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HEALTHCARE BILLING AND COLLECTIONS:
THE INDUSTRY PERSPECTIVE

Section I. Introduction

Summary of Purpose
This White Paper describes the practices of healthcare collection agencies, the various services they render on behalf of healthcare providers, the legal framework within which healthcare collection agencies operate, and the manner in which healthcare receivables are managed. The intent of this White Paper is to provide factual information about the healthcare billing and collections industry to illustrate that it is not the fact that healthcare providers bill for services and/or collect on medical debt that has caused or can cure the challenges faced by the uninsured or underinsured patient.

ACA International
ACA International, The Association of Credit and Collection Professionals (ACA), formerly known as the American Collectors Association, Inc., is a trade association of domestic and international credit and collection professionals who provide a wide variety of first- and third-party accounts receivable management services to many different industries, including the healthcare industry. Headquartered in Minneapolis, ACA represents approximately 5,300 such members of the credit and collection industry.

ACA is concerned over public policy issues associated with the billing and collection of medical debt. As the number of underinsured or uninsured Americans increases annually, it is well documented that the challenging economic circumstances hospitals find themselves faced with, combined with the web of federal laws and regulations that assure Americans receive necessary medical care and treatment, make it necessary for healthcare providers to bill for services and undertake collection activities.

Members of ACA are dedicated to handling billing and collection matters in a respectful, responsible and lawful manner – at all times in accordance with detailed consumer protection laws and regulations and under the authority and oversight of the healthcare provider. Of ACA’s approximately 5,300 members, nearly three-fifths are engaged in billing and collections on behalf of healthcare providers. These contracted billing and collection service companies are bound to comply with the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, the Federal Trade Commission Act (notably Section 5), Gramm Leach Bliley Act (including the Federal Trade Commission’s Gramm Leach Bliley Safeguards regulations), and most recently the federal regulations promulgated by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). In addition, many states have also enacted laws regulating billing and collection companies and privacy laws.
The Problem
It is noteworthy that interest in national healthcare reform issues is increasing among the public, healthcare industry leaders, physicians, academics, consumer/patient advocacy groups, and elected officials. The Healthcare Financial Management Association (HFMA) has noted that charging, billing and collecting consumes 31 cents out of every healthcare dollar. The members of ACA International provide services to healthcare providers that reduce the business cost of healthcare delivery. The data and issues are dynamic – but clearly indicate that there are problems with the current healthcare financing system.

While much confusion exists over the magnitude and root causes of this significant problem – this much is clear: some percentage of individuals who receive healthcare services and develop medical debts cannot or do not pay their bills. Regardless of whether the healthcare is provided by public or private healthcare organizations and regardless of whether there are third-party sources of payment for those medical debts (sources other than the patient himself or herself) – every healthcare provider renders care and treatment at a real cost using real supplies and equipment that have a real cost – for which no payment will be forthcoming.

Despite the tremendous amount of journalistic energy, public policy research, political interest, and proposed legislation pertaining to these issues – there is no story, article, or analysis to suggest or document that the practices of healthcare collectors are unlawful, illegal, or improper. As a factual matter, patients may believe that the amount of their final medical bill is “unfair” – particularly if they have no health insurance and they understand that patients who do have health insurance receive discounts negotiated by the insurance company and therefore pay less for the same services. Patients may also feel it is unfair to receive numerous medical bills from various healthcare providers who from the patient’s perspective provided healthcare services at the same time and in the same place (e.g., a hospital bill, a surgeon’s bill, and a radiologist’s bill for the same dates of service). However the fact that there are medical bills and that those bills have to be paid is not in and of itself “unfair” nor are lawful attempts to bill for and collect those medical debts.

As noted above, this White Paper provides a summary of what a healthcare billing and collection agency does, how a relationship is formed between a healthcare provider and a billing and collection agency, how a healthcare provider and a billing and collection agency work together to resolve unpaid medical debts, and an overview of the complex of laws and regulations that dictate the manner in which a healthcare billing and collection company’s services are rendered.
Section II. Market Overview

The White Paper issued by the American Hospital Association (AHA) in December, 2003\(^1\), carefully summarizes the complex of federal laws requiring healthcare providers to bill and pursue collection activities in regard to medical debts. The AHA White Paper illustrates how healthcare providers are required to document that they have undertaken the following activities:

- Determine patient’s eligibility for charity care
- Bill the party responsible for the patient’s medical bill
- Issue subsequent bills
- Issue collection letters
- Make telephone calls or initiate personal contacts
- Evaluate the need to pursue legal means or court action to obtain payment.\(^2\)

In addition, healthcare providers are required to treat all patients, regardless of economic circumstances or background, in a similar manner for purposes of billing and collections. Use of a third-party vendor to assist in billing and collections activities is a reasonable and cost-effective means of fulfilling these responsibilities. Throughout this paper the terms third-party vendor and billing and collection company are used interchangeably.

Healthcare Providers and Their Contracted Billing & Collection Services Partners

Healthcare providers find themselves in a highly competitive and regulated environment. Managed care payers often demand deep discounts on fees from healthcare providers as a condition of directing their insureds to the healthcare providers’ respective practices or hospitals. Additionally, the federally funded Medicare and Medicaid programs are continually looking for ways to cut costs via reduced reimbursements to healthcare providers. These pressures to reduce or discount charges, coupled with forces that are driving up operating expenses (such as the need to adopt new technologies to stay competitive), the increasingly high cost of pharmaceuticals and costs incidental to the chronic nursing shortage, create a pressing need for healthcare providers to collect every dollar owed. In response, virtually all healthcare providers actively look for ways to improve the cost effectiveness of their non-patient care operations, including receivables operations.

One way to achieve greater cost effectiveness in receivables management is to partner with companies that specialize in billing and collections. These companies invest in sophisticated technology and employ highly trained personnel, allowing them to function as an extension of the healthcare providers’ accounts management department. This partnership allows the healthcare provider to remain financially viable while staying focused on their core competencies and ultimate mission of providing quality patient care.

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\(^2\) See, Medicare Provider Reimbursement Manual, in particular Sections 308 through 320, detailing the “allowable” bad debt for recovery, proper processes for administering indigent or charity care programs, and the timing on each.
Common reasons a healthcare provider may choose to partner with a billing and collection company may include any or all of the following:

| Customer Service/ Patient Advocacy | Billing and collection companies are skilled at obtaining missing insurance and free or charity care qualifying information. They are able to identify patients who meet medical assistance certification standards or the healthcare providers’ requirements for charity or free care and help patients understand the criteria for each. |
| Economies of Scale | A billing and collection company may have a broad base of experience working with various third-party payers on behalf of multiple healthcare providers, allowing the agency to keep current with any unique procedures such payers may have for submitting or resolving claims. This allows healthcare providers to focus on patient care functions. |
| Documentation | A billing and collection company may be able to document more cost effectively the progress made handling unresolved patient accounts, interactions with payers, and determinations of uncollectability through regular reports and similar materials. |
| Staffing issues | Healthcare providers may be understaffed and unable to handle the full volume of its patient accounts receivable or revenue management activities. Alternatively, billing and collection company staff members often have more training or experience in resolving patient issues about their accounts and work extended hours, providing better coverage for patient calls and inquiries than would otherwise be possible if handled by the healthcare provider’s business office. |
| Technology | A billing and collection company may have more robust billing, insurance follow up, patient accounting, patient history or other information systems. For example, billing and collection companies handling medical billing may perform clearinghouse functions or may have more up to date electronic systems for processing transactions in accordance with HIPAA or other applicable standards for electronic transactions. Billing and collection companies may also have different available resources, allowing them to generate large volumes of correspondence, report limited credit information, analyze credit information, verify insurance information, and interact electronically with third-party payers. |

What Contracted Billing and Collection Companies Do
At the outset, it cannot be overstated that contract billing and collection companies function as the agents of and under the authority of healthcare providers. They take all
direction from the healthcare provider when performing services. In general, a “debt collector” or “collection agency” is,

any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. ³

The business relationship between a healthcare provider and its billing and collection company may begin as early as the time a patient registers or begins the admissions process by checking the patient’s eligibility under particular health insurance programs for dates or services or specific types of medical care or treatment. Conversely, the relationship could begin as late as 120 days (or later) after care or treatment has been rendered and part or all of a medical bill remains unpaid, despite a healthcare provider’s own billing and collection efforts. In other words, a healthcare billing and collection company may assist a healthcare provider with matters related in any way to the patient revenue cycle or associated business functions.

Historically, the members of ACA International have functioned as third-party collectors acting at the direction of their healthcare provider clients. This remains the dominant role ACA members play in the healthcare receivables environment even today. However, over the past ten to fifteen years, healthcare providers have exhibited a growing need to hold down the costs of healthcare including costs incurred to operate their accounting and billing offices. In response to this need, ACA members have expanded the services they offer to healthcare providers. In doing so, healthcare providers are able to take advantage of the highly trained staff, compliance information and sophisticated technology of today’s state-of-the-art billing and collection companies.

The types of services billing and collection companies may offer to their healthcare provider clients certainly vary with the needs of the healthcare provider. Services that do not involve the collection of a debt that has been determined by the healthcare provider to be in default, such as those described below List A, are generally not subject to the requirements of the Fair Debt Collection Practices Act, nor do they trigger collection agency licensing requirements at the state level. Yet these services must all be performed at the direction and to the satisfaction of the healthcare provider in accordance with the Health Insurance Portability and Accountability Act, the Fair Credit Reporting Act, hospital billing and collection policies and applicable state consumer protection statutes. See Section IV for a complete description of applicable laws and regulations impacting the delivery of these services.

³ Fair Debt Collection Practices Act, 15 U.S.C. Section 1692a(6). Subsection 5 of Section 1692a defines a “debt” as “any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.” Technically collection activities undertaken by a debt collector in regard to an obligation that is not “in default” at the time it is referred to a debt collector are not governed by the FDCPA.
The types of services contracted billing and collection companies may offer to healthcare providers include the following:

**List A - Services That Do Not Include Third-Party Collection Activities**

*Admission and Registration Support.* Because of their experience in resolving patient receivables, billing and collection companies or their personnel may be used to contact patients prior to an appointment with the healthcare provider to develop complete financial background information, including information about any health insurance to which a patient may be entitled. A billing and collection company representative may “pre-register” a patient – meaning that they may interact with the patient’s insurer to verify insurance coverage for particular dates of service or services to be rendered, confirm the insurer’s preferred formats for billing and any unique claims attachment requirements, or get any necessary pre-authorization paperwork from the insurer.

*Certification for Medical Assistance, Charity or Free Care.* When patients are treated in a hospital and do not have medical insurance or the ability to pay for the services rendered, they may qualify for Medicaid benefits, regional medical assistance programs, hospital-sponsored charity or free care programs.

Healthcare providers may engage billing or collection companies to work with their social workers or financial counselors to assist patients in qualifying for medical assistance, indigent care programs, charity or free care programs, or other assistance programs that may be available under applicable circumstances. In this instance, collection agencies would work directly with patients to assist them in assembling relevant background information, documentation regarding income and assets, or other pertinent and required materials. In this role, agencies assist hospitals by becoming “patient advocates” and literally walk patients through the Medicaid or other assistance application process.

With the Centers for Medicare and Medicaid Services’ recent guidance on “medical indigence,” billing or collection companies may be called upon more often to assist healthcare providers in obtaining documentation from the patient which is necessary to understand the patient’s financial constraints.

*Customer Service.* Often the billing or collection company representative is the first “live” person to have contact with the patient regarding the bill. The patient may have received several statements and/or invoices from the healthcare provider that he or she has not paid simply because he or she does not understand the charges. The representative can often walk the patient through the bill, providing explanations of what has already been paid by insurance and what is the remaining balance (patient responsibility).

*Medical Coding or Medical Records Management.* Billing and collection companies may take diagnostic and other “text” details from encounters with patients and convert them per standardized formats and code sets, enabling healthcare providers to submit
claims for such services or otherwise record them per federal and other guidelines. Billing and collection companies may also assist healthcare providers in managing the paperwork or electronic medical records systems they use.

*Medical Billing.* Billing and collection companies may assist healthcare providers in formulating claims for reimbursement or itemized bills, per any applicable formats, and in submitting claims or itemized bills on a timely basis to patients and health insurers or other third-party payers.

*Clearinghouse Services.* If the patient information and accounting systems of healthcare providers and third-party payers are not compatible, billing and collection companies may be called upon to translate non-standard data elements, code sets, or formats between and among payers and healthcare providers to allow for reimbursement for healthcare services.

*Insurance Follow Up.* Though healthcare providers, in good faith, file claims with insurance companies and other third-party payers, for any variety of reasons those payers may not always adjudicate those claims as one might expect. Unfortunately, this requires healthcare providers to status accounts for follow up and, after the passage of time, to actively contact payers to determine why particular claims have not been honored. In some instances, supplemental information must be submitted, which the agency is responsible for assembling and submitting. In other instances, there may be coding or formatting discrepancies with a claim which require re-submission. In still other situations, there is not a specific explanation for inaction on a claim. After submitting a claim or itemized bill, a collector may take steps necessary to confirm that a patient or third-party payer has received the bill on a timely basis and that the bill is complete and ready for processing or claims adjudication. A billing and collection company representative may place numerous follow up calls to ascertain the status of submitted claims, to identify early any problems or obstacles to adjudication, or to learn quickly if a claim has been denied in order to process timely appeals or properly submit a claim to another third-party payer.

*Re-Billing and Follow Up Prior to Expiry of Claims Filing Deadlines.* For a variety of reasons, claims for reimbursement for healthcare services may need to be re-billed, billed to a third-party payer with secondary (or primary) responsibility, or otherwise re-submitted. The sheer volume of accounts falling into this category present a serious problem for healthcare providers, particularly given the time constraints associated with individual payers’ various statutes of limitations. To properly handle patient accounts falling into this category, significant staffing and individualized attention to the unique circumstances associated with each claim to be re-billed is required. Healthcare providers’ patient billing and staffing complement typically is not sizable enough to handle new billing for ongoing dates of service and re-billing of previously billed (but currently unpaid) accounts. Healthcare providers often outsource this work to ensure that the accounts can be worked in a timely manner, avoiding filing deadlines that would render the accounts uncollectible. In some instances, collection agencies will work with healthcare providers to develop an analysis of errors or billing discrepancies which result
in the need to re-bill, assisting healthcare providers to improve their patient accounting processes.

*Collection of Co-pays, Deductibles, Out-of-pocket, or Coinsurance Amounts.* Billing and collection company representatives may assist healthcare providers in collecting any patient pay portions of medical debts incurred – which services may be rendered before, during or after the date of service.

*Cash Posting.* Billing and collection companies may assist healthcare providers in updating their patient accounting systems with documentation of payments or remittance advices received, reconciling batch reports (which contain detail on large numbers of individual patient payments), or in resolving “credit balances” (meaning situations in which a healthcare provider may appear to have been overpaid for billed services by one or more payers).

*Charge Master Review.* Billing and collection companies may perform charge master or similar audits on behalf of healthcare providers. These reviews study a healthcare provider’s computerized or other electronic schedule of charges to assure it is error free and/or in sync with a third-party payer’s approved schedule(s) of charges.

*Training and Continuing Professional Education.* Billing and collection companies and their staff members may be engaged by healthcare providers to assist in the development and conduct of training, capacity building and continuing professional education programs.

*Temporary or Support Services.* Occasionally, billing and collection companies may place members of their workforce on site at a healthcare provider’s location to assist with cash posting, admitting and registration, and billing and collections support. Like any business, healthcare providers find themselves in situations where they are short-staffed, though only for a predicable period of time. Due to the expertise at healthcare billing and collection companies, these companies may lease out or lease in staff to assist healthcare providers with staffing shortages or similar budgetary constraints. However, many companies have reported that because of the quality of their personnel, what was initially contemplated as temporary support has evolved into relationships that last months or even years.

*Credit Reporting.* Healthcare providers may directly, or through their collection company partners, report limited information about past due medical debts to the credit reporting agencies (e.g., Experian, Trans Union, Equifax). Any reporting of credit or financial information about consumers may only be done in compliance with the federal Fair Credit Reporting Act and HIPAA.

List B - Services That Include Third Party Collection Activities

*Self Pay Collections.* As noted above, healthcare providers who participate in the Medicare and Medicaid programs are obligated by law to make a good faith effort to
collect medical debts from all patients. Collection companies may be engaged to receive accounts 91+ days past due. Regulated by the Federal Trade Commission, all third-party debt collection or resolution activities undertaken in regard to past due medical debts must be conducted in compliance with the Fair Debt Collection Practices Act. A number of states also maintain certification or licensure programs, established for consumer protection purposes that require collection companies to first obtain a license or collection agency certificate before undertaking collection activities in regard to local consumers. In some instances healthcare providers may “second place” accounts – meaning that one collection company is permitted to service accounts for a stated period of time and thereafter is expected to forward the accounts to a second and independent collection company for further processing.

*Legal Process.* Healthcare industry estimates indicate approximately 3 to 4 percent of hospitals gross revenue is categorized as bad debt and charged off to profit or loss by healthcare providers annually (this does not include charity care, which accounts for approximately another 2 percent of gross revenue industry wide). Such bad debt accounts are defined as those that the healthcare provider has determined to be uncollectible. Based upon an informal survey of ACA members who specialize in healthcare billing and collections, estimates indicate that when bad debt accounts are forwarded to collection companies, only approximately 4.57 percent of these forwarded accounts are ever pursued through legal process. Legal process would require the healthcare provider to retain counsel, directly or indirectly, and to pursue the collection of the account in accordance with the Rules of Civil Procedure of the jurisdiction where the patient resides.

**Section III. The Billing and Collection Company Selection Process**

*Request for Proposals (“RFP”)*

Like any other sophisticated credit grantor, healthcare providers frequently utilize a formal process, called a Request for Proposal (RFP) to select their contract billing and collection company partners. RFPs ask a series of questions, somewhat unique to a healthcare provider’s own objectives and philosophy, which are intended to allow the healthcare provider to gain an understanding of an agency’s people and system capabilities, experience with similar types of work and even their business philosophies. Through the RFP process, healthcare providers may responsibly evaluate the financial strength, operational infrastructure, expertise, and professionalism of potential contract billing and collection company partners.

In some instances a healthcare provider may not utilize the formal RFP selection process. Instead, a healthcare provider may solicit proposals from healthcare collectors with whom it may be familiar, or who it knows are utilized by other healthcare providers. Regardless of the selection process utilized, HIPAA’s Privacy Rule⁴ requires healthcare providers to obtain reasonable assurances that their contract billing and collection companies or “business associates” have the means to adequately safeguard the

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⁴ See, 45 CFR Section 164.504(e).
confidentiality and integrity of patient’s health information and to memorialize the services to be rendered by the billing and collection company in a business associate agreement.

Due Diligence

The due diligence process associated with evaluating potential companies is the most important part of the selection process. Healthcare providers must assure themselves that they have chosen a company that not only presents itself well during the sales process, but will also deliver at expected quality levels on a day-to-day basis and always in a patient-friendly manner.

During the due diligence process, a healthcare provider may study:

- Agency’s financials
- Insurance and bonding certificates
- State licenses, registrations and credentialing
- Talk-off scripts (the scripts used by collectors when interacting with patients)
- Call monitoring and customer service procedures
- Quality control procedures
- Sample letters and forms
- Reporting formats
- Staff hiring process, background checks
- Staff training and credentialing
- Commitment to continuous progress
- Document retention policies
- System capabilities
- Information systems and telecommunications systems and resources
- Biographies of key personnel
- Staffing plans; and
- Proposed work flows.

Follow-up interviews may occur at a healthcare provider’s site or during a visit and walk through of a billing and collection company’s offices. In addition, healthcare providers may obtain references from other healthcare providers using any company’s services or ask to study recovery or other statistics on comparable projects. Often, healthcare providers will also ask detailed questions about a company’s litigation and complaint history – both related to contract disputes and consumer complaints.

Authority

A billing and collection company is an “agency” within the basic legal definition of agent. The scope and nature of a third party’s authority to act is unique to the scope of services the billing or collection company and healthcare provider agree that the company can perform on the healthcare provider’s behalf. What a healthcare billing or collection company is permitted to do to collect medical debts on behalf of a healthcare provider is spelled out in an agreement for services between the parties. How and when a billing or
collection company may communicate with patients and how a billing or collection
company may use and disclose patients’ health and financial information, is
circumscribed by a group of federal and state laws and regulations, many of which have
consumer protection purposes.

Billing and collection companies are regulated by the Federal Trade Commission and by
state licensing commissions and boards as well as any applicable state consumer
protection oriented governmental agencies. Some of the major federal laws regulating
the activities of billing and collection companies are summarized in Section IV.

Section IV. Laws & Regulations Governing Healthcare Billing and Collections

Healthcare billing and collections activities are strictly regulated under formidable
overlapping laws. This complex of laws defines how billing and collection companies:
• Use and disclose consumers’ sensitive or non-public health and financial
  information,
• Assure the availability, integrity and confidentiality of consumers’ information,
• Communicate with consumers – including restrictions on time and manner of
  contacting consumers, and
• Advise consumers of their rights under applicable laws (including the right to
  dispute and/or seek verification of alleged debts due).

Examples of major laws governing healthcare billing and collections activities are the
following:
• The Fair Debt Collection Practices Act (FDCPA)
• The Fair Credit Reporting Act (FCRA)
• The Federal Trade Commission Act (the FTC Act)
• The Gramm Leach Bliley Act (GLBA)
• The Health Insurance Portability and Accountability Act of 1996, and regulations
  promulgated by the U.S. Department of Health and Human Services thereunder
  (HIPAA)
• Various state laws and regulations, most with consumer protection objectives.

Each of these laws is summarized below. Because of the nature and objectives of these
laws there is considerable overlap among them, even though various governmental bodies
may be responsible for enforcing each.

ACA sponsors extensive educational, training and compliance initiatives to assist its
members in understanding and complying with applicable laws and regulations.
Moreover, ACA’s members dedicate themselves to handling billing and collection
matters in a respectful, responsible and lawful manner and agree to perform services in
accordance with the ACA International Code of Ethics and Operations.
Fair Debt Collection Practices Act  
(15 U.S.C. §§ 1692-1692o, as amended)

Under this Act (Title VIII of the Consumer Credit Protection Act), third-party debt collectors are prohibited from employing deceptive or abusive conduct in the collection of consumer debts incurred for personal, family, or household purposes. Such collectors may not, for example, contact patients at odd hours, subject them to repeated telephone calls, threaten legal action that is not actually contemplated, or reveal to other persons the existence of debts.

Fair Credit Reporting Act  
(15 U.S.C. §§ 1681-1681(u), as amended)

The Act protects information collected by consumer reporting agencies such as credit bureaus, medical information companies and tenant screening services. Information in a consumer report cannot be provided to anyone who does not have a purpose specified in the Act. Companies that provide information to consumer reporting agencies also have specific legal obligations, including the duty to investigate disputed information. Also, users of the information for credit, insurance, or employment purposes must notify the consumer when an adverse action is taken on the basis of such reports. Further, users must identify the company that provided the report, so that the accuracy and completeness of the report may be verified or contested by the consumer.

Gramm-Leach-Bliley Act  
(codified in relevant part at 15 U.S.C. §§ 6801-6809)

Title V, subtitle A, of this Act, Pub. L. No. 106-102, §§ 501-510, 113 Stat. 1338, 1436-45 (Nov. 12, 1999) requires the FTC, along with the Federal banking agencies, the National Credit Union Administration, the Treasury Department, and the Securities and Exchange Commission, to issue regulations (codified at 16 CFR Part 313) ensuring that financial institutions protect the privacy of consumers' personal financial information. The FTC’s GLBA Safeguards regulations classify collection agencies as “financial institutions” based on the services they provide and the significant non-public consumer information they use in providing debt collection services and as a result the regulations require debt collectors to design, implement and maintain safeguards to protect consumer’s non-public information.

Federal Trade Commission Act  
(15 U.S.C. §§ 41-58, as amended)

- Section 5 of the FTC Act prohibits unfair or deceptive acts or practices in the marketplace.
- The FTC has broad enforcement powers under Section 5 of the FTC Act and has, for example, determined that breaking privacy promises to consumers is an unfair or deceptive act under this law.
Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), including related regulations (45 CFR Parts 160 and 164) – collectively, “HIPAA”

- Under HIPAA, healthcare billing or collection companies - if engaged in certain medical billing activities - may meet the definitional requirements for “healthcare clearinghouses” and as such are “covered entities” under HIPAA. If classified as “healthcare clearinghouses,” these companies would not only be regulated by the FTC but would also be subject to the regulatory jurisdiction of the Department of Health and Human Services and would need to assure their own direct compliance with HIPAA.
- As “business associates” of healthcare organizations, healthcare billing and collection companies are bound to use and disclose consumers’ health information in the same manner as healthcare providers would, consistent with HIPAA’s Privacy Rule – and to assure the integrity, confidentiality and availability of that information consistent with HIPAA’s security regulations.

State Laws
Many states have also enacted their own debt collection practices laws affording consumers further protection in certain circumstances. Many states also regulate the activities of collection agencies through licensing and bonding requirements.

Section V. Conclusion

In conclusion, ACA believes the comments of Richard Clarke, president and CEO of the Healthcare Financial Management Association (“HFMA”), the leading professional association of healthcare financial managers, succinctly reacted to the adverse publicity by stating, “[u]nfortunately the reader might conclude that the real problem relates to how hospitals pursue collections.” Instead, Clarke explained,

“[h]ow hospitals pursue collections is not the main issue – the complexities and costs of administering the U.S. healthcare system is. This fragmented and broken system of charging, billing and collections consumes about 31 cents out of every dollar. Medicare regulations (reported to be more voluminous than the entire IRS tax code), byzantine payment rules, 40-plus million uninsured people, complex payment formulas, and so on, are the real problem. The system works against all of us.”

ACA members cannot speak to the adequacy or inadequacy of the process by which healthcare providers establish fees and charges for services. However, ACA members can speak to the adequacy of the existing framework of state and federal laws, rules,

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1 HFMA has over 32,000 members employed by hospitals, integrated delivery systems, long-term and ambulatory care facilities, managed care organizations, medical group practices, public accounting and consulting firms, insurance companies, government agencies and other healthcare organizations. Among the proactive and consumer respectful programs HFMA has sponsored is a voluntary “Patient Friendly Billing Project.” See either www.patientfriendlybilling.org or www.hfma.org for more information.

2 Richard Clarke, Letter to the Editor, WALL STREET JOURNAL, November 28, 2003
regulations, interpretive manuals and guidance documents that dictate proper billing and collection activities and applaud lawmakers for establishing sound, ethical and effective consumer protections.

ACA members are gravely concerned with the difficulties faced by patients who cannot pay their medical debts – particularly those patients with limited means and no third-party alternatives for payment of bills associated with healthcare services they need. ACA and its members, long trusted partners of their healthcare provider clients, are committed to working cooperatively to help resolve these challenges.

Supplemental Materials
ACA International has assembled a variety of supporting materials, available as a separate document. These materials include:

A. Additional information on the RFP process
B. A sample Business Associate Agreement
C. Medicare Provider Reimbursement Manual, Sections 308-316
D. Summary of state laws
E. Letters from healthcare consumers to billing and collection companies expressing gratitude for the company helping the consumers work through their financial difficulties
Appendix A. Flowchart Illustrating the Movement of a Healthcare Receivables Account from a Healthcare Provider to a Billing and Collection Company

PROVIDER

Admitting/registration process
- gather patient info & distribute
  Free Care info

Provide Healthcare Service

Insurance Companies

Billing Efforts

Patients

Pmt rcvd in reasonable time frame

Close Account

Yes

No

Account Sent to Collection Agency

Yes

Coll. Agency Activity
- Call Seeking Insurance Info
- Call Arrange Payment
- Bill Insurance Companies
- Send Letter Seeking pymnt or insurance information
- Evaluate for Charity Care or Discounts

No

Patient Pays

Yes

No

Pt. Qualifies For Charity / Discounts

Charity / Discount = 100% of Bill

Yes

Close Account

No

Patient Pays

Account Resolved

Provider decides if it should use legal means to collect

Yes

Account returned to provider as uncollectible. Include indication of patient ability to make payment.

No

All activities performed within guidelines dictated by HIPAA, FDCPA, GLB, FCRA & other state specific laws