NEW FACTA MEDICAL RULES
EFFECTIVE April 1, 2006

The **F**air and **A**ccurate **C**redit **T**ransactions **A**ct has been amended to include new Medical Rules, which take effect on April 1.

Under these rules, the creditor may NOT take the consumer's

- ✓ *physical*
- ✓ *mental*
- ✓ *behavioral health*
- ✓ *medical condition*
- ✓ *history of medical condition or treatment*
- ✓ *type of treatment*
- ✓ *or prognosis*

into consideration when making a credit decision.

If the applicant who is wheeled into the bank on a gurney assisted by a nurse carrying oxygen and medical supplies has sufficient income, credit history, identification, etc. necessary to qualify for the loan requested, the loan must be granted even though the applicant may pass away right after the closing. This same loan would be approved if the applicant were a marathon runner and that runner could be struck by a vehicle the day following the closing. That's the point. EVERYONE is the same under the law. Creditors never question the mortality of healthy-looking or young applicants and their vulnerability is a reality. Car accidents, crime, war, terrorism, loss of job, etc. all take their toll. It is true that the ill and the elderly have more stacked up against them, but reality is that everyone is vulnerable when it comes to loss of life or income. That's the reason for the new Medical Rules. EVERYONE regardless of race, sex, national origin, marital status, age or medical condition must be treated the same.

The Lender will also be prohibited from asking an applicant to provide information about existing medical conditions and the Lender may not discriminate against an applicant because they are receiving health-related incomes, such as disability insurance or worker's compensation benefits.

ANY medical information about a consumer that the Lender receives whether because it was volunteered by the customer or it was stated on an insurance request form, etc. must be kept secured and cannot be discussed with employees unless they have a need to know. For example, an applicant discloses that he has AIDS during the interview process. This information cannot have any bearing on whether the loan is approved or denied. Additionally, the Lender cannot SHARE that information with any other employee. No one has a need to know this information.

CONTINUING INCOME

Though the applicant may be ill, the Lender is not allowed to use this fact in making the credit decisions, but will be able to consider the probability of continued income in making the credit decision, **providing** that is a step taken for every application, not just for ones where the income is derived from disability insurance, workers compensation, etc. If the Lender only verifies income and probability of continued income for applicants with medically derived income, the Lender is violating the Medical provisions of FACTA.

MEDICAL RULES
EFFECTIVE DATE: APRIL 1, 2006

Scenario	Acceptable or Unacceptable Under FACTA	Reason
The applicant disclosed 2 outstanding $30,000 debts. One is owed on a credit card and the other is owed to a hospital. The Lender verifies the debts and discovers that both debts are 90 days past due. Loan is denied.	👍	Because one debt is owed to a hospital, the Lender knows there has been or currently exists a medical issue. But the loan is not being denied because of this medical information. Any loan request that had 2 large delinquent loans outstanding would be denied. This is consistent with the Lender's practices.
The applicant requests a $300,000 mortgage loan. The applicant's only source of income is $35,000 per year in long-term disability payments. The loan is denied.	👍	Income of $35,000 is not sufficient to support a $300,000 loan, regardless of the source of the income.
An applicant discloses the fact that he has AIDS during the application process. He informs the Lender that he is in the final stages of the disease. The reason for the loan is to get a dependable vehicle in which to take his dream vacation. The applicant meets the established requirements for a car loan, but the Lender denies the loan. The lender contemplates what he would do in the applicant's place and speculates he'd max out his credit card and go for broke. If the applicant does what the Lender would do and doesn't live long enough to pay off the loan, the bank will have to deal with the estate and that may be problematic.	👎	The Lender is out of line speculating what the applicant might do. It's doubtful that this same Lender passes judgment on the longevity of the marriages of the applicant's he interviews, yet mortgage loans caught up in these types of battles can be problematic as well. There are all sorts of things that can go wrong after a loan is made. If an applicant meets the established requirements for the loan, the loan must be made.
The applicant for a mortgage loan is in a wheelchair and uses oxygen. The applicant qualifies for the loan, but based on the apparent medical condition, the Lender requires the applicant to obtain debt-cancellation insurance. The applicant does and the loan is approved.	👎	Debt-cancellation insurance is not required of other applicants and should not have been required for this applicant.
The applicant requests a $10,000 Home Equity loan and discloses a $50,000 debt to a facility that treats terminal illnesses. The Lender verifies the debt and learns that the debt is current and there are no delinquencies in the repayment history. The Lender approves the loan.	👍	The creditor has used the medical information consistent with what is allowed under the law.

Scenario	Acceptable or Unacceptable Under FACTA	Reason
The application is for $10,000. The purpose of the loan is vision correction surgery. The Lender contacts the surgeon to verify the amount and the surgeon indicates that surgery will not be performed. The Lender denies the loan.	👍	The Lender may use this medical information to deny the application because the loan will not be used for the stated purpose. The Lender would deny any application where the money would not be used for the stated purpose.
The applicant receives worker's compensation benefits. Because the income is medically related, the lender verifies the income and determines that the applicant's income will soon cease and the applicant will not likely be returning to work.	👎	The Lender doesn't routinely verify income and did so ONLY because the source of the income was worker's compensation benefits. Anyone's income can terminate the day after a loan closes. To follow up specifically on this one because it was medically related is a violation of the Medical provisions of FACTA.
The applicant informs the Lender that he has just been released from a hospital where he was treated for a mental disorder. The loan request is to pay the hospital bills. The applicant meets the loan requirements and the loan is approved.	👍	The Lender has not violated the provisions of FACTA because the Lender did not ask for the medical information; it was provided voluntarily by the applicant. The medical information was not used in making the credit decision.
The applicant is seeking $10,000 to purchase an auto. She has outstanding medical bills that equal $100,000. The debt-to-income ratio for this loan request is way outside the requirements for this type of loan. The loan is denied.	👍	The Lender can use medical information in determining the debt-to-income ratio. This application would have been denied regardless of where the $100,000 debt was owed.
The applicant seeks $5,000 for cosmetic surgery. The surgeon indicates that the surgery will only cost $2,500. The Lender counteroffers a $2,500 loan based on the information provided by the surgeon.	👍	The Lender has a right to verify medical procedures and counteroffer for the actual cost of the procedure. Any loan request where the entire proceeds were not to be used as stated on the application would be handled this way.
The applicant's income is derived from long-term insurance. In underwriting the loan, the Lender determines that the debt-to-income ratios are outside the requirements. The Lender asks the young man to have his mother co-sign.	👎	If all loan applications with debt-to-income ratios comparable to this loan require a co-signer, then the Lender has not violated FACTA. However, the Lender has violated the ECOA, which requires that the applicant be the one to select who will apply to become a co-signer on a loan. The Lender can never select the co-signer.