



www.PSOPPC.org

PSOPPC Technical Assistance

Support is available Monday through Friday:

- 9 am to 5:30 pm Eastern
- 8 am to 4:30 pm Central
- 7 am to 3:30 pm Mountain
- 6 am to 2:30 pm Pacific

Phone Number:

- (866) 571-7712

Email Address:

- support@psoppc.org

INSIDE THIS ISSUE:

- ◇ Moving PSWP in and out of a provider's PSES

UPCOMING EVENTS

- ◇ PSO Quarterly Conference Call
March 3, 2010
2:00 - 4:00 p.m. (ET)
- ◇ 2nd Annual Meeting of PSOs
May 6-7, 2010
Hyatt Regency Baltimore
Baltimore, MD

FUTURE TOPICS

- ◇ The PSO Self-Assessment Guide
- ◇ Using Technical Specifications

Basics of the Patient Safety Rule: The "Drop Out" Provision

A provider creates patient safety work product (PSWP) within its patient safety evaluation system (PSES) by:

1. Assembling or developing information for reporting to a PSO [the preamble consistently refers to information that is "collected" for reporting to a PSO, and specifically refers to "placing information into" the provider's PSES (73 Federal Register 70741-70742)]; or
2. Conducting deliberations or analysis within its PSES.

The definition of PSWP provides immediate protections to analyses and deliberations of a provider within its PSES at the moment the deliberations or analyses take place. There is no requirement that a provider document when deliberations or analyses take place but we encourage providers to do so.

The requirements of the rule governing information that is collected for reporting are more specific. The protections for collected information apply to information that could improve patient safety, health care quality, or health care outcomes and:

- Are assembled and developed by a provider for reporting to a PSO and are reported to a PSO or
- Are documented as being within a provider's PSES for reporting to a PSO and the documentation specifies the date the information entered the provider's PSES.

[PSWP definition, paragraph (1)(i)(A)]

When a provider documents the date that collected information enters its PSES, protections immediately apply to the collected information. A provider can then analyze collected information and determine if it needs or will want to disclose any of the collected information in a manner that would not be permissible under the Patient Safety Rule.

If a provider decides that any of the information should not remain PSWP permanently, the final rule permits a provider to remove that information (which was collected for reporting to a PSO) from its PSES if:

- The information has not yet been reported to a PSO; and
- The provider documents the action and the date of removal from its PSES.

[PSWP definition, paragraphs (2)(ii)(A) and (B)].

Providers should note the following:

- The "drop out" provision only applies to information collected by the provider for reporting; it does not apply to the provider's deliberations and analyses.
- The provider can remove collected information for any reason, provided the requirements described above are met (e.g., the information is needed to meet reporting requirements, for use in a legal proceeding, etc.).
- Upon removal, the collected information is no longer PSWP and is neither confidential nor privileged.