

United States Senate

WASHINGTON, DC 20510

December 22, 2015

The Honorable Chuck Rosenberg
Acting Administrator
Drug Enforcement Administration
8701 Morrisette Drive
Springfield, VA 22152

Dear Acting Administrator Rosenberg,

Federal agencies need to use every tool available to prevent the misuse and abuse of prescription medication. The Drug Enforcement Administration (DEA) plays a key role in combatting the opioid epidemic and we appreciate your ongoing work to support pain patients and individuals with substance use disorders alike. We write to you requesting clarity regarding current DEA regulations over partial filling of prescriptions for Schedule II drugs.

The National Institute on Drug Abuse estimates that over 70% of adults who misuse prescription opioids get the medication from friends or relatives – either for free or by purchasing them.¹ This means that many patients filling legitimate prescriptions for opioids aren't using all of those medications. States like Massachusetts are considering policies that would give patients, their providers, and pharmacists the option to dispense opioid medication a few days' supply at a time, up to the total amount in the prescription, so that patients don't receive more drugs than they will use. These "partial-fill" policies could empower patients to work with their doctor and pharmacist to achieve the desired level of pain control while also limiting the amount of unused medication in their home.

The Controlled Substances Act and the Food Drug and Cosmetic Act are both silent with regards to the partial filling of prescriptions. Current DEA regulations clarify that pharmacists can partially fill Schedule III, IV, and V substances², but can only partially fill Schedule II substances in long term care settings to terminally ill patients when the full prescription cannot be filled due to an inadequate supply.³ While these regulations do not specifically prohibit partially filling prescriptions for Schedule II substances in other scenarios, the lack of clarity has deterred states from moving forward with partial fill policies.

We request that the DEA issue guidance or undertake the rulemaking process to clarify that Schedule II opioid drugs are permitted to be partially filled under federal law. This modest change can make a big difference in our fight against the opioid epidemic. We appreciate your consideration of this request and ask for an answer by January 31, 2016.

Sincerely,


Elizabeth Warren


Shelley Moore Capito

¹ <http://www.drugabuse.gov/related-topics/trends-statistics/infographics/popping-pills-prescription-drug-abuse-in-america>

² 21 CFR §1306.23

³ 21 CFR §1306.13

Edward J. Markey
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