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The Honorable Donald S. Clark
Office of the Secretary
Federal Trade Commission
Room H-113 (Annex M)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003, as amended by the Red Flag Program Clarification Act of 2010; Red Flags Interim Final Rule (IFR)

Dear Secretary Clark:

On behalf of the physician and medical student members of the American Medical Association (AMA), I appreciate the opportunity to provide comments on the Federal Trade Commission's (FTC) Red Flags Interim Final Rule (IFR) amending the Red Flags regulation.

We understand that the purpose of the IFR is to amend the definition of "creditor" in the original Red Flags Rule to make it consistent with the revised definition specified in federal legislation, the "Red Flag Program Clarification Act of 2010" (Clarification Act; Pub. L. 111-319), that was signed into law in December 2010. Congress enacted the Clarification Act in order to narrow the scope of entities covered as "creditors" under the Red Flags Rule. The Clarification Act retains the Equal Credit Opportunity Act (ECOA) definition of "creditor," but limits the application of the Red Flags Rule to those ECOA creditors that regularly and in the ordinary course of business engage in at least one of the following three types of conduct:

1. Obtain or use consumer reports, directly or indirectly, in connection with a credit transaction;
2. Furnish information to consumer reporting agencies in connection with a credit transaction; or
3. Advance funds to or on behalf of a person, based on an obligation of the person to repay the funds or repayable from specific property pledged by or on behalf of the person.

In addition to limiting the scope of coverage for "creditors," the Clarification Act authorizes the FTC, banking agencies, Commodity Futures Trading Commission, and the Securities and Exchange Commission to determine through future rulemaking whether to include any other type of creditor that offers or maintains accounts that are subject to a reasonably foreseeable risk of identity theft. In

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this IFR, the FTC makes it clear that it does not intend to use its discretionary rulemaking authority at this time to extend coverage of the Red Flags Rule to additional creditors. We appreciate the FTC's clarity on this point. The AMA will continue its educational outreach to physicians to reassure them that they do not fall under the definition of "creditor" for the purposes of the Clarification Act and the Red Flags Rule just because they do not bill or receive payment in full from their patients at the time they provide their services.

The AMA appreciates this opportunity to provide comments. If you have any questions or need additional information, please do not hesitate to contact Carol Vargo, Assistant Director, Division of Federal Affairs at 202-789-7492, or by email at carol.vargo@ama-assn.org.

Sincerely,

James L. Madara, MD