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 1st, 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