

AHCA 2008 CONVENTION
NASHVILLE, TENNESSEE
FINANCE COMMITTEE UPDATE

1. Federal Trade Commission issued, "Red Flag Rule"

- Requires financial institutions and creditors holding consumer or other "covered accounts" to develop and implement identity theft prevention programs effective November 1, 2008
- There are 3 parts to the Rule: Only 2 apply to Nursing Facilities
- Part 1:
 - Requires users of consumer reports (credit reports) to develop reasonable policies and procedures to respond to any notice of an address discrepancy they received from a consumer reporting agency
 - See separate document - Reed Smith guidance questionnaire
- Part 2:
 - Creditors issuing "covered accounts" must develop and implement a written identity theft prevention program – covering both new and existing accounts
 - Creditor (as defined in the Equal Credit Opportunity Act) is anyone who defers payment for services rendered
 - The Prevention Program must include reasonable policies and procedures for detecting and mitigating identify theft:
 - The Program must identify **relevant** "red flags"
 - The Program must detect "red flags"
 - The Program must respond appropriately to a red flag violation
 - The Program must be updated periodically to reflect change in risk
 - The Program must train staff to effectively implement the program
 - The Program must include effective oversight of service provider arrangements
- Non-compliance may trigger liability with the Federal Trade Commission
- The rule does not include a Private Right of Action Clause

SUGGESTED "REG FLAGS" EXAMPLES

- Patient or family brings a bill into facility which is wrong – wrong person, never received the services, services from a provider never visited, EOB for services never received
- Receives a collection notice from a bill collector for medical services not received
- Patient has benefits denied (Medicare or Insurance Co.) due to benefits exhaust or lifetime cap has been reached
- Patient has an insurance number, but no card or other documentation of insurance
- Records showing medical treatment that is inconsistent with the patients' medical needs
- Bill comes back as non-deliverable
- Patient's identification cards (social security, insurance, Medicare) appear to be altered