

2021 Kansas Statutes

65-177. Study of diseases and deaths from maternal, perinatal and anesthetic causes; "data" defined; medical records; confidentiality, use; liability, immunity; admissibility as evidence; reports, contents. (a)

(1) "Data," as used in K.S.A. 65-177 through 65-179, and amendments thereto, includes all facts, information, records of interviews, written reports, statements, notes or memoranda secured in connection with an authorized medical research study.

(2) "Maternal death" means the death of any woman from any cause while pregnant or within one calendar year of the end of any pregnancy, regardless of the duration of the pregnancy or the site of the end of the pregnancy.

(b) (1) The secretary of health and environment shall have access to all law enforcement investigative information regarding a maternal death in Kansas, any autopsy records and coroner's investigative records relating to the death, any medical records of the mother and any records of the Kansas department for children and families or any other state social service agency that has provided services to the mother.

(2) (A) The secretary may apply to the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any maternal death being investigated by the secretary. Any books, records or papers received by the secretary pursuant to the subpoena shall be confidential and privileged information and not subject to disclosure.

(B) The provisions of this paragraph providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this paragraph pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

(c) The secretary of health and environment shall:

- (1) Identify maternal death cases;
- (2) review medical records and other relevant data;
- (3) contact family members and other affected or involved persons to collect additional relevant data;
- (4) consult with relevant experts to evaluate the records and data collected;
- (5) make determinations regarding the preventability of maternal deaths;
- (6) develop recommendations and actionable strategies to prevent maternal deaths; and
- (7) disseminate findings and recommendations to the legislature, healthcare providers, healthcare facilities and the general public.

(d) (1) Healthcare providers licensed pursuant to chapters 65 and 74 of the Kansas Statutes Annotated, and amendments thereto, medical care facilities licensed pursuant to article 4 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, maternity centers licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and pharmacies licensed pursuant to article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall provide reasonable access to all relevant medical records associated with a maternal death case under review by the secretary.

(2) A healthcare provider, medical care facility, maternity center or pharmacy providing access to medical records pursuant to this section shall not be held liable for civil damages or be subject to criminal or disciplinary administrative action for good faith efforts to provide such records.

(e) (1) Information, records, reports, statements, notes, memoranda or other data collected pursuant to this section shall be privileged and confidential and shall not be admissible as evidence in any action of any kind in any court or before another tribunal, board, agency or

person. Such information, records, reports, statements, notes, memoranda or other data shall not be exhibited nor their contents disclosed in any way, in whole or in part, by any officer or representative of the department of health and environment or any other person, except as may be necessary for the purpose of furthering the investigation of the case to which they relate. No person participating in such investigation shall disclose, in any manner, the information so obtained.

(2) The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

(f) (1) All proceedings and activities of the secretary or representatives of the secretary under this section, opinions of the secretary or representatives of the secretary formed as a result of such proceedings and activities and records obtained, created or maintained pursuant to this section, including records of interviews, written reports and statements procured by the secretary or any other person, agency or organization acting jointly or under contract with the department of health and environment in connection with the requirements of this section, shall be confidential and not subject to the provisions of the open records act or the open meetings act or subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding. Nothing in this section shall be construed to limit or otherwise restrict the right to discover or use in any civil or criminal proceeding any document or record that is available and entirely independent of proceedings and activities of the secretary or representatives of the secretary under this section.

(2) The secretary or representatives of the secretary shall not be questioned in any civil or criminal proceeding regarding the information presented in or opinions formed as a result of an investigation. Nothing in this section shall be construed to prevent the secretary or representatives of the secretary from testifying to information obtained independently of this section or that is public information.

(3) The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

(g) Reports of aggregate non-individually identifiable data shall be compiled on a routine basis for distribution in an effort to further study the causes and problems associated with maternal deaths. Reports shall be distributed to healthcare providers and medical care facilities and other persons necessary to reduce the maternal death rate.

(h) The secretary of health and environment shall receive data secured in connection with medical research studies conducted for the purpose of reducing morbidity or mortality from maternal, perinatal and anesthetic causes. Such studies may be conducted by the secretary of health and environment and staff or with other qualified persons, agencies or organizations. If such studies are conducted with any funding not provided by the state of Kansas, then the source of such funding shall be clearly identified in such study. Where authorization to conduct such a study is granted by the secretary of health and environment, all data voluntarily made available to the secretary of health and environment in connection with such study shall be treated as confidential and shall be used solely for purposes of medical research. Research files and opinions expressed upon the evidence found in such research shall not be admissible as evidence in any action in any court or before any other tribunal, except that statistics or tables resulting from such data shall be admissible and may be received as evidence. This section shall not affect the right of any patient or such patient's guardians, representatives or heirs to require hospitals, physicians, sanatoriums, rest homes, nursing homes or other persons or agencies to furnish

such patient's hospital record to such patient's representatives upon written authorization, or the admissibility in evidence thereof.

(i) No employee of the secretary of health and environment shall interview any patient named in any such report, nor any relative of any such patient, unless otherwise provided in K.S.A. 65-2422d, and amendments thereto. Nothing in this section shall prohibit the publication by the secretary of health and environment or a duly authorized cooperating person, agency or organization, of final reports or statistical compilations derived from morbidity or mortality studies, which reports or compilations do not identify individuals, associations, corporations or institutions which were the subjects of such studies, or reveal sources of information.

History: L. 1961, ch. 289, § 1; L. 1974, ch. 352, § 46; L. 2010, ch. 143, § 1; L. 2018, ch. 66, § 2; July 1.