

# United States Senate

WASHINGTON, DC 20510

September 6, 2017

Commissioner Monica Bharel, MD, MPH  
Massachusetts Department of Health and Human Services  
250 Washington Street 2nd Floor  
Boston, MA 02108

Dear Commissioner Bharel,

As you know, our country is facing an opioid epidemic that is devastating our communities and requires swift action from officials at all levels of government. I recognize that Massachusetts has been on the front lines, fighting to tackle this crisis on behalf of our cities and towns. We need strong, common sense solutions that address the many components of this public health emergency. I know that the Baker Administration, our state legislators, and the medical and law enforcement communities have come together to build these solutions, including efforts to promote safe prescribing practices and reduce the amount of unused prescription opioid medication in circulation.

In 2015, the Massachusetts legislature advanced a package of reforms to tackle this crisis, including a provision allowing physicians to include an option to partially fill opioid medications on a prescription, meaning a patient can choose to take fewer pills home from the pharmacist.<sup>1</sup> However, lack of clarity in federal law regarding the legality of partially filling prescriptions substances classified as Schedule II under the Controlled Substances Act (CSA) threatened Massachusetts's ability to carry out these reforms.<sup>2</sup>

Senator Capito and I led a bipartisan letter to the Drug Enforcement Administration (DEA), urging them to issue formal guidance to clarify that federal law permitted the partial filling of prescriptions for Schedule II opioid drugs.<sup>3</sup> When we did not receive an adequate response to this urgent request, Senator Capito and I, along with Representatives Clark and Stivers, introduced bipartisan legislation, the *Reducing Unused Medications Act of 2016*, to address this problem and support state efforts. This bill – which was signed into law in July 2016 as part of the *Comprehensive Addiction and Recovery Act* – amends the CSA to allow partial

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<sup>1</sup> Shira Schoenberg, "Opioid Abuse Prevention Bill Coming Before State Senate," *MassLive* (September 24, 2015) (online at: [http://www.masslive.com/politics/index.ssf/2015/09/mass\\_senate\\_to\\_vote\\_on\\_opioid.html](http://www.masslive.com/politics/index.ssf/2015/09/mass_senate_to_vote_on_opioid.html)).

<sup>2</sup> Shira Schoenberg, "Massachusetts House Limits Size of Opioid Prescriptions, Requires School Screenings," *MassLive* (March 9, 2016) (online at: [http://www.masslive.com/politics/index.ssf/2016/03/massachusetts\\_house\\_limits\\_siz.html](http://www.masslive.com/politics/index.ssf/2016/03/massachusetts_house_limits_siz.html)).

<sup>3</sup> Letter from Senators Warren, Capito, Markey, Blumenthal, and Ayotte to Chuck Rosenberg, Acting Administrator, Drug Enforcement Agency (December 22, 2015) (online at: [https://www.warren.senate.gov/files/documents/2015-12-22\\_Letter\\_to\\_DEA\\_re\\_partial\\_fill\\_opioid\\_prescriptions.pdf](https://www.warren.senate.gov/files/documents/2015-12-22_Letter_to_DEA_re_partial_fill_opioid_prescriptions.pdf)).

filling of any Schedule II prescription, including painkillers such as OxyContin and Vicodin, unless specifically prohibited by state law.<sup>4</sup>

We know that the prescribing of dangerous painkillers has significantly contributed to the opioid crisis. The U.S. is the largest global consumer of opioid medications and consumes almost 100% of the world's supply of hydrocodone.<sup>5</sup> Despite efforts to improve prescribing guidelines for acute and chronic pain and educate prescribers accordingly, these dramatic increases in opioid prescriptions have not slowed. From 2000 to 2015, the number of opioid prescriptions in Massachusetts has increased by about 7% each year.<sup>6</sup>

High levels of opioid prescribing can lead to a large number of unused medications, which fuels the opioid epidemic. According to the Centers for Disease Control and Prevention (CDC), almost 80% of people at the highest risk of overdose obtained pills that were legally prescribed to someone – including themselves, friends, or relatives.<sup>7</sup> This means it is critical to limit the number of pills that travel home from the pharmacy in the first place.

The passage of federal partial fill policy in the *Reducing Unused Medications Act* means doctors, pharmacists, and patients across the country are now empowered to have a conversation about how many prescription drugs they feel comfortable having in their home. I fought for the passage of this bill so that other states could follow Massachusetts's lead and have the flexibility to design and implement partial fill policies.

As public officials work together to address the opioid epidemic, we must continue to build partnerships, take creative approaches, and look for every opportunity – big or small – to implement policies that prevent addiction and save lives. Reducing the number of prescription opioids that patients have in their home is just one of many things we can do to curb the misuse and abuse of these drugs, and I recognize that every state needs to tackle this crisis in a way that works for its unique population.

I know that in Massachusetts, you have worked to collaborate with physician and patient groups to utilize this new federal statute and implement a partial fill policy to complement the state's ongoing efforts to combat the opioid crisis. In order to help me better understand how Massachusetts is taking advantage of federal partial fill legislation as a tool in their broader strategy to combat the opioid epidemic and to inform the work of other states and stakeholders, I respectfully ask that you respond to the following questions.

1. Please describe the current status of the implementation of partial fill policies in Massachusetts, including any changes that you may be considering to improve its use

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<sup>4</sup> 21 USC 829(f)

<sup>5</sup> Nora D. Volkow, Testimony before U.S. Senate Caucus on International Narcotics Control (May 14, 2014) (online at: [https://www.drugabuse.gov/about-nida/legislative-activities/testimony-to-congress/2016/americas-addiction-to-opioids-heroin-prescription-drug-abuse#\\_ftn5](https://www.drugabuse.gov/about-nida/legislative-activities/testimony-to-congress/2016/americas-addiction-to-opioids-heroin-prescription-drug-abuse#_ftn5)).

<sup>6</sup> Massachusetts Department of Public Health, "The Massachusetts Opioid Epidemic" (online at: <http://www.mass.gov/chapter55/#chapter55>).

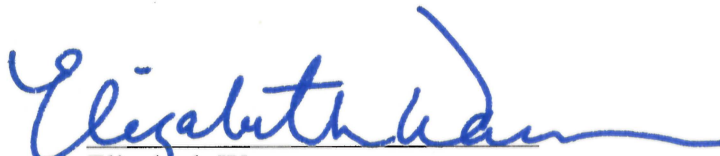
<sup>7</sup> Centers for Disease Control and Prevention, "Prescribing Data" (December 20, 2016) (online at: <https://www.cdc.gov/drugoverdose/data/prescribing.html>).

among doctors, pharmacists, and patients.

2. Have you developed any successful strategies for increasing public awareness of the option to partially fill prescriptions, including working with patient groups and advocacy organizations?
3. Have you developed any successful strategies for increasing pharmacist and health provider awareness of the option to partially fill prescriptions, including working with professional associations and the Massachusetts Board of Registration in Pharmacy?
4. Have you encountered any challenges in your efforts to implement the Massachusetts partial fill provision that you wish to bring to my attention?
5. What information or assistance would be helpful on a federal level to support Massachusetts' efforts to encourage doctors and patients to take advantage of partial fill options?
6. Are there additional federal efforts you believe would be helpful in limiting the amount of unused medications in the home?

Thank you for your assistance in responding to this request, and thank you for your work to address this public health crisis.

Sincerely,



Elizabeth Warren  
United States Senator