

HEALTH LAW ALERT



Shook, Hardy & Bacon understands the complex business, regulatory and litigation issues facing health care providers.

The SHB Health Law Practice is nationally renowned for its experience in developing delivery systems; physician/hospital ventures; managed care plans; ambulatory surgical and diagnostic centers; and multi-specialty clinics.

If you have questions about the Rule or need assistance developing and implementing your Identity Theft Prevention Program in accordance with the Rule, please contact

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FTC DELAYS ENFORCEMENT OF "RED FLAGS" RULE UNTIL AUGUST 1, 2009

The Federal Trade Commission (FTC) announced yesterday that it will delay enforcement of the new "Red Flags Rule" until August 1, 2009, to give creditors and financial institutions more time to develop and implement written identity theft prevention programs. Previously, the FTC had stated its intention to commence enforcement of the Rule effective May 1, 2009.

The Rule, codified at 16 C.F.R. § 681.2, requires "financial institutions" and "creditors" who have "covered accounts" to develop and implement a written Identity Theft Prevention Program and comply with certain other requirements set forth in the Rule.

The term "creditor" is defined broadly and includes businesses and organizations that provide goods or services and bill customers later. Health care providers are among the many entities that may fall within this definition.

The term "covered accounts" is defined broadly and includes any account that a creditor offers or maintains for which there is a reasonably foreseeable risk to customers or the creditor of identity theft. As an example, the FTC has suggested that there may be a reasonably foreseeable risk of identity theft in connection with accounts that can be accessed remotely, such as through the Internet or by telephone.

Creditors that have covered accounts—including health care providers, whether they are for-profit, not-for-profit or governmental entities—must now develop and implement a written Identity Theft Prevention Program in accordance with guidelines set forth in the Rule. Failure to comply could result in \$2,500 in fines for each violation. ■