Sample Business Policy Regarding Non-Application of Red Flags Rule

Note: This statement should be modified so that the person or persons involved are making accurate statements about their business practices related to payment for services by patients, the extension of credit to patients, and their understanding of the Red Flags Rule. This kind of a statement is not required if a business is not a “creditor” under the Rule, but is included here as an option for those therapists who desire to take this approach.

Statement Regarding Non-Applicability of Red Flags Rule

I (we) have made a good faith determination that this practice, a sole proprietorship (partnership or professional corporation), is not covered by the Red Flags Rule. This business is a private practice where I (we) provide mental health/psychotherapy services to patients.

I (we) have read the Red Flags Rule and other related information and believe that the Red Flags Rule does not apply to this practice. I (we) believe that this business is not a “creditor” under the definition and meaning of the term in the Rule. I (we) do not regularly extend, renew, or continue credit. I (we) do not regularly arrange for the extension, renewal, or continuation of credit. I am (we are) not an assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

Furthermore, I (we) do not regularly engage in creditor-debtor relationships with patients because that could place me (us) in unethical dual relationships with patients. In fact, such relationships are avoided wherever possible. I (we) do not ordinarily or regularly allow for installment payments or multiple payments after services are completed. I (we) do not regularly open or maintain credit accounts. My (our) patients regularly pay for services at the time those services are provided (either immediately before or immediately after sessions), or they make incremental, substantially contemporaneous payments as our work progresses over time.

I (we) understand that combating identity theft is a worthwhile objective, although the risk of identity theft in my (our) practice is minimal. I (we) know all of my (our) patients personally. I have read articles and other materials authored by the Federal Trade Commission and the World Privacy Forum. I (we) have also read information published by the California Association of Marriage and Family Therapists, my (our) professional association. I (we) will carefully consider how to identify and detect suspicious activity in my (our) practice, and when necessary, respond in a manner I (we) determine to be appropriate in order to prevent identity theft or to mitigate the harm it can cause. My (our) response will be based on legal, ethical, and clinical considerations and obligations so as to not negatively affect the therapist-patient relationship I (we) have with patients.

Date _______________________________________

Signature ____________________________________
(or signatures)

Name_______________________________________

Sample written program to comply with the Red Flags Rule—use the sample template from the FTC.