ACA INTERNATIONAL
The Association of Credit and Collection Professionals

The Consumer Financial Protection Bureau has released an updated report on credit reporting trends and analysis showing a decline in collections tradelines, including medical debt, ahead of the next round of changes from the consumer reporting agencies (CRAs) taking effect in March.

Topic	CFPB Statement	Response
Timing of Data	"The report found the total number of collections tradelines on credit reports declined by 33%, from 261 million tradelines in 2018 to 175 million tradelines in 2022. The share of consumers with a collection tradeline on their credit report decreased by 20% in the same timeframe." Source: CFPB Finds One-Third Decline in Collections Items on Consumer Credit Reports	As background, effective March 30, 2023—the national credit reporting agencies, TransUnion, Equifax and Experian, (CRAs) will no longer include on consumer reports any medical debts with an original balance less than or equal to $500. Effective July 1, 2022, the CRAs stopped including medical debt that was paid after it was sent to collections on consumer credit reports. The report uses a timeframe that is mostly before the credit reporting changes from the CRAs took effect in July 2022. The timeframe also overlooks that COVID-19 related restrictions were in place for collections and debt collection agencies used their own hardship policies for working with consumers on manageable payment plans. Millions of dollars from the federal government were infused into the health care marketplace during the pandemic. Several moratoriums on collections and credit reporting and non-emergency health care that could lead to extraneous medical bills were in place during this time due to COVID-19.

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Data Relevancy	The CFPB cites itself as the source in the report on several occasions, pointing to even more dated reports from the bureau that only include a small sliver of the market. For example, the CFPB said in the report, Market Snapshot: Trends in Third-Party Debt Collections Tradelines Reporting, "Despite being less predictive of future loan repayment than other types of financial tradelines, medical collections continue to be the most common collection tradeline on consumer credit reports." This statement cites a 2014 report from the bureau, Data Point: Medical Debt and Credit Reports.	The bureau's research unfortunately continues to focus on the back end of the credit cycle and gives consumers a false impression that the debt collection industry is responsible for billing issues that occurred on the front end. The CFPB used outdated information as well in a 2022 report on the medical debt burden and missed the mark in the research by not addressing the serious systemic problem of insurance companies not paying claims in some instances. Congress, in the No Surprises Act, focused on the need for insurance companies to do a better job paying claims for medical care provided, and not surprising patients with unjustified out-of-network bills.
Furnishing Medical Collections	"CFPB market monitoring indicates that contingency-fee-based debt collectors are moving away from furnishing collections information to credit reporting companies in part due to their concerns about data integrity and their ability to comply with the Fair Credit Reporting Act, including dispute processing." Source: CFPB Finds One-Third Decline in Collections Items on Consumer Credit Reports	The Fair Credit Reporting Act and other consumer protection laws make it very unlikely that illegitimate debt would be included on a consumers' credit report. Credit reporting as a tool in the collections process is the last option used when it comes to medical debt. In fact, the changes the CRAs are making, and as a result debt collectors, appear to be motivated by the CFPB's policy guidance in the last year on medical debt collection and credit reporting—not by any indication consumers or debt collection agencies' clients seek changes to the process. Taking away credit reporting as a tool in the collections process will without question continue to force certain health care providers to turn to litigation sooner and more often to recover fees for services already provided. It will also lead to increased costs and less access to medical care for all consumers. A Kaiser Family Foundation poll from summer 2022 shows about 40% of U.S. adults surveyed said they delayed or avoided altogether medical care in the last year due to the cost. According to a nationwide health care tracking poll conducted in November 2022 for the Partnership for America's Health Care Future, 67% of voters surveyed support staying with the existing health care system and making improvements.

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Collections Process	"This decline (in medical collections tradelines), as well as insights from CFPB market monitoring, suggests that debt collectors are moving away from reporting (or furnishing) medical bills to credit reporting companies, resulting in fewer medical tradelines on consumer credit reports. This decline may be partly explained by structural dysfunctions in medical billing and collections, which increase the risk that debt collectors will not meet their legal obligations." Source: Debt Collectors Re-Evaluate Medical Debt Furnishing in Light of Data Integrity Issues	In fact, a majority of debt collectors have direct system access to their health care clients' information on billing and accounts and verify that the information is correct as to what is in the client's records when working with consumers on their behalf. Communications in connection with the collection of a medical debt are regulated by the Health Insurance Portability and Accountability Act (HIPAA), as well as the Fair Debt Collection Practices Act (FDCPA). The Department of Health and Human Services (HHS) has stated that it is not aware of any conflicts between the HIPAA Privacy Rules and those of the FDCPA. Where the use of protected health information (PHI) is necessary for a covered entity (CE) or business associate (BA) to fulfill their legal duty, the HIPAA Privacy Rule does not prohibit such use or disclosure as is required by law. Under the HIPAA Privacy Rule, a CE (health care provider, for example) or BA (debt collector, for example) can disclose PHI as necessary to obtain payment for medical debt. According to the HHS, a BA with a contract with a CE will have access to PHI. HIPAA rules require contracts to ensure the PHI is properly safeguarded. Functions or activities conducted by a BA include payments, claims processing and billing.

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Inaccuracy on Credit Reports	"Many patients and their families continue to be coerced into paying invalid, unverified, or inaccurate medical bills by the threat of credit reporting. Inaccurate tradelines on consumer reports can prevent patients and their families from accessing the credit they need for housing or employment and can interfere with doctor-patient relationships." Source: Debt Collectors Re-Evaluate Medical Debt Furnishing in Light of Data Integrity Issues	Credit reports that do not account for financial obligations, including past-due medical bills, increase the chance of future credit grantors extending credit that a consumer cannot afford—and that will drive increases in bankruptcies, stress and additional costs for consumers, and inappropriate losses to credit grantors. The CFPB's research misses the mark by not addressing the serious systemic problem of insurance companies not paying claims. Congress, in the No Surprises Act, focused on the need for insurance companies to do a better job paying claims for medical care provided, and not surprising patients with unjustified out-of-network bills. The CFPB's research does not seem to grasp the existing infrastructure related to medical debt that has strong safeguards for consumers to dispute any amounts that are in question or that they feel they don't owe. If a consumer disputes a bill, there are procedures in place to ensure credit reporting is paused while the issue is being resolved. There are also controls in the communication of the debt well in advance of any credit reporting through Regulation F and its predecessor rules. Credit reporting as a tool in the collections process is the last option used when it comes to medical debt. In fact, the changes the CRAs are making, and as a result debt collectors, appear to be motivated by the CFPB's policy guidance in the last year on medical debt collection and credit reporting—not by any indication consumers or debt collection agencies' clients seek changes to the process. In response to an article in *The Wall Street Journal*, ACA International submitted a letter to the editor from CEO Scott Purcell correcting false statements from the CFPB, which was published July 20. (A subscription may be required to view the article.)