



## PROFESSIONAL LIABILITY

### Identity Theft and Financial Fraud Drive New FTC Security Rules

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Identity theft is a growing reality perpetrated by an increasingly sophisticated and organized criminal industry,

costing billions and disrupting the lives of millions of Americans. According to a report of the President's Identity Theft Task Force, identity theft, defined as a fraud attempted or committed using identifying information of another person

without authority, results in billions (one source estimated \$56 billion in the US alone) in losses each year to individuals and businesses. Health care facilities, including chiropractic practices, are widely recognized as a potential source of vital personal data that might easily be misdirected and abused. The security and confidentiality of that data has long been a paramount concern of responsible practitioners.

For years chiropractic practitioners have had to deal with the security, confidentiality and accountability rules in force under the HIPAA program. The US Department of Health and Human Services (HHS) issued patient privacy protections pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The first and until recently,

the only comprehensive federal privacy standards to protect patients' medical records and other health information provided to health plans, doctors, hospitals and other health care providers took effect on April 14, 2003.

Developed and enforced by HHS, HIPAA standards provide patients with access to their health care records and more control over how their personal health information is used and disclosed. The regulation covers health plans, health care clearinghouses, and those health care providers who electronically conduct certain financial and administrative transactions e.g., enrollment, billing and eligibility verification. Doctors of chiropractic in the United States are covered under this law.

The HIPAA rules are reasonable and so far, their enforcement has been fair and directed at protecting the consumer, and not in any way extended into a witch hunting mechanism against providers. Let's hope it stays that way.



# ICA

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Dear Colleague:

I want to ask you today to add your voice and strength to the efforts underway at the ICA on behalf of chiropractic patients and practitioners worldwide. Chiropractic's challenges and opportunities have never been more urgent and every doctor of chiropractic in the world has a personal responsibility to contribute to the difficult struggle currently being waged for chiropractic's future.

Joining ICA as an active member is an effective and timely way to contribute to the determined efforts that are necessary to secure patient freedoms, maintain chiropractic's professional independence and gain for chiropractic its rightful place as a full partner in national health care reform in the United States.

ICA has clearly articulated its principles and priorities and I want to extend a sincere invitation to everyone to become an ICA member and to personally connect with the exciting programs and initiatives we have ongoing to secure the brightest possible future for the chiropractic profession. Chiropractic is under attack by critics and competitors in a way that is increasingly active and determined. ICA has a vitally important role in preserving, defending and expanding chiropractic worldwide as a separate and distinct science, art and philosophy. Your participation as an ICA member is crucial to our ability to do what needs to be done if chiropractic as we know and value it is to survive. Now is not the time to stand on the sidelines and let others determine your fate.

Together, we can do so much more than we can individually. A growing and powerful collective voice through the ICA can help get the job done for chiropractic. Your participation in ICA is not only welcome and wanted, it is needed to support the efforts underway at the ICA to strengthen and develop chiropractic worldwide. There is a membership application on page 9. Join us and together let's fight for chiropractic's future.

Sincerely yours,

Gary L. Walsemann, DC, FICA  
ICA President

#### Identity Theft Red Flags

In a new security and confidentiality effort, the Federal Trade Commission (FTC) and the federal financial institution regulatory agencies have published formal national rules on identity theft "red flags" and address discrepancies. The final rules implement sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003, legislation intended to help prevent identity theft and resulting fraud and financial theft that inevitably follows.

Originally scheduled to go into full effect, with federal agencies beginning enforcement on May 1, 2009, because of confusion over just what entities and businesses are covered, FTC enforcement was postponed until August 1, 2009. This additional delay is intended to help businesses to develop and implement written identity theft prevention programs. While active nationwide enforcement by the FTC has been postponed, businesses and other covered entities are still expected to be in compliance and might be held liable for security breaches which, according to the new rules, they should have prevented.

The new FTC rules require each financial institution and creditor that holds any consumer account, or other account for which there is a reasonably foreseeable risk of identity theft, to develop and implement an Identity Theft Prevention Program for combating identity theft in connection with new and existing accounts. The Program must include reasonable policies and procedures for detecting, preventing, and mitigating identity theft and enable a financial institution or creditor to:

1. 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.
2. Detect red flags that have been incorporated into the Program.
3. Respond appropriately to any red flags that are detected to prevent and mitigate identity theft.
4. Ensure the Program is updated periodically to reflect changes in risks from identity theft.

The FTC Red Flags Rule requires many businesses and organizations to implement a written Identity Theft Prevention Program designed to detect the warning signs — or "red flags" — of iden-