

40-2d20. RBC reports, plans and corrective orders are confidential; not to be used for rate making. (a) All RBC reports, RBC plans and any corrective orders, including the working papers and the results of any analysis of a health organization performed under this act shall be kept confidential by the commissioner. This information shall not be made public or subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner pursuant to this act or any other provision of the insurance laws of this state.

(b) RBC instructions, RBC reports, adjusted RBC reports, RBC plans and revised RBC plans are intended solely for use by the commissioner in monitoring the solvency of health organizations and the need for possible corrective action with respect to health organizations and shall not be used by the commissioner for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance which an health organization or any affiliate is authorized to write.

(c) (1) The commissioner may share or exchange any documents, materials or other information, including confidential and privileged documents referred to in subsection (a), received in the performance of the commissioner's duties under this act, with:

- (A) The NAIC;
- (B) other state, federal or international regulatory agencies; and
- (C) other state, federal or international law enforcement authorities.

(2) (A) The sharing or exchanging of documents, materials or other information under this subsection shall be conditioned upon the recipient's authority and agreement to maintain the confidential and privileged status, if any, of the documents, materials or other information being shared or exchanged.

(B) No waiver of an existing privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized by paragraph (1) of subsection (c).

(3) The commissioner of insurance is hereby authorized to adopt such rules and regulations establishing protocols governing the exchange of information as may be necessary to implement and carry out the provisions of this act.

History: L. 2000, ch. 147, § 21; July 1.