



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Bureau of Workers' Compensation

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

Chapter 17 rules - BWC's Professional Employer Organization (PEO) Rules

Rule Number(s): 4123-17-15 (AM), 4123-17-15.1 (AM), 4123-17-15.2 (AM), 4123-17-15.4 (AM), 4123-17-15.5 (AM), 4123-17-15.6 (AM), 4123-17-15.7 (AM)

Date of Submission for CSI Review: July 30, 2021

Public Comment Period End Date: August 20, 2021

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 7 rules (FYR? No_)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. Requires specific expenditures or the report of information as a condition of compliance.**
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

- 2. Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

Proposed changes to OAC 4123-17-15 through OAC 4123-17-15.7 were necessitated by the passage of Am. Sub. S.B. 201 and the creation of Chapter 4133 of the Revised Code, which became effective on March 24, 2021. Chapter 4133 of the Revised Code governs the regulation of a new entity called alternate employer organizations (AEOs). BWC is charged with administration and enforcement of this chapter under R.C. 4133.02. The intent of these rule changes is to incorporate AEO regulations into the existing professional employer organization (PEO) rules. AEOs will operate, and be regulated by BWC, in a similar manner as PEOs.

BWC is proposing the amendments to seven rules as follows, with proposed title changes to OAC 4123-17-15, 4123-17-15.1, 4123-17-15.5, and 4123-17-15.7:

4123-17-15 Alternate employer organizations and professional employer organizations.

4123-17-15.1 AEO agreements and PEO agreements.

4123-17-15.2 Registration and reporting requirements.

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4123-17-15.4 Financial requirements.

4123-17-15.5 Self-insured AEOs and PEOs.

4123-17-15.6 Client employer information.

4123-17-15.7 Denial or revocation of AEO or PEO registration.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

R.C. 4125.02 and R.C. 4133.02

- 4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

No

If yes, please briefly explain the source and substance of the federal requirement.

N/A

- 5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

N/A

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

R.C. 4133.02 requires BWC to adopt rules to administer and enforce Chapter 4133 of the Revised Code. These rules govern the administration and enforcement of AEOs and PEOs operating in Ohio.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

BWC will measure the success of this regulation through the initial registration and annual registration of all AEOs and PEOs operating in Ohio. Additionally, BWC has a designated AEO and PEO Unit that conducts annual reviews of AEOs and PEOs for compliance with state law and rules.

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- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

BWC shared the proposed rule changes with all registered PEOs in the state of Ohio, the National Association of Professional Employer Organizations (“NAPEO”), and the Employer Services Assurance Corporation (“ESAC”). Requests for stakeholder feedback were sent via electronic mail transmission on March 11, 2021.

- 10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Stakeholders proposed several changes to these rules. First, stakeholders raised issues concerning OAC 4123-17-15.2(F), which prohibits an AEO or PEO from ownership or co-ownership by another AEO or PEO. This rule clarifies R.C. 4133.03(J). Stakeholders were concerned that a national PEO would not be able to operate as an AEO in Ohio. BWC accommodated this concern by adding “registered in Ohio” to several provisions in OAC 4123-17-15.2(F). Additionally, stakeholders notified the BWC of an issue of double taxation by the Internal Revenue Service to their client employers if a PEO were to switch to an AEO mid-calendar year. As a result, the pending BWC budget bill modifies R.C. 4133.03(J) to become effective on or after January 1, 2022, and proposed OAC 4123-17-15.2(F) mirrors that legislative change. Next, NAPEO notified the BWC that “shared employees” should only be a term used for PEOs. However, Chapter 4125 of the Revised Code indicates that shared employees are coemployed by a PEO, whereas Chapter 4133 of the Revised Code indicates that worksite employees are shared by an AEO. While NAPEO withdrew its objection, BWC eliminated surplus wording in OAC 4123-17-15.6 and OAC 4123-17-15.7 without modifying the intent or purpose of these rules. Next, multiple stakeholders provided feedback requesting clarification that an AEO be required to process and pay all wages and state and federal taxes and that the rules specifically clarify this function not be contracted out directly to the client employer. The BWC accommodated the request with modification to OAC 4123-17-15(D) and (E). BWC’s Board of Directors approved the proposed rules in the form presented with this document on June 25, 2021.

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11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

This process is not subject to scientific data or analysis.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

BWC did consider the creation of individual rules for application exclusively for AEOs, but AEOs and PEOs are so similar in their operation and regulation, the bureau opted to combine them within the existing PEO regulations.

13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

The rules are not subject to performance-based measurement.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

Pursuant to R.C. 4125.02 and R.C. 4133.02, BWC is the sole agency responsible for enforcement and administration of PEOs and AEOs. Consequently, these rules are specific to BWC and do not affect other agencies' rules. While some BWC rules may reference statutes or rules of other agencies, those references are for BWC rule purposes, and the references do not impact or conflict with other agencies' statutes or rules. Moreover, the BWC combined regulation of AEOs and PEOs into the existing PEO rules, rather than creating a separate chapter of AEO rules to avoid redundancy of existing Ohio regulation.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

BWC has established a repeatable procedure by which all the processes for obtaining and maintaining coverage, ratemaking, and rating and discount programs are implemented. These procedures include adequate notification to employers and contain reports to ensure consistent and accurate application of the rules. Moreover, the BWC made the necessary informational technology updates to accommodate AEO registration and regulation.

Adverse Impact to Business

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16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community; and

The impacted business community is any PEO in Ohio who desires to change operations to the AEO model or any new AEO employer seeking to register in Ohio.

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance); and

The PEO rules require initial registration, annual registration, and per-instance late processing fees. These fees remain unchanged from 2018 and are the same for AEOs and PEOs. R.C. 4133.07(D)(1) requires AEOs provide additional security in an amount of not less than \$1 million.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

There is no change in the adverse impact regarding initial registration, annual registration, and per-instance late processing fees.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Initial registration, annual registration, and per-instance late processing fees remain unchanged from 2014. The \$1 million security requirement for AEOs is mandated through R.C. 4133.07(D)(1) All stakeholder feedback supported the proposed rules, which included the initial registration, annual registration, and per-instance late processing fees and the additional AEO security requirement.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. Every AEO and PEO must register and comply with state law, which has no exemptions or alternative means of compliance for small businesses.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

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BWC will apply R.C. 119.14(C)(1) to such offenses on a case-by-case basis.

20. What resources are available to assist small businesses with compliance of the regulation?

BWC provides employers with a toll-free telephone number, or via the BWC website, access to contact and communicate with customer service representatives. Additionally, BWC has a designated state fund AEO and PEO Unit. The Self-Insured Department also has dedicated AEO and PEO staff available as a resource for self-insured AEOs and PEOs, or AEOs or PEOs that are interested in becoming self-insured.

4123-17-15 Alternate employer organizations and Professional professional employer organizations.

(A) Definitions.

As used in rules 4123-17-15 to 4123-17-15.7 of the Administrative Code:

(1) "Alternate employer organization" or "AEO" has the same meaning as defined in section 4133.01 of the Revised Code. "Alternate employer organization" or "AEO" does not include a service agency that is in the business of employing individuals for the purpose of utilizing the services of the individuals for a temporary period of time.

~~(2)~~ (2) "Professional employer organization" or "PEO" has the same meaning as defined in section 4125.01 of the Revised Code. Requirements for PEOs that coemploy a part of a client employer's workforce are set forth in paragraph (C) of this rule. "Professional employer organization" or "PEO" does not include a service agency that is in the business of employing individuals for the purpose of utilizing the services of the individuals for a temporary period of time.

~~(3)~~ (3) "Client employer" has the same meaning as defined in section 4125.01 of the Revised Code: for client employers of a PEO and section 4133.01 of the Revised Code for client employers of an AEO. "Client employer" does not mean an employer who is a noncomplying employer as defined in rule 4123-14-01 of the Administrative Code.

(4) "AEO agreement" means an alternate employer organization agreement as defined in section 4133.01 of the Revised Code. On entering into an AEO agreement all worksite employees of a client employer are covered under the workers' compensation policy of the AEO.

~~(5)~~ (5) "PEO agreement" means a professional organization agreement as defined in section 4125.01 of the Revised Code.

~~(6)~~ (6) "PEO reporting entity" means a professional employer organization reporting entity as defined in section 4125.01 of the Revised Code.

~~(7)~~ (7) "Assurance organization," "coemploy," and "shared employee;" ~~"trade secret," and "working capital"~~ have the same meaning as defined in section 4125.01 of the Revised Code.

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

(9) "Working capital" means the excess of current assets over current liabilities as determined by generally accepted accounting principles.

(10) "Worksite employee" has the same meaning as defined in section 4133.01 of the Revised Code.

~~(6)~~ (11) "Policy number," is a term synonymous with "risk number," meaning the identification number that the bureau assigns to an employer.

(B) Where an AEO or a PEO is required to give notice, register, or make a report to the bureau under rules 4123-17-15 to 4123-17-15.7 of the Administrative Code, the AEO or the PEO shall do so on forms prescribed by the bureau. Forms must be completed in full, as determined by the bureau, for such notice, registration, or report to be effective.

(C) Partial leases.

(1) A PEO may enter into a PEO agreement to coemploy part of a client employer's workforce, provided the client employer is not a temporary agency, for workers' compensation purposes only to the extent wages are paid by and reported under the tax identification number of the PEO for federal tax purposes.

(2) Under such partial lease agreement, the PEO shall report under its workers' compensation policy number the payroll associated with the wages paid by and reported by the PEO for federal tax purposes under the PEO's tax identification number. The client employer shall report under its workers' compensation policy number all payroll associated with wages not paid by and not reported under the PEO's tax identification number.

(3) All of a client employer's payroll within a ~~manual~~-classification code must be reported in its entirety under either the workers' compensation policy number of the PEO or client employer; such payroll may not be split between the PEO and client employer.

(D) Obligations of an AEO.

An AEO must perform all of the following functions:

(1) Annually provide written notice to each worksite employee an AEO assigns to perform services to a client employer of the relationship between and the responsibilities of the AEO and the client employer;

(2) Process and pay all wages and applicable state and federal payroll taxes associated with the worksite employee under the federal tax identification tax number of the client employer, either directly by the AEO or through a third party vendor contracted by the AEO that is not a client employer, irrespective of payments made by the client employer, pursuant to the terms and conditions of compensation in the AEO agreement between the AEO and the client employer.

(3) Pay all related payroll taxes associated with a worksite employee under the federal tax identification number of the client employer independent of the terms and conditions contained in the AEO agreement between the AEO and the client employer.

(4) Annually certify to the bureau that all client employer federal payroll taxes have been timely and appropriately paid and provide proof of payment to the bureau upon request.

(5) In any AEO agreement between an AEO and a client employer, list the client employer on the W-2 of all worksite employees, but the AEO remains jointly and severally liable for all applicable local, state, and federal withholding and employer-paid taxes with respect to the worksite employees.

(6) File federal payroll taxes entirely under the tax identification number of the client employer but remain jointly and severally liable for all wages and payroll taxes associated with worksite employees.

(7) If any client employer of an AEO fails to transmit payment to the AEO sufficient to cover payment of all wages and employer-paid taxes, keep a record of the nonpayment or underpayment and a record that the AEO nonetheless paid the wages and taxes owed.

(8) Maintain workers' compensation coverage, pay all workers' compensation premiums, and manage all workers' compensation claims, filings, and related procedures associated with the worksite employee in compliance with Chapters 4121 and 4123 of the Revised Code under the AEO's policy number, except that when worksite employees include elective coverage persons as those terms are defined in rule 4123-17-07 of the Administrative Code, payroll reports shall include the entire amount of payroll associated with those persons and shall include the entire amount of payroll associated with those persons and shall not be subject to the weekly minimum and maximum provide in rule 4123-17-30 of the Administrative Code.

(9) Maintain complete records separately listing the classification codes of each client employer and the payroll reported to each classification codes for each client employer for each payroll reporting period during the time period covered in the AEO agreement. Payroll shall be kept in a manner that clearly identifies the appropriate classification codes assigned to each client employer, the payroll reported in each classification code, and the amount of premiums paid for each client employer for each payroll period covered in the AEO agreement.

(10) Maintain a complete record of workers' compensation claims for each client employer, and claims shall be separately identified according to the client employer.

(11) Report individual client employer payroll, claims, and classification data under a separate and unique subaccount to the bureau.

(12) Within fourteen days of receiving notice from the bureau that a dividend, 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.

(13) Within thirty days after receiving a dividend, refund, or rebate that is applied to workers' compensation premiums, either fully redistribute or fully credit the client employer to whom that dividend, refund, or rebate is relevant.

(14) Not provide partial or split workers' compensation coverage for worksite employees in which the client employer provides that coverage for some, but not all, of the client employer's worksite employees.

~~(D)~~ (E) Obligations of a PEO.

A PEO must perform all of the following functions:

- (1) Provide written notice to each shared employee it assigns to a client employer of the relationship between and the responsibilities of the PEO and the client employer.
- (2) Pay wages and payroll taxes associated with shared employees as established within the PEO agreement, either directly by the PEO or through a third party vendor contracted by the PEO that is not a client employer. The responsibility for making payments under this section is not contingent on receipt of payment from the client employer. Shared employee wages must be paid by and reported under the tax identification number of the PEO for federal tax purposes. A PEO may only enter into agreements in which all employees of the client employer are shared and reported under the PEO's tax identification number for federal tax purposes, but reported under the client employer's policy number for workers' compensation purposes, when:
 - (a) The client employer's payroll is wholly reported under the PEO employer's tax identification number for federal tax purposes; and
 - (b) The client employer's payroll is wholly reported under the client employer's policy number for workers' compensation purposes.
- (3) Be responsible for maintaining both adequate and required employment-related records for employees, and for reporting such information as may be required by appropriate governmental agencies.
- (4) Comply with applicable state laws regarding workers' compensation insurance coverage.
- (5) Maintain complete records, separately listing the payroll and claims of its client employers for each payroll reporting period. Payroll shall be kept in a manner that clearly identifies the appropriate ~~manual-classifications~~ classification codes assigned to each client employer, the payroll reported in each ~~manual-classification~~ code, and the amount of premiums paid for each client employer for each payroll period covered in the PEO agreement. Claims shall be separately identified according to the client employer.
- (6) Report individual client employer payroll, claims, and classification data under a separate and unique subaccount to the bureau.
- (7) 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 ministers or elective coverage persons as those terms are defined in rule 4123-17-07 of the Administrative Code, payroll reports shall include the entire amount of payroll associated with those persons and shall not be subject to the weekly minimum and maximum provided in rule 4123-17-30 of the Administrative Code. The PEO must maintain workers' compensation coverage under its workers' compensation policy number for all payroll

reported under its tax identification number for federal tax purposes, except as provided in paragraph (D)(2) of this rule.

(8) Within fourteen days after receiving notice from the bureau that a [dividend](#), 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.

[\(9\) Within thirty days after receiving a dividend, refund, or rebate that is applied to workers' compensation premiums, either fully redistribute or fully credit the client employer to whom that dividend, refund, or rebate is relevant.](#)

4123-17-15.1 AEO agreements and PEO agreements.

(A) Where a client employer enters into an AEO agreement or a PEO agreement:

(1) Each client employer must establish and maintain an individual account with the bureau.

(2) The AEO or the PEO shall be considered the succeeding employer, solely for purposes of workers' compensation experience, and shall be subject to rule 4123-17-02 of the Administrative Code.

(3) If the AEO agreement or the PEO agreement between a ~~PEO and a~~ client employer and the AEO or the PEO is terminated, or if the AEO or the PEO declares bankruptcy or ceases operation in Ohio, the AEO or the PEO must notify the bureau and each client associated with that AEO or that PEO within thirty days from the effective date of termination. The AEO or the PEO shall identify on forms prescribed by the bureau the portion of the experience of the AEO or the PEO related to the client employer that shall be transferred to the client employer.

(4) ~~A~~ An AEO or a PEO shall report any transfer of employees between related AEO entities, PEO entities, or PEO reporting entities to the bureau within fourteen calendar days after the date of the transfer. The AEO, the PEO, or the PEO reporting entity shall include in the report all client payroll and claim information regarding the transferred employees and a notice of all workers' compensation claims that have been reported to the AEO, the PEO, or the PEO reporting entity in accordance with the internal reporting policies of the AEO, the PEO or the PEO reporting entity.

(B) ~~A~~ An AEO or a PEO shall notify the bureau within thirty days when entering into ~~or changing the type of an AEO agreement or a PEO agreement, or when changing the type of a PEO agreement.~~ For payroll reported under the PEO's policy, the The AEO, or the PEO for payroll reported under the PEO's policy, must list payroll within the existing ~~manual classifications~~ classification codes of the client employer. If the bureau is not notified within thirty days, the bureau will recognize the AEO agreement or the PEO agreement on the date the bureau receives notice and the client employer shall be responsible for reporting payroll and claims under the client employer's individual policy until the recognized effective date of the agreement.

(C) ~~A~~ An AEO or a PEO which enters into an AEO agreement or a PEO agreement with a noncomplying employer or an AEO or a PEO which fails to comply with rules 4123-17-15 to 4123-17-15.7 of the Administrative Code shall not be considered the employer for workers' compensation purposes. In these instances, the payroll of the shared employees shall be reported by the client employer under its workers' compensation policy number for workers' compensation premium and claims purposes, unless prohibited by federal law. Claims that are filed by the client employer's shared employees shall be charged to the experience of the client employer.

(D) The bureau will not recognize an AEO agreement or a PEO agreement between ~~a PEO and~~ an out of state client employer and an AEO or a PEO where the employees of the out of state

client employer do not have sufficient contacts with Ohio to meet the jurisdictional requirements for coverage.

(E) ~~A~~ [An AEO agreement or a](#) PEO agreement, or a change in [an AEO agreement or](#) a PEO agreement, filed with the bureau shall have the following effective date with the bureau for workers' compensation premium and claims purposes:

(1) For a self-insured [AEO or self-insured](#) PEO entering into [an AEO agreement or](#) a PEO agreement, the commencement date of the [AEO agreement or](#) PEO agreement; or

(2) For a state fund [AEO or state fund](#) PEO entering into [an AEO agreement or](#) a PEO agreement or changing [an AEO agreement or](#) a PEO agreement, and for a self-insured [AEO or self-insured](#) PEO changing an existing [AEO agreement or](#) PEO agreement:

(a) If the commencement date of the [AEO agreement or the](#) PEO agreement, or change in [the AEO agreement or the](#) PEO agreement, is January first or July first, the commencement date; or

(b) If the commencement date of the [AEO agreement or the](#) PEO agreement, or change in [the AEO agreement or the](#) PEO agreement, is not January first or July first, the next January first or July first, whichever is earlier.

(F) ~~A~~ [An AEO or a](#) PEO is prohibited from entering into any [AEO agreement or](#) PEO agreement where the client employer is [an AEO or](#) a PEO, and the bureau will not recognize any [AEO agreement or](#) PEO agreement where the client employer is [an AEO or](#) a PEO.

[\(G\) The following acts are prohibited:](#)

[\(1\) A PEO from entering into an AEO agreement with any client employer, and](#)

[\(2\) An AEO from entering into a PEO agreement with any client employer.](#)

~~(G)~~ (H) For each occurrence of the following, [an AEO or](#) a PEO shall be assessed fifty dollars as a late processing fee:

(1) The [AEO or the](#) PEO fails to notify the bureau within thirty days when entering into, or changing, [an AEO agreement or](#) a PEO agreement;

(2) The [AEO or the](#) PEO fails to notify the bureau or client employer within thirty days of termination of [an AEO agreement or](#) a PEO agreement;

(3) The [AEO or the](#) PEO fails to notify the bureau or a client employer within thirty days of declaring bankruptcy; and

(4) The [AEO or the](#) PEO fails to notify the bureau or a client employer within thirty days of ceasing operations in Ohio.

~~(H)~~ ~~A~~ (I) An AEO or a PEO may appeal any late processing fees assessed by the bureau under paragraph ~~(G)~~ (H) of this rule pursuant to the administrative hearing procedure set forth in section 4123.291 of the Revised Code.

4123-17-15.2 Registration and reporting requirements.

(A) The [AEO or the](#) PEO shall register with the bureau not later than thirty days after the formation of the [AEO or the](#) PEO. ~~A~~ [An AEO or a](#) PEO operating in this state shall register annually with the administrator.

(1) The [AEO or the](#) PEO shall submit an initial registration fee as set forth in the appendix to this rule with its initial application. The [AEO or the](#) PEO shall submit an annual renewal fee as set forth in the appendix to this rule to the bureau on or prior to December thirty-first of each year.

(2) The [AEO or the](#) PEO shall submit the following information when registering with the bureau:

(a) A list of each of the ~~PEO's~~ client employers [of the AEO or the PEO that is](#) 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 policy number;

(b) The name or names under which the [AEO or the](#) PEO conducts business;

(c) The address of the ~~PEO's~~ principal place of business [of the AEO or the PEO](#) and the address of each office it maintains in this state;

(d) The ~~PEO's~~ taxpayer or employer identification number [of the AEO or the PEO](#);

(e) A list of each state in which the [AEO or the](#) PEO has operated in the preceding five years, and the name, corresponding with each state, under which the [AEO or the](#) PEO operated in each state, including any alternative names, names of predecessors, and if known, successor business entities, [and whether the entity is an AEO or PEO in the other state\(s\)](#);

(f) A list of all corporate officers of the [AEO or the](#) PEO;

(g) A list of all related corporate entities;

(h) An attestation of the accuracy of the data submissions from the chief executive officer, president, or other individual who serves as the controlling person of the [AEO or the](#) PEO;

(i) Security as required under ~~section~~ [sections](#) 4125.05 [and 4133.07](#) of the Revised Code; and

(j) The most recent financial statement prepared and audited in accordance with rule 4123-17-15.4 of the Administrative Code. Such financial statement must be no older than thirteen months at the time it is submitted to the bureau.

(B) No later than June thirtieth and December thirty-first of each year, the [AEO or the](#) PEO shall provide a semi-annual report of its client employers and total workforce to the bureau.

(C) A PEO reporting entity that will complete the financial reporting requirements of this chapter for commonly owned or controlled PEOs must register with the bureau and pay an initial registration fee as set forth in the appendix to this rule.

(1) The PEO reporting entity shall submit the following information when registering with the bureau:

(a) A list of each of the PEOs for which the PEO reporting entity will complete financial reporting requirements;

(b) The name or names under which the PEO reporting entity conducts business;

(c) The address of the PEO reporting entity's principal place of business and the address of each office it maintains in this state;

(d) The PEO reporting entity's taxpayer or employer identification number;

(e) A list of all corporate officers of the PEO reporting entity;

(f) The most recent financial statement prepared and audited in accordance with rule 4123-17-15.4 of the Administrative Code. Such financial statement must be no older than thirteen months at the time it is submitted to the bureau;

(g) Security as required under section 4125.05 of the Revised Code; and

(h) An attestation of the accuracy of the data submissions from the chief executive officer, president, or other individual who serves as the controlling person of the PEO reporting entity.

(2) The PEO reporting entity must renew such registration and pay an annual renewal fee as set forth in the appendix to this rule no later than December thirty-first of each year.

(D) The administrator may grant limited registration to [an AEO or](#) a PEO for reasons specified by the administrator in the certificate of limited registration if the [AEO or the](#) PEO provides all of the following items:

(1) A properly executed request for limited registration on a form prescribed by the bureau;

(2) A limited registration fee as set forth in the appendix to this rule;

(3) All information required for registration in paragraphs (A)(2)(a) to (A)(2)(h) of this rule; and

(4) Information and documentation necessary to show that the [AEO or the](#) PEO satisfies all of the following criteria:

(a) The [AEO or the](#) PEO is domiciled outside of Ohio and does not maintain an office in the state;

(b) The [AEO or the](#) PEO is licensed or registered as [an AEO or](#) a PEO in another state;

(c) The [AEO or the](#) PEO does not participate in direct solicitations for client employers located or domiciled in Ohio; and

(d) The [AEO or the](#) PEO has fifty or fewer shared employees employed or domiciled in Ohio on any given day. For purposes of this paragraph, [an AEO or](#) a PEO is not domiciled outside of Ohio if a commonly owned or otherwise related corporate entity is domiciled in Ohio or maintains an office in the state.

(5) The administrator may require security of the limited registration [AEO or the limited registration](#) PEO pursuant to ~~section~~[sections](#) 4125.05 [and 4133.07](#) of the Revised Code.

(E) The bureau shall maintain a list of [AEOs](#), PEOs, and PEO reporting entities registered under this rule that is readily available to the public.

[\(F\) The following acts are prohibited:](#)

[\(1\) Beginning on and after January 1, 2022, an AEO, that is currently registered in Ohio under this rule, owning, co-owning, or commonly controlling an AEO, a PEO, or a PEO reporting entity that is registered in Ohio under this rule, and](#)

[\(2\) Beginning on and after January 1, 2022, a PEO or a PEO reporting entity, that is currently registered in Ohio under this rule, owning, co-owning, or commonly controlling an AEO that is registered in Ohio under this rule.](#)

~~(F)~~ [\(G\)](#) 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 [an AEO](#), a PEO, or a PEO reporting entity under this rule are confidential and shall be considered trade secrets and shall not be published or open to public inspection.

4123-17-15.2

Appendix

Registration and renewal fees

(A) Initial registration fees.

The following fees shall be required with submission of initial registration:

(1) For each [AEO or](#) PEO, one thousand dollars;

- (2) For a PEO reporting entity, one thousand dollars for each PEO within the PEO reporting entity;
- (3) For an assurance organization, five hundred dollars;
- (4) For a limited registration [AEO or](#) PEO as set forth in paragraph (D) of rule 4123-17-15.2 of the Administrative Code: one hundred dollars.

(B) ~~Renewal Fees~~;

The following fees shall be required on an annual basis upon the submission of a request for the renewal of a registration:

- (1) For each [AEO or](#) PEO, two hundred and fifty dollars;
- (2) For a PEO reporting entity, two hundred and fifty dollars for each PEO within reporting entity;
- (3) For an assurance organization, five hundred dollars.

4123-17-15.4 Financial requirements.

(A) ~~A~~ An AEO, a PEO, or a PEO reporting entity shall prepare financial statements in accordance with generally accepted accounting principles and submit them electronically for registration and registration renewal pursuant to ~~section~~ sections 4125.05 and 4133.08 of the Revised Code.

(1) The financial statements shall be audited by an independent certified public accountant authorized to practice in the jurisdiction in which that accountant is located.

(a) The resulting report of the auditor shall not include either of the following:

(i) A qualification or disclaimer of opinion as to adherence to generally accepted accounting principles;

(ii) A statement expressing substantial doubt about the ability of the AEO, the PEO, or the PEO reporting entity to continue as a going concern.

(b) If an AEO or a PEO does not have at least twelve months of operating history on which to base financial statements, the financial statements shall be reviewed by a certified public accountant.

(2) A PEO reporting entity may submit a combined or consolidated financial statement for its member PEOs to satisfy the requirements of this paragraph. If the combined or consolidated financial statement includes entities that are not PEOs or that are not in the PEO reporting entity, the controlling entity of the PEO reporting entity that is submitting the consolidated or combined financial statement shall guarantee that the PEOs of the PEO reporting entity have satisfied the requirements under paragraph (B) of this rule .

(B) ~~A~~ An AEO, a PEO, or a PEO reporting entity shall maintain positive working capital at initial or annual registration, as reflected in the financial statements submitted to the bureau under paragraph (A)(2)(j) of rule 4123-17-15.2 of the Administrative Code. If a deficit in working capital is reflected in the financial statements submitted to the bureau, the AEO, the PEO, or the PEO reporting entity shall:

(1) Submit to the bureau a quarterly financial statement for each calendar quarter during which there is a deficit in working capital, accompanied by an attestation of the chief executive officer, president, or other individual who serves as the controlling person of the AEO, the PEO, or the PEO reporting entity that all wages, taxes, workers' compensation premiums, and employee benefits have been paid by the AEO, the PEO, or members of the PEO reporting entity.

(2) Obtain a bond, irrevocable letter of credit, or securities with a minimum market value in an amount sufficient to cover the deficit in working capital. Such security shall be held by a depository designated by the administrator to secure payment by the AEO, the PEO, or the PEO reporting entity of all taxes, wages, benefits, or other entitlements due or otherwise pertaining to

shared employees, if the [AEO, the](#) PEO, or [the](#) PEO reporting entity does not make those payments when due.

4123-17-15.5 ~~Self-insuring~~ Self-Insured AEOs and PEOs.

(A) ~~A~~ An AEO or a PEO registered with the bureau under rule 4123-17-15.2 of the Administrative Code may apply to pay compensation directly as a self-insuring risk.

(1) The AEO or the PEO must meet all eligibility requirements set forth in section 4123.35 of the Revised Code.

(a) The AEO or the PEO shall provide five years of financial records as set forth in division (B)(1)(e) of section 4123.35 of the Revised Code. The administrator shall not waive this requirement.

(b) Worksite employees of an AEO and ~~Shared~~ shared employees of a PEO will be considered employees of the AEO or the PEO for the purposes of meeting the requirements of division (B)(1)(a) of section 4123.35 of the Revised Code only if ~~both of~~ the following criteria are met:

(i) Additional AEO requirements. The AEO demonstrates to the bureau that it is in compliance with all of the following:

(a) The duties of organization regarding worksite employees set forth in section 4133.03 of the Revised Code, as amplified in paragraph (D) of rule 4123-17-15 of the Administrative Code;

(b) The requirements of section 4133.07 of the Revised Code; and

(c) The requirements of section 4133.10 of the Revised Code, as amplified by paragraphs (A)(3) and (A)(4) of rule 4123-17-15.1 of the Administrative Code;

~~(i)~~ (ii) Additional PEO requirements. The PEO demonstrates to the bureau that it is in compliance with all of the following:

~~(a)~~ (a) The duties of organization regarding shared employees set forth in section 4125.03 of the Revised Code, as amplified by ~~paragraph~~ paragraphs (C) and (E) of rule 4123-17-15 of the Administrative Code;

~~(b)~~ (b) The requirements of section 4125.05 of the Revised Code; and

~~(c)~~ (c) The requirements of section 4125.07 of the Revised Code, as amplified by paragraphs (A)(3) and (A)(4) of rule 4123-17-15.1 of the Administrative Code.

~~(ii)~~ (iii) Client employer wages.

(a) For an AEO, all of the client employer's wages for worksite employees shall be paid and reported under the tax identification number of the client employer for federal tax reporting purposes as stated in section 4133.03 of the Revised Code and paragraph (D) of rule 4123-17-15 of the Administrative Code.

(b) For a PEO, All all of the client employer's wages shall be paid and reported under the tax identification number of the PEO for federal tax reporting purposes.

(2) Any AEO or PEO application for self-insured status will be referred to the self-insured review panel pursuant to paragraph (F)(1) of rule 4123-19-14 of the Administrative Code.

(3) Any application to add an AEO or a PEO to an existing self-insured entity will be referred to the self-insured review panel pursuant to paragraph (F)(1) of rule 4123-19-14 of the Administrative Code.

(B) ~~A~~ An AEO or a PEO granted the privilege of self-insured status must do all of the following:

(1) Furnish security, in the amount, and in the form of a letter of credit or other security approved by the bureau, as provided by paragraphs (F), (G), and (H) of rule 4123-19-03 of the Administrative Code.

(a) The security required by the bureau will be no less than one hundred percent of the outstanding claim liabilities associated with the self-insured policy, as determined by the bureau.

(b) The AEO or the PEO is not permitted to use an assurance organization to meet its security requirements under this rule.

(c) The bureau may, pursuant to paragraph (M) of rule 4123-19-03 of the Administrative Code, require the AEO or the PEO to furnish additional security within thirty days of receiving the notice required under paragraph (B) of rule 4123-17-15.1 of the Administrative Code.

(2) Submit to the bureau every two years, or upon the bureau's request, an actuarial estimate of the ~~PEO's~~ unpaid loss and loss adjustment expense liabilities of the AEO or the PEO performed by an independent actuary with a fellow of the society of actuaries or casualty actuary society credential.

(3) Make contribution to the self-insuring employers' guaranty fund as set forth in rule 4123-19-15 of the Administrative Code. For purposes of this rule, the premium as reported on the total of the last two full six-month semi-annual payroll reports shall include the premium of the AEO or the PEO and all its client employers.

(4) Pay all assessments levied upon self-insuring employers under rule 4123-17-32 of the Administrative Code.

(5) Reimburse the bureau for disabled workers' relief fund payments on claims for which the AEO or the PEO, or its client employers, are employer of record, pursuant to paragraph (B) of rule 4123-17-29 of the Administrative Code.

(6) Make a quarterly report to the bureau that details the ~~PEO's~~ active clients, all claims, and the claim reserves for each claim of the AEO or the PEO.

(C) For purposes of this rule, "paid compensation" means all amounts paid by the [AEO or the PEO](#) and its client employers for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60 and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded by the [AEO or the PEO](#), or its client employers, and all amounts paid by [an AEO or a PEO](#) and its client employers for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code. Any reimbursement received from the surplus fund pursuant to section 4123.512 of the Revised Code by the [AEO or the PEO](#), or its client employers, for any such payments or compensation paid shall be applied to reduce the amount of paid compensation reported in the year in which the reimbursement is made. Any amount recovered by the [AEO or the PEO](#), or its client employers, under section 4123.931 of the Revised Code and any amount that is determined not to have been payable to a claimant in any final administrative or judicial proceeding shall be deducted, in the year collected, from the amount of paid compensation reported.

(1) For [an AEO or a PEO](#) that is a self-insured risk for which paragraph (I) of rule 4123-17-32 of the Administrative Code is applicable, paid compensation includes any amounts paid by the state insurance fund for claims directly attributable to the [AEO or the PEO](#) and any client employers of the [AEO or the PEO](#). In determining the applicability of paragraph (I) of rule 4123-17-32 of the Administrative Code to [an AEO or a PEO](#), the bureau shall use the date on which the [AEO or the PEO](#) was added to the self-insured risk policy if such date is after the effective date of the self-insured risk policy.

(2) If a client employer enters into a new [AEO agreement with an AEO or a PEO](#) agreement with a PEO that is a self-insured risk for which paragraph (I) of rule 4123-17-32 of the Administrative Code is applicable, paid compensation shall include any amounts paid by the state insurance fund for claims directly attributable to that client employer.

(D) ~~A~~ [An AEO or](#) PEO granted the privilege of self-insured status shall not:

(1) Enter into [AEO agreements or](#) PEO agreements to provide workers' compensation coverage through the state insurance fund;

(2) Enter into a partial-lease agreement.

~~(E)~~ ~~A~~ [An AEO or a](#) PEO granted the privilege of self-insured status shall do all of the following:

(1) Prior to entering into [an AEO agreement or](#) a PEO agreement with a client employer, provide written notice to the client employer that the submission of a lease termination notice form by the [AEO or the PEO](#) to the administrator will require the [AEO or the PEO](#) to report all information necessary for the administrator to develop a state fund experience modification factor for each client employer involved in the lease termination.

(2) The ~~self-insuring~~ [self-insured AEO or self-insured](#) PEO shall submit all required information by the date set by the administrator, and in a format determined by the administrator. This

information must be submitted each year following the submission of a lease termination notice form by the [AEO or the](#) PEO, for as many years as required by the administrator to develop a state fund experience modification factor for each client employer involved in the lease termination. The ~~self-insuring~~ [self-insured AEO or self-insured](#) PEO may be required to submit additional information to the administrator if the administrator determines that additional information is needed to develop a state fund experience modification factor for each client employer involved in the lease termination.

(3) A ~~self-insuring~~ [self-insured AEO or self-insured](#) PEO that submits a lease termination notice form to the administrator shall provide the following information to the administrator within thirty calendar days from the lease termination date for each client employer involved in the lease termination:

(a) The payroll of each client employer involved in the lease termination, organized by ~~manual~~ classification [code](#) and policy year;

(b) The medical and indemnity costs of each client employer involved in the lease termination, organized by claim;

(c) Any other information the administrator may require to develop a state fund experience modification factor for each client employer involved in the lease termination.

(4) The administrator may revoke or refuse to renew the privilege of operating as a self-insuring employer if [an AEO or](#) a PEO fails to provide the information requested by the administrator under this rule.

(F) The administrator shall use the information provided under this rule to develop a state fund experience modification factor for each client employer involved in a lease termination with a ~~self-insuring~~ [self-insured AEO or self-insured](#) PEO.

4123-17-15.6 Client employer information.

(A) An AEO or a ~~A~~ PEO ~~with whom a shared employee is coemployed~~ shall provide a list of all of the following information to the client employer upon the written request of the client employer:

- (1) All premiums and payroll associated with that client employer;
- (2) All workers' compensation claims, and the compensation and benefits paid, and reserves established for each claim; and
- (3) Any other information available to the AEO or the PEO from the bureau regarding that client employer.

(B) The AEO or the PEO shall provide the information required under paragraph (A) of this rule in writing to the requesting client employer within forty-five days after receiving a written request from the client employer. ~~A~~ An AEO or a PEO has provided the required information to the client employer when:

- (1) The information is received by the United States postal service; or
- (2) When the information is personally delivered, in writing, directly to the client employer. For purposes of this rule, a communication sent via electronic mail is personally delivered at the time the communication was sent by the AEO or the PEO to a valid electronic mail address for the client employer.

(C) If an AEO or a PEO fails to comply with a client employer's written request for information, the client employer may submit a complaint to the bureau.

(1) The bureau will investigate the complaint to determine whether the AEO or the PEO has met the requirements of this rule.

(2) If the bureau finds the AEO or the PEO has failed to meet the requirements of this rule:

(a) The bureau will provide the requested information to the client employer. All administrative costs associated with investigation and providing the information to the client employer will be assessed to the AEO or the PEO;

(b) The bureau will provide the ~~PEO's~~ client employers of the AEO or the PEO with notification of the failure to comply with the rule; and advise the client employers of their ability to request information under this rule.

Replaces: Part of 4123-17-15

4123-17-15.7 Denial or revocation of AEO or PEO registration.

(A) The administrator shall deny or revoke the registration of an AEO, a PEO₂ or a PEO reporting entity if it fails to comply with the requirements of rule 4123-17-15.4 of the Administrative Code.

(B) The administrator may deny or revoke the registration of an AEO, a PEO₂ or a PEO reporting entity ~~and rescind its status as a coemployer~~ upon finding that the AEO, the PEO or the PEO reporting entity 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 a 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; or

(5) Failed to comply with the requirements of rules 4123-17-15 to 4123-17-15.5 of the Administrative Code.

(C) Concurrent with, or upon, the denial or revocation of the registration of an AEO, a PEO₂ or a PEO reporting entity, ~~and rescission of its status as a coemployer~~, the administrator may deny or revoke the registration, ~~and rescind the status as a coemployer~~, of any AEO, PEO₂ or PEO reporting entity₂ that is majority owned or commonly controlled by the same entity, parent, or controlling person.

(D) ~~A~~ An AEO or a PEO may appeal a denial or revocation of status under this rule pursuant to the administrative hearing procedure set forth in Chapter 119 ~~of the Revised Code.~~

(E) The administrator's decision to deny or revoke an AEO's registration or a PEO's registration ~~or to rescind its status as a coemployer~~ is stayed pending the exhaustion of all administrative appeals by the AEO or the PEO.

(F) Upon revocation of the registration of an AEO or a PEO, each client employer associated with that AEO or PEO 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.

(G) If pursuant to this rule the administrator has denied or revoked the registration of an AEO, a PEO₂ or a PEO reporting entity, ~~and rescinded its status as a coemployer~~, then any of the

following are prohibited from reapplying as an AEO, a PEO, or a PEO reporting entity for a period of two years from the date of denial or revocation of the registration, ~~and rescission of the PEO or PEO reporting entity's status as a coemployer~~:

(1) The former AEO, the former PEO, or the former PEO reporting entity; or

(2) Any applicant that is majority owned, or commonly controlled, by the same entity, parent, or controlling person of the former AEO, former PEO, or former PEO reporting entity.

(H) When an employer contacts the bureau to determine whether a particular AEO or PEO is registered, if the administrator has denied or revoked that AEO's registration or that PEO's registration, ~~or rescinded it's 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 AEO or the PEO has the right to appeal the administrator's decision.



Stakeholder feedback and recommendations		
Ohio Administrative Code	Suggestion/Concerns	BWC Response
OAC 4123-17-15	<p>Minute Men Select</p> <p>1. The rules should amplify R.C. 4133.03(A)(1) which requires an AEO to “process and pay all wages and state and federal payroll taxes.” Specifically, we urge the rules clarify that an AEO must “actually and in fact perform the payroll function” and “shall not outsource this service.” The rules should not allow a loophole whereby an AEO claims to “outsource” the payroll function, i.e., to a client-employer’s existing payroll provider.</p>	Following discussions with the stakeholder, the Bureau modified proposed Ohio Adm.Code 4123-17-15(D)(2) and 4123-17-15(E)(2) to allow outsourcing payroll service functions to vendors contracted by an AEO or PEO that are not a client employer.
OAC 4123-17-15	<p>Minute Men Select</p> <p>2. The rules should amplify R.C. 4133.03(A)(1) and (B) which require the AEO to pay wages and applicable taxes irrespective of receipt of payment from the client employer. This non-contingent liability was a critical component of SB 201.</p>	The Bureau agrees with the stakeholder’s comments but believes proposed Ohio Adm.Code 4123-17-15(D) and R.C. 4133.03 adequately address the stakeholder’s concerns.
OAC 4123-17-15	<p>Minute Men Select</p> <p>3. The rules should amplify R.C. 4133.03(A)(3) which requires an AEO to “maintain workers’ compensation coverage, pay all workers’ compensation and manage all workers’ compensation claims, filings, and related procedures associated with a worksite employee...”. The rules should specify that the AEO shall not simply provide the workers’ compensation coverage but must “actually and in fact perform” and “not outsource” the administrative functions needed to manage the coverage. Similar to group rating, language should be included to explicitly prohibit an AEO from merely providing workers’ compensation coverage without the management services.</p>	The Bureau believes the Ohio Administrative Code should not dictate or restrict how an AEO manages their claims management operations.



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Stakeholder feedback and recommendations		
Ohio Administrative Code	Suggestion/Concerns	BWC Response
OAC 4123-17-15	<p>Minute Men Select</p> <p>4. The rules should amplify R.C. 4133.03(A)(3) which requires an AEO to “maintain workers’ compensation coverage.” The rules should clarify that self-insured AEOs shall be the sole responsible party for workers’ compensation and shall not function as “group self-insurance,” whereby individual clients are liable or responsible for paying their own premium to the Bureau.</p>	The Bureau agrees with the stakeholder’s concerns but believes these concerns are sufficiently addressed in proposed Ohio Adm.Code 4123-17-15(A)(4) and 4123-17-15(D)(8).
OAC 4123-17-15.2	<p>National Association of Professional Employer Organizations (NAPEO)</p> <p>1. <i>Out-of-State PEOs and Compliance with New Law</i></p> <p>NAPEO was concerned with provisions relating to an AEO or PEO not being allowed to be owned or co-owned by another AEO or PEO, pursuant to R.C. 4133.07(K). NAPEO desired wording to interpret the provision to mean that an AEO or PEO may not own or co-own an affiliated PEO or AEO in the state of Ohio.</p>	The Bureau accepted the stakeholder’s recommendation by modifying proposed Ohio Adm.Code 4123-17-15.2(F) and adding “that is registered in Ohio under this rule “ as needed.
OAC 4123-17-15 through 4123-17-15.7 generally	<p>NAPEO</p> <p>2. <i>Wording concerning “coemploy” and “shared employees”</i></p> <p>NAPEO expressed concern of using the terms “coemploy” and “shared employees,” as applied to AEOs. The terms are specifically defined in R.C. 4125.01 for PEOs.</p>	<p>The Bureau notes there is confusion in the terminology between AEOs and PEOs because both Chapter 4125 and Chapter 4133 of the Revised Code use the term “share” in describing AEO and PEO relationships with their client employers, to wit: PEOs coemploy shared employees, and AEOs share worksite employees.</p> <p>Following discussions with the stakeholder, NAPEO rescinded this request on April 1, 2021. However, in reviewing NAPEO’s concern, the Bureau removed references to these terms in proposed Ohio Adm.Code 4123-17-15.6 and 4123-17-15.7 The Bureau believes removal of this language eliminates surplusage that in no way</p>



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Stakeholder feedback and recommendations		
Ohio Administrative Code	Suggestion/Concerns	BWC Response
		affects the purpose or intent of these rules when applied to AEOs or PEOs.
OAC 4123-17-15.2	<p>Fortune-HR LLC dba Alloy Employer Services</p> <p>1. Is it possible to re-state the guidelines to read that: an entity that chooses to be an AEO shall not operate as a PEO concurrently while under AEO status in the state of Ohio? The rationale for this clarity is that since the AEO effort is only recognized in Ohio, a multi-state PEO according to how the guidelines read, could possibly have to cease operations.</p>	Similar to NAPEO's first item, the Bureau modified proposed Ohio Adm.Code 4123-17-15.2(F) accordingly.
OAC 4123-17-15.2	<p>Fortune-HR LLC dba Alloy Employer Services</p> <p>2. The stakeholder raised an issue of a switching from an AEO to a PEO in a calendar year would cause a social security wage limit restart and cause double taxation. The stakeholder inquired as to the possibility of a one time "run-out" transition period where an existing PEO customer could in fact remain under its present arrangement of that PEO choosing the AEO model until the calendar year end?</p>	This issue has been addressed in the Bureau's budget bill by revising R.C. 4133.03 adding an effective date of 1/1/2022. The Bureau has also revised Ohio Adm.Code 4123-17-15.2(F) accordingly.
OAC 4123-17-15	<p>Ohio Chamber of Commerce</p> <p>1. The Ohio Chamber recommends the Bureau's rules make clear an AEO itself must provide their client-employer with essential payroll services. Updating the proposed rule to include this clarification aligns with SB 201 since the legislation in RC 4133.03 addresses what functions AEOs must perform on behalf of their client-employers including "processing and paying all wages and payroll taxes associated with a worksite employee."</p>	Similar to Minute Men Select's first item, the Bureau modified proposed Ohio Adm.Code 4123-17-15(D)(2) and 4123-17-15(E)(2) to allow outsourcing payroll service functions to vendors contracted by an AEO or PEO that are not a client employer.



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Stakeholder feedback and recommendations		
Ohio Administrative Code	Suggestion/Concerns	BWC Response
OAC 4123-17-15 through OAC 4123-17-15.7 generally	<p>Ohio Chamber of Commerce</p> <p>2. The Ohio Chamber of Commerce recommends the Bureau consider drafting AEO regulations separate from PEO regulations, rather than modifying the existing PEO rules.</p>	<p>While the Bureau understands the stakeholder's position, the rules were developed in an expedited manner to accommodate implementation of SB 201 for PEOs who wished to switch to the AEO model. The Bureau's intention has been clear since the passage of SB 201 to incorporate any relevant distinctions between AEOs and PEOs in the PEO rules. This issue was never raised until recently. The Bureau believes the proposed rules will properly regulate both AEOs and PEOs by combining with the PEO rule chapter. Should the opportunity or need arise to separate AEO regulations from PEO regulations, the Bureau will reconsider the stakeholder's request.</p>