

Sec. 4125.01. As used in this chapter:

(A) "Client employer" means a sole proprietor, partnership, association, limited liability company, or corporation that enters into a professional employer organization agreement and is assigned shared employees by the professional employer organization.

(B) "Coemploy" means the sharing of the responsibilities and liabilities of being an employer.

(C) "Professional employer organization" means a sole proprietor, partnership, association, limited liability company, or corporation that enters into an agreement with one or more client employers for the purpose of coemploying all or part of the client employer's workforce at the client employer's work site.

(D) "Professional employer organization agreement" means a written contract to coemploy employees between a professional employer organization and a client employer with a duration of not less than twelve months in accordance with the requirements of this chapter.

(E) "Shared employee" means an individual intended to be assigned to a client employer on a permanent basis, not as a temporary supplement to the client employer's workforce, who is coemployed by a professional employer organization and a client employer pursuant to a professional employer organization agreement.

(F) "Trade secret" has the same meaning as in section 1333.61 of the Revised Code.

Sec. 4125.02. The administrator of the bureau of workers' compensation shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this chapter.

Sec. 4125.03. (A) The professional employer organization with whom a shared employee is coemployed shall do all of the following:

(1) Pay wages associated with a shared employee pursuant to the terms and conditions of compensation in the professional employer organization agreement between the professional employer organization and the client employer;

(2) Pay all related payroll taxes associated with a shared employee independent of the terms and conditions contained in the professional

employer organization agreement between the professional employer organization and the client employer;

(3) Maintain workers' compensation coverage, pay all workers' compensation premiums and manage all workers' compensation claims, filings, and related procedures associated with a shared employee in compliance with Chapters 4121. and 4123. of the Revised Code, except that when shared employees include family farm officers, ordained ministers, or corporate officers of the client employer, payroll reports shall include the entire amount of payroll associated with those persons;

(4) Provide written notice to each shared employee it assigns to perform services to a client employer of the relationship between and the responsibilities of the professional employer organization and the client employer;

(5) Maintain complete records separately listing the manual classifications of each client employer and the payroll reported to each manual classification for each client employer for each payroll reporting period during the time period covered in the professional employer organization agreement;

(6) Maintain a record of workers' compensation claims for each client employer;

(7) Within fourteen days after receiving notice from the bureau of workers' compensation that a refund or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant.

(B) The professional employer organization with whom a shared employee is coemployed has a right of direction and control over each shared employee assigned to a client employer's location.

(C) Notwithstanding division (B) of this section, a client employer may retain sufficient direction and control over a shared employee as is necessary to conduct the client employer's business and to discharge any fiduciary responsibility that it may have, or to comply with any applicable licensure, regulatory, or statutory requirement of the client employer.

Sec. 4125.04. (A) When a client employer enters into a professional employer organization agreement with a professional employer

organization, the professional employer organization is the employer of record and the succeeding employer for the purposes of determining a workers' compensation experience rating pursuant to Chapter 4123. of the Revised Code.

(B) Pursuant to Section 35 of Article II, Ohio Constitution, and section 4123.74 of the Revised Code, the exclusive remedy for a shared employee to recover for injuries, diseases, or death incurred in the course of and arising out of the employment relationship against either the professional employer organization or the client employer are those benefits provided under Chapters 4121. and 4123. of the Revised Code.

Sec. 4125.05. (A) Not later than thirty days after the effective date of this section or not later than thirty days after the formation of a professional employer organization, whichever date occurs later, a professional employer organization operating in this state shall register with the administrator of the bureau of workers' compensation on forms provided by the administrator. Following initial registration, each professional employer organization shall register with the administrator annually on or before the thirty-first day of December.

(B) Initial registration and each annual registration renewal shall include all of the following:

(1) A list of each of the professional employer organization's client employers current as of the date of registration for purposes of initial registration or current as of the date of annual registration renewal, or within fourteen days of adding or releasing a client, that includes the client employer's name, address, federal tax identification number, and bureau of workers' compensation risk number;

(2) A fee as determined by the administrator;

(3) The name or names under which the professional employer organization conducts business;

(4) The address of the professional employer organization's principal place of business and the address of each office it maintains in this state;

(5) The professional employer organization's taxpayer or employer identification number;

(6) A list of each state in which the professional employer organization has operated in the preceding five years, and the name, corresponding with each state, under which the professional employer organization operated in each state, including any alternative names, names of predecessors, and if known, successor business entities.

(C)(1) The administrator, with the advice and consent of the workers' compensation oversight commission, shall adopt rules in accordance with Chapter 119. of the Revised Code to require, except as otherwise specified in division (C)(2) of this section, a professional employer organization to provide security in the form of a bond or letter of credit assignable to the Ohio bureau of workers' compensation not to exceed an amount equal to the premiums and assessments incurred for the two most recent payroll periods, prior to any discounts or dividends, to meet the financial obligations of the professional employer organization pursuant to this chapter and Chapters 4121. and 4123. of the Revised Code.

(2) As an alternative to providing security in the form of a bond or letter of credit, the administrator shall permit a professional employer organization to make periodic payments of prospective premiums and assessments to the bureau or to submit proof of being certified by either a nationally recognized organization that certifies professional employer organizations or by a government entity approved by the administrator.

(3) A professional employer organization may appeal the amount of the security required pursuant to rules adopted under division (C)(1) of this section in accordance with section 4123.291 of the Revised Code.

(D) Notwithstanding division (C) of this section, a professional employer organization that qualifies for self-insurance or retrospective rating under section 4123.29 or 4123.35 of the Revised Code shall abide by the financial disclosure and security requirements pursuant to those sections and the rules adopted under those sections in place of the requirements specified in division (C) of this section or specified in rules adopted pursuant to that division.

(E) Except to the extent necessary for the administrator to administer the statutory duties of the administrator and for employees of the state to perform their official duties, all records, reports, client lists, and other information obtained from a professional employer organization under divisions (A) and (B) of this section are confidential

and shall be considered trade secrets and shall not be published or open to public inspection.

(F) The list described in division (B)(1) of this section shall be considered a trade secret.

(G) The administrator shall establish the fee described in division (B)(2) of this section in an amount that does not exceed the cost of the administration of the initial and renewal registration process.

Sec. 4125.06. (A) In accordance with Chapter 119. of the Revised Code, the administrator of the bureau of workers' compensation may deny registration or revoke the registration of a professional employer organization and rescind its status as a coemployer upon a finding that the professional employer organization has done any of the following:

(1) Obtained or attempted to obtain registration through misrepresentation, misstatement of a material fact, or fraud;

(2) Misappropriated any funds of the client employer;

(3) Used fraudulent or coercive practices to obtain or retain business or demonstrated financial irresponsibility;

(4) Failed to appear, without reasonable cause or excuse, in response to a subpoena lawfully issued by the administrator;

(5) Failed to comply with the requirements of this chapter.

(B) The administrator's decision to deny or revoke a professional employer organization's registration or to rescind its status as a coemployer is stayed pending the exhaustion of all administrative appeals by the professional employer organization.

The administrator shall adopt rules that require that when an employer contacts the bureau of workers' compensation to determine whether a particular professional employer organization is registered, if the administrator has denied or revoked that professional employer organization's registration or rescinded its status as a coemployer, and if all administrative appeals are not yet exhausted when the employer inquires, the appropriate bureau personnel shall inform the inquiring employer of the denial, revocation, or rescission and the fact that the professional employer organization has the right to appeal the administrator's decision.

(C) Upon revocation of the registration of a professional employer organization, each client employer associated with that professional employer organization shall file payroll reports and pay workers' compensation premiums directly to the administrator on its own behalf at a rate determined by the administrator based solely on the claims experience of the client employer.

(D) Upon revocation of a professional employer organization's registration, each client employer associated with that professional employer organization shall file on its own behalf the appropriate documents or data with all state and federal agencies as required by law with respect to any shared employee the client employer and the professional employer organization shared.

Sec. 4125.07. Not later than fourteen calendar days after the date on which a professional employer organization agreement is terminated, the professional employer organization is adjudged bankrupt, the professional employer organization ceases operations within the state of Ohio, or the registration of the professional employer organization is revoked, the professional employer organization shall submit to the administrator of the bureau of workers' compensation and each client employer associated with that professional employer organization a completed workers' compensation lease termination notice form provided by the administrator. The completed form shall include all client payroll and claim information listed in a format specified by the administrator and notice of all workers' compensation claims that have been reported to the professional employer organization in accordance with its internal reporting policies.

Sec. 4125.08. Nothing in this chapter exempts a professional employer organization, client employer, or shared employee from any applicable federal, state, or local licensing, registration, or certification statutes or regulations. An individual required to obtain and maintain a license, registration, or certification under law and who is a shared employee of a professional employer organization and a client employer is an employee of the client employer for purposes of obtaining and maintaining the appropriate license, registration, or certification as required by law. A professional employer organization does not engage in any occupation, trade, or profession that requires a license, certification, or registration solely by entering into a professional employer agreement with a client employer or coemploying a shared employee.

Sec. 4125.09. Nothing contained in this chapter or in any professional employer organization agreement shall affect, modify, or amend any collective bargaining agreement that exists on the effective date of this section. Nothing in this chapter shall alter the rights or obligations of any client employer, professional employer organization, or shared employee under the "National Labor Relations Act," 49 Stat. 449, 29 U.S.C.A. 151 et seq., the "Railway Labor Act," 44 Stat. 577, 45 U.S.C.A. 151, or any other applicable federal or state law.

Sec. 4125.99. Whoever violates division (A) of section 4125.05 of the Revised Code is guilty of a minor misdemeanor. Whoever knowingly violates division (A) of section 4125.05 of the Revised Code is guilty of a misdemeanor of the second degree.