

**Sec. 38a-193-8. Confidentiality and prohibition on announcements**

(a) All RBC reports (to the extent the information is not required to be set forth in a publicly available annual statement schedule) and RBC plans (including the results or report of any examination or analysis of a health care center performed pursuant to sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies and any corrective order issued by the commissioner pursuant to examination or analysis) with respect to a health care center that are filed with the commissioner constitute information that might be damaging to the health care center if made available to its competitors, and therefore shall be kept confidential by the commissioner pursuant to the authority of sections 38a-14, 38a-69a, 38a-913 and 38a-962c of the Connecticut General Statutes. All RBC reports and RBC plans shall be construed as “commercial or financial information given in confidence” as provided under section 1-210(b)(5) of the Connecticut General Statutes. This information shall not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner pursuant to sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies or any other provision of the insurance laws or regulations of this state or as provided by law.

(b) The comparison of a health care center’s total adjusted capital to any of its RBC levels is a regulatory tool which may indicate the need for corrective action with respect to the health care center, and is not intended as a means to rank health care centers generally. Therefore, except as otherwise required under the provisions of sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies the making, publishing, disseminating, circulating or placing before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over a radio or television station, or in any other way, an advertisement, announcement or statement containing an assertion, representation or statement with regard to the RBC levels of any health care center, or of any component derived in the calculation, by any health care center, agent, broker or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited; provided, however, that if any materially false statement with respect to the comparison regarding a health care center’s total adjusted capital to its RBC levels (or any of them) or an inappropriate comparison of any other amount to the health care centers’ RBC levels is published in any written publication and the health care center is able to demonstrate to the commissioner with substantial proof the falsity of the statement, or the inappropriateness, as the case may be, then the health care center may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

(c) The 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 care centers and the need for possible corrective action with respect to health care centers 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 that a health care center or any affiliate is authorized to write.

*Regulations of Connecticut State Agencies*

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(Adopted effective January 31, 2000; Amended August 30, 2004)