

have actual knowledge that the information could be used, alone or in combination with other information that is reasonably available to the intended recipient, to identify the particular provider or reporter.

(3) *Re-identification.* A provider, PSO, or responsible person may assign a code or other means of record identification to allow information made nonidentifiable under this section to be re-identified by such provider, PSO, or responsible person, provided that:

(i) The code or other means of record identification is not derived from or related to information about the provider or reporter and is not otherwise capable of being translated so as to identify the provider or reporter; and

(ii) The provider, PSO, or responsible person does not use or disclose the code or other means of record identification for any other purpose, and does not disclose the mechanism for re-identification.

(b) Patient safety work product is non-identifiable with respect to a particular patient only if the individually identifiable health information regarding that patient is de-identified in accordance with the HIPAA Privacy Rule standard and implementation specifications for the de-identification at 45 CFR 164.514(a) through (c).

## Subpart D—Enforcement Program

### § 3.304 Principles for achieving compliance.

(a) *Cooperation.* The Secretary will, to the extent practicable, seek the cooperation of providers, PSOs, and responsible persons in obtaining compliance with the applicable confidentiality provisions.

(b) *Assistance.* The Secretary may provide technical assistance to providers, PSOs, and responsible persons to help them comply voluntarily with the applicable confidentiality provisions.

### § 3.306 Complaints to the Secretary.

(a) *Right to file a complaint.* A person who believes that patient safety work product has been disclosed in violation of the confidentiality provisions may file a complaint with the Secretary.

(b) *Requirements for filing complaints.* Complaints under this section must meet the following requirements:

(1) A complaint must be filed in writing, either on paper or electronically.

(2) A complaint must name the person that is the subject of the complaint and describe the act(s) believed to be in violation of the applicable confidentiality provision(s).

(3) A complaint must be filed within 180 days of when the complainant knew or should have known that the act complained of occurred, unless this time limit is waived by the Secretary for good cause shown.

(4) The Secretary may prescribe additional procedures for the filing of complaints, as well as the place and manner of filing, by notice in the FEDERAL REGISTER.

(c) *Investigation.* The Secretary may investigate complaints filed under this section. Such investigation may include a review of the pertinent policies, procedures, or practices of the respondent and of the circumstances regarding any alleged violation. At the time of initial written communication with the respondent about the complaint, the Secretary will describe the act(s) that are the basis of the complaint.

### § 3.308 Compliance reviews.

The Secretary may conduct compliance reviews to determine whether a respondent is complying with the applicable confidentiality provisions.

### § 3.310 Responsibilities of respondents.

(a) *Provide records and compliance reports.* A respondent must keep such records and submit such compliance reports, in such time and manner and containing such information, as the Secretary may determine to be necessary to enable the Secretary to ascertain whether the respondent has complied or is complying with the applicable confidentiality provisions.

(b) *Cooperate with complaint investigations and compliance reviews.* A respondent must cooperate with the Secretary, if the Secretary undertakes an investigation or compliance review of the policies, procedures, or practices of the respondent to determine whether it is complying with the applicable confidentiality provisions.