

2021 Kansas Statutes

74-7308. Condition of claimant or victim; no privilege, exception; examination or autopsy; report; other reports relevant to injury; confidentiality of records. (a) There shall be no privilege, except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental or emotional conditions of the claimant or victim in a proceeding under this act in which such condition is an element.

(b) If the mental, physical or emotional condition of a victim or claimant is material to a claim, the board may order the victim or claimant to submit to a mental or physical examination by a physician or psychologist, and may order an autopsy of a deceased victim. The order may be made for good cause shown upon notice to the person to be examined and to all persons who have appeared. The order shall specify the time, place, manner, conditions and scope of the examination or autopsy and the person by whom it is to be made; and the order shall require the person to file with the board a detailed written report of the examination or autopsy. The report shall set out the findings of the person making the report, including results of all tests made, diagnoses, prognosis and other conclusions and reports of earlier examinations of the same conditions.

(c) On request of the person examined, the board shall furnish a copy of the report to such person. If the victim is deceased, the board, on request, shall furnish to the claimant a copy of the report.

(d) The board may require the claimant to supplement the application with any reasonably available medical or psychological reports relating to the injury for which compensation is claimed.

(e) All records and information given to the board and the crime victims compensation division created by K.S.A. 75-773, and amendments thereto, to process a claim on behalf of a crime victim shall be confidential. Such exhibits, medical records, psychological records, counseling records, work records, criminal investigation records, criminal court case records, witness statements, telephone records and other records of any type or nature whatsoever gathered for the purpose of evaluating whether to compensate a victim shall not be obtainable by any party to any action, civil or criminal, through any discovery process except:

(1) In the event of an appeal under the Kansas administrative procedure act from a decision of the board and then only to the extent narrowly and necessarily to obtain court review;

(2) upon a strict showing to the court in a separate civil or criminal action that particular information or documents are not obtainable after diligent effort from any independent source, and are known to exist otherwise only in board records, the court may inspect in camera such records to determine whether the specific requested information exists. If the court determines the specific information sought exists in the board records, the documents may then be released only by court order if the court finds as part of its order that the documents will not pose any threat to the safety of the victim or any other person whose identity may appear in board records; or

(3) by any board order granting or denying compensation to a crime victim.

History: L. 1978, ch. 130, § 8; L. 1989, ch. 239, § 15; L. 1993, ch. 166, § 2; L. 2019, ch. 62, § 12; May 30.