

Kansas Administrative Regulations

Kansas Department of Insurance

Article 1.—General

40-1-45. Release of data from the insurance database.

(a) Although the data collected by and furnished to the commissioner of insurance pursuant to K.S.A. 40-2251, and amendments thereto, is not an open record pursuant to K.S.A. 1997 Supp. 45-221(16), and amendments thereto, compilations of this data may be released, subject to the following limitations.

(1) These reports shall include comparative information on averages of data collected. Compilations of data shall not contain patient-identifying information or trade secrets.

(2) The raw data shall be released by the commissioner of insurance only to each data provider that has submitted that particular data to the database and that requests to see and review its dataset for purposes of verifying information in the database pertaining to that data provider. These datasets shall not be made available to the public.

(3) External data used for normative values that are not within the public domain shall not be released.

(b) Any person, organization, governmental agency, or other entity may request the preparation of compilations of data collected by and furnished to the commissioner of insurance, in accordance with the following procedure and limitations.

(1) All requests for compilations of data shall be made in writing to the commissioner of insurance. The written request shall contain the name, address, and telephone number of the requester, and a description of the legitimate purpose of the requested compilation. A "legitimate purpose" is defined as a purpose consistent with the intent, policies, and purposes of K.S.A. 40-2251, and amendments thereto. Whether or not a legitimate purpose exists may be determined by the commissioner of insurance.

(2) Each request for a compilation of data shall be reviewed by the commissioner of insurance to determine whether to approve or deny the request. A request for

compilation of data may be denied by the commissioner of insurance for reasons including any of the following.

- (A) The data is unavailable.
- (B) The requested compilation is already available from another source.
- (C) The requested compilation of data would endanger patient confidentiality.
- (D) The commissioner lacks sufficient resources to fulfill the request.
- (E) The request would disclose a trade secret.
- (F) The requester has previously violated the rules for dissemination from the insurance database.

(G) The request is not a legitimate purpose.

(3) The requester may ask for compilations of data collected by and furnished to the commissioner of insurance in a specific manner or format not already used by the commissioner. This shall include any request for subsets of information already available from the commissioner in compiled form.

(4) The requester shall be notified by the commissioner of insurance in writing of its decision within 30 days. Each denial of a request shall include a brief explanation of the reason for the denial.

(5) Determination of a fee to be charged to the requesting person, organization, governmental agency, or other entity to cover the direct and indirect costs for producing compilations shall be made by the commissioner of insurance or designee in consultation with the commissioner. The fee shall include staff time, computer time, copying costs, and supplies. For charging purposes, each compilation shall be considered an original. The fee may be waived at the commissioner's discretion.

(c) No person, organization, governmental agency, or other entity receiving data from the commissioner shall redisclose or redistribute that information for commercial purposes. Any violation of this section shall result in denial of all further requests to the insurance database.

(d) Any publication using data from the insurance database shall include a written acknowledgment of the Kansas insurance department. A copy of any publication of data from the insurance database shall be sent to the commissioner of insurance before its publication.

(Authorized by K.S.A. 1997 Supp. 40-2251 and K.S.A. 40-221; implementing K.S.A. 1997 Supp. 40-2251; effective Aug. 21, 1998.)

***** Authenticated Kansas Administrative Regulation *****