

40-3421. Reports by insurers of claims and actions, confidentiality; failure to report, civil penalty; liability of insurers in civil actions. (a) Any insurer providing professional liability insurance coverage to a health care provider, as defined by K.S.A. 40-3401, and amendments thereto, who is licensed in Kansas shall report to the appropriate state health care provider regulatory agency and the board of governors on forms prescribed by the board of governors any written or oral claim or action for damages for medical malpractice. The report shall be filed no later than 30 days following the insurer's receipt of notice of the claim or action and shall contain:

(1) The name, address, area of practice or specialty, policy coverage and policy number of the insured; and
(2) the date of the occurrence giving rise to the claim, the date the occurrence was reported to the insurer, and the date legal action, if any, was initiated.

(b) Upon request of an agency to which a report is made under subsection (a), the insurer making the report shall provide to the agency no later than 30 days following receipt of the request or receipt of the information, whichever is later:

(1) The names of all defendants involved in the claim; and

(2) a summary of the occurrence, including the name of the institution at which the incident occurred, the final diagnosis for which treatment was sought or rendered, the patient's actual condition, the incident, treatment or diagnosis giving rise to the claim and a description of the principal injury giving rise to the claim.

(c) Reports required to be filed pursuant to this section shall be confidential and shall not be admissible in any civil or criminal action or in any administrative proceeding other than a disciplinary proceeding of a health care provider involved in the reported occurrence.

(d) Any insurer which fails to report any information as required by this section shall be subject, after proper notice and an opportunity to be heard, to a civil fine assessed by the board of governors in an amount not exceeding \$1,000 for each day after the thirty-day period for reporting that the information is not reported. In the event that a civil fine is assessed pursuant to this subsection, the reason for and the amount of such fine shall be reported to the commissioner. The board of governors shall remit any moneys collected from fines assessed pursuant to this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(e) Any insurer which, in good faith, reports or provides any information pursuant to this act shall not be liable in a civil action for damages or other relief arising from the reporting or providing of such information.

(f) As used in this section, "insurer" means insurer or self-insurer, as defined by K.S.A. 40-3401, and amendments thereto, or joint underwriting association operating pursuant to K.S.A. 40-3413, and amendments thereto.

(g) The requirements of this section shall not be applicable with respect to any occurrence on or after July 1, 1991, giving rise to any claim or action against any optometrist or pharmacist.

(h) The requirements of this section shall not be applicable with respect to any occurrence on or after July 1, 1995, giving rise to any claim or action against any physical therapist.

History: L. 1986, ch. 229, § 19; L. 1991, ch. 139, § 6; L. 1995, ch. 145, § 8; L. 2001, ch. 5, § 125; L. 2014, ch. 56, § 19; July 1.