professional sports 8798
franchise domiciled in this state is disabled as the result of 8799
an injury or occupational disease, the total amount of payments 8800
made under a contract of hire or collective bargaining agreement 8801
to the employee during a period of disability is deemed an 8802
advanced payment of compensation payable under sections 4123.56 8803
to 4123.58 of the Revised Code. The employer shall be reimbursed 8804
the total amount of the advanced payments out of any award of 8805
compensation made pursuant to sections 4123.56 to 4123.58 of the 8806
Revised Code. 8807

(D) If an employee receives temporary total disability 8808
benefits pursuant to division (A) of this section and social 8809
security retirement benefits pursuant to the "Social Security 8810
Act," the weekly benefit amount under division (A) of this 8811
section shall not exceed sixty-six and two-thirds per cent of 8812
the statewide average weekly wage as defined in division (C) of 8813
section 4123.62 of the Revised Code. 8814

(E) If an employee is eligible for compensation under 8815

division (A) of this section, but the employee's full weekly 8816
wage has not been determined at the time payments are to 8817
commence under division (H) of section 4123.511 of the Revised 8818
Code, the employee shall receive thirty-three and one-third per 8819
cent of the statewide average weekly wage as defined in division 8820
(C) of section 4123.62 of the Revised Code. On determination of 8821
the employee's full weekly wage, the compensation an employee 8822
receives shall be adjusted pursuant to division (A) of this 8823
section. 8824

If the amount of compensation an employee receives under 8825
this division is greater than the adjusted amount the employee 8826
receives under division (A) of this section that is based on the 8827
employee's full weekly wage, the excess amount shall be 8828
recovered in the manner provided in division (K) of section 8829
4123.511 of the Revised Code. If the amount of compensation an 8830
employee receives under this division is less than the adjusted 8831
amount the employee receives under that division that is based 8832
on the employee's full weekly wage, the employee shall receive 8833
the difference between those two amounts. 8834

(F) If an employee is unable to work or suffers a wage 8835
loss as the direct result of an impairment arising from an 8836
injury or occupational disease, the employee is entitled to 8837
receive compensation under this section, provided the employee 8838
is otherwise qualified. If an employee is not working or has 8839
suffered a wage loss as the direct result of reasons unrelated 8840
to the allowed injury or occupational disease, the employee is 8841
not eligible to receive compensation under this section. It is 8842
the intent of the general assembly to supersede any previous 8843
judicial decision that applied the doctrine of voluntary 8844
abandonment to a claim brought under this section. 8845

Sec. 4123.57. Partial disability compensation shall be 8846
paid as follows. 8847

Except as provided in this section, not earlier than 8848
twenty-six weeks after the date of termination of the latest 8849
period of payments under section 4123.56 of the Revised Code or 8850
twenty-six weeks after the termination of wages in lieu of those 8851
payments, or not earlier than twenty-six weeks after the date of 8852
the injury or contraction of an occupational disease in the 8853
absence of payments under section 4123.56 of the Revised Code or 8854
wages in lieu of those payments, the employee may file an 8855
application with the bureau of workers' compensation for the 8856
determination of the percentage of the employee's permanent 8857
partial disability resulting from an injury or occupational 8858
disease. 8859

Whenever the application is filed, the bureau shall send a 8860
copy of the application to the employee's employer or the 8861
employer's representative and shall schedule the employee for a 8862
medical examination by the bureau medical section. The bureau 8863
shall send a copy of the report of the medical examination to 8864
the employee, the employer, and their representatives. 8865
Thereafter, the administrator of workers' compensation shall 8866
review the employee's claim file and make a tentative order as 8867
the evidence before the administrator at the time of the making 8868
of the order warrants. If the administrator determines that 8869
there is a conflict of evidence, the administrator shall send 8870
the application, along with the claimant's file, to the district 8871
hearing officer who shall set the application for a hearing. 8872

If an employee fails to respond to an attempt to schedule 8873
a medical examination by the bureau medical section, or fails to 8874
attend a medical examination scheduled under this section 8875

without notice or explanation, the employee's application for a 8876
finding shall be dismissed without prejudice. The employee may 8877
refile the application. A dismissed application does not toll 8878
the continuing jurisdiction of the industrial commission under 8879
section 4123.52 of the Revised Code. The administrator shall 8880
adopt rules addressing the manner in which an employee will be 8881
notified of a possible dismissal and how an employee may refile 8882
an application for a determination. 8883

The administrator shall notify the employee, the employer, 8884
and their representatives, in writing, of the tentative order 8885
and of the parties' right to request a hearing. Unless the 8886
employee, the employer, or their representative notifies the 8887
administrator, in writing, of an objection to the tentative 8888
order within twenty days after receipt of the notice thereof, 8889
the tentative order shall go into effect and the employee shall 8890
receive the compensation provided in the order. In no event 8891
shall there be a reconsideration of a tentative order issued 8892
under this division. 8893

If the employee, the employer, or their representatives 8894
timely notify the administrator of an objection to the tentative 8895
order, the matter shall be referred to a district hearing 8896
officer who shall set the application for hearing with written 8897
notices to all interested persons. Upon referral to a district 8898
hearing officer, the employer may obtain a medical examination 8899
of the employee, pursuant to rules of the industrial commission. 8900

(A) The district hearing officer, upon the application, 8901
shall determine the percentage of the employee's permanent 8902
disability, except as is subject to division (B) of this 8903
section, based upon that condition of the employee resulting 8904
from the injury or occupational disease and causing permanent 8905

impairment evidenced by medical or clinical findings reasonably 8906
demonstrable. The employee shall receive sixty-six and two- 8907
thirds per cent of the employee's average weekly wage, but not 8908
more than a maximum of thirty-three and one-third per cent of 8909
the statewide average weekly wage as defined in division (C) of 8910
section 4123.62 of the Revised Code, per week regardless of the 8911
average weekly wage, for the number of weeks which equals the 8912
percentage of two hundred weeks. Except on application for 8913
reconsideration, review, or modification, which is filed within 8914
ten days after the date of receipt of the decision of the 8915
district hearing officer, in no instance shall the former award 8916
be modified unless it is found from medical or clinical findings 8917
that the condition of the claimant resulting from the injury has 8918
so progressed as to have increased the percentage of permanent 8919
partial disability. A staff hearing officer shall hear an 8920
application for reconsideration filed and the staff hearing 8921
officer's decision is final. An employee may file an application 8922
for a subsequent determination of the percentage of the 8923
employee's permanent disability. If such an application is 8924
filed, the bureau shall send a copy of the application to the 8925
employer or the employer's representative. No sooner than sixty 8926
days from the date of the mailing of the application to the 8927
employer or the employer's representative, the administrator 8928
shall review the application. The administrator may require a 8929
medical examination or medical review of the employee. The 8930
administrator shall issue a tentative order based upon the 8931
evidence before the administrator, provided that if the 8932
administrator requires a medical examination or medical review, 8933
the administrator shall not issue the tentative order until the 8934
completion of the examination or review. 8935

The employer may obtain a medical examination of the 8936

employee and may submit medical evidence at any stage of the 8937
process up to a hearing before the district hearing officer, 8938
pursuant to rules of the commission. The administrator shall 8939
notify the employee, the employer, and their representatives, in 8940
writing, of the nature and amount of any tentative order issued 8941
on an application requesting a subsequent determination of the 8942
percentage of an employee's permanent disability. An employee, 8943
employer, or their representatives may object to the tentative 8944
order within twenty days after the receipt of the notice 8945
thereof. If no timely objection is made, the tentative order 8946
shall go into effect. In no event shall there be a 8947
reconsideration of a tentative order issued under this division. 8948
If an objection is timely made, the application for a subsequent 8949
determination shall be referred to a district hearing officer 8950
who shall set the application for a hearing with written notice 8951
to all interested persons. No application for subsequent 8952
percentage determinations on the same claim for injury or 8953
occupational disease shall be accepted for review by the 8954
district hearing officer unless supported by substantial 8955
evidence of new and changed circumstances developing since the 8956
time of the hearing on the original or last determination. 8957

No award shall be made under this division based upon a 8958
percentage of disability which, when taken with all other 8959
percentages of permanent disability, exceeds one hundred per 8960
cent. If the percentage of the permanent disability of the 8961
employee equals or exceeds ninety per cent, compensation for 8962
permanent partial disability shall be paid for two hundred 8963
weeks. 8964

Compensation payable under this division accrues and is 8965
payable to the employee from the date of last payment of 8966
compensation, or, in cases where no previous compensation has 8967

been paid, from the date of the injury or the date of the 8968
diagnosis of the occupational disease. 8969

When an award under this division has been made prior to 8970
the death of an employee, all unpaid installments accrued or to 8971
accrue under the provisions of the award are payable to the 8972
surviving spouse, or if there is no surviving spouse, to the 8973
dependent children of the employee, and if there are no children 8974
surviving, then to other dependents as the administrator 8975
determines. 8976

(B) For purposes of this division, "payable per week" 8977
means the seven-consecutive-day period in which compensation is 8978
paid in installments according to the schedule associated with 8979
the applicable injury as set forth in this division. 8980

Compensation paid in weekly installments according to the 8981
schedule described in this division may only be commuted to one 8982
or more lump sum payments pursuant to the procedure set forth in 8983
section 4123.64 of the Revised Code. 8984

In cases included in the following schedule the 8985
compensation payable per week to the employee is the statewide 8986
average weekly wage as defined in division (C) of section 8987
4123.62 of the Revised Code per week and shall be paid in 8988
installments according to the following schedule: 8989

For the loss of a first finger, commonly known as a thumb, 8990
sixty weeks. 8991

For the loss of a second finger, commonly called index 8992
finger, thirty-five weeks. 8993

For the loss of a third finger, thirty weeks. 8994

For the loss of a fourth finger, twenty weeks. 8995

For the loss of a fifth finger, commonly known as the	8996
little finger, fifteen weeks.	8997
The loss of a second, or distal, phalange of the thumb is	8998
considered equal to the loss of one half of such thumb; the loss	8999
of more than one half of such thumb is considered equal to the	9000
loss of the whole thumb.	9001
The loss of the third, or distal, phalange of any finger	9002
is considered equal to the loss of one-third of the finger.	9003
The loss of the middle, or second, phalange of any finger	9004
is considered equal to the loss of two-thirds of the finger.	9005
The loss of more than the middle and distal phalanges of	9006
any finger is considered equal to the loss of the whole finger.	9007
In no case shall the amount received for more than one finger	9008
exceed the amount provided in this schedule for the loss of a	9009
hand.	9010
For the loss of the metacarpal bone (bones of the palm)	9011
for the corresponding thumb, or fingers, add ten weeks to the	9012
number of weeks under this division.	9013
For ankylosis (total stiffness of) or contractures (due to	9014
scars or injuries) which makes any of the fingers, thumbs, or	9015
parts of either useless, the same number of weeks apply to the	9016
members or parts thereof as given for the loss thereof.	9017
If the claimant has suffered the loss of two or more	9018
fingers by amputation or ankylosis and the nature of the	9019
claimant's employment in the course of which the claimant was	9020
working at the time of the injury or occupational disease is	9021
such that the impairment or disability resulting from the loss	9022
of fingers, or loss of use of fingers, exceeds the normal	9023
impairment or disability resulting from the loss of fingers, or	9024

loss of use of fingers, the administrator may take that fact 9025
into consideration and increase the award of compensation 9026
accordingly, but the award made shall not exceed the amount of 9027
compensation for loss of a hand. 9028

For the loss of a hand, one hundred seventy-five weeks. 9029

For the loss of an arm, two hundred twenty-five weeks. 9030

For the loss of a great toe, thirty weeks. 9031

For the loss of one of the toes other than the great toe, 9032
ten weeks. 9033

The loss of more than two-thirds of any toe is considered 9034
equal to the loss of the whole toe. 9035

The loss of less than two-thirds of any toe is considered 9036
no loss, except as to the great toe; the loss of the great toe 9037
up to the interphalangeal joint is co-equal to the loss of one- 9038
half of the great toe; the loss of the great toe beyond the 9039
interphalangeal joint is considered equal to the loss of the 9040
whole great toe. 9041

For the loss of a foot, one hundred fifty weeks. 9042

For the loss of a leg, two hundred weeks. 9043

For the loss of the sight of an eye, one hundred twenty- 9044
five weeks. 9045

For the permanent partial loss of sight of an eye, the 9046
portion of one hundred twenty-five weeks as the administrator in 9047
each case determines, based upon the percentage of vision 9048
actually lost as a result of the injury or occupational disease, 9049
but, in no case shall an award of compensation be made for less 9050
than twenty-five per cent loss of uncorrected vision. "Loss of 9051

uncorrected vision" means the percentage of vision actually lost 9052
as the result of the injury or occupational disease. 9053

For the permanent and total loss of hearing of one ear, 9054
twenty-five weeks; but in no case shall an award of compensation 9055
be made for less than permanent and total loss of hearing of one 9056
ear. 9057

For the permanent and total loss of hearing, one hundred 9058
twenty-five weeks; but, except pursuant to the next preceding 9059
paragraph, in no case shall an award of compensation be made for 9060
less than permanent and total loss of hearing. 9061

In case an injury or occupational disease results in 9062
serious facial or head disfigurement which either impairs or may 9063
in the future impair the opportunities to secure or retain 9064
employment, the administrator shall make an award of 9065
compensation as it deems proper and equitable, in view of the 9066
nature of the disfigurement, and not to exceed the sum of ten 9067
thousand dollars. For the purpose of making the award, it is not 9068
material whether the employee is gainfully employed in any 9069
occupation or trade at the time of the administrator's 9070
determination. 9071

When an award under this division has been made prior to 9072
the death of an employee all unpaid installments accrued or to 9073
accrue under the provisions of the award shall be payable to the 9074
surviving spouse, or if there is no surviving spouse, to the 9075
dependent children of the employee and if there are no such 9076
children, then to such dependents as the administrator 9077
determines. 9078

When an employee has sustained the loss of a member by 9079
severance, but no award has been made on account thereof prior 9080

to the employee's death, the administrator shall make an award 9081
in accordance with this division for the loss which shall be 9082
payable to the surviving spouse, or if there is no surviving 9083
spouse, to the dependent children of the employee and if there 9084
are no such children, then to such dependents as the 9085
administrator determines. 9086

(C) Compensation for partial impairment under divisions 9087
(A) and (B) of this section is in addition to the compensation 9088
paid the employee pursuant to section 4123.56 of the Revised 9089
Code. A claimant may receive compensation under divisions (A) 9090
and (B) of this section. 9091

In all cases arising under division (B) of this section, 9092
if it is determined by any one of the following: (1) the amputee 9093
clinic at University hospital, Ohio state university; (2) the 9094
opportunities for Ohioans with disabilities agency; (3) an 9095
amputee clinic or prescribing physician, certified nurse- 9096
midwife, clinical nurse specialist, or certified nurse 9097
practitioner approved by the administrator or the 9098
administrator's designee, that an injured or disabled employee 9099
is in need of an artificial appliance, or in need of a repair 9100
thereof, regardless of whether the appliance or its repair will 9101
be serviceable in the vocational rehabilitation of the injured 9102
employee, and regardless of whether the employee has returned to 9103
or can ever again return to any gainful employment, the bureau 9104
shall pay the cost of the artificial appliance or its repair out 9105
of the surplus created by division (B) of section 4123.34 of the 9106
Revised Code. 9107

In those cases where an opportunities for Ohioans with 9108
disabilities agency's recommendation that an injured or disabled 9109
employee is in need of an artificial appliance would conflict 9110

with their state plan, adopted pursuant to the "Rehabilitation 9111
Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator 9112
or the administrator's designee or the bureau may obtain a 9113
recommendation from an amputee clinic or prescribing physician, 9114
certified nurse-midwife, clinical nurse specialist, or certified 9115
nurse practitioner that they determine appropriate. 9116

(D) If an employee of a state fund employer makes 9117
application for a finding and the administrator finds that the 9118
employee has contracted silicosis as defined in division (Y), or 9119
coal miners' pneumoconiosis as defined in division (Z), or 9120
asbestosis as defined in division (BB) of section 4123.68 of the 9121
Revised Code, and that a change of such employee's occupation is 9122
medically advisable in order to decrease substantially further 9123
exposure to silica dust, asbestos, or coal dust and if the 9124
employee, after the finding, has changed or shall change the 9125
employee's occupation to an occupation in which the exposure to 9126
silica dust, asbestos, or coal dust is substantially decreased, 9127
the administrator shall allow to the employee an amount equal to 9128
fifty per cent of the statewide average weekly wage per week for 9129
a period of thirty weeks, commencing as of the date of the 9130
discontinuance or change, and for a period of one hundred weeks 9131
immediately following the expiration of the period of thirty 9132
weeks, the employee shall receive sixty-six and two-thirds per 9133
cent of the loss of wages resulting directly and solely from the 9134
change of occupation but not to exceed a maximum of an amount 9135
equal to fifty per cent of the statewide average weekly wage per 9136
week. No such employee is entitled to receive more than one 9137
allowance on account of discontinuance of employment or change 9138
of occupation and benefits shall cease for any period during 9139
which the employee is employed in an occupation in which the 9140
exposure to silica dust, asbestos, or coal dust is not 9141

substantially less than the exposure in the occupation in which 9142
the employee was formerly employed or for any period during 9143
which the employee may be entitled to receive compensation or 9144
benefits under section 4123.68 of the Revised Code on account of 9145
disability from silicosis, asbestosis, or coal miners' 9146
pneumoconiosis. An award for change of occupation for a coal 9147
miner who has contracted coal miners' pneumoconiosis may be 9148
granted under this division even though the coal miner continues 9149
employment with the same employer, so long as the coal miner's 9150
employment subsequent to the change is such that the coal 9151
miner's exposure to coal dust is substantially decreased and a 9152
change of occupation is certified by the claimant as permanent. 9153
The administrator may accord to the employee medical and other 9154
benefits in accordance with section 4123.66 of the Revised Code. 9155

(E) If a firefighter or police officer makes application 9156
for a finding and the administrator finds that the firefighter 9157
or police officer has contracted a cardiovascular and pulmonary 9158
disease as defined in division (W) of section 4123.68 of the 9159
Revised Code, and that a change of the firefighter's or police 9160
officer's occupation is medically advisable in order to decrease 9161
substantially further exposure to smoke, toxic gases, chemical 9162
fumes, and other toxic vapors, and if the firefighter, or police 9163
officer, after the finding, has changed or changes occupation to 9164
an occupation in which the exposure to smoke, toxic gases, 9165
chemical fumes, and other toxic vapors is substantially 9166
decreased, the administrator shall allow to the firefighter or 9167
police officer an amount equal to fifty per cent of the 9168
statewide average weekly wage per week for a period of thirty 9169
weeks, commencing as of the date of the discontinuance or 9170
change, and for a period of seventy-five weeks immediately 9171
following the expiration of the period of thirty weeks the 9172

administrator shall allow the firefighter or police officer 9173
sixty-six and two-thirds per cent of the loss of wages resulting 9174
directly and solely from the change of occupation but not to 9175
exceed a maximum of an amount equal to fifty per cent of the 9176
statewide average weekly wage per week. No such firefighter or 9177
police officer is entitled to receive more than one allowance on 9178
account of discontinuance of employment or change of occupation 9179
and benefits shall cease for any period during which the 9180
firefighter or police officer is employed in an occupation in 9181
which the exposure to smoke, toxic gases, chemical fumes, and 9182
other toxic vapors is not substantially less than the exposure 9183
in the occupation in which the firefighter or police officer was 9184
formerly employed or for any period during which the firefighter 9185
or police officer may be entitled to receive compensation or 9186
benefits under section 4123.68 of the Revised Code on account of 9187
disability from a cardiovascular and pulmonary disease. The 9188
administrator may accord to the firefighter or police officer 9189
medical and other benefits in accordance with section 4123.66 of 9190
the Revised Code. 9191

(F) An order issued under this section is appealable 9192
pursuant to section 4123.511 of the Revised Code but is not 9193
appealable to court under section 4123.512 of the Revised Code. 9194

Sec. 4123.651. ~~(A)~~ (A) (1) The employer of a claimant who 9195
is injured or disabled in the course of the claimant's 9196
employment may require, without the approval of the 9197
administrator or the industrial commission, that the claimant be 9198
examined by ~~a physician~~ any of the following of the employer's 9199
choice one time ~~upon~~ : 9200

(a) A physician; 9201

(b) A certified nurse midwife; 9202

(c) A clinical nurse specialist; 9203

(d) A certified nurse practitioner. 9204

(2) The examination described in division (A) (1) of this 9205
section shall be for the purpose of any issue asserted by the 9206
employee or a physician any of the practitioners listed in 9207
divisions (A) (1) (a) to (d) of this section of the employee's 9208
choice or for the purpose of any issue which is to be considered 9209
by the commission. Any 9210

(3) Any further requests for medical examinations shall be 9211
made to the commission, which shall consider and rule on the 9212
request. The employer shall pay the cost of any examinations 9213
initiated by the employer. 9214

(B) The bureau of workers' compensation shall prepare or 9215
adopt a form for the release of medical information, records, 9216
and reports relative to the issues necessary for the 9217
administration of a claim under this chapter. The claimant 9218
promptly shall provide a current signed form, or an equivalent 9219
form such as the standard form under section 3798.10 of the 9220
Revised Code, for the release of the information, records, and 9221
reports when requested by the employer. The employer promptly 9222
shall provide copies of all medical information, records, and 9223
reports to the bureau and to the claimant or the claimant's 9224
representative upon request. 9225

Medical information, records, and reports shall be related 9226
causally or historically to physical, psychological, or 9227
psychiatric injuries relevant to the claimant's workers' 9228
compensation claim. 9229

(C) If, without good cause, an employee refuses to submit 9230
to any examination scheduled under this section or refuses to 9231

release or execute a release for any medical information, 9232
record, or report that is required to be released under this 9233
section and involves an issue pertinent to the condition alleged 9234
in the claim, the employee's right to have the employee's claim 9235
for compensation or benefits considered, if the employee's claim 9236
is pending before the administrator, commission, or a district 9237
or staff hearing officer, or to receive any payment for 9238
compensation or benefits previously granted, is suspended during 9239
the period of refusal. 9240

(D) No bureau or commission employee shall alter any 9241
medical report obtained from a health care provider the bureau 9242
or commission has selected or cause or request the health care 9243
provider to alter or change a report. The bureau and commission 9244
shall make any request for clarification of a health care 9245
provider's report in writing and shall provide a copy of the 9246
request to the affected parties and their representatives at the 9247
time of making the request. 9248

Sec. 4123.71. Every physician, certified nurse-midwife, 9249
clinical nurse specialist, or certified nurse practitioner in 9250
this state attending on or called in to visit a patient whom the 9251
physician or nurse believes to have an occupational disease as 9252
defined in section 4123.68 of the Revised Code shall, within 9253
forty-eight hours from the time of making such diagnosis, send 9254
to the bureau of workers' compensation a report stating: 9255

(A) Name, address, and occupation of patient; 9256

(B) Name and address of business in which employed; 9257

(C) Nature of disease; 9258

(D) Name and address of employer of patient; 9259

(E) Such other information as is reasonably required by 9260

the bureau. 9261

The reports shall be made on blanks to be furnished by the 9262
bureau. A physician or nurse who sends the report within the 9263
time stated to the bureau is in compliance with this section. 9264

Reports made under this section shall not be evidence of 9265
the facts therein stated in any action arising out of a disease 9266
therein reported. 9267

The bureau shall, within twenty-four hours after the 9268
receipt of the report, send a copy thereof to the employer of 9269
the patient named in the report. 9270

Sec. 4123.84. (A) In all cases of injury or death, claims 9271
for compensation or benefits for the specific part or parts of 9272
the body injured shall be forever barred unless, within one year 9273
after the injury or death: 9274

(1) Written or facsimile notice of the specific part or 9275
parts of the body claimed to have been injured has been made to 9276
the industrial commission or the bureau of workers' 9277
compensation; 9278

(2) The employer, with knowledge of a claimed compensable 9279
injury or occupational disease, has paid wages in lieu of 9280
compensation for total disability; 9281

(3) In the event the employer is a self-insuring employer, 9282
one of the following has occurred: 9283

(a) Written or facsimile notice of the specific part or 9284
parts of the body claimed to have been injured has been given to 9285
the commission or bureau or the employer has furnished treatment 9286
by a licensed physician, certified nurse-midwife, clinical nurse 9287
specialist, or certified nurse practitioner in the employ of an 9288

employer, provided, however, that the furnishing of such 9289
treatment shall not constitute a recognition of a claim as 9290
compensable, but shall do no more than satisfy the requirements 9291
of this section; 9292

(b) Compensation or benefits have been paid or furnished 9293
equal to or greater than is provided for in sections 4123.52, 9294
4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code. 9295

(4) Written or facsimile notice of death has been given to 9296
the commission or bureau. 9297

(B) The bureau shall provide printed notices quoting in 9298
full division (A) of this section, and every self-insuring 9299
employer shall post and maintain at all times one or more of the 9300
notices in conspicuous places in the workshop or places of 9301
employment. 9302

(C) The commission has continuing jurisdiction as set 9303
forth in section 4123.52 of the Revised Code over a claim which 9304
meets the requirement of this section, including jurisdiction to 9305
award compensation or benefits for loss or impairment of bodily 9306
functions developing in a part or parts of the body not 9307
specified pursuant to division (A)(1) of this section, if the 9308
commission finds that the loss or impairment of bodily functions 9309
was due to and a result of or a residual of the injury to one of 9310
the parts of the body set forth in the written notice filed 9311
pursuant to division (A)(1) of this section. 9312

(D) Any claim pending before the administrator, the 9313
commission, or a court on December 11, 1967, in which the remedy 9314
is affected by this section is governed by this section. 9315

(E) Notwithstanding the requirement that the notice 9316
required to be given to the bureau, commission, or employer 9317

under this section is to be in writing or facsimile, the bureau 9318
may accept, assign a claim number, and process a claim when 9319
notice is provided verbally over the telephone. Immediately upon 9320
receipt of notice provided verbally over the telephone, the 9321
bureau shall send a written or facsimile notice to the employer 9322
of the bureau's receipt of the verbal notice. Within fifteen 9323
days after receipt of the bureau's written or facsimile notice, 9324
the employer may in writing or facsimile either verify or not 9325
verify the verbal notice. If the bureau does not receive the 9326
written or facsimile notification from the employer or receives 9327
a written or facsimile notification verifying the verbal notice 9328
within such time period, the claim is validly filed and such 9329
verbal notice tolls the statute of limitations in regard to the 9330
claim filed and is considered to meet the requirements of 9331
written or facsimile notice required by this section. 9332

(F) As used in division (A) (3) (b) of this section, 9333
"benefits" means payments by a self-insuring employer to, or on 9334
behalf of, an employee for any of the following: a hospital 9335
bill; a medical bill to a licensed physician, certified nurse- 9336
midwife, clinical nurse specialist, certified nurse 9337
practitioner, or hospital; or an orthopedic or prosthetic 9338
device. 9339

Sec. 4123.85. In all cases of occupational disease, or 9340
death resulting from occupational disease, claims for 9341
compensation or benefits are forever barred unless, within one 9342
year after the disability due to the disease began, or within 9343
such longer period as does not exceed six months after diagnosis 9344
of the occupational disease by a licensed physician, certified 9345
nurse-midwife, clinical nurse specialist, or certified nurse 9346
practitioner or within one year after death occurs, application 9347
is made to the industrial commission or the bureau of workers' 9348

compensation or to the employer if the employer is a self- 9349
insuring employer. 9350

Sec. 4506.07. (A) An applicant for a commercial driver's 9351
license, restricted commercial driver's license, or a commercial 9352
driver's license temporary instruction permit, or a duplicate of 9353
such a license or permit, shall submit an application upon a 9354
form approved and furnished by the registrar of motor vehicles. 9355
Except as provided in section 4506.24 of the Revised Code in 9356
regard to a restricted commercial driver's license, the 9357
applicant shall sign the application which shall contain the 9358
following information: 9359

(1) The applicant's name, date of birth, social security 9360
account number, sex, general description including height, 9361
weight, and color of hair and eyes, current residence, duration 9362
of residence in this state, state of domicile, country of 9363
citizenship, and occupation; 9364

(2) Whether the applicant previously has been licensed to 9365
operate a commercial motor vehicle or any other type of motor 9366
vehicle in another state or a foreign jurisdiction and, if so, 9367
when, by what state, and whether the license or driving 9368
privileges currently are suspended or revoked in any 9369
jurisdiction, or the applicant otherwise has been disqualified 9370
from operating a commercial motor vehicle, or is subject to an 9371
out-of-service order issued under this chapter or any similar 9372
law of another state or a foreign jurisdiction and, if so, the 9373
date of, locations involved, and reason for the suspension, 9374
revocation, disqualification, or out-of-service order; 9375

(3) Whether the applicant has any physical or mental 9376
disability or disease that prevents the applicant from 9377
exercising reasonable and ordinary control over a motor vehicle 9378

while operating it upon a highway or is or has been subject to 9379
any condition resulting in episodic impairment of consciousness 9380
or loss of muscular control and, if so, the nature and extent of 9381
the disability, disease, or condition, and the names and 9382
addresses of the physicians, certified nurse-midwives if 9383
authorized as described in section 4723.438 of the Revised Code, 9384
clinical nurse specialists, or certified nurse practitioners 9385
attending the applicant; 9386

(4) Whether the applicant has obtained a medical 9387
examiner's certificate as required by this chapter and, 9388
beginning January 30, 2012, the applicant, prior to or at the 9389
time of applying, has self-certified to the registrar the 9390
applicable status of the applicant under division (A) (1) of 9391
section 4506.10 of the Revised Code; 9392

(5) Whether the applicant has pending a citation for 9393
violation of any motor vehicle law or ordinance except a parking 9394
violation and, if so, a description of the citation, the court 9395
having jurisdiction of the offense, and the date when the 9396
offense occurred; 9397

(6) If an applicant has not certified the applicant's 9398
willingness to make an anatomical gift under section 2108.05 of 9399
the Revised Code, whether the applicant wishes to certify 9400
willingness to make such an anatomical gift, which shall be 9401
given no consideration in the issuance of a license; 9402

(7) Whether the applicant has executed a valid durable 9403
power of attorney for health care pursuant to sections 1337.11 9404
to 1337.17 of the Revised Code or has executed a declaration 9405
governing the use or continuation, or the withholding or 9406
withdrawal, of life-sustaining treatment pursuant to sections 9407
2133.01 to 2133.15 of the Revised Code and, if the applicant has 9408

executed either type of instrument, whether the applicant wishes 9409
the license issued to indicate that the applicant has executed 9410
the instrument; 9411

(8) Whether the applicant is a veteran, active duty, or 9412
reservist of the armed forces of the United States and, if the 9413
applicant is such, whether the applicant wishes the license 9414
issued to indicate that the applicant is a veteran, active duty, 9415
or reservist of the armed forces of the United States by a 9416
military designation on the license. 9417

(B) Every applicant shall certify, on a form approved and 9418
furnished by the registrar, all of the following: 9419

(1) That the motor vehicle in which the applicant intends 9420
to take the driving skills test is representative of the type of 9421
motor vehicle that the applicant expects to operate as a driver; 9422

(2) That the applicant is not subject to any 9423
disqualification or out-of-service order, or license suspension, 9424
revocation, or cancellation, under the laws of this state, of 9425
another state, or of a foreign jurisdiction and does not have 9426
more than one driver's license issued by this or another state 9427
or a foreign jurisdiction; 9428

(3) Any additional information, certification, or evidence 9429
that the registrar requires by rule in order to ensure that the 9430
issuance of a commercial driver's license or commercial driver's 9431
license temporary instruction permit to the applicant is in 9432
compliance with the law of this state and with federal law. 9433

(C) Every applicant shall execute a form, approved and 9434
furnished by the registrar, under which the applicant consents 9435
to the release by the registrar of information from the 9436
applicant's driving record. 9437

(D) The registrar or a deputy registrar, in accordance 9438
with section 3503.11 of the Revised Code, shall register as an 9439
elector any applicant for a commercial driver's license or for a 9440
renewal or duplicate of such a license under this chapter, if 9441
the applicant is eligible and wishes to be registered as an 9442
elector. The decision of an applicant whether to register as an 9443
elector shall be given no consideration in the decision of 9444
whether to issue the applicant a license or a renewal or 9445
duplicate. 9446

(E) The registrar or a deputy registrar, in accordance 9447
with section 3503.11 of the Revised Code, shall offer the 9448
opportunity of completing a notice of change of residence or 9449
change of name to any applicant for a commercial driver's 9450
license or for a renewal or duplicate of such a license who is a 9451
resident of this state, if the applicant is a registered elector 9452
who has changed the applicant's residence or name and has not 9453
filed such a notice. 9454

(F) In considering any application submitted pursuant to 9455
this section, the bureau of motor vehicles may conduct any 9456
inquiries necessary to ensure that issuance or renewal of a 9457
commercial driver's license would not violate any provision of 9458
the Revised Code or federal law. 9459

(G) In addition to any other information it contains, the 9460
form approved and furnished by the registrar of motor vehicles 9461
for an application for a commercial driver's license, restricted 9462
commercial driver's license, or a commercial driver's license 9463
temporary instruction permit or an application for a duplicate 9464
of such a license or permit shall inform applicants that the 9465
applicant must present a copy of the applicant's DD-214 or an 9466
equivalent document in order to qualify to have the license, or 9467

permit, or duplicate indicate that the applicant is a veteran, 9468
active duty, or reservist of the armed forces of the United 9469
States based on a request made pursuant to division (A) (8) of 9470
this section. 9471

Sec. 4507.06. (A) (1) Every application for a driver's 9472
license, motorcycle operator's license or endorsement, or motor- 9473
driven cycle or motor scooter license or endorsement, or 9474
duplicate of any such license or endorsement, shall be made upon 9475
the approved form furnished by the registrar of motor vehicles 9476
and shall be signed by the applicant. 9477

Every application shall state the following: 9478

(a) The applicant's name, date of birth, social security 9479
number if such has been assigned, sex, general description, 9480
including height, weight, color of hair, and eyes, residence 9481
address, including county of residence, duration of residence in 9482
this state, and country of citizenship; 9483

(b) Whether the applicant previously has been licensed as 9484
an operator, chauffeur, driver, commercial driver, or motorcycle 9485
operator and, if so, when, by what state, and whether such 9486
license is suspended or canceled at the present time and, if so, 9487
the date of and reason for the suspension or cancellation; 9488

(c) Whether the applicant is now or ever has been 9489
afflicted with epilepsy, or whether the applicant now has any 9490
physical or mental disability or disease and, if so, the nature 9491
and extent of the disability or disease, giving the names and 9492
addresses of physicians, certified nurse-midwives if authorized 9493
as described in section 4723.438 of the Revised Code, clinical 9494
nurse specialists, or certified nurse practitioners then or 9495
previously in attendance upon the applicant; 9496

(d) Whether an applicant for a duplicate driver's license, 9497
duplicate license containing a motorcycle operator endorsement, 9498
or duplicate license containing a motor-driven cycle or motor 9499
scooter endorsement has pending a citation for violation of any 9500
motor vehicle law or ordinance, a description of any such 9501
citation pending, and the date of the citation; 9502

(e) If an applicant has not certified the applicant's 9503
willingness to make an anatomical gift under section 2108.05 of 9504
the Revised Code, whether the applicant wishes to certify 9505
willingness to make such an anatomical gift, which shall be 9506
given no consideration in the issuance of a license or 9507
endorsement; 9508

(f) Whether the applicant has executed a valid durable 9509
power of attorney for health care pursuant to sections 1337.11 9510
to 1337.17 of the Revised Code or has executed a declaration 9511
governing the use or continuation, or the withholding or 9512
withdrawal, of life-sustaining treatment pursuant to sections 9513
2133.01 to 2133.15 of the Revised Code and, if the applicant has 9514
executed either type of instrument, whether the applicant wishes 9515
the applicant's license to indicate that the applicant has 9516
executed the instrument; 9517

(g) Whether the applicant is a veteran, active duty, or 9518
reservist of the armed forces of the United States and, if the 9519
applicant is such, whether the applicant wishes the applicant's 9520
license to indicate that the applicant is a veteran, active 9521
duty, or reservist of the armed forces of the United States by a 9522
military designation on the license. 9523

(2) Every applicant for a driver's license applying in 9524
person at a deputy registrar office shall be photographed at the 9525
time the application for the license is made. The application 9526

shall state any additional information that the registrar 9527
requires. 9528

(B) The registrar or a deputy registrar, in accordance 9529
with section 3503.11 of the Revised Code, shall register as an 9530
elector any person who applies for a license or endorsement 9531
under division (A) of this section, or for a renewal or 9532
duplicate of the license or endorsement, if the applicant is 9533
eligible and wishes to be registered as an elector. The decision 9534
of an applicant whether to register as an elector shall be given 9535
no consideration in the decision of whether to issue the 9536
applicant a license or endorsement, or a renewal or duplicate. 9537

(C) The registrar or a deputy registrar, in accordance 9538
with section 3503.11 of the Revised Code, shall offer the 9539
opportunity of completing a notice of change of residence or 9540
change of name to any applicant for a driver's license or 9541
endorsement under division (A) of this section, or for a renewal 9542
or duplicate of the license or endorsement, if the applicant is 9543
a registered elector who has changed the applicant's residence 9544
or name and has not filed such a notice. 9545

(D) In addition to any other information it contains, the 9546
approved form furnished by the registrar of motor vehicles for 9547
an application for a license or endorsement or an application 9548
for a duplicate of any such license or endorsement shall inform 9549
applicants that the applicant must present a copy of the 9550
applicant's DD-214 or an equivalent document in order to qualify 9551
to have the license or duplicate indicate that the applicant is 9552
a veteran, active duty, or reservist of the armed forces of the 9553
United States based on a request made pursuant to division (A) 9554
(1)(g) of this section. 9555

Sec. 4507.08. (A) No probationary license shall be issued 9556

to any person under the age of eighteen who has been adjudicated 9557
an unruly or delinquent child or a juvenile traffic offender for 9558
having committed any act that if committed by an adult would be 9559
a drug abuse offense, as defined in section 2925.01 of the 9560
Revised Code, a violation of division (B) of section 2917.11, or 9561
a violation of division (A) of section 4511.19 of the Revised 9562
Code, unless the person has been required by the court to attend 9563
a drug abuse or alcohol abuse education, intervention, or 9564
treatment program specified by the court and has satisfactorily 9565
completed the program. 9566

(B) No temporary instruction permit or driver's license 9567
shall be issued to any person whose license has been suspended, 9568
during the period for which the license was suspended, nor to 9569
any person whose license has been canceled, under Chapter 4510. 9570
or any other provision of the Revised Code. 9571

(C) No temporary instruction permit or driver's license 9572
shall be issued to any person whose commercial driver's license 9573
is suspended under Chapter 4510. or any other provision of the 9574
Revised Code during the period of the suspension. 9575

No temporary instruction permit or driver's license shall 9576
be issued to any person when issuance is prohibited by division 9577
(A) of section 4507.091 of the Revised Code. 9578

(D) No temporary instruction permit or driver's license 9579
shall be issued to, or retained by, any of the following 9580
persons: 9581

(1) Any person who has alcoholism, or is addicted to the 9582
use of controlled substances to the extent that the use 9583
constitutes an impairment to the person's ability to operate a 9584
motor vehicle with the required degree of safety; 9585

(2) Any person who is under the age of eighteen and has
been adjudicated an unruly or delinquent child or a juvenile
traffic offender for having committed any act that if committed
by an adult would be a drug abuse offense, as defined in section
2925.01 of the Revised Code, a violation of division (B) of
section 2917.11, or a violation of division (A) of section
4511.19 of the Revised Code, unless the person has been required
by the court to attend a drug abuse or alcohol abuse education,
intervention, or treatment program specified by the court and
has satisfactorily completed the program;

(3) Any person who, in the opinion of the registrar, has a
physical or mental disability or disease that prevents the
person from exercising reasonable and ordinary control over a
motor vehicle while operating the vehicle upon the highways,
except that a restricted license effective for six months may be
issued to any person otherwise qualified who is or has been
subject to any condition resulting in episodic impairment of
consciousness or loss of muscular control and whose condition,
in the opinion of the registrar, is dormant or is sufficiently
under medical control that the person is capable of exercising
reasonable and ordinary control over a motor vehicle. A
restricted license effective for six months shall be issued to
any person who otherwise is qualified and who is subject to any
condition that causes episodic impairment of consciousness or a
loss of muscular control if the person presents a statement from
a licensed physician, certified nurse-midwife if authorized as
described in section 4723.438 of the Revised Code, clinical
nurse specialist, or certified nurse practitioner that the
person's condition is under effective medical control and the
period of time for which the control has been continuously
maintained, unless, thereafter, a medical examination is ordered

and, pursuant thereto, cause for denial is found. 9617

A person to whom a six-month restricted license has been 9618
issued shall give notice of the person's medical condition to 9619
the registrar on forms provided by the registrar and signed by 9620
the licensee's physician, certified nurse-midwife, clinical 9621
nurse specialist, or certified nurse practitioner. The notice 9622
shall be sent to the registrar six months after the issuance of 9623
the license. Subsequent restricted licenses issued to the same 9624
individual shall be effective for six months. 9625

(4) Any person who is unable to understand highway 9626
warnings or traffic signs or directions given in the English 9627
language; 9628

(5) Any person making an application whose driver's 9629
license or driving privileges are under cancellation, 9630
revocation, or suspension in the jurisdiction where issued or 9631
any other jurisdiction, until the expiration of one year after 9632
the license was canceled or revoked or until the period of 9633
suspension ends. Any person whose application is denied under 9634
this division may file a petition in the municipal court or 9635
county court in whose jurisdiction the person resides agreeing 9636
to pay the cost of the proceedings and alleging that the conduct 9637
involved in the offense that resulted in suspension, 9638
cancellation, or revocation in the foreign jurisdiction would 9639
not have resulted in a suspension, cancellation, or revocation 9640
had the offense occurred in this state. If the petition is 9641
granted, the petitioner shall notify the registrar by a 9642
certified copy of the court's findings and a license shall not 9643
be denied under this division. 9644

(6) Any person who is under a class one or two suspension 9645
imposed for a violation of section 2903.01, 2903.02, 2903.04, 9646

2903.06, 2903.08, 2903.11, 2921.331, or 2923.02 of the Revised 9647
Code or whose driver's or commercial driver's license or permit 9648
was permanently revoked prior to January 1, 2004, for a 9649
substantially equivalent violation pursuant to section 4507.16 9650
of the Revised Code; 9651

(7) Any person who is not a resident or temporary resident 9652
of this state. 9653

(E) No person whose driver's license or permit has been 9654
suspended under Chapter 4510. of the Revised Code or any other 9655
provision of the Revised Code shall have driving privileges 9656
reinstated if the registrar determines that a warrant has been 9657
issued in this state or any other state for the person's arrest 9658
and that warrant is an active warrant. 9659

Sec. 4507.081. (A) Upon the expiration of a restricted 9660
license issued under division (D) (3) of section 4507.08 of the 9661
Revised Code and submission of a statement as provided in 9662
division (C) of this section, the registrar of motor vehicles 9663
may issue a driver's license to the person to whom the 9664
restricted license was issued. A driver's license issued under 9665
this section, unless otherwise suspended or canceled, shall be 9666
effective for one year. 9667

(B) A driver's license issued under this section may be 9668
renewed annually, for no more than three consecutive years, 9669
whenever the person to whom the license has been issued submits 9670
to the registrar no sooner than thirty days prior to the 9671
expiration date of the license or renewal thereof, a statement 9672
as provided in division (C) of this section. A renewal of a 9673
driver's license, unless the license is otherwise suspended or 9674
canceled, shall be effective for one year following the 9675
expiration date of the license or renewal thereof. 9676

(C) No person may be issued a driver's license under this section, and no such driver's license may be renewed, unless the person presents a signed statement from a licensed physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner that the person's condition either is dormant or is under effective medical control, that the control has been maintained continuously for at least one year prior to the date on which application for the license is made, and that, if continued medication is prescribed to control the condition, the person may be depended upon to take the medication.

The statement shall be made on a form provided by the registrar and shall contain any other information the registrar considers necessary.

(D) Whenever the registrar receives a statement indicating that the condition of a person to whom a driver's license has been issued under this section no longer is dormant or under effective medical control, the registrar shall cancel the person's driver's license.

(E) Nothing in this section shall require a person submitting a signed statement from a licensed physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner to obtain a medical examination prior to the submission of the statement.

(F) Any person whose driver's license has been canceled under this section may apply for a subsequent restricted license according to the provisions of section 4507.08 of the Revised Code.

Sec. 4507.141. (A) Any hearing-impaired person may apply 9706
to the registrar of motor vehicles for an identification card 9707
identifying the person as hearing-impaired. The application for 9708
a hearing-impaired identification card shall be accompanied by a 9709
statement, signed ~~statement from~~ by the applicant's personal 9710
physician, certified nurse-midwife if authorized as described in 9711
section 4723.438 of the Revised Code, clinical nurse specialist, 9712
or certified nurse practitioner, certifying that the applicant 9713
is hearing-impaired. Upon receipt of the application ~~for the~~ 9714
~~identification card and the signed statement from the~~ 9715
~~applicant's personal physician,~~ and upon presentation by the 9716
applicant of the applicant's driver's or commercial driver's 9717
license or motorcycle operator's license, the registrar shall 9718
issue the applicant an identification card. A hearing-impaired 9719
person may also apply for a hearing-impaired identification card 9720
at the time the person applies for a driver's or commercial 9721
driver's license or motorcycle operator's license or 9722
endorsement. Every hearing-impaired identification card shall 9723
expire on the same date that the cardholder's driver's or 9724
commercial driver's license or motorcycle operator's license 9725
expires. 9726

(B) The hearing-impaired identification card shall be 9727
rectangular in shape, approximately the same size as an average 9728
motor vehicle sun visor, as determined by the registrar, to 9729
enable the identification card to be attached to a sun visor in 9730
a motor vehicle. The identification card shall contain the 9731
heading "Identification Card for the Hearing-impaired Driver" in 9732
boldface type, the name and signature of the hearing-impaired 9733
person to whom it is issued, an identifying number, and 9734
instructions on the actions the hearing-impaired person should 9735
take and the actions the person should refrain from taking in 9736

the event the person is stopped by a law enforcement officer 9737
while operating the motor vehicle. The registrar shall determine 9738
the preferred manner in which a hearing-impaired motorcycle 9739
operator should carry or display the hearing-impaired 9740
identification card, and the color and composition of, and any 9741
other information to be included on, the identification card. 9742

(C) As used in this section, "hearing-impaired" means a 9743
hearing loss of forty decibels or more in one or both ears. 9744

Sec. 4507.30. No person shall do any of the following: 9745

(A) Display, or cause or permit to be displayed, or 9746
possess any identification card, driver's or commercial driver's 9747
license, temporary instruction permit, or commercial driver's 9748
license temporary instruction permit knowing the same to be 9749
fictitious, or to have been canceled, suspended, or altered; 9750

(B) Lend to a person not entitled thereto, or knowingly 9751
permit a person not entitled thereto to use any identification 9752
card, driver's or commercial driver's license, temporary 9753
instruction permit, or commercial driver's license temporary 9754
instruction permit issued to the person so lending or permitting 9755
the use thereof; 9756

(C) Display, or represent as one's own, any identification 9757
card, driver's or commercial driver's license, temporary 9758
instruction permit, or commercial driver's license temporary 9759
instruction permit not issued to the person so displaying the 9760
same; 9761

(D) Fail to surrender to the registrar of motor vehicles, 9762
upon the registrar's demand, any identification card, driver's 9763
or commercial driver's license, temporary instruction permit, or 9764
commercial driver's license temporary instruction permit that 9765

has been suspended or canceled; 9766

(E) In any application for an identification card, 9767
driver's or commercial driver's license, temporary instruction 9768
permit, or commercial driver's license temporary instruction 9769
permit, or any renewal, reprint, or duplicate thereof, knowingly 9770
conceal a material fact, or present any ~~physician's~~ statement 9771
required under section 4507.08 or 4507.081 of the Revised Code 9772
when knowing the same to be false or fictitious. 9773

(F) Whoever violates any division of this section is 9774
guilty of a misdemeanor of the first degree. 9775

Sec. 4511.81. (A) When any child who is in either or both 9776
of the following categories is being transported in a motor 9777
vehicle, other than a taxicab or public safety vehicle as 9778
defined in section 4511.01 of the Revised Code, that is required 9779
by the United States department of transportation to be equipped 9780
with seat belts at the time of manufacture or assembly, the 9781
operator of the motor vehicle shall have the child properly 9782
secured in accordance with the manufacturer's instructions in a 9783
child restraint system that meets federal motor vehicle safety 9784
standards: 9785

(1) A child who is less than four years of age; 9786

(2) A child who weighs less than forty pounds. 9787

(B) When any child who is in either or both of the 9788
following categories is being transported in a motor vehicle, 9789
other than a taxicab, that is owned, leased, or otherwise under 9790
the control of a nursery school or child care center, the 9791
operator of the motor vehicle shall have the child properly 9792
secured in accordance with the manufacturer's instructions in a 9793
child restraint system that meets federal motor vehicle safety 9794

standards:	9795
(1) A child who is less than four years of age;	9796
(2) A child who weighs less than forty pounds.	9797
(C) When any child who is less than eight years of age and	9798
less than four feet nine inches in height, who is not required	9799
by division (A) or (B) of this section to be secured in a child	9800
restraint system, is being transported in a motor vehicle, other	9801
than a taxicab or public safety vehicle as defined in section	9802
4511.01 of the Revised Code or a vehicle that is regulated under	9803
section 5104.015 of the Revised Code, that is required by the	9804
United States department of transportation to be equipped with	9805
seat belts at the time of manufacture or assembly, the operator	9806
of the motor vehicle shall have the child properly secured in	9807
accordance with the manufacturer's instructions on a booster	9808
seat that meets federal motor vehicle safety standards.	9809
(D) When any child who is at least eight years of age but	9810
not older than fifteen years of age, and who is not otherwise	9811
required by division (A), (B), or (C) of this section to be	9812
secured in a child restraint system or booster seat, is being	9813
transported in a motor vehicle, other than a taxicab or public	9814
safety vehicle as defined in section 4511.01 of the Revised	9815
Code, that is required by the United States department of	9816
transportation to be equipped with seat belts at the time of	9817
manufacture or assembly, the operator of the motor vehicle shall	9818
have the child properly restrained either in accordance with the	9819
manufacturer's instructions in a child restraint system that	9820
meets federal motor vehicle safety standards or in an occupant	9821
restraining device as defined in section 4513.263 of the Revised	9822
Code.	9823

(E) Notwithstanding any provision of law to the contrary, 9824
no law enforcement officer shall cause an operator of a motor 9825
vehicle being operated on any street or highway to stop the 9826
motor vehicle for the sole purpose of determining whether a 9827
violation of division (C) or (D) of this section has been or is 9828
being committed or for the sole purpose of issuing a ticket, 9829
citation, or summons for a violation of division (C) or (D) of 9830
this section or causing the arrest of or commencing a 9831
prosecution of a person for a violation of division (C) or (D) 9832
of this section, and absent another violation of law, a law 9833
enforcement officer's view of the interior or visual inspection 9834
of a motor vehicle being operated on any street or highway may 9835
not be used for the purpose of determining whether a violation 9836
of division (C) or (D) of this section has been or is being 9837
committed. 9838

(F) The director of public safety shall adopt such rules 9839
as are necessary to carry out this section. 9840

(G) The failure of an operator of a motor vehicle to 9841
secure a child in a child restraint system, a booster seat, or 9842
an occupant restraining device as required by this section is 9843
not negligence imputable to the child, is not admissible as 9844
evidence in any civil action involving the rights of the child 9845
against any other person allegedly liable for injuries to the 9846
child, is not to be used as a basis for a criminal prosecution 9847
of the operator of the motor vehicle other than a prosecution 9848
for a violation of this section, and is not admissible as 9849
evidence in any criminal action involving the operator of the 9850
motor vehicle other than a prosecution for a violation of this 9851
section. 9852

(H) This section does not apply when an emergency exists 9853

that threatens the life of any person operating or occupying a 9854
motor vehicle that is being used to transport a child who 9855
otherwise would be required to be restrained under this section. 9856
This section does not apply to a person operating a motor 9857
vehicle who has an affidavit signed by a physician licensed to 9858
practice in this state under Chapter 4731. of the Revised Code, 9859
a clinical nurse specialist or certified nurse practitioner 9860
licensed to practice in this state under Chapter 4723. of the 9861
Revised Code, or a chiropractor licensed to practice in this 9862
state under Chapter 4734. of the Revised Code that states that 9863
the child who otherwise would be required to be restrained under 9864
this section has a physical impairment that makes use of a child 9865
restraint system, booster seat, or an occupant restraining 9866
device impossible or impractical, provided that the person 9867
operating the vehicle has safely and appropriately restrained 9868
the child in accordance with any recommendations of the 9869
physician, nurse, or chiropractor as noted on the affidavit. 9870

(I) There is hereby created in the state treasury the 9871
child highway safety fund, consisting of fines imposed pursuant 9872
to division (L) (1) of this section for violations of divisions 9873
(A), (B), (C), and (D) of this section. The money in the fund 9874
shall be used by the department of health only to defray the 9875
cost of designating hospitals as pediatric trauma centers under 9876
section 3727.081 of the Revised Code and to establish and 9877
administer a child highway safety program. The purpose of the 9878
program shall be to educate the public about child restraint 9879
systems and booster seats and the importance of their proper 9880
use. The program also shall include a process for providing 9881
child restraint systems and booster seats to persons who meet 9882
the eligibility criteria established by the department, and a 9883
toll-free telephone number the public may utilize to obtain 9884

information about child restraint systems and booster seats, and 9885
their proper use. 9886

(J) The director of health, in accordance with Chapter 9887
119. of the Revised Code, shall adopt any rules necessary to 9888
carry out this section, including rules establishing the 9889
criteria a person must meet in order to receive a child 9890
restraint system or booster seat under the department's child 9891
highway safety program; provided that rules relating to the 9892
verification of pediatric trauma centers shall not be adopted 9893
under this section. 9894

(K) Nothing in this section shall be construed to require 9895
any person to carry with the person the birth certificate of a 9896
child to prove the age of the child, but the production of a 9897
valid birth certificate for a child showing that the child was 9898
not of an age to which this section applies is a defense against 9899
any ticket, citation, or summons issued for violating this 9900
section. 9901

(L) (1) Whoever violates division (A), (B), (C), or (D) of 9902
this section shall be punished as follows, provided that the 9903
failure of an operator of a motor vehicle to secure more than 9904
one child in a child restraint system, booster seat, or occupant 9905
restraining device as required by this section that occurred at 9906
the same time, on the same day, and at the same location is 9907
deemed to be a single violation of this section: 9908

(a) Except as otherwise provided in division (L) (1) (b) of 9909
this section, the offender is guilty of a minor misdemeanor and 9910
shall be fined not less than twenty-five dollars nor more than 9911
seventy-five dollars. 9912

(b) If the offender previously has been convicted of or 9913

pleaded guilty to a violation of division (A), (B), (C), or (D) 9914
of this section or of a municipal ordinance that is 9915
substantially similar to any of those divisions, the offender is 9916
guilty of a misdemeanor of the fourth degree. 9917

(2) All fines imposed pursuant to division (L)(1) of this 9918
section shall be forwarded to the treasurer of state for deposit 9919
in the child highway safety fund created by division (I) of this 9920
section. 9921

Sec. 4723.36. (A) A certified nurse-midwife, certified 9922
nurse practitioner, or clinical nurse specialist may determine 9923
and pronounce an individual's death, ~~but only if the~~ 9924
~~individual's respiratory and circulatory functions are not being~~ 9925
~~artificially sustained and, at the time the determination and~~ 9926
~~pronouncement of death is made, either or both of the following~~ 9927
~~apply:~~ 9928

~~(1) The individual was receiving care in one of the~~ 9929
~~following:~~ 9930

~~(a) A nursing home licensed under section 3721.02 of the~~ 9931
~~Revised Code or by a political subdivision under section 3721.09~~ 9932
~~of the Revised Code;~~ 9933

~~(b) A residential care facility or home for the aging~~ 9934
~~licensed under Chapter 3721. of the Revised Code;~~ 9935

~~(c) A county home or district home operated pursuant to~~ 9936
~~Chapter 5155. of the Revised Code;~~ 9937

~~(d) A residential facility licensed under section 5123.19~~ 9938
~~of the Revised Code.~~ 9939

~~(2) The certified nurse practitioner or clinical nurse~~ 9940
~~specialist is providing or supervising the individual's care~~ 9941

~~through a hospice care program licensed under Chapter 3712. of~~ 9942
~~the Revised Code or any other entity that provides palliative~~ 9943
~~care.~~ 9944

~~(B)~~ (B) (1) A registered nurse who is not described in 9945
division (A) of this section may determine and pronounce an 9946
individual's death, but only if the individual's respiratory and 9947
circulatory functions are not being artificially sustained and, 9948
at the time the determination and pronouncement of death is 9949
made, the registered nurse is providing or supervising the 9950
individual's care through a hospice care program licensed under 9951
Chapter 3712. of the Revised Code or any other entity that 9952
provides palliative care. 9953

~~(C) If a certified nurse practitioner, clinical nurse~~ 9954
~~specialist, or~~ (2) A registered nurse who determines and 9955
pronounces an individual's death, ~~the nurse~~ under division (B) 9956
(1) of this section shall comply with both of the following: 9957

~~(1)~~ (a) The nurse shall not complete any portion of the 9958
individual's death certificate. 9959

~~(2)~~ (b) The nurse shall notify the individual's attending 9960
physician, certified nurse-midwife, certified nurse 9961
practitioner, or clinical nurse specialist of the determination 9962
and pronouncement of death in order for the physician, certified 9963
nurse-midwife, certified nurse practitioner, or clinical nurse 9964
specialist to fulfill the physician's, certified nurse- 9965
midwife's, certified nurse practitioner's, or clinical nurse 9966
specialist's duties under section 3705.16 of the Revised Code. 9967
The nurse shall provide the notification within a period of time 9968
that is reasonable but not later than twenty-four hours 9969
following the determination and pronouncement of the 9970
individual's death. 9971

Sec. 4723.431. (A) (1) An advanced practice registered 9972
nurse who is designated as a clinical nurse specialist, 9973
certified nurse-midwife, or certified nurse practitioner may 9974
practice only in accordance with a standard care arrangement 9975
entered into with each physician or podiatrist with whom the 9976
nurse collaborates. A copy of the standard care arrangement 9977
shall be retained on file by the nurse's employer. Prior 9978
approval of the standard care arrangement by the board of 9979
nursing is not required, but the board may periodically review 9980
it for compliance with this section. 9981

A clinical nurse specialist, certified nurse-midwife, or 9982
certified nurse practitioner may enter into a standard care 9983
arrangement with one or more collaborating physicians or 9984
podiatrists. If a collaborating physician or podiatrist enters 9985
into standard care arrangements with more than five nurses, the 9986
physician or podiatrist shall not collaborate at the same time 9987
with more than five nurses in the prescribing component of their 9988
practices. 9989

Not later than thirty days after first engaging in the 9990
practice of nursing as a clinical nurse specialist, certified 9991
nurse-midwife, or certified nurse practitioner, the nurse shall 9992
submit to the board the name and business address of each 9993
collaborating physician or podiatrist. Thereafter, the nurse 9994
shall notify the board of any additions or deletions to the 9995
nurse's collaborating physicians or podiatrists. Except as 9996
provided in division (D) of this section, the notice must be 9997
provided not later than thirty days after the change takes 9998
effect. 9999

(2) All of the following conditions apply with respect to 10000
the practice of a collaborating physician or podiatrist with 10001

whom a clinical nurse specialist, certified nurse-midwife, or 10002
certified nurse practitioner may enter into a standard care 10003
arrangement: 10004

(a) The physician or podiatrist must be authorized to 10005
practice in this state. 10006

(b) Except as provided in division (A) (2) (c) of this 10007
section, the physician or podiatrist must be practicing in a 10008
specialty that is the same as or similar to the nurse's nursing 10009
specialty. 10010

(c) If the nurse is a clinical nurse specialist who is 10011
certified as a psychiatric-mental health CNS by the American 10012
nurses credentialing center or a certified nurse practitioner 10013
who is certified as a psychiatric-mental health NP by the 10014
American nurses credentialing center, the nurse may enter into a 10015
standard care arrangement with a physician but not a podiatrist 10016
and the collaborating physician must be practicing in one of the 10017
following specialties: 10018

(i) Psychiatry; 10019

(ii) Pediatrics; 10020

(iii) Primary care or family practice. 10021

(B) A standard care arrangement shall be in writing and 10022
shall contain all of the following: 10023

(1) Criteria for referral of a patient by the clinical 10024
nurse specialist, certified nurse-midwife, or certified nurse 10025
practitioner to a collaborating physician or podiatrist or 10026
another physician or podiatrist; 10027

(2) A process for the clinical nurse specialist, certified 10028
nurse-midwife, or certified nurse practitioner to obtain a 10029

consultation with a collaborating physician or podiatrist or 10030
another physician or podiatrist; 10031

(3) A plan for coverage in instances of emergency or 10032
planned absences of either the clinical nurse specialist, 10033
certified nurse-midwife, or certified nurse practitioner or a 10034
collaborating physician or podiatrist that provides the means 10035
whereby a physician or podiatrist is available for emergency 10036
care; 10037

(4) The process for resolution of disagreements regarding 10038
matters of patient management between the clinical nurse 10039
specialist, certified nurse-midwife, or certified nurse 10040
practitioner and a collaborating physician or podiatrist; 10041

(5) Any other criteria required by rule of the board 10042
adopted pursuant to section 4723.07 or 4723.50 of the Revised 10043
Code. 10044

(C) (1) A standard care arrangement entered into pursuant 10045
to this section may permit a clinical nurse specialist, 10046
certified nurse-midwife, or certified nurse practitioner to 10047
supervise services provided by a home health agency as defined 10048
in section 3740.01 of the Revised Code. 10049

(2) A standard care arrangement entered into pursuant to 10050
this section may permit a clinical nurse specialist, certified 10051
nurse-midwife, or certified nurse practitioner to admit a 10052
patient to a hospital in accordance with section 3727.06 of the 10053
Revised Code. 10054

(D) (1) Except as provided in division (D) (2) of this 10055
section, if a physician or podiatrist terminates the 10056
collaboration between the physician or podiatrist and a 10057
certified nurse-midwife, certified nurse practitioner, or 10058

clinical nurse specialist before their standard care arrangement expires, all of the following apply: 10059
10060

(a) The physician or podiatrist must give the nurse written or electronic notice of the termination. 10061
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(b) Once the nurse receives the termination notice, the nurse must notify the board of nursing of the termination as soon as practicable by submitting to the board a copy of the physician's or podiatrist's termination notice. 10063
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(c) Notwithstanding the requirement of section 4723.43 of the Revised Code that the nurse practice in collaboration with a physician or podiatrist, the nurse may continue to practice under the existing standard care arrangement without a collaborating physician or podiatrist for not more than one hundred twenty days after submitting to the board a copy of the termination notice. 10067
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(2) In the event that the collaboration between a physician or podiatrist and a certified nurse-midwife, certified nurse practitioner, or clinical nurse specialist terminates because of the physician's or podiatrist's death, the nurse must notify the board of the death as soon as practicable. The nurse may continue to practice under the existing standard care arrangement without a collaborating physician or podiatrist for not more than one hundred twenty days after notifying the board of the physician's or podiatrist's death. 10074
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~~(E)~~ (E) (1) Nothing in this section prohibits a hospital from hiring a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner as an employee and negotiating standard care arrangements on behalf of the employee as necessary to meet the requirements of this section. A 10083
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standard care arrangement between the hospital's employee and 10088
the employee's collaborating physician is subject to approval by 10089
the medical staff and governing body of the hospital prior to 10090
implementation of the arrangement at the hospital. 10091

(2) Nothing in this section prohibits a standard care 10092
arrangement from specifying actions that a clinical nurse 10093
specialist, certified nurse-midwife, or certified nurse 10094
practitioner is authorized to take, or is prohibited from 10095
taking, as part of the nurse's practice in collaboration with a 10096
physician or podiatrist. In specifying such actions, the 10097
standard care arrangement shall not authorize the nurse to take 10098
any action that is otherwise prohibited by the Revised Code or 10099
rule of the board. 10100

Sec. 4723.437. (A) As used in this section, "fetal death" 10101
has the same meaning as in section 3705.01 of the Revised Code, 10102
except that it does not include either of the following: 10103

(1) The product of human conception of at least twenty 10104
weeks of gestation; 10105

(2) The purposeful termination of a pregnancy, as 10106
described in section 2919.11 of the Revised Code. 10107

(B) If a woman who is in the process of experiencing a 10108
fetal death or who is with the product of human conception as a 10109
result of a fetal death presents herself to a certified nurse- 10110
midwife, clinical nurse specialist, or certified nurse 10111
practitioner and is not referred to a hospital, the nurse shall 10112
provide the woman with all of the following: 10113

(1) A written statement, not longer than one page in 10114
length, that confirms that the woman was pregnant and that she 10115
subsequently suffered a miscarriage that resulted in a fetal 10116

death; 10117

(2) Notice of the right of the woman to apply for a fetal death certificate pursuant to section 3705.20 of the Revised Code; 10118
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(3) A short, general description of the nurse's procedures for disposing of the product of a fetal death. 10121
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The nurse may present the notice and description required by divisions (B)(2) and (3) of this section through oral or written means. The nurse shall document in the woman's medical record that all of the items required by this division were provided to the woman and shall place in the record a copy of the statement required by division (B)(1) of this section. 10123
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(C) A certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner is immune from civil or criminal liability or professional disciplinary action with regard to any action taken in good faith compliance with this section. 10129
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Sec. 4723.438. For purposes of sections 173.521, 173.542, 3701.162, 3721.01, 3721.011, 3721.041, 3727.19, 3742.03, 3742.04, 3742.07, 3923.25, 4506.07, 4507.06, 4507.08, 4507.081, and 4507.141 of the Revised Code, a certified nurse-midwife may sign documents or take related actions under those sections only if the nurse's scope of practice, as determined in accordance with section 4723.43 of the Revised Code and standards established by the board of nursing, authorizes the nurse to practice in the manner described in those sections. 10133
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Sec. 4723.4812. (A) A certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner who has established a protocol that meets the requirements of section 4729.284 of the Revised Code and the rules adopted under that 10142
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section may authorize one or more pharmacists to use the 10146
protocol for the purpose of dispensing nicotine replacement 10147
therapy under section 4729.284 of the Revised Code. 10148

(B) The board of nursing shall adopt rules establishing 10149
standards and procedures to be followed by a certified nurse- 10150
midwife, clinical nurse specialist, or certified nurse 10151
practitioner when prescribing a drug that may be administered by 10152
a pharmacist pursuant to section 4729.45 of the Revised Code. 10153
The rules shall be adopted in accordance with Chapter 119. of 10154
the Revised Code and in consultation with the state board of 10155
pharmacy. 10156

(C) A certified nurse-midwife, clinical nurse specialist 10157
or certified nurse practitioner who has established a protocol 10158
that meets the requirements specified by the state board of 10159
pharmacy in rules adopted under section 4729.47 of the Revised 10160
Code may authorize one or more pharmacists and any of the 10161
pharmacy interns supervised by the pharmacist or pharmacists to 10162
use the protocol for the purpose of dispensing epinephrine under 10163
section 4729.47 of the Revised Code. 10164

Sec. 4729.284. (A) As used in this section, "nicotine 10165
replacement therapy" means a drug, including a dangerous drug, 10166
that delivers small doses of nicotine to an individual for the 10167
purpose of aiding in tobacco cessation or smoking cessation. 10168

(B) Subject to division (C) of this section, if use of a 10169
protocol that has been developed under this section has been 10170
authorized under section 4723.4812 or 4731.90 of the Revised 10171
Code, a pharmacist may dispense nicotine replacement therapy in 10172
accordance with that protocol to individuals who are eighteen 10173
years old or older and seeking to quit using tobacco-containing 10174
products. 10175

(C) For a pharmacist to be authorized to dispense nicotine replacement therapy under this section, the pharmacist shall do both of the following:

(1) Successfully complete a course on nicotine replacement therapy that is taught by a provider that is accredited by the accreditation council for pharmacy education, or another provider approved by the state board of pharmacy, and that meets requirements established in rules adopted under this section;

(2) Practice in accordance with a protocol that meets the requirements of division (D) of this section.

(D) All of the following apply with respect to the protocol required by this section:

(1) The protocol shall be established by a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery or a certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner licensed under Chapter 4723. of the Revised Code.

(2) The protocol shall specify a definitive set of treatment guidelines and the locations at which a pharmacist may dispense nicotine replacement therapy under this section.

(3) The protocol shall include provisions for implementation of the following requirements:

(a) Use by the pharmacist of a screening procedure, recommended by the United States centers for disease control and prevention or another organization approved by the board, to determine if an individual is a good candidate to receive nicotine replacement therapy dispensed as authorized by this section;

(b) A requirement that the pharmacist refer high-risk individuals or individuals with contraindications to a primary care provider or, as appropriate, to another type of provider;

(c) A requirement that the pharmacist develop and implement a follow-up care plan in accordance with guidelines specified in rules adopted under this section, including a recommendation by the pharmacist that the individual seek additional assistance with behavior change, including assistance from the Ohio tobacco quit line made available by the department of health.

(4) The protocol shall satisfy any additional requirements established in rules adopted under this section.

(E) (1) Documentation related to screening, dispensing, and follow-up care plans shall be maintained in the records of the pharmacy where the pharmacist practices for at least three years. Dispensing of nicotine replacement therapy may be documented on a prescription form, and the form may be assigned a number for recordkeeping purposes.

(2) Not later than seventy-two hours after a screening is conducted under this section, the pharmacist shall provide notice to the individual's primary care provider, if known, or to the individual if the primary care provider is unknown. The notice shall include results of the screening, and if applicable, the dispensing record and follow-up care plan.

A copy of the documentation identified in division (E) (1) of this section shall also be provided to the individual or the individual's primary care provider on request.

(F) This section does not affect the authority of a pharmacist to do any of the following:

(1) Fill or refill prescriptions for nicotine replacement therapy;	10234 10235
(2) Sell nicotine replacement therapy that does not require a prescription.	10236 10237
(G) No pharmacist shall do either of the following:	10238
(1) Dispense nicotine replacement therapy in accordance with a protocol unless the requirements of division (C) of this section have been met;	10239 10240 10241
(2) Delegate to any person the pharmacist's authority to engage in or supervise the dispensing of nicotine replacement therapy.	10242 10243 10244
(H) (1) The board shall adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall include all of the following:	10245 10246 10247
(a) Provisions specifying the nicotine replacement therapy that may be dispensed in accordance with a protocol;	10248 10249
(b) Requirements for courses on nicotine replacement therapy including requirements that are consistent with any standards established for such courses by the United States centers for disease control and prevention;	10250 10251 10252 10253
(c) Requirements for protocols to be followed by pharmacists in dispensing nicotine replacement therapy;	10254 10255
(d) Guidelines for follow-up care plans.	10256
(2) Prior to adopting rules regarding requirements for protocols to be followed by pharmacists in dispensing of nicotine replacement therapy, the state board of pharmacy shall consult with the state medical board, <u>board of nursing</u> , and the	10257 10258 10259 10260

department of health.	10261
(I) A physician, <u>certified nurse-midwife, clinical nurse</u>	10262
<u>specialist, or certified nurse practitioner</u> who in good faith	10263
authorizes a pharmacist to dispense nicotine replacement therapy	10264
in accordance with a protocol developed pursuant to rules	10265
adopted under division (H) of this section is not liable for or	10266
subject to any of the following for any action or omission of	10267
the individual to whom the nicotine replacement therapy is	10268
dispensed: damages in any civil action, prosecution in any	10269
criminal proceeding, or professional disciplinary action.	10270
Sec. 4729.41. (A) (1) A pharmacist licensed under this	10271
chapter who meets the requirements of division (B) of this	10272
section, and a pharmacy intern licensed under this chapter who	10273
meets the requirements of division (B) of this section and is	10274
working under the direct supervision of a pharmacist who meets	10275
the requirements of that division, may do any of the following:	10276
(a) In the case of an individual who is seven years of age	10277
or older but not more than thirteen years of age, administer to	10278
the individual an immunization for any of the following:	10279
(i) Influenza;	10280
(ii) COVID-19;	10281
(iii) Any other disease, but only pursuant to a	10282
prescription.	10283
(b) In the case of an individual who is thirteen years of	10284
age or older, administer to the individual an immunization for	10285
any disease, including an immunization for influenza or COVID-	10286
19.	10287
(2) As part of engaging in the administration of	10288

immunizations or supervising a pharmacy intern's administration 10289
of immunizations, a pharmacist may administer epinephrine or 10290
diphenhydramine, or both, to individuals in emergency situations 10291
resulting from adverse reactions to the immunizations 10292
administered by the pharmacist or pharmacy intern. 10293

(B) For a pharmacist or pharmacy intern to be authorized 10294
to engage in the administration of immunizations, the pharmacist 10295
or pharmacy intern shall do all of the following: 10296

(1) Successfully complete a course in the administration 10297
of immunizations that meets the requirements established in 10298
rules adopted under this section for such courses; 10299

(2) Receive and maintain certification to perform basic 10300
life-support procedures by successfully completing a basic life- 10301
support training course that is certified by the American red 10302
cross or American heart association or approved by the state 10303
board of pharmacy; 10304

(3) Practice in accordance with a protocol that meets the 10305
requirements of division (C) of this section. 10306

(C) All of the following apply with respect to the 10307
protocol required by division (B) (3) of this section: 10308

(1) The protocol shall be established by a physician 10309
authorized under Chapter 4731. of the Revised Code to practice 10310
medicine and surgery or osteopathic medicine and surgery or a 10311
certified nurse-midwife, clinical nurse specialist, or certified 10312
nurse practitioner licensed under Chapter 4723. of the Revised 10313
Code. 10314

(2) The protocol shall specify a definitive set of 10315
treatment guidelines and the locations at which a pharmacist or 10316
pharmacy intern may engage in the administration of 10317

immunizations. 10318

(3) The protocol shall satisfy the requirements 10319
established in rules adopted under this section for protocols. 10320

(4) The protocol shall include provisions for 10321
implementation of the following requirements: 10322

(a) The pharmacist or pharmacy intern who administers an 10323
immunization shall observe the individual who receives the 10324
immunization to determine whether the individual has an adverse 10325
reaction to the immunization. The length of time and location of 10326
the observation shall comply with the rules adopted under this 10327
section establishing requirements for protocols. The protocol 10328
shall specify procedures to be followed by a pharmacist when 10329
administering epinephrine, or diphenhydramine, or both, to an 10330
individual who has an adverse reaction to an immunization 10331
administered by the pharmacist or a pharmacy intern. 10332

(b) For each immunization administered to an individual by 10333
a pharmacist or pharmacy intern, other than an immunization for 10334
influenza administered to an individual eighteen years of age or 10335
older, the pharmacist or pharmacy intern shall notify the 10336
individual's primary care provider or, if the individual has no 10337
primary care provider, the board of health of the health 10338
district in which the individual resides or the authority having 10339
the duties of a board of health for that district under section 10340
3709.05 of the Revised Code. The notice shall be given not later 10341
than thirty days after the immunization is administered. 10342

(c) For each immunization administered by a pharmacist or 10343
pharmacy intern to an individual younger than eighteen years of 10344
age, the pharmacist or a pharmacy intern shall obtain permission 10345
from the individual's parent or legal guardian in accordance 10346

with the procedures specified in rules adopted under this 10347
section. 10348

(D) (1) No pharmacist shall do either of the following: 10349

(a) Engage in the administration of immunizations unless 10350
the requirements of division (B) of this section have been met; 10351

(b) Delegate to any person the pharmacist's authority to 10352
engage in or supervise the administration of immunizations. 10353

(2) No pharmacy intern shall engage in the administration 10354
of immunizations unless the requirements of division (B) of this 10355
section have been met. 10356

(E) (1) The state board of pharmacy shall adopt rules to 10357
implement this section. The rules shall be adopted in accordance 10358
with Chapter 119. of the Revised Code and shall include the 10359
following: 10360

(a) Requirements for courses in administration of 10361
immunizations, including requirements that are consistent with 10362
any standards established for such courses by the centers for 10363
disease control and prevention; 10364

(b) Requirements for protocols to be followed by 10365
pharmacists and pharmacy interns in engaging in the 10366
administration of immunizations; 10367

(c) Procedures to be followed by pharmacists and pharmacy 10368
interns in obtaining from the individual's parent or legal 10369
guardian permission to administer immunizations to an individual 10370
younger than eighteen years of age. 10371

(2) Prior to adopting rules regarding requirements for 10372
protocols to be followed by pharmacists and pharmacy interns in 10373
engaging in the administration of immunizations, the state board 10374

of pharmacy shall consult with the state medical board and the 10375
board of nursing. 10376

Sec. 4729.45. (A) As used in this section, ~~"physician"~~: 10377

(1) "Certified nurse-midwife," "clinical nurse 10378
specialist," and "certified nurse practitioner" have the same 10379
meanings as in section 4723.01 of the Revised Code. 10380

(2) "Physician" means an individual authorized under 10381
Chapter 4731. of the Revised Code to practice medicine and 10382
surgery or osteopathic medicine and surgery. 10383

(B) (1) Subject to division (C) of this section, a 10384
pharmacist licensed under this chapter may administer by 10385
injection any of the following drugs as long as the drug that is 10386
to be administered has been prescribed by a physician, certified 10387
nurse-midwife, clinical nurse specialist, or certified nurse 10388
practitioner and the individual to whom the drug was prescribed 10389
has an ongoing physician-patient or nurse-patient relationship 10390
with the physician or nurse: 10391

(a) An addiction treatment drug administered in a long- 10392
acting or extended-release form; 10393

(b) An antipsychotic drug administered in a long-acting or 10394
extended-release form; 10395

(c) Hydroxyprogesterone caproate; 10396

(d) Medroxyprogesterone acetate; 10397

(e) Cobalamin. 10398

(2) As part of engaging in the administration of drugs by 10399
injection pursuant to this section, a pharmacist may administer 10400
epinephrine or diphenhydramine, or both, to an individual in an 10401

emergency situation resulting from an adverse reaction to a drug administered by the pharmacist. 10402
10403

(C) To be authorized to administer drugs pursuant to this section, a pharmacist must do all of the following: 10404
10405

(1) Successfully complete a course in the administration of drugs that satisfies the requirements established by the state board of pharmacy in rules adopted under division (H) (1) (a) of this section; 10406
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(2) Receive and maintain certification to perform basic life-support procedures by successfully completing a basic life-support training course that is certified by the American red cross or American heart association or approved by the state board of pharmacy; 10410
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(3) Practice in accordance with a protocol that meets the requirements of division (F) of this section. 10415
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(D) Each time a pharmacist administers a drug pursuant to this section, the pharmacist shall do all of the following: 10417
10418

(1) Obtain permission in accordance with the procedures specified in rules adopted under division (H) of this section and comply with the following requirements: 10419
10420
10421

(a) Except as provided in division (D) (1) (c) of this section, for each drug administered by a pharmacist to an individual who is eighteen years of age or older, the pharmacist shall obtain permission from the individual. 10422
10423
10424
10425

(b) For each drug administered by a pharmacist to an individual who is under eighteen years of age, the pharmacist shall obtain permission from the individual's parent or other person having care or charge of the individual. 10426
10427
10428
10429

(c) For each drug administered by a pharmacist to an individual who lacks the capacity to make informed health care decisions, the pharmacist shall obtain permission from the person authorized to make such decisions on the individual's behalf.

(2) In the case of an addiction treatment drug described in division (B) (1) (a) of this section, obtain in accordance with division (E) of this section test results indicating that it is appropriate to administer the drug to the individual if either of the following is to be administered:

(a) The initial dose of the drug;

(b) Any subsequent dose, if the administration occurs more than thirty days after the previous dose of the drug was administered.

(3) Observe the individual to whom the drug is administered to determine whether the individual has an adverse reaction to the drug;

(4) Notify the physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner who prescribed the drug that the drug has been administered to the individual.

(E) A pharmacist may obtain the test results described in division (D) (2) of this section in either of the following ways:

(1) From the physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner;

(2) By ordering blood and urine tests for the individual to whom the drug is to be administered.

If a pharmacist orders blood and urine tests, the

pharmacist shall evaluate the results of the tests to determine 10458
whether they indicate that it is appropriate to administer the 10459
drug. A pharmacist's authority to evaluate test results under 10460
this division does not authorize the pharmacist to make a 10461
diagnosis. 10462

(F) All of the following apply with respect to the 10463
protocol required by division (C) (3) of this section: 10464

(1) The protocol must be established by a physician, 10465
certified nurse-midwife, clinical nurse specialist, or certified 10466
nurse practitioner who has a scope of practice that includes 10467
treatment of the condition for which the individual has been 10468
prescribed the drug to be administered. 10469

(2) The protocol must satisfy the requirements established 10470
in rules adopted under division (H) (1) (b) of this section. 10471

(3) The protocol must do all of the following: 10472

(a) Specify a definitive set of treatment guidelines; 10473

(b) Specify the locations at which a pharmacist may engage 10474
in the administration of drugs pursuant to this section; 10475

(c) Include provisions for implementing the requirements 10476
of division (D) of this section, including for purposes of 10477
division (D) (3) of this section provisions specifying the length 10478
of time and location at which a pharmacist must observe an 10479
individual who receives a drug to determine whether the 10480
individual has an adverse reaction to the drug; 10481

(d) Specify procedures to be followed by a pharmacist when 10482
administering epinephrine, diphenhydramine, or both, to an 10483
individual who has an adverse reaction to a drug administered by 10484
the pharmacist. 10485

(G) A pharmacist shall not do either of the following:	10486
(1) Engage in the administration of drugs pursuant to this section unless the requirements of division (C) of this section have been met;	10487 10488 10489
(2) Delegate to any person the pharmacist's authority to engage in the administration of drugs pursuant to this section.	10490 10491
(H) (1) The state board of pharmacy shall adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and include all of the following:	10492 10493 10494 10495
(a) Requirements for courses in administration of drugs;	10496
(b) Requirements for protocols to be followed by pharmacists in administering drugs pursuant to this section;	10497 10498
(c) Procedures to be followed by a pharmacist in obtaining permission to administer a drug to an individual.	10499 10500
(2) The board shall consult with the state medical board <u>and board of nursing</u> before adopting rules regarding requirements for protocols under this section.	10501 10502 10503
Sec. 4729.47. (A) As used in this section:	10504
(1) "Board of health" means a board of health of a city or general health district or an authority having the duties of a board of health under section 3709.05 of the Revised Code.	10505 10506 10507
(2) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.	10508 10509 10510 10511
(B) If use of a protocol that has been developed pursuant	10512

to rules adopted under division (G) of this section has been 10513
authorized under section 3707.60, 4723.4812, or 4731.961 of the 10514
Revised Code, a pharmacist or pharmacy intern may dispense 10515
epinephrine without a prescription in accordance with that 10516
protocol to either of the following individuals so long as the 10517
individual is at least eighteen years of age: 10518

(1) An individual who there is reason to believe is 10519
experiencing or at risk of experiencing anaphylaxis if the 10520
pharmacy affiliated with the pharmacist or intern has a record 10521
of previously dispensing epinephrine to the individual in 10522
accordance with a prescription issued by a licensed health 10523
professional authorized to prescribe drugs; 10524

(2) An individual acting on behalf of a qualified entity, 10525
as defined in section 3728.01 of the Revised Code. 10526

(C) (1) A pharmacist or pharmacy intern who dispenses 10527
epinephrine under this section shall instruct the individual to 10528
whom epinephrine is dispensed to summon emergency services as 10529
soon as practicable either before or after administering 10530
epinephrine. 10531

(2) A pharmacist or pharmacy intern who dispenses 10532
epinephrine to an individual identified in division (B) (1) (a) of 10533
this section shall provide notice of the dispensing to the 10534
individual's primary care provider, if known, or to the 10535
prescriber who issued the individual the initial prescription 10536
for epinephrine. 10537

(D) A pharmacist may document the dispensing of 10538
epinephrine by the pharmacist or a pharmacy intern supervised by 10539
the pharmacist on a prescription form. The form may be assigned 10540
a number for record-keeping purposes. 10541

(E) This section does not affect the authority of a pharmacist or pharmacy intern to fill or refill a prescription for epinephrine.

(F) A board of health that in good faith authorizes a pharmacist or pharmacy intern to dispense epinephrine without a prescription in accordance with a protocol developed pursuant to rules adopted under division (G) of this section is not liable for or subject to any of the following for any action or omission of the individual to whom the epinephrine is dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

A physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner who in good faith authorizes a pharmacist or pharmacy intern to dispense epinephrine without a prescription in accordance with a protocol developed pursuant to rules adopted under division (G) of this section is not liable for or subject to any of the following for any action or omission of the individual to whom the epinephrine is dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

A pharmacist or pharmacy intern authorized under this section to dispense epinephrine without a prescription who does so in good faith is not liable for or subject to any of the following for any action or omission of the individual to whom the epinephrine is dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

(G) Not later than ninety days after ~~the effective date of this section~~ April 8, 2019, the state board of pharmacy shall, after consulting with the state medical board and board of

nursing, adopt rules to implement this section. The rules shall 10572
specify minimum requirements for protocols established by 10573
physicians, certified nurse-midwives, clinical nurse 10574
specialists, or certified nurse practitioners under which 10575
pharmacists or pharmacy interns may dispense epinephrine without 10576
a prescription. 10577

All rules adopted under this section shall be adopted in 10578
accordance with Chapter 119. of the Revised Code. 10579

Sec. 5120.17. (A) As used in this section: 10580

(1) "Mental illness" means a substantial disorder of 10581
thought, mood, perception, orientation, or memory that grossly 10582
impairs judgment, behavior, capacity to recognize reality, or 10583
ability to meet the ordinary demands of life. 10584

(2) "Person with a mental illness subject to 10585
hospitalization" means a person with a mental illness to whom 10586
any of the following applies because of the person's mental 10587
illness: 10588

(a) The person represents a substantial risk of physical 10589
harm to the person as manifested by evidence of threats of, or 10590
attempts at, suicide or serious self-inflicted bodily harm. 10591

(b) The person represents a substantial risk of physical 10592
harm to others as manifested by evidence of recent homicidal or 10593
other violent behavior, evidence of recent threats that place 10594
another in reasonable fear of violent behavior and serious 10595
physical harm, or other evidence of present dangerousness. 10596

(c) The person represents a substantial and immediate risk 10597
of serious physical impairment or injury to the person as 10598
manifested by evidence that the person is unable to provide for 10599
and is not providing for the person's basic physical needs 10600

because of the person's mental illness and that appropriate 10601
provision for those needs cannot be made immediately available 10602
in the correctional institution in which the inmate is currently 10603
housed. 10604

(d) The person would benefit from treatment in a hospital 10605
for the person's mental illness and is in need of treatment in a 10606
hospital as manifested by evidence of behavior that creates a 10607
grave and imminent risk to substantial rights of others or the 10608
person. 10609

(3) "Psychiatric hospital" means all or part of a facility 10610
that is operated and managed by the department of mental health 10611
and addiction services to provide psychiatric hospitalization 10612
services in accordance with the requirements of this section 10613
pursuant to an agreement between the directors of rehabilitation 10614
and correction and mental health and addiction services or, is 10615
licensed by the department of mental health and addiction 10616
services pursuant to section 5119.33 of the Revised Code as a 10617
psychiatric hospital and is accredited by a health care 10618
accrediting organization approved by the department of mental 10619
health and addiction services and the psychiatric hospital is 10620
any of the following: 10621

(a) Operated and managed by the department of 10622
rehabilitation and correction within a facility that is operated 10623
by the department of rehabilitation and correction; 10624

(b) Operated and managed by a contractor for the 10625
department of rehabilitation and correction within a facility 10626
that is operated by the department of rehabilitation and 10627
correction; 10628

(c) Operated and managed in the community by an entity 10629

that has contracted with the department of rehabilitation and 10630
correction to provide psychiatric hospitalization services in 10631
accordance with the requirements of this section. 10632

(4) "Inmate patient" means an inmate who is admitted to a 10633
psychiatric hospital. 10634

(5) "Admitted" to a psychiatric hospital means being 10635
accepted for and staying at least one night at the psychiatric 10636
hospital. 10637

(6) "Treatment plan" means a written statement of 10638
reasonable objectives and goals for an inmate patient that is 10639
based on the needs of the inmate patient and that is established 10640
by the treatment team, with the active participation of the 10641
inmate patient and with documentation of that participation. 10642
"Treatment plan" includes all of the following: 10643

(a) The specific criteria to be used in evaluating 10644
progress toward achieving the objectives and goals; 10645

(b) The services to be provided to the inmate patient 10646
during the inmate patient's hospitalization; 10647

(c) The services to be provided to the inmate patient 10648
after discharge from the hospital, including, but not limited 10649
to, housing and mental health services provided at the state 10650
correctional institution to which the inmate patient returns 10651
after discharge or community mental health services. 10652

(7) "Emergency transfer" means the transfer of an inmate 10653
with a mental illness to a psychiatric hospital when the inmate 10654
presents an immediate danger to self or others and requires 10655
hospital-level care. 10656

(8) "Uncontested transfer" means the transfer of an inmate 10657

with a mental illness to a psychiatric hospital when the inmate 10658
has the mental capacity to, and has waived, the hearing required 10659
by division (B) of this section. 10660

(9) (a) "Independent decision-maker" means a person who is 10661
employed or retained by the department of rehabilitation and 10662
correction and is appointed by the chief or chief clinical 10663
officer of mental health services as a hospitalization hearing 10664
officer to conduct due process hearings. 10665

(b) An independent decision-maker who presides over any 10666
hearing or issues any order pursuant to this section shall be a 10667
psychiatrist, psychiatric-mental health advanced practice 10668
registered nurse, psychologist, or attorney, shall not be 10669
specifically associated with the institution in which the inmate 10670
who is the subject of the hearing or order resides at the time 10671
of the hearing or order, and previously shall not have had any 10672
treatment relationship with nor have represented in any legal 10673
proceeding the inmate who is the subject of the order. 10674

(10) "Psychiatric-mental health advanced practice 10675
registered nurse" means an advanced practice registered nurse, 10676
as defined in section 4723.01 of the Revised Code, who is either 10677
of the following: 10678

(a) A clinical nurse specialist who is certified as a 10679
psychiatric-mental health CNS by the American nurses 10680
credentialing center; 10681

(b) A certified nurse practitioner who is certified as a 10682
psychiatric-mental health NP by the American nurses 10683
credentialing center. 10684

(B) (1) Except as provided in division (C) of this section, 10685
if the warden of a state correctional institution or the 10686

warden's designee believes that an inmate should be transferred 10687
from the institution to a psychiatric hospital, the department 10688
shall hold a hearing to determine whether the inmate is a person 10689
with a mental illness subject to hospitalization. The department 10690
shall conduct the hearing at the state correctional institution 10691
in which the inmate is confined, and the department shall 10692
provide qualified independent assistance to the inmate for the 10693
hearing. An independent decision-maker provided by the 10694
department shall preside at the hearing and determine whether 10695
the inmate is a person with a mental illness subject to 10696
hospitalization. 10697

(2) Except as provided in division (C) of this section, 10698
prior to the hearing held pursuant to division (B)(1) of this 10699
section, the warden or the warden's designee shall give written 10700
notice to the inmate that the department is considering 10701
transferring the inmate to a psychiatric hospital, that it will 10702
hold a hearing on the proposed transfer at which the inmate may 10703
be present, that at the hearing the inmate has the rights 10704
described in division (B)(3) of this section, and that the 10705
department will provide qualified independent assistance to the 10706
inmate with respect to the hearing. The department shall not 10707
hold the hearing until the inmate has received written notice of 10708
the proposed transfer and has had sufficient time to consult 10709
with the person appointed by the department to provide 10710
assistance to the inmate and to prepare for a presentation at 10711
the hearing. 10712

(3) At the hearing held pursuant to division (B)(1) of 10713
this section, the department shall disclose to the inmate the 10714
evidence that it relies upon for the transfer and shall give the 10715
inmate an opportunity to be heard. Unless the independent 10716
decision-maker finds good cause for not permitting it, the 10717

inmate may present documentary evidence and the testimony of 10718
witnesses at the hearing and may confront and cross-examine 10719
witnesses called by the department. 10720

(4) If the independent decision-maker does not find clear 10721
and convincing evidence that the inmate is a person with a 10722
mental illness subject to hospitalization, the department shall 10723
not transfer the inmate to a psychiatric hospital but shall 10724
continue to confine the inmate in the same state correctional 10725
institution or in another state correctional institution that 10726
the department considers appropriate. If the independent 10727
decision-maker finds clear and convincing evidence that the 10728
inmate is a person with a mental illness subject to 10729
hospitalization, the decision-maker shall order that the inmate 10730
be transported to a psychiatric hospital for observation and 10731
treatment for a period of not longer than thirty days. After the 10732
hearing, the independent decision-maker shall submit to the 10733
department a written decision that states one of the findings 10734
described in division (B) (4) of this section, the evidence that 10735
the decision-maker relied on in reaching that conclusion, and, 10736
if the decision is that the inmate should be transferred, the 10737
reasons for the transfer. 10738

(C) (1) The department may transfer an inmate to a 10739
psychiatric hospital under an emergency transfer order if a 10740
determination is made that the inmate has a mental illness, 10741
presents an immediate danger to self or others, and requires 10742
hospital-level care. To qualify, the determination shall be made 10743
as follows: by the chief clinical officer of mental health 10744
services of the department or that officer's designee and either 10745
a psychiatrist or psychiatric-mental health advanced practice 10746
registered nurse employed or retained by the department or, in 10747
the absence of a psychiatrist or psychiatric-mental health 10748

~~advanced practice registered nurse, a psychologist employed or 10749
retained by the department ~~determines that the inmate has a~~ 10750
~~mental illness, presents an immediate danger to self or others,~~ 10751
~~and requires hospital-level care.~~ 10752~~

(2) The department may transfer an inmate to a psychiatric 10753
hospital under an uncontested transfer order if both of the 10754
following apply: 10755

(a) A psychiatrist or psychiatric-mental health advanced 10756
practice registered nurse employed or retained by the department 10757
determines all of the following apply: 10758

(i) The inmate has a mental illness or is a person with a 10759
mental illness subject to hospitalization. 10760

(ii) The inmate requires hospital care to address the 10761
mental illness. 10762

(iii) The inmate has the mental capacity to make a 10763
reasoned choice regarding the inmate's transfer to a hospital. 10764

(b) The inmate agrees to a transfer to a hospital. 10765

(3) The written notice and the hearing required under 10766
divisions (B) (1) and (2) of this section are not required for an 10767
emergency transfer or uncontested transfer under division (C) (1) 10768
or (2) of this section. 10769

(4) After an emergency transfer under division (C) (1) of 10770
this section, the department shall hold a hearing for continued 10771
hospitalization within five working days after admission of the 10772
transferred inmate to the psychiatric hospital. The department 10773
shall hold subsequent hearings pursuant to division (F) of this 10774
section at the same intervals as required for inmate patients 10775
who are transported to a psychiatric hospital under division (B) 10776

(4) of this section. 10777

(5) After an uncontested transfer under division (C) (2) of 10778
this section, the inmate may withdraw consent to the transfer in 10779
writing at any time. Upon the inmate's withdrawal of consent, 10780
the hospital shall discharge the inmate, or, within five working 10781
days, the department shall hold a hearing for continued 10782
hospitalization. The department shall hold subsequent hearings 10783
pursuant to division (F) of this section at the same time 10784
intervals as required for inmate patients who are transported to 10785
a psychiatric hospital under division (B) (4) of this section. 10786

(D) (1) If an independent decision-maker, pursuant to 10787
division (B) (4) of this section, orders an inmate transported to 10788
a psychiatric hospital or if an inmate is transferred pursuant 10789
to division (C) (1) or (2) of this section, the staff of the 10790
psychiatric hospital shall examine the inmate patient when 10791
admitted to the psychiatric hospital as soon as practicable 10792
after the inmate patient arrives at the hospital and no later 10793
than twenty-four hours after the time of arrival. The attending 10794
physician, certified nurse-midwife, clinical nurse specialist, 10795
or certified nurse practitioner responsible for the inmate 10796
patient's care shall give the inmate patient all information 10797
necessary to enable the patient to give a fully informed, 10798
intelligent, and knowing consent to the treatment the inmate 10799
patient will receive in the hospital. The attending physician or 10800
attending nurse shall tell the inmate patient the expected 10801
physical and medical consequences of any proposed treatment and 10802
shall give the inmate patient the opportunity to consult with 10803
another psychiatrist or psychiatric-mental health advanced 10804
practice registered nurse at the hospital and with the inmate 10805
advisor. 10806

- (2) No inmate patient who is transported or transferred pursuant to division (B) (4) or (C) (1) or (2) of this section to a psychiatric hospital within a facility that is operated by the department of rehabilitation and correction shall be subjected to any of the following procedures:
- (a) Convulsive therapy;
 - (b) Major aversive interventions;
 - (c) Any unusually hazardous treatment procedures;
 - (d) Psychosurgery.
- (E) The department of rehabilitation and correction shall ensure that an inmate patient hospitalized pursuant to this section receives or has all of the following:
- (1) Receives sufficient professional care within twenty days of admission to ensure that an evaluation of the inmate patient's current status, differential diagnosis, probable prognosis, and description of the current treatment plan have been formulated and are stated on the inmate patient's official chart;
 - (2) Has a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals of treatment;
 - (3) Receives treatment consistent with the treatment plan;
 - (4) Receives periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed thirty days;
 - (5) Is provided with adequate medical treatment for physical disease or injury;
 - (6) Receives humane care and treatment, including, without

being limited to, the following: 10834

(a) Access to the facilities and personnel required by the 10835
treatment plan; 10836

(b) A humane psychological and physical environment; 10837

(c) The right to obtain current information concerning the 10838
treatment program, the expected outcomes of treatment, and the 10839
expectations for the inmate patient's participation in the 10840
treatment program in terms that the inmate patient reasonably 10841
can understand; 10842

(d) Opportunity for participation in programs designed to 10843
help the inmate patient acquire the skills needed to work toward 10844
discharge from the psychiatric hospital; 10845

(e) The right to be free from unnecessary or excessive 10846
medication and from unnecessary restraints or isolation; 10847

(f) All other rights afforded inmates in the custody of 10848
the department consistent with rules, policy, and procedure of 10849
the department. 10850

(F) The department shall hold a hearing for the continued 10851
hospitalization of an inmate patient who is transported or 10852
transferred to a psychiatric hospital pursuant to division (B) 10853
(4) or (C)(1) of this section prior to the expiration of the 10854
initial thirty-day period of hospitalization. The department 10855
shall hold any subsequent hearings, if necessary, not later than 10856
ninety days after the first thirty-day hearing and then not 10857
later than each one hundred and eighty days after the 10858
immediately prior hearing. An independent decision-maker shall 10859
conduct the hearings at the psychiatric hospital in which the 10860
inmate patient is confined. The inmate patient shall be afforded 10861
all of the rights set forth in this section for the hearing 10862

prior to transfer to the psychiatric hospital. The department 10863
may not waive a hearing for continued commitment. A hearing for 10864
continued commitment is mandatory for an inmate patient 10865
transported or transferred to a psychiatric hospital pursuant to 10866
division (B)(4) or (C)(1) of this section unless the inmate 10867
patient has the capacity to make a reasoned choice to execute a 10868
waiver and waives the hearing in writing. An inmate patient who 10869
is transferred to a psychiatric hospital pursuant to an 10870
uncontested transfer under division (C)(2) of this section and 10871
who has scheduled hearings after withdrawal of consent for 10872
hospitalization may waive any of the scheduled hearings if the 10873
inmate has the capacity to make a reasoned choice and executes a 10874
written waiver of the hearing. 10875

If upon completion of the hearing the independent 10876
decision-maker does not find by clear and convincing evidence 10877
that the inmate patient is a person with a mental illness 10878
subject to hospitalization, the independent decision-maker shall 10879
order the inmate patient's discharge from the psychiatric 10880
hospital. If the independent decision-maker finds by clear and 10881
convincing evidence that the inmate patient is a person with a 10882
mental illness subject to hospitalization, the independent 10883
decision-maker shall order that the inmate patient remain at the 10884
psychiatric hospital for continued hospitalization until the 10885
next required hearing. 10886

If at any time prior to the next required hearing for 10887
continued hospitalization, the medical director of the hospital 10888
or the attending physician, certified nurse-midwife, clinical 10889
nurse specialist, or certified nurse practitioner determines 10890
that the treatment needs of the inmate patient could be met 10891
equally well in an available and appropriate less restrictive 10892
state correctional institution or unit, the medical director ~~or,~~ 10893

attending physician, or attending nurse may discharge the inmate 10894
to that facility. 10895

(G) An inmate patient is entitled to the credits toward 10896
the reduction of the inmate patient's stated prison term 10897
pursuant to Chapters 2967. and 5120. of the Revised Code under 10898
the same terms and conditions as if the inmate patient were in 10899
any other institution of the department of rehabilitation and 10900
correction. 10901

(H) The adult parole authority may place an inmate patient 10902
on parole or under post-release control directly from a 10903
psychiatric hospital. 10904

(I) If an inmate patient who is a person with a mental 10905
illness subject to hospitalization is to be released from a 10906
psychiatric hospital because of the expiration of the inmate 10907
patient's stated prison term, the director of rehabilitation and 10908
correction or the director's designee, at least fourteen days 10909
before the expiration date, may file an affidavit under section 10910
5122.11 or 5123.71 of the Revised Code with the probate court in 10911
the county where the psychiatric hospital is located or the 10912
probate court in the county where the inmate will reside, 10913
alleging that the inmate patient is a person with a mental 10914
illness subject to court order, as defined in section 5122.01 of 10915
the Revised Code, or a person with an intellectual disability 10916
subject to institutionalization by court order, as defined in 10917
section 5123.01 of the Revised Code, whichever is applicable. 10918
The proceedings in the probate court shall be conducted pursuant 10919
to Chapter 5122. or 5123. of the Revised Code except as modified 10920
by this division. 10921

Upon the request of the inmate patient, the probate court 10922
shall grant the inmate patient an initial hearing under section 10923

5122.141 of the Revised Code or a probable cause hearing under 10924
section 5123.75 of the Revised Code before the expiration of the 10925
stated prison term. After holding a full hearing, the probate 10926
court shall make a disposition authorized by section 5122.15 or 10927
5123.76 of the Revised Code before the date of the expiration of 10928
the stated prison term. No inmate patient shall be held in the 10929
custody of the department of rehabilitation and correction past 10930
the date of the expiration of the inmate patient's stated prison 10931
term. 10932

(J) The department of rehabilitation and correction shall 10933
set standards for treatment provided to inmate patients. 10934

(K) A certificate, application, record, or report that is 10935
made in compliance with this section and that directly or 10936
indirectly identifies an inmate or former inmate whose 10937
hospitalization has been sought under this section is 10938
confidential. No person shall disclose the contents of any 10939
certificate, application, record, or report of that nature or 10940
any other psychiatric or medical record or report regarding an 10941
inmate with a mental illness unless one of the following 10942
applies: 10943

(1) The person identified, or the person's legal guardian, 10944
if any, consents to disclosure, and the chief clinical officer 10945
or designee of mental health services of the department of 10946
rehabilitation and correction determines that disclosure is in 10947
the best interests of the person. 10948

(2) Disclosure is required by a court order signed by a 10949
judge. 10950

(3) An inmate patient seeks access to the inmate patient's 10951
own psychiatric and medical records, unless access is 10952

specifically restricted in the treatment plan for clear 10953
treatment reasons. 10954

(4) Hospitals and other institutions and facilities within 10955
the department of rehabilitation and correction may exchange 10956
psychiatric records and other pertinent information with other 10957
hospitals, institutions, and facilities of the department, but 10958
the information that may be released about an inmate patient is 10959
limited to medication history, physical health status and 10960
history, summary of course of treatment in the hospital, summary 10961
of treatment needs, and a discharge summary, if any. 10962

(5) An inmate patient's family member who is involved in 10963
planning, providing, and monitoring services to the inmate 10964
patient may receive medication information, a summary of the 10965
inmate patient's diagnosis and prognosis, and a list of the 10966
services and personnel available to assist the inmate patient 10967
and family if the attending physician, certified nurse-midwife, 10968
clinical nurse specialist, or certified nurse practitioner 10969
determines that disclosure would be in the best interest of the 10970
inmate patient. No disclosure shall be made under this division 10971
unless the inmate patient is notified of the possible 10972
disclosure, receives the information to be disclosed, and does 10973
not object to the disclosure. 10974

(6) The department of rehabilitation and correction may 10975
exchange psychiatric hospitalization records, other mental 10976
health treatment records, and other pertinent information with 10977
county sheriffs' offices, hospitals, institutions, and 10978
facilities of the department of mental health and addiction 10979
services and with community mental health services providers and 10980
boards of alcohol, drug addiction, and mental health services 10981
with which the department of mental health and addiction 10982

services has a current agreement for patient care or services to 10983
ensure continuity of care. With respect to an inmate with a 10984
mental illness, disclosure under this division is limited to 10985
records regarding the inmate's medication history, physical 10986
health status and history, summary of course of treatment, 10987
summary of treatment needs, and a discharge summary, if any. No 10988
office, department, agency, provider, or board shall disclose 10989
the records and other information unless one of the following 10990
applies: 10991

(a) The inmate with a mental illness is notified of the 10992
possible disclosure and consents to the disclosure. 10993

(b) The inmate with a mental illness is notified of the 10994
possible disclosure, an attempt to gain the consent of the 10995
inmate is made, and the office, department, agency, or board 10996
documents the attempt to gain consent, the inmate's objections, 10997
if any, and the reasons for disclosure in spite of the inmate's 10998
objections. 10999

(7) Information may be disclosed to staff members 11000
designated by the director of rehabilitation and correction for 11001
the purpose of evaluating the quality, effectiveness, and 11002
efficiency of services and determining if the services meet 11003
minimum standards. 11004

The name of an inmate patient shall not be retained with 11005
the information obtained during the evaluations. 11006

(L) The director of rehabilitation and correction may 11007
adopt rules setting forth guidelines for the procedures required 11008
under divisions (B), (C) (1), and (C) (2) of this section. 11009

Sec. 5120.21. (A) The department of rehabilitation and 11010
correction shall keep in its office, accessible only to its 11011

employees, except by the consent of the department or the order 11012
of the judge of a court of record, and except as provided in 11013
division (C) of this section, a record showing the name, 11014
residence, sex, age, nativity, occupation, condition, and date 11015
of entrance or commitment of every inmate in the several 11016
institutions governed by it. The record also shall include the 11017
date, cause, and terms of discharge and the condition of such 11018
person at the time of leaving, a record of all transfers from 11019
one institution to another, and, if such inmate is dead, the 11020
date and cause of death. These and other facts that the 11021
department requires shall be furnished by the managing officer 11022
of each institution within ten days after the commitment, 11023
entrance, death, or discharge of an inmate. 11024

(B) In case of an accident or injury or peculiar death of 11025
an inmate, the managing officer shall make a special report to 11026
the department within twenty-four hours thereafter, giving the 11027
circumstances as fully as possible. 11028

(C) (1) As used in this division, "medical record" means 11029
any document or combination of documents that pertains to the 11030
medical history, diagnosis, prognosis, or medical condition of a 11031
patient and that is generated and maintained in the process of 11032
medical treatment. 11033

(2) A separate medical record of every inmate in an 11034
institution governed by the department shall be compiled, 11035
maintained, and kept apart from and independently of any other 11036
record pertaining to the inmate. Upon the signed written request 11037
of the inmate to whom the record pertains together with the 11038
written request of a person the inmate designates who is either 11039
a licensed attorney at law or a licensed physician ~~designated by~~ 11040
~~the inmate,~~ certified nurse-midwife, clinical nurse specialist, 11041

or certified nurse practitioner, the department shall make the 11042
inmate's medical record available to the designated attorney ~~or,~~ 11043
physician, or nurse. The record may be inspected or copied by 11044
the inmate's designated attorney ~~or,~~ physician, or nurse. The 11045
department may establish a reasonable fee for the copying of any 11046
medical record. If a physician, certified nurse-midwife, 11047
clinical nurse specialist, or certified nurse practitioner 11048
concludes that presentation of all or any part of the medical 11049
record directly to the inmate will result in serious medical 11050
harm to the inmate, the physician or nurse shall so indicate on 11051
the medical record. An inmate's medical record shall be made 11052
available to a physician ~~or to an,~~ certified nurse-midwife, 11053
clinical nurse specialist, certified nurse practitioner, or 11054
attorney designated in writing by the inmate not more than once 11055
every twelve months. 11056

(D) Except as otherwise provided by a law of this state or 11057
the United States, the department and the officers of its 11058
institutions shall keep confidential and accessible only to its 11059
employees, except by the consent of the department or the order 11060
of a judge of a court of record, all of the following: 11061

(1) Architectural, engineering, or construction diagrams, 11062
drawings, or plans of a correctional institution; 11063

(2) Plans for hostage negotiation, for disturbance 11064
control, for the control and location of keys, and for dealing 11065
with escapes; 11066

(3) Statements made by inmate informants; 11067

(4) Records that are maintained by the department of youth 11068
services, that pertain to children in its custody, and that are 11069
released to the department of rehabilitation and correction by 11070

the department of youth services pursuant to section 5139.05 of 11071
the Revised Code; 11072

(5) Victim impact statements and information provided by 11073
victims of crimes that the department considers when determining 11074
the security level assignment, program participation, and 11075
release eligibility of inmates; 11076

(6) Information and data of any kind or medium pertaining 11077
to groups that pose a security threat; 11078

(7) Conversations recorded from the monitored inmate 11079
telephones that involve nonprivileged communications. 11080

(E) Except as otherwise provided by a law of this state or 11081
the United States, the department of rehabilitation and 11082
correction may release inmate records to the department of youth 11083
services or a court of record, and the department of youth 11084
services or the court of record may use those records for the 11085
limited purpose of carrying out the duties of the department of 11086
youth services or the court of record. Inmate records released 11087
by the department of rehabilitation and correction to the 11088
department of youth services or a court of record shall remain 11089
confidential and shall not be considered public records as 11090
defined in section 149.43 of the Revised Code. 11091

(F) Except as otherwise provided in division (C) of this 11092
section, records of inmates committed to the department of 11093
rehabilitation and correction as well as records of persons 11094
under the supervision of the adult parole authority shall not be 11095
considered public records as defined in section 149.43 of the 11096
Revised Code. 11097

Sec. 5145.22. (A) ~~The chief~~ A physician, clinical nurse 11098
specialist, or certified nurse practitioner who is designated by 11099

the department of rehabilitation and correction shall keep a 11100
correct record of vital statistics of the penitentiary, 11101
containing the name, nationality or race, weight, stature, 11102
former occupation, and family history of each prisoner, a 11103
statement of the condition of the heart, lungs, and other 11104
leading organs, rate of the pulse and respiration, measurement 11105
of the chest and abdomen, condition of the inguinal canal, and 11106
the arch of the foot, and any existing disease, deformity, or 11107
other disability, acquired or inherited. The ~~chief~~ physician or 11108
nurse designated by the department shall perform such other 11109
duties in the line of ~~his~~ the physician's or nurse's profession 11110
as the department ~~of rehabilitation and correction~~ requires. 11111

(B) The ~~chief~~ physician or nurse designated under division 11112
(A) of this section shall keep a separate medical record of each 11113
prisoner as provided in division (C) of section 5120.21 of the 11114
Revised Code. 11115

Sec. 5502.522. (A) There is hereby created the statewide 11116
emergency alert program to aid in the identification and 11117
location of any individual who has a mental impairment, has 11118
autism spectrum disorder or another developmental disability, or 11119
is sixty-five years of age or older, who is or is believed to be 11120
a temporary or permanent resident of this state, is at a 11121
location that cannot be determined by an individual familiar 11122
with the missing individual, and is incapable of returning to 11123
the missing individual's residence without assistance, and whose 11124
disappearance, as determined by a law enforcement agency, poses 11125
a credible threat of immediate danger of serious bodily harm or 11126
death to the missing individual. The program shall be a 11127
coordinated effort among the governor's office, the department 11128
of public safety, the attorney general, law enforcement 11129
agencies, the state's public and commercial television and radio 11130

broadcasters, and others as determined necessary by the 11131
governor. No name shall be given to the program created under 11132
this division that conflicts with any alert code standards that 11133
are required by federal law and that govern the naming of 11134
emergency alert programs. 11135

(B) The statewide emergency alert program shall not be 11136
implemented unless all of the following activation criteria are 11137
met: 11138

(1) The local investigating law enforcement agency 11139
confirms that the individual is missing. 11140

(2) The individual meets at least one of the following 11141
criteria: 11142

(a) Is sixty-five years of age or older; 11143

(b) Has a mental impairment; 11144

(c) Has either autism spectrum disorder or another 11145
developmental disability. 11146

(3) The disappearance of the individual poses a credible 11147
threat of immediate danger of serious bodily harm or death to 11148
the individual. 11149

(4) There is sufficient descriptive information about the 11150
individual and the circumstances surrounding the individual's 11151
disappearance to indicate that activation of the alert will help 11152
locate the individual. 11153

(C) Nothing in division (B) of this section prevents the 11154
activation of a local or regional emergency alert program that 11155
may impose different criteria for the activation of a local or 11156
regional plan. 11157

(D) Any radio broadcast station, television broadcast station, or cable system participating in the statewide emergency alert program or in any local or regional emergency alert program, and any director, officer, employee, or agent of any station or system participating in either type of alert program, shall not be liable to any person for damages for any loss allegedly caused by or resulting from the station's or system's broadcast or cablecast of, or failure to broadcast or cablecast, any information pursuant to the statewide emergency alert program or the local or regional emergency alert program.

(E) A local investigating law enforcement agency shall not be required to notify the statewide emergency alert program that the law enforcement agency has received information that meets the activation criteria set forth in division (B) of this section during the first twenty-four hours after the law enforcement agency receives the information.

(F) Nothing in this section shall be construed to authorize the use of the federal emergency alert system unless otherwise authorized by federal law.

(G) As used in this section:

(1) "Autism spectrum disorder" has the same meaning as in section 1751.84 of the Revised Code.

(2) "Cable system" has the same meaning as in section 2913.04 of the Revised Code.

(3) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

(4) "Law enforcement agency" includes, but is not limited to, a county sheriff's office, the office of a village marshal, a police department of a municipal corporation, a police force

of a regional transit authority, a police force of a 11187
metropolitan housing authority, the state highway patrol, a 11188
state university law enforcement agency, the office of a 11189
township police constable, and the police department of a 11190
township or joint police district. 11191

(5) "Mental impairment" means a substantial disorder of 11192
thought, mood, perception, orientation, or memory that grossly 11193
impairs judgment, behavior, or ability to live independently or 11194
provide self-care as certified by one of the following: a 11195
licensed physician, including a physician who is a 11196
psychiatrist; a licensed psychiatric-mental health advanced 11197
practice registered nurse, as defined in section 5122.01 of the 11198
Revised Code; or a licensed psychologist. 11199

Sec. 5739.01. As used in this chapter: 11200

(A) "Person" includes individuals, receivers, assignees, 11201
trustees in bankruptcy, estates, firms, partnerships, 11202
associations, joint-stock companies, joint ventures, clubs, 11203
societies, corporations, the state and its political 11204
subdivisions, and combinations of individuals of any form. 11205

(B) "Sale" and "selling" include all of the following 11206
transactions for a consideration in any manner, whether 11207
absolutely or conditionally, whether for a price or rental, in 11208
money or by exchange, and by any means whatsoever: 11209

(1) All transactions by which title or possession, or 11210
both, of tangible personal property, is or is to be transferred, 11211
or a license to use or consume tangible personal property is or 11212
is to be granted; 11213

(2) All transactions by which lodging by a hotel is or is 11214
to be furnished to transient guests; 11215

(3) All transactions by which:	11216
(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;	11217 11218 11219 11220
(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;	11221 11222 11223 11224 11225 11226 11227
(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;	11228 11229
(d) Laundry and dry cleaning services are or are to be provided;	11230 11231
(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with	11232 11233 11234 11235 11236 11237 11238 11239 11240 11241 11242 11243 11244

stock, one corporation owns or controls another if it owns more	11245
than fifty per cent of the other corporation's common stock with	11246
voting rights.	11247
(f) Telecommunications service, including prepaid calling	11248
service, prepaid wireless calling service, or ancillary service,	11249
is or is to be provided, but not including coin-operated	11250
telephone service;	11251
(g) Landscaping and lawn care service is or is to be	11252
provided;	11253
(h) Private investigation and security service is or is to	11254
be provided;	11255
(i) Information services or tangible personal property is	11256
provided or ordered by means of a nine hundred telephone call;	11257
(j) Building maintenance and janitorial service is or is	11258
to be provided;	11259
(k) Exterminating service is or is to be provided;	11260
(l) Physical fitness facility service is or is to be	11261
provided;	11262
(m) Recreation and sports club service is or is to be	11263
provided;	11264
(n) Satellite broadcasting service is or is to be	11265
provided;	11266
(o) Personal care service is or is to be provided to an	11267
individual. As used in this division, "personal care service"	11268
includes skin care, the application of cosmetics, manicuring,	11269
pedicuring, hair removal, tattooing, body piercing, tanning,	11270
massage, and other similar services. "Personal care service"	11271

does not include a service provided by or on the order of a 11272
licensed physician ~~or licensed, certified nurse-midwife,~~ 11273
clinical nurse specialist, certified nurse practitioner, or 11274
chiropractor, or the cutting, coloring, or styling of an 11275
individual's hair. 11276

(p) The transportation of persons by motor vehicle or 11277
aircraft is or is to be provided, when the transportation is 11278
entirely within this state, except for transportation provided 11279
by an ambulance service, by a transit bus, as defined in section 11280
5735.01 of the Revised Code, and transportation provided by a 11281
citizen of the United States holding a certificate of public 11282
convenience and necessity issued under 49 U.S.C. 41102; 11283

(q) Motor vehicle towing service is or is to be provided. 11284
As used in this division, "motor vehicle towing service" means 11285
the towing or conveyance of a wrecked, disabled, or illegally 11286
parked motor vehicle. 11287

(r) Snow removal service is or is to be provided. As used 11288
in this division, "snow removal service" means the removal of 11289
snow by any mechanized means, but does not include the providing 11290
of such service by a person that has less than five thousand 11291
dollars in sales of such service during the calendar year. 11292

(s) Electronic publishing service is or is to be provided 11293
to a consumer for use in business, except that such transactions 11294
occurring between members of an affiliated group, as defined in 11295
division (B) (3) (e) of this section, are not sales. 11296

(4) All transactions by which printed, imprinted, 11297
overprinted, lithographic, multilithic, blueprinted, 11298
photostatic, or other productions or reproductions of written or 11299
graphic matter are or are to be furnished or transferred; 11300

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

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

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to

shelter the person's grain and that is designed to be 11331
disassembled without significant damage to its component parts. 11332

(6) All transactions in which all of the shares of stock 11333
of a closely held corporation are transferred, or an ownership 11334
interest in a pass-through entity, as defined in section 5733.04 11335
of the Revised Code, is transferred, if the corporation or pass- 11336
through entity is not engaging in business and its entire assets 11337
consist of boats, planes, motor vehicles, or other tangible 11338
personal property operated primarily for the use and enjoyment 11339
of the shareholders or owners; 11340

(7) All transactions in which a warranty, maintenance or 11341
service contract, or similar agreement by which the vendor of 11342
the warranty, contract, or agreement agrees to repair or 11343
maintain the tangible personal property of the consumer is or is 11344
to be provided; 11345

(8) The transfer of copyrighted motion picture films used 11346
solely for advertising purposes, except that the transfer of 11347
such films for exhibition purposes is not a sale; 11348

(9) All transactions by which tangible personal property 11349
is or is to be stored, except such property that the consumer of 11350
the storage holds for sale in the regular course of business; 11351

(10) All transactions in which "guaranteed auto 11352
protection" is provided whereby a person promises to pay to the 11353
consumer the difference between the amount the consumer receives 11354
from motor vehicle insurance and the amount the consumer owes to 11355
a person holding title to or a lien on the consumer's motor 11356
vehicle in the event the consumer's motor vehicle suffers a 11357
total loss under the terms of the motor vehicle insurance policy 11358
or is stolen and not recovered, if the protection and its price 11359

are included in the purchase or lease agreement; 11360

(11) (a) Except as provided in division (B) (11) (b) of this 11361
section, all transactions by which health care services are paid 11362
for, reimbursed, provided, delivered, arranged for, or otherwise 11363
made available by a medicaid health insuring corporation 11364
pursuant to the corporation's contract with the state. 11365

(b) If the centers for medicare and medicaid services of 11366
the United States department of health and human services 11367
determines that the taxation of transactions described in 11368
division (B) (11) (a) of this section constitutes an impermissible 11369
health care-related tax under the "Social Security Act," section 11370
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 11371
the medicaid director shall notify the tax commissioner of that 11372
determination. Beginning with the first day of the month 11373
following that notification, the transactions described in 11374
division (B) (11) (a) of this section are not sales for the 11375
purposes of this chapter or Chapter 5741. of the Revised Code. 11376
The tax commissioner shall order that the collection of taxes 11377
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 11378
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 11379
for transactions occurring on or after that date. 11380

(12) All transactions by which a specified digital product 11381
is provided for permanent use or less than permanent use, 11382
regardless of whether continued payment is required. 11383

Except as provided in this section, "sale" and "selling" 11384
do not include transfers of interest in leased property where 11385
the original lessee and the terms of the original lease 11386
agreement remain unchanged, or professional, insurance, or 11387
personal service transactions that involve the transfer of 11388
tangible personal property as an inconsequential element, for 11389

which no separate charges are made. 11390

(C) "Vendor" means the person providing the service or by 11391
whom the transfer effected or license given by a sale is or is 11392
to be made or given and, for sales described in division (B) (3) 11393
(i) of this section, the telecommunications service vendor that 11394
provides the nine hundred telephone service; if two or more 11395
persons are engaged in business at the same place of business 11396
under a single trade name in which all collections on account of 11397
sales by each are made, such persons shall constitute a single 11398
vendor. 11399

Physicians, certified nurse-midwives, clinical nurse 11400
specialists, certified nurse practitioners, dentists, hospitals, 11401
and veterinarians who are engaged in selling tangible personal 11402
property as received from others, such as eyeglasses, 11403
mouthwashes, dentifrices, or similar articles, are vendors. 11404
Veterinarians who are engaged in transferring to others for a 11405
consideration drugs, the dispensing of which does not require an 11406
order of a licensed veterinarian ~~or~~, physician, certified 11407
nurse-midwife, clinical nurse specialist, or certified nurse 11408
practitioner under federal law, are vendors. 11409

The operator of any peer-to-peer car sharing program shall 11410
be considered to be the vendor. 11411

(D) (1) "Consumer" means the person for whom the service is 11412
provided, to whom the transfer effected or license given by a 11413
sale is or is to be made or given, to whom the service described 11414
in division (B) (3) (f) or (i) of this section is charged, or to 11415
whom the admission is granted. 11416

(2) Physicians, certified nurse-midwives, clinical nurse 11417
specialists, certified nurse practitioners, dentists, hospitals, 11418

and blood banks operated by nonprofit institutions and persons 11419
licensed to practice veterinary medicine, surgery, and dentistry 11420
are consumers of all tangible personal property and services 11421
purchased by them in connection with the practice of medicine, 11422
dentistry, the rendition of hospital or blood bank service, or 11423
the practice of veterinary medicine, surgery, and dentistry. In 11424
addition to being consumers of drugs administered by them or by 11425
their assistants according to their direction, veterinarians 11426
also are consumers of drugs that under federal law may be 11427
dispensed only by or upon the order of a licensed veterinarian 11428
~~or~~, physician, certified nurse-midwife, clinical nurse 11429
specialist, or certified nurse practitioner, when transferred by 11430
them to others for a consideration to provide treatment to 11431
animals as directed by the veterinarian. 11432

(3) A person who performs a facility management, or 11433
similar service contract for a contractee is a consumer of all 11434
tangible personal property and services purchased for use in 11435
connection with the performance of such contract, regardless of 11436
whether title to any such property vests in the contractee. The 11437
purchase of such property and services is not subject to the 11438
exception for resale under division (E) of this section. 11439

(4) (a) In the case of a person who purchases printed 11440
matter for the purpose of distributing it or having it 11441
distributed to the public or to a designated segment of the 11442
public, free of charge, that person is the consumer of that 11443
printed matter, and the purchase of that printed matter for that 11444
purpose is a sale. 11445

(b) In the case of a person who produces, rather than 11446
purchases, printed matter for the purpose of distributing it or 11447
having it distributed to the public or to a designated segment 11448

of the public, free of charge, that person is the consumer of 11449
all tangible personal property and services purchased for use or 11450
consumption in the production of that printed matter. That 11451
person is not entitled to claim exemption under division (B) (42) 11452
(f) of section 5739.02 of the Revised Code for any material 11453
incorporated into the printed matter or any equipment, supplies, 11454
or services primarily used to produce the printed matter. 11455

(c) The distribution of printed matter to the public or to 11456
a designated segment of the public, free of charge, is not a 11457
sale to the members of the public to whom the printed matter is 11458
distributed or to any persons who purchase space in the printed 11459
matter for advertising or other purposes. 11460

(5) A person who makes sales of any of the services listed 11461
in division (B) (3) of this section is the consumer of any 11462
tangible personal property used in performing the service. The 11463
purchase of that property is not subject to the resale exception 11464
under division (E) of this section. 11465

(6) A person who engages in highway transportation for 11466
hire is the consumer of all packaging materials purchased by 11467
that person and used in performing the service, except for 11468
packaging materials sold by such person in a transaction 11469
separate from the service. 11470

(7) In the case of a transaction for health care services 11471
under division (B) (11) of this section, a medicaid health 11472
insuring corporation is the consumer of such services. The 11473
purchase of such services by a medicaid health insuring 11474
corporation is not subject to the exception for resale under 11475
division (E) of this section or to the exemptions provided under 11476
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 11477
the Revised Code. 11478

(E) "Retail sale" and "sales at retail" include all sales, 11479
except those in which the purpose of the consumer is to resell 11480
the thing transferred or benefit of the service provided, by a 11481
person engaging in business, in the form in which the same is, 11482
or is to be, received by the person. 11483

(F) "Business" includes any activity engaged in by any 11484
person with the object of gain, benefit, or advantage, either 11485
direct or indirect. "Business" does not include the activity of 11486
a person in managing and investing the person's own funds. 11487

(G) "Engaging in business" means commencing, conducting, 11488
or continuing in business, and liquidating a business when the 11489
liquidator thereof holds itself out to the public as conducting 11490
such business. Making a casual sale is not engaging in business. 11491

(H) (1) (a) "Price," except as provided in divisions (H) (2), 11492
(3), and (4) of this section, means the total amount of 11493
consideration, including cash, credit, property, and services, 11494
for which tangible personal property or services are sold, 11495
leased, or rented, valued in money, whether received in money or 11496
otherwise, without any deduction for any of the following: 11497

(i) The vendor's cost of the property sold; 11498

(ii) The cost of materials used, labor or service costs, 11499
interest, losses, all costs of transportation to the vendor, all 11500
taxes imposed on the vendor, including the tax imposed under 11501
Chapter 5751. of the Revised Code, and any other expense of the 11502
vendor; 11503

(iii) Charges by the vendor for any services necessary to 11504
complete the sale; 11505

(iv) Delivery charges. As used in this division, "delivery 11506
charges" means charges by the vendor for preparation and 11507

delivery to a location designated by the consumer of tangible 11508
personal property or a service, including transportation, 11509
shipping, postage, handling, crating, and packing. 11510

(v) Installation charges; 11511

(vi) Credit for any trade-in. 11512

(b) "Price" includes consideration received by the vendor 11513
from a third party, if the vendor actually receives the 11514
consideration from a party other than the consumer, and the 11515
consideration is directly related to a price reduction or 11516
discount on the sale; the vendor has an obligation to pass the 11517
price reduction or discount through to the consumer; the amount 11518
of the consideration attributable to the sale is fixed and 11519
determinable by the vendor at the time of the sale of the item 11520
to the consumer; and one of the following criteria is met: 11521

(i) The consumer presents a coupon, certificate, or other 11522
document to the vendor to claim a price reduction or discount 11523
where the coupon, certificate, or document is authorized, 11524
distributed, or granted by a third party with the understanding 11525
that the third party will reimburse any vendor to whom the 11526
coupon, certificate, or document is presented; 11527

(ii) The consumer identifies the consumer's self to the 11528
seller as a member of a group or organization entitled to a 11529
price reduction or discount. A preferred customer card that is 11530
available to any patron does not constitute membership in such a 11531
group or organization. 11532

(iii) The price reduction or discount is identified as a 11533
third party price reduction or discount on the invoice received 11534
by the consumer, or on a coupon, certificate, or other document 11535
presented by the consumer. 11536

- (c) "Price" does not include any of the following: 11537
- (i) Discounts, including cash, term, or coupons that are 11538
not reimbursed by a third party that are allowed by a vendor and 11539
taken by a consumer on a sale; 11540
- (ii) Interest, financing, and carrying charges from credit 11541
extended on the sale of tangible personal property or services, 11542
if the amount is separately stated on the invoice, bill of sale, 11543
or similar document given to the purchaser; 11544
- (iii) Any taxes legally imposed directly on the consumer 11545
that are separately stated on the invoice, bill of sale, or 11546
similar document given to the consumer. For the purpose of this 11547
division, the tax imposed under Chapter 5751. of the Revised 11548
Code is not a tax directly on the consumer, even if the tax or a 11549
portion thereof is separately stated. 11550
- (iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 11551
this section, any discount allowed by an automobile manufacturer 11552
to its employee, or to the employee of a supplier, on the 11553
purchase of a new motor vehicle from a new motor vehicle dealer 11554
in this state. 11555
- (v) The dollar value of a gift card that is not sold by a 11556
vendor or purchased by a consumer and that is redeemed by the 11557
consumer in purchasing tangible personal property or services if 11558
the vendor is not reimbursed and does not receive compensation 11559
from a third party to cover all or part of the gift card value. 11560
For the purposes of this division, a gift card is not sold by a 11561
vendor or purchased by a consumer if it is distributed pursuant 11562
to an awards, loyalty, or promotional program. Past and present 11563
purchases of tangible personal property or services by the 11564
consumer shall not be treated as consideration exchanged for a 11565

gift card. 11566

(2) In the case of a sale of any new motor vehicle by a 11567
new motor vehicle dealer, as defined in section 4517.01 of the 11568
Revised Code, in which another motor vehicle is accepted by the 11569
dealer as part of the consideration received, "price" has the 11570
same meaning as in division (H)(1) of this section, reduced by 11571
the credit afforded the consumer by the dealer for the motor 11572
vehicle received in trade. 11573

(3) In the case of a sale of any watercraft or outboard 11574
motor by a watercraft dealer licensed in accordance with section 11575
1547.543 of the Revised Code, in which another watercraft, 11576
watercraft and trailer, or outboard motor is accepted by the 11577
dealer as part of the consideration received, "price" has the 11578
same meaning as in division (H)(1) of this section, reduced by 11579
the credit afforded the consumer by the dealer for the 11580
watercraft, watercraft and trailer, or outboard motor received 11581
in trade. As used in this division, "watercraft" includes an 11582
outdrive unit attached to the watercraft. 11583

(4) In the case of transactions for health care services 11584
under division (B)(11) of this section, "price" means the amount 11585
of managed care premiums received each month by a medicaid 11586
health insuring corporation. 11587

(I) "Receipts" means the total amount of the prices of the 11588
sales of vendors, provided that the dollar value of gift cards 11589
distributed pursuant to an awards, loyalty, or promotional 11590
program, and cash discounts allowed and taken on sales at the 11591
time they are consummated are not included, minus any amount 11592
deducted as a bad debt pursuant to section 5739.121 of the 11593
Revised Code. "Receipts" does not include the sale price of 11594
property returned or services rejected by consumers when the 11595

full sale price and tax are refunded either in cash or by 11596
credit. 11597

(J) "Place of business" means any location at which a 11598
person engages in business. 11599

(K) "Premises" includes any real property or portion 11600
thereof upon which any person engages in selling tangible 11601
personal property at retail or making retail sales and also 11602
includes any real property or portion thereof designated for, or 11603
devoted to, use in conjunction with the business engaged in by 11604
such person. 11605

(L) "Casual sale" means a sale of an item of tangible 11606
personal property that was obtained by the person making the 11607
sale, through purchase or otherwise, for the person's own use 11608
and was previously subject to any state's taxing jurisdiction on 11609
its sale or use, and includes such items acquired for the 11610
seller's use that are sold by an auctioneer employed directly by 11611
the person for such purpose, provided the location of such sales 11612
is not the auctioneer's permanent place of business. As used in 11613
this division, "permanent place of business" includes any 11614
location where such auctioneer has conducted more than two 11615
auctions during the year. 11616

(M) "Hotel" means every establishment kept, used, 11617
maintained, advertised, or held out to the public to be a place 11618
where sleeping accommodations are offered to guests, in which 11619
five or more rooms are used for the accommodation of such 11620
guests, whether the rooms are in one or several structures, 11621
except as otherwise provided in section 5739.091 of the Revised 11622
Code. 11623

(N) "Transient guests" means persons occupying a room or 11624

rooms for sleeping accommodations for less than thirty 11625
consecutive days. 11626

(O) "Making retail sales" means the effecting of 11627
transactions wherein one party is obligated to pay the price and 11628
the other party is obligated to provide a service or to transfer 11629
title to or possession of the item sold. "Making retail sales" 11630
does not include the preliminary acts of promoting or soliciting 11631
the retail sales, other than the distribution of printed matter 11632
which displays or describes and prices the item offered for 11633
sale, nor does it include delivery of a predetermined quantity 11634
of tangible personal property or transportation of property or 11635
personnel to or from a place where a service is performed. 11636

(P) "Used directly in the rendition of a public utility 11637
service" means that property that is to be incorporated into and 11638
will become a part of the consumer's production, transmission, 11639
transportation, or distribution system and that retains its 11640
classification as tangible personal property after such 11641
incorporation; fuel or power used in the production, 11642
transmission, transportation, or distribution system; and 11643
tangible personal property used in the repair and maintenance of 11644
the production, transmission, transportation, or distribution 11645
system, including only such motor vehicles as are specially 11646
designed and equipped for such use. Tangible personal property 11647
and services used primarily in providing highway transportation 11648
for hire are not used directly in the rendition of a public 11649
utility service. In this definition, "public utility" includes a 11650
citizen of the United States holding, and required to hold, a 11651
certificate of public convenience and necessity issued under 49 11652
U.S.C. 41102. 11653

(Q) "Refining" means removing or separating a desirable 11654

product from raw or contaminated materials by distillation or 11655
physical, mechanical, or chemical processes. 11656

(R) "Assembly" and "assembling" mean attaching or fitting 11657
together parts to form a product, but do not include packaging a 11658
product. 11659

(S) "Manufacturing operation" means a process in which 11660
materials are changed, converted, or transformed into a 11661
different state or form from which they previously existed and 11662
includes refining materials, assembling parts, and preparing raw 11663
materials and parts by mixing, measuring, blending, or otherwise 11664
committing such materials or parts to the manufacturing process. 11665
"Manufacturing operation" does not include packaging. 11666

(T) "Fiscal officer" means, with respect to a regional 11667
transit authority, the secretary-treasurer thereof, and with 11668
respect to a county that is a transit authority, the fiscal 11669
officer of the county transit board if one is appointed pursuant 11670
to section 306.03 of the Revised Code or the county auditor if 11671
the board of county commissioners operates the county transit 11672
system. 11673

(U) "Transit authority" means a regional transit authority 11674
created pursuant to section 306.31 of the Revised Code or a 11675
county in which a county transit system is created pursuant to 11676
section 306.01 of the Revised Code. For the purposes of this 11677
chapter, a transit authority must extend to at least the entire 11678
area of a single county. A transit authority that includes 11679
territory in more than one county must include all the area of 11680
the most populous county that is a part of such transit 11681
authority. County population shall be measured by the most 11682
recent census taken by the United States census bureau. 11683

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B) (3) of this section for consideration.

(Y) (1) (a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to

the computer equipment; 11713

(ii) Placing data into the computer equipment to be 11714
retrieved by designated recipients with access to the computer 11715
equipment. 11716

"Electronic information services" does not include 11717
electronic publishing. 11718

(d) "Automatic data processing, computer services, or 11719
electronic information services" shall not include personal or 11720
professional services. 11721

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 11722
section, "personal and professional services" means all services 11723
other than automatic data processing, computer services, or 11724
electronic information services, including but not limited to: 11725

(a) Accounting and legal services such as advice on tax 11726
matters, asset management, budgetary matters, quality control, 11727
information security, and auditing and any other situation where 11728
the service provider receives data or information and studies, 11729
alters, analyzes, interprets, or adjusts such material; 11730

(b) Analyzing business policies and procedures; 11731

(c) Identifying management information needs; 11732

(d) Feasibility studies, including economic and technical 11733
analysis of existing or potential computer hardware or software 11734
needs and alternatives; 11735

(e) Designing policies, procedures, and custom software 11736
for collecting business information, and determining how data 11737
should be summarized, sequenced, formatted, processed, 11738
controlled, and reported so that it will be meaningful to 11739
management; 11740

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	11741 11742 11743
(g) Testing of business procedures;	11744
(h) Training personnel in business procedure applications;	11745
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	11746 11747 11748 11749 11750 11751 11752
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	11753 11754
(k) Providing digital advertising services;	11755
(l) Providing services to electronically file any federal, state, or local individual income tax return, report, or other related document or schedule with a federal, state, or local government entity or to electronically remit a payment of any such individual income tax to such an entity. For the purpose of this division, "individual income tax" does not include federal, state, or local taxes withheld by an employer from an employee's compensation.	11756 11757 11758 11759 11760 11761 11762 11763
The services listed in divisions (Y) (2) (a) to (l) of this section are not automatic data processing or computer services.	11764 11765
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	11766 11767 11768

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z) (1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z) (1) or (2) of this section.

(AA) (1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where

the consumer's primary purpose for the underlying transaction is	11799
the processed data or information;	11800
(b) Installation or maintenance of wiring or equipment on	11801
a customer's premises;	11802
(c) Tangible personal property;	11803
(d) Advertising, including directory advertising;	11804
(e) Billing and collection services provided to third	11805
parties;	11806
(f) Internet access service;	11807
(g) Radio and television audio and video programming	11808
services, regardless of the medium, including the furnishing of	11809
transmission, conveyance, and routing of such services by the	11810
programming service provider. Radio and television audio and	11811
video programming services include, but are not limited to,	11812
cable service, as defined in 47 U.S.C. 522(6), and audio and	11813
video programming services delivered by commercial mobile radio	11814
service providers, as defined in 47 C.F.R. 20.3;	11815
(h) Ancillary service;	11816
(i) Digital products delivered electronically, including	11817
software, music, video, reading materials, or ring tones.	11818
(2) "Ancillary service" means a service that is associated	11819
with or incidental to the provision of telecommunications	11820
service, including conference bridging service, detailed	11821
telecommunications billing service, directory assistance,	11822
vertical service, and voice mail service. As used in this	11823
division:	11824
(a) "Conference bridging service" means an ancillary	11825

service that links two or more participants of an audio or video conference call, including providing a telephone number. 11826
11827
"Conference bridging service" does not include 11828
telecommunications services used to reach the conference bridge. 11829

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. 11830
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(c) "Directory assistance" means an ancillary service of providing telephone number or address information. 11833
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(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service. 11835
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(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service. 11840
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(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900 service" and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer. 11845
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(4) "Prepaid calling service" means the right to access 11855
exclusively telecommunications services, which must be paid for 11856
in advance and which enables the origination of calls using an 11857
access number or authorization code, whether manually or 11858
electronically dialed, and that is sold in predetermined units 11859
or dollars of which the number declines with use in a known 11860
amount. 11861

(5) "Prepaid wireless calling service" means a 11862
telecommunications service that provides the right to utilize 11863
mobile telecommunications service as well as other non- 11864
telecommunications services, including the download of digital 11865
products delivered electronically, and content and ancillary 11866
services, that must be paid for in advance and that is sold in 11867
predetermined units or dollars of which the number declines with 11868
use in a known amount. 11869

(6) "Value-added non-voice data service" means a 11870
telecommunications service in which computer processing 11871
applications are used to act on the form, content, code, or 11872
protocol of the information or data primarily for a purpose 11873
other than transmission, conveyance, or routing. 11874

(7) "Coin-operated telephone service" means a 11875
telecommunications service paid for by inserting money into a 11876
telephone accepting direct deposits of money to operate. 11877

(8) "Customer" has the same meaning as in section 5739.034 11878
of the Revised Code. 11879

(BB) "Laundry and dry cleaning services" means removing 11880
soil or dirt from towels, linens, articles of clothing, or other 11881
fabric items that belong to others and supplying towels, linens, 11882
articles of clothing, or other fabric items. "Laundry and dry 11883

cleaning services" does not include the provision of self- 11884
service facilities for use by consumers to remove soil or dirt 11885
from towels, linens, articles of clothing, or other fabric 11886
items. 11887

(CC) "Magazines distributed as controlled circulation 11888
publications" means magazines containing at least twenty-four 11889
pages, at least twenty-five per cent editorial content, issued 11890
at regular intervals four or more times a year, and circulated 11891
without charge to the recipient, provided that such magazines 11892
are not owned or controlled by individuals or business concerns 11893
which conduct such publications as an auxiliary to, and 11894
essentially for the advancement of the main business or calling 11895
of, those who own or control them. 11896

(DD) "Landscaping and lawn care service" means the 11897
services of planting, seeding, sodding, removing, cutting, 11898
trimming, pruning, mulching, aerating, applying chemicals, 11899
watering, fertilizing, and providing similar services to 11900
establish, promote, or control the growth of trees, shrubs, 11901
flowers, grass, ground cover, and other flora, or otherwise 11902
maintaining a lawn or landscape grown or maintained by the owner 11903
for ornamentation or other nonagricultural purpose. However, 11904
"landscaping and lawn care service" does not include the 11905
providing of such services by a person who has less than five 11906
thousand dollars in sales of such services during the calendar 11907
year. 11908

(EE) "Private investigation and security service" means 11909
the performance of any activity for which the provider of such 11910
service is required to be licensed pursuant to Chapter 4749. of 11911
the Revised Code, or would be required to be so licensed in 11912
performing such services in this state, and also includes the 11913

services of conducting polygraph examinations and of monitoring 11914
or overseeing the activities on or in, or the condition of, the 11915
consumer's home, business, or other facility by means of 11916
electronic or similar monitoring devices. "Private investigation 11917
and security service" does not include special duty services 11918
provided by off-duty police officers, deputy sheriffs, and other 11919
peace officers regularly employed by the state or a political 11920
subdivision. 11921

(FF) "Information services" means providing conversation, 11922
giving consultation or advice, playing or making a voice or 11923
other recording, making or keeping a record of the number of 11924
callers, and any other service provided to a consumer by means 11925
of a nine hundred telephone call, except when the nine hundred 11926
telephone call is the means by which the consumer makes a 11927
contribution to a recognized charity. 11928

(GG) "Research and development" means designing, creating, 11929
or formulating new or enhanced products, equipment, or 11930
manufacturing processes, and also means conducting scientific or 11931
technological inquiry and experimentation in the physical 11932
sciences with the goal of increasing scientific knowledge which 11933
may reveal the bases for new or enhanced products, equipment, or 11934
manufacturing processes. 11935

(HH) "Qualified research and development equipment" means 11936
either of the following: 11937

(1) Capitalized tangible personal property, and leased 11938
personal property that would be capitalized if purchased, used 11939
by a person primarily to perform research and development; 11940

(2) Any tangible personal property used by a megaproject 11941
operator primarily to perform research and development at the 11942

site of a megaproject that satisfies the criteria described in 11943
division (A) (11) (a) (ii) of section 122.17 of the Revised Code 11944
during the period that the megaproject operator has an agreement 11945
for such megaproject with the tax credit authority under 11946
division (D) of that section that remains in effect and has not 11947
expired or been terminated. 11948

"Qualified research and development equipment" does not 11949
include tangible personal property primarily used in testing, as 11950
defined in division (A) (4) of section 5739.011 of the Revised 11951
Code, or used for recording or storing test results, unless such 11952
property is primarily used by the consumer in testing the 11953
product, equipment, or manufacturing process being created, 11954
designed, or formulated by the consumer in the research and 11955
development activity or in recording or storing such test 11956
results. 11957

(II) "Building maintenance and janitorial service" means 11958
cleaning the interior or exterior of a building and any tangible 11959
personal property located therein or thereon, including any 11960
services incidental to such cleaning for which no separate 11961
charge is made. However, "building maintenance and janitorial 11962
service" does not include the providing of such service by a 11963
person who has less than five thousand dollars in sales of such 11964
service during the calendar year. As used in this division, 11965
"cleaning" does not include sanitation services necessary for an 11966
establishment described in 21 U.S.C. 608 to comply with rules 11967
and regulations adopted pursuant to that section. 11968

(JJ) "Exterminating service" means eradicating or 11969
attempting to eradicate vermin infestations from a building or 11970
structure, or the area surrounding a building or structure, and 11971
includes activities to inspect, detect, or prevent vermin 11972

infestation of a building or structure. 11973

(KK) "Physical fitness facility service" means all 11974
transactions by which a membership is granted, maintained, or 11975
renewed, including initiation fees, membership dues, renewal 11976
fees, monthly minimum fees, and other similar fees and dues, by 11977
a physical fitness facility such as an athletic club, health 11978
spa, or gymnasium, which entitles the member to use the facility 11979
for physical exercise. 11980

(LL) "Recreation and sports club service" means all 11981
transactions by which a membership is granted, maintained, or 11982
renewed, including initiation fees, membership dues, renewal 11983
fees, monthly minimum fees, and other similar fees and dues, by 11984
a recreation and sports club, which entitles the member to use 11985
the facilities of the organization. "Recreation and sports club" 11986
means an organization that has ownership of, or controls or 11987
leases on a continuing, long-term basis, the facilities used by 11988
its members and includes an aviation club, gun or shooting club, 11989
yacht club, card club, swimming club, tennis club, golf club, 11990
country club, riding club, amateur sports club, or similar 11991
organization. 11992

(MM) "Livestock" means farm animals commonly raised for 11993
food, food production, or other agricultural purposes, 11994
including, but not limited to, cattle, sheep, goats, swine, 11995
poultry, and captive deer. "Livestock" does not include 11996
invertebrates, amphibians, reptiles, domestic pets, animals for 11997
use in laboratories or for exhibition, or other animals not 11998
commonly raised for food or food production. 11999

(NN) "Livestock structure" means a building or structure 12000
used exclusively for the housing, raising, feeding, or 12001
sheltering of livestock, and includes feed storage or handling 12002

structures and structures for livestock waste handling. 12003

(OO) "Horticulture" means the growing, cultivation, and 12004
production of flowers, fruits, herbs, vegetables, sod, 12005
mushrooms, and nursery stock. As used in this division, "nursery 12006
stock" has the same meaning as in section 927.51 of the Revised 12007
Code. 12008

(PP) "Horticulture structure" means a building or 12009
structure used exclusively for the commercial growing, raising, 12010
or overwintering of horticultural products, and includes the 12011
area used for stocking, storing, and packing horticultural 12012
products when done in conjunction with the production of those 12013
products. 12014

(QQ) "Newspaper" means an unbound publication bearing a 12015
title or name that is regularly published, at least as 12016
frequently as biweekly, and distributed from a fixed place of 12017
business to the public in a specific geographic area, and that 12018
contains a substantial amount of news matter of international, 12019
national, or local events of interest to the general public. 12020

(RR) (1) "Feminine hygiene products" means tampons, panty 12021
liners, menstrual cups, sanitary napkins, and other similar 12022
tangible personal property designed for feminine hygiene in 12023
connection with the human menstrual cycle, but does not include 12024
grooming and hygiene products. 12025

(2) "Grooming and hygiene products" means soaps and 12026
cleaning solutions, shampoo, toothpaste, mouthwash, 12027
antiperspirants, and sun tan lotions and screens, regardless of 12028
whether any of these products are over-the-counter drugs. 12029

(3) "Over-the-counter drugs" means a drug that contains a 12030
label that identifies the product as a drug as required by 21 12031

C.F.R. 201.66, which label includes a drug facts panel or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation.

(SS) (1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h) (1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set up the tangible personal property.

(2) "Lease" and "rental," as defined in division (SS) of this section, shall not apply to leases or rentals that exist

before June 26, 2003. 12061

(3) "Lease" and "rental" have the same meaning as in 12062
division (SS) (1) of this section regardless of whether a 12063
transaction is characterized as a lease or rental under 12064
generally accepted accounting principles, the Internal Revenue 12065
Code, Title XIII of the Revised Code, or other federal, state, 12066
or local laws. 12067

(TT) "Mobile telecommunications service" has the same 12068
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 12069
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 12070
amended, and, on and after August 1, 2003, includes related fees 12071
and ancillary services, including universal service fees, 12072
detailed billing service, directory assistance, service 12073
initiation, voice mail service, and vertical services, such as 12074
caller ID and three-way calling. 12075

(UU) "Certified service provider" has the same meaning as 12076
in section 5740.01 of the Revised Code. 12077

(VV) "Satellite broadcasting service" means the 12078
distribution or broadcasting of programming or services by 12079
satellite directly to the subscriber's receiving equipment 12080
without the use of ground receiving or distribution equipment, 12081
except the subscriber's receiving equipment or equipment used in 12082
the uplink process to the satellite, and includes all service 12083
and rental charges, premium channels or other special services, 12084
installation and repair service charges, and any other charges 12085
having any connection with the provision of the satellite 12086
broadcasting service. 12087

(WW) "Tangible personal property" means personal property 12088
that can be seen, weighed, measured, felt, or touched, or that 12089

is in any other manner perceptible to the senses. For purposes 12090
of this chapter and Chapter 5741. of the Revised Code, "tangible 12091
personal property" includes motor vehicles, electricity, water, 12092
gas, steam, and prewritten computer software. 12093

(XX) "Municipal gas utility" means a municipal corporation 12094
that owns or operates a system for the distribution of natural 12095
gas. 12096

(YY) "Computer" means an electronic device that accepts 12097
information in digital or similar form and manipulates it for a 12098
result based on a sequence of instructions. 12099

(ZZ) "Computer software" means a set of coded instructions 12100
designed to cause a computer or automatic data processing 12101
equipment to perform a task. 12102

(AAA) "Delivered electronically" means delivery of 12103
computer software from the seller to the purchaser by means 12104
other than tangible storage media. 12105

(BBB) "Prewritten computer software" means computer 12106
software, including prewritten upgrades, that is not designed 12107
and developed by the author or other creator to the 12108
specifications of a specific purchaser. The combining of two or 12109
more prewritten computer software programs or prewritten 12110
portions thereof does not cause the combination to be other than 12111
prewritten computer software. "Prewritten computer software" 12112
includes software designed and developed by the author or other 12113
creator to the specifications of a specific purchaser when it is 12114
sold to a person other than the purchaser. If a person modifies 12115
or enhances computer software of which the person is not the 12116
author or creator, the person shall be deemed to be the author 12117
or creator only of such person's modifications or enhancements. 12118

Prewritten computer software or a prewritten portion thereof 12119
that is modified or enhanced to any degree, where such 12120
modification or enhancement is designed and developed to the 12121
specifications of a specific purchaser, remains prewritten 12122
computer software; provided, however, that where there is a 12123
reasonable, separately stated charge or an invoice or other 12124
statement of the price given to the purchaser for the 12125
modification or enhancement, the modification or enhancement 12126
shall not constitute prewritten computer software. 12127

(CCC) (1) "Food" means substances, whether in liquid, 12128
concentrated, solid, frozen, dried, or dehydrated form, that are 12129
sold for ingestion or chewing by humans and are consumed for 12130
their taste or nutritional value. "Food" does not include 12131
alcoholic beverages, dietary supplements, soft drinks, or 12132
tobacco. 12133

(2) As used in division (CCC) (1) of this section: 12134

(a) "Dietary supplements" means any product, other than 12135
tobacco, that is intended to supplement the diet and that is 12136
intended for ingestion in tablet, capsule, powder, softgel, 12137
gelcap, or liquid form, or, if not intended for ingestion in 12138
such a form, is not represented as conventional food for use as 12139
a sole item of a meal or of the diet; that is required to be 12140
labeled as a dietary supplement, identifiable by the "supplement 12141
facts" box found on the label, as required by 21 C.F.R. 101.36; 12142
and that contains one or more of the following dietary 12143
ingredients: 12144

(i) A vitamin; 12145

(ii) A mineral; 12146

(iii) An herb or other botanical; 12147

(iv) An amino acid;	12148
(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;	12149 12150
(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (CCC) (2) (a) (i) to (v) of this section.	12151 12152 12153
(b) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.	12154 12155 12156 12157 12158
(DDD) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.	12159 12160 12161 12162 12163 12164 12165 12166 12167
(EEE) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.	12168 12169 12170 12171
(FFF) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the	12172 12173 12174 12175 12176

body. "Durable medical equipment" does not include mobility 12177
enhancing equipment. 12178

(GGG) "Mobility enhancing equipment" means equipment, 12179
including repair and replacement parts for such equipment, that 12180
is primarily and customarily used to provide or increase the 12181
ability to move from one place to another and is appropriate for 12182
use either in a home or a motor vehicle, that is not generally 12183
used by persons with normal mobility, and that does not include 12184
any motor vehicle or equipment on a motor vehicle normally 12185
provided by a motor vehicle manufacturer. "Mobility enhancing 12186
equipment" does not include durable medical equipment. 12187

(HHH) "Prosthetic device" means a replacement, corrective, 12188
or supportive device, including repair and replacement parts for 12189
the device, worn on or in the human body to artificially replace 12190
a missing portion of the body, prevent or correct physical 12191
deformity or malfunction, or support a weak or deformed portion 12192
of the body. As used in this division, before July 1, 2019, 12193
"prosthetic device" does not include corrective eyeglasses, 12194
contact lenses, or dental prosthesis. On or after July 1, 2019, 12195
"prosthetic device" does not include dental prosthesis but does 12196
include corrective eyeglasses or contact lenses. 12197

(III) (1) "Fractional aircraft ownership program" means a 12198
program in which persons within an affiliated group sell and 12199
manage fractional ownership program aircraft, provided that at 12200
least one hundred airworthy aircraft are operated in the program 12201
and the program meets all of the following criteria: 12202

(a) Management services are provided by at least one 12203
program manager within an affiliated group on behalf of the 12204
fractional owners. 12205

(b) Each program aircraft is owned or possessed by at least one fractional owner.	12206 12207
(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.	12208 12209 12210
(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.	12211 12212
(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.	12213 12214 12215
(2) As used in division (III) (1) of this section:	12216
(a) "Affiliated group" has the same meaning as in division (B) (3) (e) of this section.	12217 12218
(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (III) (1) (e) of this section.	12219 12220 12221 12222
(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (III) (1) (d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.	12223 12224 12225 12226 12227 12228 12229
(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (III) (1) (e) of this section, and	12230 12231 12232 12233

offered by the program manager to the fractional owners, 12234
including, at a minimum, the establishment and implementation of 12235
safety guidelines; the coordination of the scheduling of the 12236
program aircraft and crews; program aircraft maintenance; 12237
program aircraft insurance; crew training for crews employed, 12238
furnished, or contracted by the program manager or the 12239
fractional owner; the satisfaction of record-keeping 12240
requirements; and the development and use of an operations 12241
manual and a maintenance manual for the fractional aircraft 12242
ownership program. 12243

(e) "Program manager" means the person that offers 12244
management services to fractional owners pursuant to a 12245
management services agreement under division (III) (1) (e) of this 12246
section. 12247

(JJJ) "Electronic publishing" means providing access to 12248
one or more of the following primarily for business customers, 12249
including the federal government or a state government or a 12250
political subdivision thereof, to conduct research: news; 12251
business, financial, legal, consumer, or credit materials; 12252
editorials, columns, reader commentary, or features; photos or 12253
images; archival or research material; legal notices, identity 12254
verification, or public records; scientific, educational, 12255
instructional, technical, professional, trade, or other literary 12256
materials; or other similar information which has been gathered 12257
and made available by the provider to the consumer in an 12258
electronic format. Providing electronic publishing includes the 12259
functions necessary for the acquisition, formatting, editing, 12260
storage, and dissemination of data or information that is the 12261
subject of a sale. 12262

(KKK) "Medicaid health insuring corporation" means a 12263

health insuring corporation that holds a certificate of 12264
authority under Chapter 1751. of the Revised Code and is under 12265
contract with the department of medicaid pursuant to section 12266
5167.10 of the Revised Code. 12267

(LLL) "Managed care premium" means any premium, 12268
capitation, or other payment a medicaid health insuring 12269
corporation receives for providing or arranging for the 12270
provision of health care services to its members or enrollees 12271
residing in this state. 12272

(MMM) "Captive deer" means deer and other cervidae that 12273
have been legally acquired, or their offspring, that are 12274
privately owned for agricultural or farming purposes. 12275

(NNN) "Gift card" means a document, card, certificate, or 12276
other record, whether tangible or intangible, that may be 12277
redeemed by a consumer for a dollar value when making a purchase 12278
of tangible personal property or services. 12279

(OOO) "Specified digital product" means an electronically 12280
transferred digital audiovisual work, digital audio work, or 12281
digital book. 12282

As used in division (OOO) of this section: 12283

(1) "Digital audiovisual work" means a series of related 12284
images that, when shown in succession, impart an impression of 12285
motion, together with accompanying sounds, if any. 12286

(2) "Digital audio work" means a work that results from 12287
the fixation of a series of musical, spoken, or other sounds, 12288
including digitized sound files that are downloaded onto a 12289
device and that may be used to alert the customer with respect 12290
to a communication. 12291

(3) "Digital book" means a work that is generally	12292
recognized in the ordinary and usual sense as a book.	12293
(4) "Electronically transferred" means obtained by the	12294
purchaser by means other than tangible storage media.	12295
(PPP) "Digital advertising services" means providing	12296
access, by means of telecommunications equipment, to computer	12297
equipment that is used to enter, upload, download, review,	12298
manipulate, store, add, or delete data for the purpose of	12299
electronically displaying, delivering, placing, or transferring	12300
promotional advertisements to potential customers about products	12301
or services or about industry or business brands.	12302
(QQQ) "Peer-to-peer car sharing program" has the same	12303
meaning as in section 4516.01 of the Revised Code.	12304
(RRR) "Megaproject" and "megaproject operator" have the	12305
same meanings as in section 122.17 of the Revised Code.	12306
(SSS) (1) "Diaper" means an absorbent garment worn by	12307
humans who are incapable of, or have difficulty, controlling	12308
their bladder or bowel movements.	12309
(2) "Children's diaper" means a diaper marketed to be worn	12310
by children.	12311
(3) "Adult diaper" means a diaper other than a children's	12312
diaper.	12313
(TTT) "Sales tax holiday" means three or more dates on	12314
which sales of all eligible tangible personal property are	12315
exempt from the taxes levied under sections 5739.02, 5739.021,	12316
5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of	12317
the Revised Code.	12318
(UUU) "Eligible tangible personal property" means any item	12319

of tangible personal property that meets both of the following requirements: 12320
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(1) The price of the item does not exceed five hundred dollars; 12322
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(2) The item is not a watercraft or outboard motor required to be titled pursuant to Chapter 1548. of the Revised Code, a motor vehicle, an alcoholic beverage, tobacco, a vapor product as defined in section 5743.01 of the Revised Code, or an item that contains marijuana as defined in section 3796.01 of the Revised Code. 12324
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(VVV) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume. 12330
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(WWW) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. 12333
12334

Section 2. That existing sections 109.921, 124.38, 124.82, 12335
173.521, 173.542, 305.03, 313.12, 503.241, 940.09, 1347.08, 12336
1561.12, 1571.012, 1751.84, 1753.21, 2108.16, 2111.031, 2111.49, 12337
2133.25, 2135.01, 2151.33, 2151.3515, 2151.421, 2305.235, 12338
2313.14, 2317.47, 3101.05, 3105.091, 3111.12, 3119.05, 3119.54, 12339
3304.23, 3309.22, 3309.41, 3309.45, 3313.64, 3313.716, 3313.72, 12340
3319.141, 3319.143, 3321.04, 3501.382, 3701.031, 3701.046, 12341
3701.144, 3701.146, 3701.162, 3701.243, 3701.245, 3701.262, 12342
3701.47, 3701.48, 3701.50, 3701.505, 3701.5010, 3701.59, 12343
3701.74, 3701.76, 3705.30, 3705.33, 3705.35, 3707.08, 3707.10, 12344
3707.72, 3709.11, 3709.13, 3709.241, 3710.07, 3715.872, 3721.01, 12345
3721.011, 3721.041, 3721.21, 3727.09, 3727.19, 3742.03, 3742.04, 12346
3742.07, 3742.32, 3901.56, 3916.01, 3916.07, 3916.16, 3923.25, 12347
3923.84, 3929.62, 3929.63, 3929.64, 3929.67, 4113.23, 4121.121, 12348

4121.31, 4121.32, 4121.36, 4121.38, 4121.45, 4123.19, 4123.511, 12349
4123.512, 4123.54, 4123.56, 4123.57, 4123.651, 4123.71, 4123.84, 12350
4123.85, 4506.07, 4507.06, 4507.08, 4507.081, 4507.141, 4507.30, 12351
4511.81, 4723.36, 4723.431, 4729.284, 4729.41, 4729.45, 4729.47, 12352
5120.17, 5120.21, 5145.22, 5502.522, and 5739.01 of the Revised 12353
Code are hereby repealed. 12354

Section 3. Sections 2151.421, 3313.64, and 3742.32 of the 12355
Revised Code, as amended by this act, take effect on January 1, 12356
2025, or on the effective date of this section, whichever is 12357
later. 12358

Section 4. Section 4123.57 of the Revised Code is 12359
presented in this act as a composite of the section as amended 12360
by both H.B. 75 and H.B. 281 of the 134th General Assembly. The 12361
General Assembly, applying the principle stated in division (B) 12362
of section 1.52 of the Revised Code that amendments are to be 12363
harmonized if reasonably capable of simultaneous operation, 12364
finds that the composite is the resulting version of the section 12365
in effect prior to the effective date of the section as 12366
presented in this act. 12367