

# United States Senate

WASHINGTON, DC 20510

June 4, 2018

Robert W. Patterson  
Acting Administrator  
Drug Enforcement Administration  
U.S. Department of Justice  
8701 Morrisette Drive  
Springfield, VA 22152

Dear Administrator Patterson:

We write concerning the Interim Final Rule on Electronic Prescriptions for Controlled Substances that was submitted to the Federal Register on March 31, 2010.<sup>1</sup> Specifically, we believe the Drug Enforcement Administration (DEA) has the opportunity to update these regulations to direct greater adoption of this important tool in combatting the opioid and substance use disorder epidemic that is gripping our nation.

Electronic prescribing of controlled substances (EPCS) has been repeatedly identified as a key facet of efforts to reduce opioid misuse. Endorsements of its effectiveness have come from a wide array of stakeholders, including health care providers, payers, the Commissioner of the Food and Drug Administration, and the President's Commission on Combating Drug Addiction and the Opioid Crisis. If widely adopted, EPCS would help reduce prescription forgery, doctor shopping, and prescribing errors, and provide accurate, up-to-date information for prescribers considering the best course of treatment for patients with pain. In addition to allowing for improved coordination of care, EPCS would enable more accurate data collection on prescribing and payment practices, leading to even better, evidence-based decisions by health care providers.

Unfortunately, these benefits of EPCS have yet to be realized, largely due to low rates of participation in EPCS across the United States. This is despite great strides that have been made in electronic prescribing and the technology that enables it since the Interim Final Rule was adopted. At that time, as noted in the regulation, only four percent of prescriptions, including refill requests, were written and sent electronically. Today, the same statistic is 90 percent – for all prescriptions except those for controlled substances. Evidence suggests that controlled substance prescriptions are only written and sent electronically 21 percent of the time.<sup>2</sup>

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<sup>1</sup> Electronic Prescriptions for Controlled Substances, Federal Register Vol. 75, No. 61 (March 31, 2010) (online at: [https://www.deadiversion.usdoj.gov/fed\\_regs/rules/2010/fr0331.pdf](https://www.deadiversion.usdoj.gov/fed_regs/rules/2010/fr0331.pdf)).

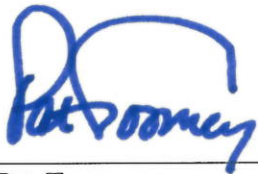
<sup>2</sup> “2017 National Progress Report,” *Surescripts* (online at: <https://surescripts.com/news-center/national-progress-report-2017/>). Accessed May 9, 2018.

Feedback that our offices have received from health care providers and constituents indicate that while many health care providers are eager to adopt EPCS and better integrate all of their medical practice workflows, certain provisions within the Interim Final Rule may have hampered more widespread adoption of EPCS. Health care professionals have highlighted the implementation of two factor authentication and identity proofing standards. We hope that as you work on EPCS regulations, you consider how all electronic health systems – Prescription Drug Monitoring Programs, Electronic Health Records, and electronic prescribing systems – can work better together and lead to more seamless medical practice workflows.

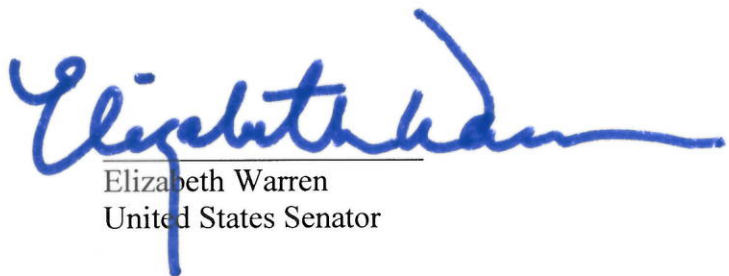
As the Interim Final Rule noted, it is challenging to strike a careful balance between making prescriptions more accessible to those with the appropriate authority and ensuring they are not used to facilitate diversion or undermine the ability of law enforcement to investigate and prosecute those who engage in diversion. Given the beneficial effects electronic prescribing could have on prescription opioid management and the uneven adoption of electronic prescribing for controlled substances compared to all other medications, we believe that efforts should be taken to improve upon the current regulatory status quo. We urge you to use EPCS regulations to encourage greater adoption of EPCS while maintaining important safeguards against diversion.

Thank you for your attention to this important matter.

Sincerely,



Pat Toomey  
United States Senator



Elizabeth Warren  
United States Senator



Dean Heller  
United State Senator



Michael F. Bennet  
United States Senator