2023 Kansas Statutes

65-1685. Database information privileged and confidential; persons authorized to receive data; oversight thereof; advisory committee review of information. (a) The program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, including audit trail information, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those individuals engaged in the prescribing or dispensing of scheduled substances and drugs of concern, 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, except as provided in subsections (c) and (d).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to individuals except as provided in subsections (c) and (d).

(c) The board is hereby authorized to provide data in the program to the following individuals:

(1) Individuals authorized to prescribe or dispense scheduled substances and drugs of concern, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) designated representatives from the professional licensing, certification or regulatory agencies charged with administrative oversight of those individuals engaged in the prescribing or dispensing of scheduled substances and drugs of concern;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing scheduled substances and drugs of concern subject to the requirements in K.S.A. 22-2502, and amendments thereto;

(5) designated representatives from the department of health and environment regarding authorized medicaid program recipients or practitioners;

(6) individuals authorized by a grand jury subpoena, inquisition subpoena or court order in a criminal action;

(7) personnel of the prescription monitoring program advisory committee for the purpose of operation of the program;

(8) personnel of the board for purposes of operation of the program and administration and enforcement of this act or the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;

(9) individuals authorized to prescribe or dispense scheduled substances and drugs of concern, when an individual is obtaining prescriptions in a manner that appears to be misuse, abuse or diversion of scheduled substances or drugs of concern;

(10) medical examiners, coroners or other individuals authorized under law to investigate or determine causes of death;

(11) persons operating a practitioner or pharmacist impaired provider program in accordance with K.S.A. 65-4924, and amendments thereto, for the purpose of reviewing drugs dispensed to a practitioner or pharmacist enrolled in the program;

(12) delegates of individuals authorized by paragraphs (1), (9) and (10);

(13) individuals or organizations notified by the advisory committee as provided in subsection (g);

(14) practitioners or pharmacists conducting research approved by an institutional review board who have obtained patient consent for the release of program data; and

(15) an overdose fatality review board established by the state of Kansas.

(d) An individual registered for access to the program database shall notify the board in writing within 30 calendar days of any action that would disqualify the individual from being authorized to receive program data as provided in subsection

(c).
(e) The state board of healing arts, board of nursing, Kansas dental board and board of examiners in optometry shall notify the board in writing within 30 calendar days of any denial, suspension, revocation or other administrative limitation of a practitioner's license or registration that would disqualify the practitioner from being authorized to receive program data as provided in subsection (c).
(f) A practitioner or pharmacist shall notify the board in writing within 30 calendar days of any action that would disqualify a delegate from being authorized to receive program data on behalf of the practitioner or pharmacist.
(g) The prescription monitoring program advisory committee established pursuant to K.S.A. 65-1689, and amendments thereto, is authorized to review and analyze program data for purposes of identifying patterns and activity of concern.
(1) If a review of information appears to indicate an individual may be obtaining prescriptions in a manner that may represent misuse or abuse of scheduled substances and drugs of concern, the advisory committee is authorized to notify the prescribers and dispensers who prescribed or dispensed the prescriptions. If the review does not identify a recent prescriber as a point of contact for potential clinical intervention, the advisory committee is authorized to notify the disability and behavioral health services section of the Kansas department for aging and disability services for the purpose of offering confidential treatment services. Further disclosure of information is prohibited. If the review identifies patterns or other evidence sufficient to create a reasonable suspicion of criminal activity, the advisory committee is authorized to notify the appropriate law enforcement agency.
(2) If a review of information appears to indicate that a violation of state or federal law relating to prescribing scheduled substances and drugs of concern may have occurred, or that a prescriber or dispenser has knowingly prescribed, dispensed or obtained scheduled substances and drugs of concern in a manner that is inconsistent with recognized standards of care for the profession, the advisory committee shall determine whether a report to the professional licensing, certification or regulatory agencies charged with administrative oversight of those individuals engaged in prescribing or dispensing of scheduled substances and drugs of concern or to the appropriate law enforcement agency is warranted.
(A) For purposes of such determination the advisory committee may, in consultation with the appropriate regulatory agencies and professional organizations, establish criteria regarding appropriate standards and utilize volunteer peer review committees of professionals with expertise in the particular practice to create such standards and review individual cases.
(B) The peer review committee or committees appointed herein shall have authority to request and receive information in the program database from the director of the program.
(C) If the determination is made that a referral to a regulatory or law enforcement agency is not warranted but educational or professional advising might be appropriate, the advisory committee may refer the prescribers or dispensers to other such resources.
(3) If a review of information appears to indicate that program data has been accessed or used in violation of state or federal law, the advisory committee shall determine whether a report to the professional licensing, certification or regulatory agencies charged with administrative oversight of those individuals engaged in prescribing or dispensing of scheduled substances and drugs of concern is warranted and may make such report.
(e) The board is hereby authorized to provide program data to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients or individuals who received prescriptions from dispensers.
(f) The board is hereby authorized to provide a medical care facility with its program data for statistical, research or education purposes after removing information that could be used to identify individual practitioners or individuals who received prescriptions from dispensers.
(g) The board may, in its discretion, block any user's access to the program database if the board has reason to believe that access to the data is or may be used by such

user in violation of state or federal law.

History: L. 2008, ch. 104, § 5; L. 2012, ch. 107, § 5; L. 2022, ch. 74, § 5; April 28.