

June 4, 2009

The Honorable John Adler  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Mike Simpson  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Paul Broun  
U.S. House of Representatives  
Washington, DC 20515

Dear Representatives Adler, Simpson and Broun:

The health care organizations listed below write in strong support of your bill, H.R. 2345, to amend the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), to exclude health care practices with 20 or fewer employees from the Red Flags rule.

On November 9, 2007, the Federal Trade Commission (FTC) issued a final regulation implementing the FACT Act, which requires financial institutions and creditors to develop and implement written identity theft programs (Red Flags program). Neither the FACT Act nor the final rule issued by the FTC specifically mentions health care professionals as creditors. Nonetheless, the FTC has determined that health care professionals should now be covered under this law and, therefore, must implement a Red Flags program by August 1, 2009.

Some health care organizations have written the FTC expressing opposition to inclusion in the law arguing that:

- This interpretation of the Red Flags rule goes beyond the intent of Congress.
- The FTC failed to consider the financial impact this could have on health care providers.
- This decision is contrary to the Regulatory Flexibility Act (RegFlex), which responds to concerns that federal regulations may have a disproportionate impact on small business, such as the vast majority of health care practices. The final rule makes no mention of any attempt to determine the impact on health care practices nor was there any solicitation of impact by the FTC prior to their determination that health care professionals must comply with the Red Flags rule.

We look forward to working with your offices in the weeks ahead to pass H.R. 2345 before August 1<sup>st</sup>, thereby reversing the negative impact this regulation would have on thousands of small health care providers nationwide.

Sincerely,

Academy of General Dentistry  
American Academy of Dermatology Association  
American Academy of Family Physicians  
American Academy of Neurology Professional Association  
American Academy of Ophthalmology  
American Academy of Oral & Maxillofacial Pathology  
American Academy of Otolaryngology-Head and Neck Surgery  
American Academy of Pediatric Dentistry  
American Academy of Periodontology  
American Association for Marriage and Family Therapy  
American Association of Endodontists  
American Association of Neurological Surgeons  
American Association of Oral and Maxillofacial Surgeons  
American Association of Orthodontists  
American College of Prosthodontists  
American College of Radiology  
American College of Surgeons  
American Dental Association  
American Gastroenterological Association  
American Optometric Association  
American Physical Therapy Association  
American Psychiatric Association  
American Speech Language Hearing Association  
American Urological Association  
American Veterinary Medical Association  
Congress of Neurological Surgeons  
Hispanic Dental Association  
National Dental Association  
U.S. Chamber of Commerce