

August 9, 2024

Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Re: Docket No. CFPB-2024-0023—Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)

To Whom it May Concern,

On behalf of our 159,000 members, we would like to comment on the Consumer Financial Protection Bureau's proposed rule to prohibit a consumer's pre-existing medical debt from being used in credit eligibility determinations. We offer these comments in response to your federal register notice of June 18, 2024 (89 FR 51682).

CFPB is proposing to prohibit credit reporting companies from sharing medical debt information with prospective lenders—and to prohibit prospective lenders from considering medical debt when determining a borrower's credit worthiness. Consequently, it would compromise the bargaining position of creditors—including collection agencies—attempting to collect legitimate medical debt.<sup>1,2</sup>

The intent of this rule is to ensure sensitive health information remains protected and to prevent consumers from being penalized for carrying medical debt that was incurred for reasons beyond their control.

Dental practices rely heavily on upfront payments and timely settlements of patient accounts to maintain financial stability. Dental offices would typically sell any outstanding debt to a collection agency. Sensitive health information is not part of that transaction.<sup>3,4,5</sup>

The ADA appreciates the CFPB's efforts to protect consumers. However, we would like to share a few concerns about the potential impact this rule may have on dental practices. We hope you will address these concerns in any final rule.

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<sup>1</sup> CFPB acknowledges it does not have data to assess how prohibiting medical debt in credit reporting would affect the bargaining position of debt collectors and health care providers attempting to recover medical debt. (89 FR 51704)

<sup>2</sup> Creditors may still use litigation, wage garnishment, asset seizure, and other tools to collect outstanding debt.

<sup>3</sup> Debt collection is considered a payment activity under the Health Insurance Portability and Accountability Act, so sharing *necessary* information with debt collectors is permitted.

<sup>4</sup> CFPB acknowledges it does not know the extent to which health care providers allow debt collectors to furnish medical collections information to consumer reporting agencies. (89 FR 51702)

<sup>5</sup> CFPB acknowledges it does not have data to assess the usefulness of medical collections information for debt collectors' collection practices. (89 FR 51700)

## Impact on Dental Practices

1. **Financial Risk and Patient Payment Behavior:** The proposed rule may inadvertently reduce the incentive for patients to prioritize the payment of their dental bills, knowing that non-payment will not affect their credit scores. This could lead to an increase in unpaid dental bills, adversely affecting the cash flow and financial health of dental practices.<sup>6</sup>
2. **Regulatory and Compliance Costs:** Implementing the proposed changes will impose additional costs on dental practices, including updating billing systems, training staff, complying with the new regulations, and potential collection litigation.<sup>7</sup> These costs are particularly burdensome for small practices with limited administrative resources.

## References on Inaccurate Medical and Dental Bills

The CFPB's proposed rule relies heavily on findings from various studies to support the claim that medical and dental bills are frequently inaccurate and contain many errors. While these studies provide valuable insights, some of these citations do have a lack of representative data.

Some of the studies cited by the CFPB have methodological limitations that raise concerns about their applicability for broad regulatory changes. This includes relying on self-reported data from patients who may not have a full understanding of their medical bills or the billing process. This can lead to biased results that overestimate the prevalence of billing errors.

## Clarification on Medical Credit Cards

The proposed rule distinguishes between medical debt owed directly to health care providers and debt incurred through third-party lenders by stating, "*medical debt would not include a debt owed to a third-party lender (including a medical credit card issuer whose products are offered specifically for the payment of medical services or general purpose credit card issuer).*"

The proposed rule explicitly excludes debts owed to third-party lenders from the definition of medical debt. This means that debts incurred via medical credit cards are considered separate from medical debts directly owed to health care providers. This clarification is crucial as it affects how these debts are reported and used in credit eligibility determinations.

## Recommendations

We urge the CFPB to consider the following recommendations to mitigate the adverse impacts on dental practices:

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<sup>6</sup> CFPB acknowledges it does not have data to estimate if the proposed rule would reduce on-time payments for medical services. (89 FR 51710)

<sup>7</sup> CFPB acknowledges it does not have data to estimate the increased costs to health care providers of collecting medical debt themselves (through litigation) or writing off the debt should debt buyers become less willing to pay for medical debt (due to a weakened bargaining position). (89 FR 51701, 51703)

1. **Phase-in Period:** If implemented as proposed, a phased-in approach would allow dental practices adequate time to adjust their billing and credit assessment systems.
2. **Threshold Adjustments:** Set thresholds for medical debt reporting that exempt smaller debts, which are less likely to impact credit decisions significantly.
3. **Stakeholder Collaboration:** Engage with health care providers, including dental professionals, to gather data and insights on the practical implications of the rule and explore balanced solutions.
4. **Financial Education:** Educate consumers on the importance of timely medical bill payments, even if these debts are not reported to credit agencies.

We look forward to working with the CFPB to develop a rule that balances consumer protection with the financial sustainability of health care providers. If you have any questions, please contact Mr. Robert J. Burns at 202-789-5176 or [burnsr@ada.org](mailto:burnsr@ada.org).

Sincerely,

/s/

Linda J. Edgar, D.D.S., M.Ed.  
President

/s/

Raymond A. Cohlma, D.D.S.  
Executive Director

LJE:RAC