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## 42 C.F.R. § 3.206

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### Confidentiality of patient safety work product.

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(a) *Confidentiality.* Subject to paragraphs (b) through (e) of this section, and §§ 3.208 and 3.210 of this subpart, patient safety work product shall be confidential and shall not be disclosed.

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

(1) *Disclosure in criminal proceedings.* Disclosure of relevant patient safety work product for use in a criminal proceeding, but only after a court makes an in-camera determination that:

- (i) Such patient safety work product contains evidence of a criminal act;
- (ii) Such patient safety work product is material to the proceeding; and
- (iii) Such patient safety work product is not reasonably available from any other source.

(2) *Disclosure to permit equitable relief for reporters.* Disclosure of patient safety work product to the extent required to permit equitable relief under section 922 (f)(4)(A) of the Public Health Service Act, provided the court or administrative tribunal has issued a protective order to protect the confidentiality of the patient safety work product in the course of the proceeding.

(3) *Disclosure authorized by identified providers.* (i) Disclosure of identifiable patient safety work product consistent with a valid authorization if such authorization is obtained from each provider identified in such work product prior to disclosure. A valid authorization must:

- (A) Be in writing and signed by the provider from whom authorization is sought; and
  - (B) Contain sufficient detail to fairly inform the provider of the nature and scope of the disclosures being authorized;
- (ii) A valid authorization must be retained by the disclosing entity for six years from the date of the last disclosure made in reliance on the authorization and made available to the Secretary upon request.

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