



October 26, 2009

Senator Christopher J. Dodd
Chairman,
Senate Committee on Banking, Housing and Urban Affairs
534 Dirksen Building
Washington, DC 20510

Dear Mr. Chairman:

On October 20, 2009, the House passed HR 3763, legislation to amend the Fair Credit Reporting Act to provide for an exclusion from Red Flags Guidelines for certain businesses. Upon House passage, this bill was referred to your committee. On behalf of the American Health Information Management Association (AHIMA), I urge you to oppose HR 3763 because if enacted, it will elevate the risk of identity theft and healthcare fraud. The provisions of HR 3763 would exclude certain businesses—including health care practices with 20 or fewer employees-- from the term “creditor” under the Red Flags rule (RFRs).

According to the Center for Studying Health System Change’s report “A Snapshot of U.S. Physicians: Key Findings from the 2008 Health Tracking Physician Survey,” 47% of physicians are in practices no larger than 6. If you include practices with up to 50 physicians, this would equate to 66% of all practicing physicians in the United States. Excluding any portion of these offices from the Red Flags rules would make them an even larger target for identity theft and healthcare fraud perpetrators. This would be extremely detrimental to raising the awareness of identity theft and its impact on healthcare fraud.

AHIMA believes that if HR 3763 is enacted, it would create a void not only in the ability to protect an individual’s health information privacy, but also further inhibit our nation’s ability to fight the ongoing and burgeoning problem of healthcare fraud. Government and law enforcement agencies estimate healthcare fraud costs the United States between 3% and 10% of its healthcare expenditures each year—potentially \$226 billion! As you know, the Red Flags rule was implemented to raise awareness and act as a barrier against identity theft and healthcare fraud.

In order to fight healthcare fraud, it is imperative for doctors and patients to be aware of identity theft so that they can be diligent in identifying and combating it. The problems of identity theft and its impact on healthcare fraud far outweigh the requirements of the Red Flags rule. Robust privacy and security programs are currently required of providers due to HIPAA Privacy and Security Standards. The implementation of RFRs put in place to work in tandem is appropriate and reasonable.

The Red Flags Rules would require financial institutions and creditors to develop a written identity theft program that would include reasonable policies and procedures for detecting, preventing, and mitigating identity theft and enabling a financial institution or creditor to:

- Identify relevant patterns, practices, and specific forms of activity that are “red flags” signaling possible identity theft and incorporate those red flags into the program;
- Detect red flags that have been incorporated into the program;
- Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
- Ensure the program is updated periodically to reflect changes in risks from identity theft.

The program is also to be managed by the Board of Directors or senior staff of a financial institution or creditor, include staff training, and provide oversight of any service providers. In addition, the Federal Trade Commission provides a plethora of information on this topic at <http://ftc.gov/redflagsrule>.

A recent example of the medical identity theft dangers inherent to small offices concerns a recent medical identity theft/Medicare fraud case in Miami. Under this scheme, the perpetrators of the fraud trained young women to be medical clinic receptionists and also trained them to target Medicare patients. The next step would be for the young women to simply copy the patient demographic page from the medical record and any other information they could and simply hand-carry this information to the perpetrators who would file false claims. The young women would only work in the clinics for 90-120 days to minimize their risk of detection when the explanation of benefits and claims would be returned on the false claims submitted. The clinic staff would never get suspicious because the receptionist position is a high-turnover position

Senator, AHIMA is the premier association of over 54,000 health information management (HIM) professionals nationwide. Our members are dedicated to the effective management of personal health information needed to deliver quality healthcare to the public. Founded in 1928 to improve the quality of medical records, AHIMA is committed to advancing the HIM profession in an increasingly electronic and global environment through leadership in advocacy, education, certification, and lifelong learning. AHIMA members, health information management (HIM) professionals, work closely with healthcare clinical data that describes the diagnoses, treatments, and technology associated with healthcare delivery. Besides performing a multitude of processing and analysis functions, some HIM professionals convert clinical data into classification codes that display the diagnoses and procedures/technology employed on healthcare claims for payment and use in determining quality.

Thank you for your attention to this important matter. Again, AHIMA asks that you oppose HR 3763. If there is any further information we can provide, please do not hesitate to contact Don Asmonga, AHIMA's director of government relations at Don.Asmonga@ahima.org or at 202-659-9440. We look forward to working with you and your staff to ensure that our healthcare programs operate with the highest level of information detail and the greatest amount of efficiency.

Sincerely,



Linda L. Kloss, RHIA, CAE, FAHIMA
Chief Executive Officer

cc: Senate Committee on Banking, Housing and Urban Affairs