

anniversary date for future increases. The pension used in the first calculation of an increase under this section shall remain as the base for all future increases paid under this section, unless a new base is established.

(C) If payment of a portion of a benefit is made to an alternate payee under section 5505.261 of the Revised Code, increases under this section granted while the order is in effect shall be apportioned between the alternate payee and the eligible person in the same proportion that the amount being paid to the alternate payee bears to the amount paid to the eligible person.

If payment of a portion of a benefit is made to one or more beneficiaries under "option 4" under division (A)(4) of section 5505.162 of the Revised Code, each increase under this section granted while the plan of payment is in effect shall be divided among the designated beneficiaries in accordance with the portion each beneficiary has been allocated.

(D) The board shall adopt, and may amend or rescind, any rule necessary to carry out this section.

Sec. 5505.18. As used in this section, "member" does not include state highway patrol cadets attending training schools pursuant to section 5503.05 of the Revised Code.

(A) Upon the application of a member of the state highway patrol retirement system, a person acting on behalf of a member, or the superintendent of the state highway patrol on behalf of a member, a member who becomes totally and permanently incapacitated for duty in the employ of the state highway patrol may be retired on disability by the board.

The medical or psychological examination of a member who has applied for disability retirement shall be conducted by a competent health-care professional or professionals appointed by the board. The health-care professional or professionals shall file a written report with the board containing the following information:

- (1) Whether the member is totally incapacitated for duty in the employ of the patrol;
- (2) Whether the incapacity is expected to be permanent;
- (3) The cause of the member's incapacity.

The board shall determine whether the member qualifies for disability retirement and its decision shall be final. The board shall consider the written medical or psychological report, opinions, statements, and other competent evidence in making its determination. If the incapacity is a result of heart disease or any cardiovascular disease of a chronic nature, which disease or any evidence of which was not revealed by the physical examination passed by the member on entry into the patrol, the member is

presumed to have incurred the disease in the line of duty as a member of the patrol, unless the contrary is shown by competent evidence.

(B)(1) Except as provided under division (A) of section 5505.58 of the Revised Code, a member whose retirement on account of disability incurred in the line of duty shall receive the applicable pension provided for in section 5505.17 of the Revised Code, except that if the member has less than twenty-five years of contributing service, the member's service credit shall be deemed to be twenty-five years for the purpose of this provision. In no case shall the member's disability pension be less than sixty-one and one-quarter per cent or exceed the lesser of seventy-nine and one-quarter per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(2) Except as provided under division (B) of section 5505.58 of the Revised Code, a member whose retirement on account of disability incurred not in the line of duty shall receive the applicable pension provided for in section 5505.17 of the Revised Code, except that if the member has less than twenty years of contributing service, the member's service credit shall be deemed to be twenty years for the purpose of this provision. In no case shall the member's disability pension exceed the lesser of seventy-nine and one-quarter per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(C) The state highway patrol retirement board shall adopt rules requiring a disability ~~pension recipient~~ retirant, as a condition of continuing to receive a disability pension, to agree in writing to obtain any medical or psychological treatment recommended by the board's health-care professional and submit medical or psychological reports regarding the treatment. If the board determines that a disability ~~pension recipient~~ retirant is not obtaining the medical or psychological treatment or the board does not receive a required medical or psychological report, the disability pension shall be suspended until the treatment is obtained, the report is received by the board, or the board's health-care professional certifies that the treatment is no longer helpful or advisable. Should the ~~recipient's~~ retirant's failure to obtain treatment or submit a medical or psychological report continue for one year, the recipient's right to the disability ~~benefit~~ pension shall be terminated as of the effective date of the original suspension.

(D) A ~~member placed on a disability pension~~ disability retirant who has not attained the age of sixty years shall be subject to an annual medical or psychological re-examination by health-care professionals appointed by the

board, except that the board may waive the re-examination if the board's health-care professionals certify that the ~~member's~~ retirant's disability is ongoing. If any ~~member placed on a disability pension~~ retirant refuses to submit to a medical or psychological re-examination, the ~~member's~~ retirant's disability pension shall be suspended until the ~~member~~ retirant withdraws the refusal. If the refusal continues for one year, all the ~~member's~~ retirant's rights under and to the disability pension shall be terminated as of the effective date of the original suspension.

(E) Each ~~recipient of a disability pension~~ disability retirant who has not attained the age of sixty years shall file with the board an annual statement of earnings, current medical or psychological information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability ~~benefit recipient~~ retirant file an annual statement of earnings or current medical or psychological information if the board's health-care professional certifies that the ~~recipient's~~ retirant's disability is ongoing.

The board shall annually examine the information submitted by the ~~recipient~~ retirant. If a ~~recipient~~ retirant refuses to file the statement or information, the disability pension shall be suspended until the statement and information are filed. If the refusal continues for one year, the right to the pension shall be terminated as of the effective date of the original suspension.

(F)(1) Except as provided in division (F)(2) of this section, a disability retirant ~~who has been on disability pension, and~~ who has been physically or psychologically examined and found no longer incapable of performing the retirant's duties, shall be restored to the rank the retirant held at the time the retirant was pensioned and all previous rights shall be restored, including the retirant's civil service status, and the disability pension shall terminate. Upon return to employment in the patrol, the retirant shall again become a contributing member of the retirement system, the total service at the time of the retirant's retirement shall be restored to the retirant's credit, and the retirant shall be given service credit for the period the retirant was in receipt of a disability pension. The provisions of division (F)(1) of this section shall be retroactive to September 5, 1941.

(2) The state highway patrol is not required to take action under division (F)(1) of this section if the retirant was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(G) The board may adopt rules to carry out this section, including rules that specify the types of health-care professionals the board may appoint for

the purpose of this section.

Sec. 5505.33. (A) As used in this section:

(1) "Long-term care insurance" has the same meaning as in section 3923.41 of the Revised Code.

(2) "Retirement systems" has the same meaning as in division (A) of section 145.581 of the Revised Code.

(B) The state highway patrol retirement board ~~shall~~ may establish a program under which members of the retirement system, employers on behalf of members, and persons receiving service or disability pensions or survivor benefits are permitted to participate in contracts for long-term care insurance. Participation may include dependents and family members. If a participant in a contract for long-term care insurance leaves employment, the person and the person's dependents and family members may, at their election, continue to participate in a program established under this section in the same manner as if the person had not left employment, except that no part of the cost of the insurance shall be paid by the person's former employer. Such program may be established independently or jointly with one or more of the retirement systems.

(C) The board may enter into an agreement with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a long-term care insurance policy or contract. However, prior to entering into such an agreement with an insurance company or health insuring corporation, the board shall request the superintendent of insurance to certify the financial condition of the company or corporation. The board shall not enter into the agreement if, according to that certification, the company or corporation is insolvent, is determined by the superintendent to be potentially unable to fulfill its contractual obligations, or is placed under an order of rehabilitation or conservation by a court of competent jurisdiction or under an order of supervision by the superintendent.

(D) The board ~~shall~~ may adopt rules in accordance with section 111.15 of the Revised Code governing the program. ~~The~~ Any rules adopted by the board shall establish methods of payment for participation under this section, which may include establishment of a payroll deduction plan under section 5505.203 of the Revised Code, deduction of the full premium charged from a person's service or disability pension or survivor benefit, or any other method of payment considered appropriate by the board. If the program is established jointly with one or more of the other retirement systems, the rules also shall establish the terms and conditions of such joint participation.