

1205.1400 AUTHORIZING NEW PURPOSES FOR DATA COLLECTION.

Subpart 1. **General conditions.** The responsible authority shall authorize a new purpose for the collection of private or confidential data or a new use for private or confidential data under any one of the following conditions: if subsequent passage of federal or state legislation requires initiation of a new or different purpose or use pursuant to Minnesota Statutes, section 13.05, subdivision 4, clause (b), or the responsible authority, prior to initiation of the new or different purpose or use, complies with the provisions of either Minnesota Statutes, section 13.05, subdivision 4, clause (a), (c), or (d).

Subp. 2. **Statement.** For the purposes of administration of Minnesota Statutes, section 13.05, subdivision 4, clause (a) or (c), the responsible authority shall file a statement in a form prescribed by the commissioner.

Subp. 3. **Informed consent.** For the purposes of Minnesota Statutes, section 13.05, subdivision 4, clause (d) the following term shall have the meaning given it.

"Informed consent" means the data subject possesses and exercises sufficient mental capacity to make a decision which reflects an appreciation of the consequences of allowing the entity to initiate a new purpose or use of the data in question.

Subp. 4. **Restrictions.** For the purposes of the administration of Minnesota Statutes, section 13.05, subdivision 4, clause (d), the responsible authority shall comply with the following:

A. The responsible authority shall not take any action to coerce any data subject to give an "informed consent." The responsible authority shall explain the necessity for or consequences of the new or different purpose or use.

B. All informed consents shall be given in writing. Prior to any signature being affixed to it by the data subject, such writing shall identify the consequences of the giving of informed consent.

C. If the responsible authority makes reasonable efforts to obtain the informed consent of a data subject and if those efforts are not acknowledged in any way, the responsible authority shall interpret the silence of the data subject as the giving of an implied consent to the new or different purpose or use of the data. For purposes of this item, "reasonable efforts" shall include:

(1) depositing in the United States mail, postage prepaid and directed to the last known address of the data subject, at least two communications requesting informed consent; and

(2) waiting for a period of not less than 60 days for a response to the second request.

D. The data subject may give informed consent to less than all of the data elements in any list of data elements presented by a responsible authority, thereby giving only partial consent. Only those elements that the data subject has expressly consented to shall become part of the new or different purpose or use.

Subp. 5. **Seeking informed consent for dissemination to insurer.** If the responsible authority seeks an individual's informed consent to the release of private data to an insurer or the authorized representative of an insurer, the responsible authority shall comply with the provisions of Minnesota Statutes, section 13.05, subdivision 4, paragraph (d), clauses (1) to (7).

Statutory Authority: *MS s 13.07*

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