

### §3.112

### 42 CFR Ch. I (10–1–13 Edition)

and requested by the Secretary to implement the provisions of this subpart. Such PSO records may include patient safety work product in accordance with §3.206(d) of this part.

#### §3.112 Submissions and forms.

(a) Forms referred to in this subpart may be obtained on the PSO Web site (<http://www.pso.ahrq.gov>) maintained for the Secretary by AHRQ or a successor agency or on successor publication technology or by requesting them in writing by e-mail at [psa@ahrq.hhs.gov](mailto:psa@ahrq.hhs.gov), or by mail from the Agency for Healthcare Research and Quality, CQuIPS, PSO Liaison, 540 Gaither Road, Rockville, MD 20850. A form (including any required attachments) must be submitted in accordance with the accompanying instructions.

(b) Information submitted to AHRQ in writing, but not required to be on or attached to a form, and requests for information from AHRQ, may be submitted by mail or other delivery to the Agency for Healthcare Research and Quality, CQuIPS, PSO Liaison, 540 Gaither Road, Rockville, MD 20850, by facsimile at (301) 427–1341, or by e-mail at [psa@ahrq.hhs.gov](mailto:psa@ahrq.hhs.gov).

(c) If a submission to the Secretary is incomplete or additional information is needed to allow a determination to be made under this subpart, the submitter will be notified if any additional information is required.

### Subpart C—Confidentiality and Privilege Protections of Patient Safety Work Product

#### §3.204 Privilege of patient safety work product.

(a) *Privilege.* Notwithstanding any other provision of Federal, State, local, or Tribal law and subject to paragraph (b) of this section and §3.208 of this subpart, patient safety work product shall be privileged and shall not be:

(1) Subject to a Federal, State, local, or Tribal civil, criminal, or administrative subpoena or order, including in a Federal, State, local, or Tribal civil or administrative disciplinary proceeding against a provider;

(2) Subject to discovery in connection with a Federal, State, local, or Tribal

civil, criminal, or administrative proceeding, including in a Federal, State, local, or Tribal civil or administrative disciplinary proceeding against a provider;

(3) Subject to disclosure pursuant to section 552 of Title 5, United States Code (commonly known as the Freedom of Information Act) or any other similar Federal, State, local, or Tribal law;

(4) Admitted as evidence in any Federal, State, local, or Tribal governmental civil proceeding, criminal proceeding, administrative rulemaking proceeding, or administrative adjudicatory proceeding, including any such proceeding against a provider; or

(5) Admitted in a professional disciplinary proceeding of a professional disciplinary body established or specifically authorized under State law.

(b) *Exceptions to privilege.* Privilege shall not apply to (and shall not be construed to prohibit) one or more of the following disclosures:

(1) Disclosure of relevant patient safety work product for use in a criminal proceeding, subject to the conditions at §3.206(b)(1) of this subpart.

(2) Disclosure to the extent required to permit equitable relief subject to the conditions at §3.206(b)(2) of this subpart.

(3) Disclosure pursuant to provider authorizations subject to the conditions at §3.206(b)(3) of this subpart.

(4) Disclosure of non-identifiable patient safety work product subject to the conditions at §3.206(b)(5) of this subpart.

(c) *Implementation and enforcement by the Secretary.* Privilege shall not apply to (and shall not be construed to prohibit) disclosures of relevant patient safety work product to or by the Secretary if such patient safety work product is needed to investigate or determine compliance, or to seek or impose civil money penalties, with respect to this part or the HIPAA Privacy Rule, or to make or support decisions with respect to listing of a PSO.

#### §3.206 Confidentiality of patient safety work product.

(a) *Confidentiality.* Subject to paragraphs (b) through (e) of this section,