

60-3352. Same; in camera review; effect on admissibility of documents. (a) The privilege set forth in K.S.A. 60-3351, and amendments thereto, shall not apply if, after an in camera review consistent with the code of civil procedure, a court or administrative tribunal of record determines:

(1) The insurance compliance self-evaluative audit document shows evidence of noncompliance with applicable laws and regulations and appropriate efforts to achieve compliance with such laws and regulations were not promptly initiated and pursued with reasonable diligence upon discovery of noncompliance; or

(2) to the extent that it is expressly waived by the insurance company that prepared or caused to be prepared the insurance compliance self-evaluative audit document; or

(3) the privilege is asserted for a fraudulent purpose; or

(4) the material is not subject to the privilege.

(b) In a criminal proceeding, after an in camera review, a court may require disclosure of material for which the privilege described in K.S.A. 60-3351, and amendments thereto, is asserted, if the court determines one of the following:

(1) The privilege is asserted for a fraudulent purpose;

(2) the material is not subject to the privilege; or

(3) the material contains evidence relevant to commission of a criminal offense under chapter 40 of Kansas Statutes Annotated, and amendments thereto, and all three of the following factors are present:

(A) The commissioner, attorney general, or a county or district attorney, has a compelling need for the information;

(B) the information is not otherwise available; and

(C) the commissioner, attorney general, or a county or district attorney is unable to obtain the substantial equivalent of the information by any other means without incurring unreasonable cost and delay.

History: L. 2005, ch. 148, § 2; July 1.