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MEMORANDUM

To: Members of the House Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 3, 2025
Subject: House Bill No. 2166 (As Introduced)

Summary

House Bill No. 2166 is the annual legislative review of exceptions to disclosure of public records under the Kansas open records act.

Under the Kansas open records act, any new or substantially amended exception to disclosure expires on July 1 five years after enactment of the new or substantially amended exception, unless the legislature acts to continue the exception. Before an exception expires, the Revisor of Statutes certifies to the President of the Senate and the Speaker of the House of Representatives the statutory language and citation of each exception that will expire in the ensuing year.

Under K.S.A. 45-229(h), the legislature is directed to review each exception before its expiration and consider the following factors:

1. What specific records are affected by the exception;
2. whom does the exception uniquely affect, as opposed to the general public;
3. what is the identifiable public purpose or goal of the exception; and
4. whether the information contained in the records may be obtained readily by alternative means and how it may be obtained.

Two documents are attached to this memorandum: The document entitled "2020 New and Substantially Amended Kansas Open Records Exceptions" is a list of the statute numbers containing the exceptions and the subject of the records. The document entitled "Statutory Text of 2020 New and Substantially Amended Kansas Open Records Exceptions" contains the text of those statutes with the language creating or amending the open records exception highlighted within each statute.

If enacted, HB 2166 would take effect upon publication in the statute book, July 1, 2025.

2020 New and Substantially Amended Kansas Open Records Exceptions

RE: K.S.A. 45-229

Exceptions enacted or substantially amended in the 2020 legislative session
and exceptions not certified in a prior year

Certified for the 2025 legislative session

Exceptions expire July 1, 2025

NEW EXCEPTIONS

48-962

Local health officer; records containing personal information relating to individuals testing positive and under quarantine or isolation due to COVID-19

EXCEPTIONS NOT CERTIFIED IN A PRIOR YEAR

65-7616

Licensed acupuncturist under the acupuncture practice act; information, reports, findings and other records relating to impairment

Statutory Text of 2020 New and Substantially Amended Kansas Open Records Exceptions
(listed in K.S.A. order)

48-962. (a) During a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, related to the COVID-19 public health emergency, each local health officer shall work with first responder agencies operating in the county to establish a method to share information indicating where a person testing positive for or under quarantine or isolation due to COVID-19 resides or can be expected to be present. Such information shall:

(1) Include the address for such person and, as applicable, the duration of the quarantine, isolation or expected recovery period for such person as determined by the local health officer; and

(2) only be used for the purpose of allowing the first responders to be alert to the need for utilizing appropriate personal protective equipment during the response activity.

(b) The information described in subsection (a) shall be provided to the 911 call center for the area serving the address provided. The 911 call center shall disseminate the information only to first responders responding to the listed address.

(c) All information provided or disseminated under this section shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2025, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto.

65-7616. (a) A licensee's license may be revoked, suspended, limited or placed on probation, or the licensee may be publicly censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(1) The licensee has committed an act of unprofessional conduct as defined by rules and regulations adopted by the board;

(2) the licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license;

(3) the licensee has committed an act of professional incompetency as defined by rules and regulations adopted by the board;

(4) the licensee has been convicted of a felony;

(5) the licensee has violated any provision of the acupuncture practice act;

(6) the licensee has violated any lawful order or rule and regulation of the board;

(7) the licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction;

(8) the licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(9) the licensee has surrendered a license or authorization to practice as an acupuncturist in another state or jurisdiction, has agreed to a limitation or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under

investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(10) the licensee has failed to report to the board the surrender of the licensee's license or authorization to practice as an acupuncturist in another state or jurisdiction or the surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(11) the licensee has an adverse judgment, award or settlement rendered against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(12) the licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section; or

(13) the licensee's ability to practice with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or use of alcohol, drugs or controlled substances. When reasonable suspicion of impairment exists, the board may take action in accordance with K.S.A. 65-2842, and amendments thereto. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery by or release to any person or entity outside of a board proceeding. This provision regarding confidentiality shall expire on July 1, 2022, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

(b) The denial, refusal to renew, suspension, limitation, probation or revocation of a license or other sanction may be ordered by the board upon a finding of a violation of the acupuncture practice act. All administrative proceedings conducted pursuant to this act shall be in accordance with the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

(c) This section shall take effect on and after July 1, 2017.