



## Red Flags Rule for Health Care Providers

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### **Background**

Health care providers will be required to comply with new requirements for fighting identity theft starting August 1, 2009 - when the Red Flags Rule of the Federal Trade Commission (FTC) goes into effect. Failure to comply with the Red Flags Rule could subject them to civil monetary penalties up to \$3,500 per violation. Therefore, doctor's offices, hospitals and others need to quickly implement measures to detect warning signs – or “red flags” – of identity theft in their day-to-day operations.

### **Issues for healthcare providers**

The FTC directs health care providers to watch out for these Red Flags:

- *Suspicious documents.* Has a new patient given you identification documents that look altered or forged? Is the photograph or physical description on the ID inconsistent with what the patient looks like? Did the patient give you other documentation inconsistent with what he or she has told you — for example, an inconsistent date of birth or a chronic medical condition not mentioned elsewhere? Under the Red Flags Rule, you may need to ask for additional information from that patient.
- *Suspicious personally identifying information.* If a patient gives you information that doesn't match what you've learned from other sources, it may be a red flag of identity theft. For example, if the patient gives you a home address, birth date, or Social Security number that doesn't match information on file or from the insurer, fraud could be afoot.

- *Suspicious activities.* Is mail returned repeatedly as undeliverable, even though the patient still shows up for appointments? Does a patient complain about receiving a bill for a service that he or she didn't get? Is there an inconsistency between a physical examination or medical history reported by the patient and the treatment records? These questionable activities may be red flags of identity theft.
- *Notices from victims of identity theft, law enforcement authorities, insurers, or others suggesting possible identity theft.* Have you received word about identity theft from another source? Cooperation is key. Heed warnings from others that identity theft may be ongoing.

The coverage of the Rule extends, among others, to businesses that provide goods or services and bill customers later and, as such, includes many hospitals and physician groups. Certain exemptions apply.

### **How to comply**

The Rule does not state specifically what a red flags program must look like. Instead, it leaves it up to the business to implement a program that meets the Rule's requirements. The FTC suggests the starting point for developing a program is the Guidelines issued with the Red Flags Rule. The Guidelines list the issues that must be considered in developing and maintaining a program appropriate for a business or organization. The FTC also suggests that businesses should draw on their own experience and knowledge about identity theft risks in developing their program.

The four basic steps set out by the FTC involved in designing a program to comply with the Rule are: (i) identify relevant red flags; (ii) detect red flags; (iii) prevent and mitigate identity theft; (iv) and update the program periodically. In addition, the program must

spell out how it will be administered and should be appropriate to the size and complexity of the company or organization involved.

### **How we can help**

King & Ballow can assist healthcare providers in the development and implementation of an Identity Theft Prevention Program to comply with the Red Flags Rule. We can advise how to respond when red flags of identity theft are spotted. We can also help with training staff and advise on how to monitor the work of your service providers.

For valuable reference material, please consult the FTC website below.

<http://www.ftc.gov/bcp/edu/pubs/articles/art10.shtm>

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