

The Joint Commission's Treatment of Patient Safety Work Product

Confidentiality and Non-Disclosure Statement

Whereas, The Joint Commission accredits hospitals that may be members of a Patient Safety Organization listed by the U.S. Department of Health and Human Services pursuant to the Patient Safety and Quality Improvement Act ("Act"), a federal law that provides confidentiality and privilege for Patient Safety Work Product (PSWP);

Whereas, in order to comply with the Act, member hospitals must develop a Patient Safety Evaluation System (PSES), and have defined Patient Safety Work Product (PSWP) within their PSES, prepared in good faith, for submission to their Patient Safety Organization;

Whereas, The Joint Commission, in connection with accreditation and certification, may ask to view PSWP within the Hospital's PSES, in order to inform the accreditation/certification process and to assist efforts to improve patient safety in healthcare organizations;

Whereas, under the Act, a hospital's voluntary disclosure of PSWP to its accrediting body does not breach the confidentiality of PSWP, nor strip it of the privilege. When hospitals agree to permit The Joint Commission to access and review PSWP, the PSWP so viewed remains confidential and privileged;

Whereas, capitalized words and terms in this statement have the meaning ascribed to them in the Act;

Now Therefore, let it be known, that The Joint Commission:

- Uses appropriate safeguards to protect the confidentiality and privilege of Identifiable PSWP, reviewed for the purposes of accreditation/certification and Patient Safety Activities, and is mindful not to further use and disclose PSWP;
- Does not require hospitals to reveal communications with a Patient Safety Organization to which they belong; and will treat those communications like PSWP if hospitals voluntarily share these communications with The Joint Commission;
- Informs hospitals, without delay, if it becomes aware that one of its employees or agents has improperly used or disclosed Identifiable PSWP, in contravention of the Act; and
- Does not take accrediting actions against hospitals based on their good faith participation in the collection, development, reporting, or maintenance of PSWP.

For questions or comments about this statement, please contact Kathleen Pankau, Senior Legal Counsel, The Joint Commission, at kpankau@jointcommission.org