

September 19, 2006

The Honorable Joe Barton
Chairman
Energy and Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Barton:

Health Information Technology (HIT) has the power to transform our health care system by improving patient safety, advancing quality of care and lowering system-wide health care costs. HIT legislation before Congress, S. 1418 and H.R. 4157, is an important step towards wide-spread adoption of HIT, including electronic health records.

As conferees work to reconcile the House and Senate bills, we ask that you adopt the House-passed provisions providing explicit exceptions to the physician self-referral, anti-kickback, and civil monetary penalty laws. These fraud and abuse laws contain significant penalties and have been a roadblock to the adoption of HIT systems. The provision in H.R. 4157 will encourage HIT adoption to better coordinate care and improve outcomes while still providing protections against fraud and abuse.

Final rules issued by the Centers for Medicare and Medicaid Services (CMS) and the Office of the Inspector General (OIG) to create new exceptions and safe harbors for the physician self-referral and anti-kickback laws to allow the donation of certain electronic health information technology and services are much improved over the proposed rules, but do not go far enough. These rules do not offer the necessary clarity to allow hospitals, medical groups and others to donate HIT to physicians. By contrast, the statutory exceptions in H.R. 4157 provide a clear roadmap for both the donor and the recipient.

We appreciate your commitment to health information technology and we request that you include H.R. 4157's statutory exceptions to the physician self-referral

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and anti-kickback statutes in the conference agreement to be approved by Congress. It is our hope that such a bill can be signed into law by the President this year.

Sincerely,

Adobe Systems, Inc.
American Academy of Dermatology
American Academy of Pediatrics
American Academy of Orthopedic Surgeons
American Association of Neurological Surgeons
American Association of Orthopedic Surgeons
American College of Physicians
American Gastroenterological Association
American Health Care Association
American Hospital Association
American Medical Association
American Medical Group Association
American Psychiatric Association
American Society for Gastrointestinal Endoscopy
American Society of Cataract and Refractive Surgery
American Society of Plastic Surgery
American Surgical Hospital Association
American Urological Association
Amerinet
Association of American Medical Colleges
Congress of Neurological Surgeons
DuBois Regional Medical Center (West Central Pennsylvania
Regional Health Information Organization)
Federation of American Hospitals
Health Information Exchange Montana
Glacier Community Health Center – CutBank
Kalispell Regional Medical Center - Kalispell
Northern Rockies Medical Center - CutBank
St. John's Lutheran Hospital – Libby
St. Luke Community Hospital – Ronan
Healthcare Information and Management Systems Society
Healthcare Leadership Council
Infectious Diseases Society of America
Intel Corporation
Johnson & Johnson

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Marshfield Clinic
McKesson Corporation
Medical Group Management Association
New York Presbyterian Hospital
Premier, Inc.
Rx Benefits Coalition
Siemens
Texas Health Resources
The College of Healthcare Information Management Executives
Trinity Health
U.S. Chamber of Commerce
VHA Inc.