

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of Data Analytics**  
**(Amendment)**

**900 KAR 7:040. Release of public data sets for health facility and services data.**

RELATES TO: KRS 61.870-61.884, 216.2920, 216.2927, 216.2929

STATUTORY AUTHORITY: KRS 194A.050(1), 216.2923(2)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.2923(2)(b) requires the Cabinet for Health and Family Services to promulgate administrative regulations for its transactions related to KRS 216.2920 to 216.2929. KRS 216.2927 mandates that personally identifying data collected by the Cabinet for Health and Family Services from health care providers not be released to the general public nor be allowed public inspection under KRS 61.870 to 61.884. This administrative regulation establishes the guidelines for distribution and publication of data collected by the cabinet pursuant to 900 KAR 7:030, while maintaining patient confidentiality and further protecting personally identifying information.

Section 1. Definitions.

- (1) "Cabinet" is defined by KRS 216.2920(2).
- (2) "Data" means the information collected pursuant to 900 KAR 7:030.
- (3) "Encounter-level" means the data record of a single instance of hospitalization, outpatient service, ambulatory surgery, emergency department, or observation stay billing record contained in a data file.
- (4) "Health care provider" is defined by KRS 216.2920(5).
- (5) "Public" means a person or group not directly responsible for the collection, maintenance, custody, or dissemination of data for purposes of this administrative regulation.
- (6) "Report" means a summary or compilation of data disseminated to the public.

Section 2. Encounter-Level Data. Encounter-level data shall be released in an electronic text file and shall include the following data elements:

Encounter-Level Data

Provider ID

Quarter and Year of Discharge

Patient Gender

Patient Age Group

Patient Race or Ethnicity

Patient Resident County

Type of Admission

Source of Admission

All Diagnoses Available for Each Individual Record

All Procedures Available for Each Individual Record

Patient Zip Code

Length of Stay

Total Charges

Discharge Status

Payer 1 (Primary)

Payer 2  
Payer 3  
Do not resuscitate indicator  
Diagnosis present on admission indicator

### Section 3. Summary Data.

- (1) The cabinet shall not release data if KRS 216.2927 prohibits its release.
- (2) The cabinet may include the following data elements, in any combination thereof, for encounter-level, aggregate, and summary report formats:
  - (a) Diagnoses and procedures, primary, and any other level;
  - (b) Diagnosis and procedure groupings, including diagnostic related groups, major diagnostic categories, and agency for health care policy and research clinical classification system;
  - (c) Patient gender;
  - (d) Age or age grouping;
  - (e) Discharge status;
  - (f) Payor category, all levels;
  - (g) Charge information, total and ancillary;
  - (h) County of patient residence;
  - (i) County of provider;
  - (j) Ancillary department information;
  - (k) Length of stay, total, and average;
  - (l) External cause of injury;
  - (m) Race or ethnicity; or
  - (n) Mortality rate. Reports including mortality rates shall be adjusted by severity of illness by reputable grouping software, either on a contract basis or by the cabinet.
- (3) Data shall not be withheld from the public or another interested party based solely on an unfavorable profile of a provider or group of providers, if the data is deemed reliable, accurate, and sufficiently free of error, as determined by the cabinet and pursuant to 900 KAR 7:030.

### Section 4. Release of Data.

- (1) A person or agency shall, as a condition for receiving data from the cabinet, sign an Agreement for Use of Kentucky Health Facility and Services Data. A person or agency receiving data shall agree to adhere to the confidentiality requirements established in subsection (2) of this section and KRS 216.2927.
- (2) To protect patient confidentiality:
  - (a) A report or summary of data that contains a record value of one (1) through ten (10) shall not be released or made public if the cell's original size can be determined by subtraction from the total.
  - (b) If the circumstances described in subsection (a) occurs then:
    1. totals shall also be removed from the table, or
    2. the exact number of the next smallest cell shall be withheld;
  - (c) A person or agency receiving data shall not redistribute or sell data in the original format;
  - (d) A person or agency receiving data shall not redistribute or sell a subset of the data or an aggregate product of the data;
  - (e) Distribution of data received by the cabinet shall be approved by the custodial agency prior to receipt of the data;
  - (f) The data collected pursuant to 900 KAR 7:030 shall be used only for the purpose of health statistical reporting and analysis or as specified in the user's written request for

the data; and

(g) A user shall not attempt to link the public use data set with an individually identifiable record from another data set.

Section 5. Fees.

(1) The cabinet shall charge a fee not to exceed \$1,500 for the purchase of a single copy of an annual, public-use data set.

(2) A public-use data set shall be available for purchase no later than sixty (60) days after the end of the facility reporting period as established in 900 KAR 7:030. Special requests for data shall be prioritized and completed at the discretion of the custodial agency.

Section 6. Incorporation by Reference.

(1) "Agreement for Use of Kentucky Health Facility and Services Data", May 2023, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Office of Data Analytics, 275 East Main Street 4WE, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

*JILNAR MASRI, Executive Director*

*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: November 9, 2023

FILED WITH LRC: November 13, 2023 at 1:25 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 22, 2024 at 9 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by January 12, 2024, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until January 31, 2024. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Advisor, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.