

United States Senate

WASHINGTON, DC 20510

May 7, 2009

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Attorney General Holder and Secretary Sebelius,

We write to express our continued interest in the issue of e-prescription for controlled substances. At present, e-prescribing is held back by the Drug Enforcement Agency (DEA), which demands paper records for scheduled pharmaceuticals, requiring any e-prescriber to use a parallel paper system. Obviously, having to run two systems compromises any savings from e-prescribing.

This issue is particularly important with broader health care reform looming on the horizon. While e-prescribing is by no means the key to reform, it is an important piece of the puzzle. E-prescribing of controlled substances could save \$20 billion per year through reduced adverse drug events, increased patient adherence to prescription regimens, and improved administrative efficiency. Furthermore, it is a logical gateway for many providers to the more comprehensive health care information technology system we need, that could save as much as \$346 billion per year, according to some reports. This is an issue whose time has come.

Fortunately, we have made some progress on this front already, specifically the DEA's draft rule #1117-AA61, titled "Electronic Prescription for Controlled Substances." As you may be aware, the DEA first issued e-prescription regulations five years ago, but they were roundly criticized for being too restrictive and, as a result, were never implemented. Four years of inaction followed that failed rulemaking effort. As a result, in December 2007, the Senate Judiciary Committee held a hearing on the issue, during which there was clear bipartisan support for action. In June 2008, the DEA proposed its new rule. In doing so, we believe that the Department of Justice made a good faith effort to grapple with a very complicated issue, and we were very encouraged by this progress.

As DEA moves towards a final rule, it is vital to remember that e-prescribing of controlled substances is an issue involving serious health care and law enforcement concerns. Crafting a final rule that advances both health care quality and efficiency, and reduces illegal prescription drug diversion, will require the cooperation, compromise, and knowledge of experts at both the Department of Justice and the Department of Health and Human Services. In the past, this process has been decelerated and derailed by disagreements between your Departments. We are now in a new year, a new Congress, and a new Administration, it is our sincere hope that this process will move forward in a collaborative and expeditious manner.

Once again, we commend the work both of your Departments have done to reach the current draft, and look forward to continued cooperation as we quickly work towards a final rule. Please do not hesitate to contact any of our offices should you wish to discuss this further.

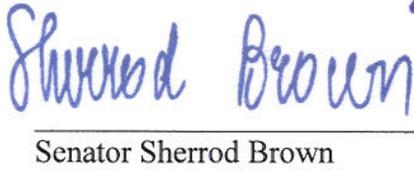
Sincerely,



Senator Edward Kennedy



Senator Sheldon Whitehouse



Senator Sherrod Brown



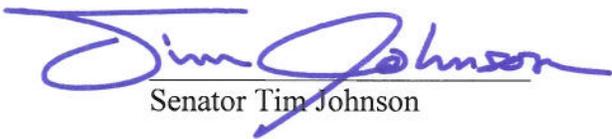
Senator Richard Burr



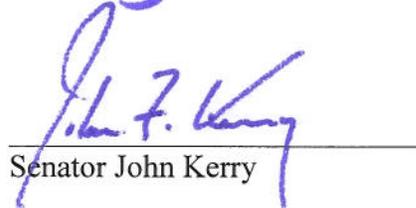
Senator Tom Coburn



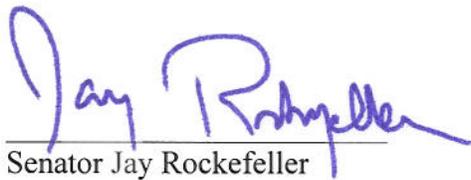
Senator Lindsey Graham



Senator Tim Johnson



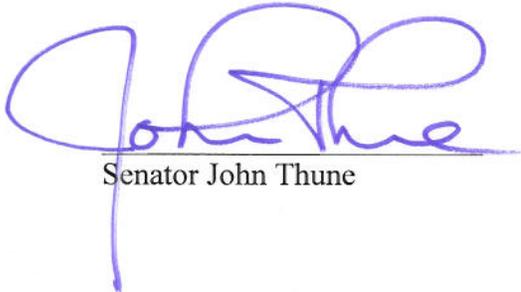
Senator John Kerry



Senator Jay Rockefeller



Senator Debbie Stabenow



Senator John Thune