



# CLIENT ADVISORY

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### **Patient Safety Organizations**

The Department of Health and Human Services (“HHS”) has proposed regulations to implement certain aspects of the Patient Safety and Quality Improvement Act of 2005 (“PSA”). These proposed regulations establish a framework by which hospitals, doctors, and other health care providers may voluntarily report information to Patient Safety Organizations (“PSOs”) on a confidential basis, for the analysis of patient safety events.

Under this proposal, a variety of types of organizations (public, private, for profit, and not-for-profit) can become PSOs, and offer their consultative advice to providers regarding patient safety events and quality improvement initiatives. The Agency for Healthcare Research and Quality will be implementing the process of PSO certification and listing.

In addition, these proposed regulations also establish confidentiality protections for the information that is assembled and developed by providers and PSOs (termed “patient safety work product”) and the penalties imposed for the knowing or reckless impermissible disclosure of patient safety work product.

This proposal cautions that the opportunity for a provider to report identifiable patient safety work product to a PSO does not relieve a provider that is a HIPAA covered entity of its obligations under the HIPAA Privacy Rule. The PSA indicates that PSOs are business associates of providers that are HIPAA covered entities and such providers will need to enter into business associate agreements with PSOs.

For more information please contact Popovits & Robinson at 708/479-3230.

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