



Michael D. Maves, MD, MBA, Executive Vice President, CEO

October 28, 2009

The Honorable John Adler  
U.S. House of Representatives  
1223 Longworth House Office Building  
Washington, DC 20515

Dear Representative Adler:

The American Medical Association (AMA) greatly appreciates and supports your efforts in introducing H.R. 3763 to exclude physician practices with 20 or fewer employees from the definition of “creditor” under the Red Flags Rule. The passage of H.R. 3763 on October 20 is an important first step to protect many physicians from overreaching regulatory activity.

As you know, the Federal Trade Commission (FTC) issued the Red Flags Rule to require financial institutions and “creditors” to develop and implement written identity theft prevention programs as part of the Fair and Accurate Credit Transactions Act of 2003. There was no mention in either the proposed or final Red Flags Rule that this requirement applies to physicians. As a result of the AMA’s strong objections to the lack of notice and the applicability of the Red Flags Rule to physicians, the FTC postponed the enforcement date of the Rule to November 1, 2009. This regulation adds additional financial and administrative burdens upon physician practices given that it duplicates existing Health Insurance Portability and Accountability Act privacy and security requirements. We have requested that the FTC republish the Rule to allow the physician community the opportunity to review and formally comment on it in accordance with the Administrative Procedure Act.

According to the Equal Credit Opportunity Act and the Red Flags Rule, a “creditor” is “any person who *regularly* extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.” We do not believe that practicing physicians are “creditors” under the statutory and regulatory scheme, as most do not “regularly extend, renew or continue credit.” Moreover, the final rule’s definition of a “creditor” specifically mentions “lenders such as banks, finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies,” and does not include physicians among the trades or businesses identified as creditors. Nevertheless, the

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FTC continues to interpret the Rule to apply to physicians. We have continued to raise our objections to the FTC's interpretation of this Rule and believe that enactment of legislation is a remedy.

While we continue to believe that the exemption to the Red Flags Rule should apply to all physicians regardless of their practice size, the AMA appreciates your leadership and we look forward to working with you and your colleagues in Congress to advance legislation that would protect physicians from the broad application of creditor laws such as the Red Flags Rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Maves". The signature is written in a cursive, flowing style.

Michael D. Maves, MD, MBA