

Testimony of

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Statement of the  
Rite Aid Corporation  
for the hearing

"Electronic Prescribing of Controlled Substances:  
Addressing Health Care and Law Enforcement Priorities"

United States Senate  
Committee on the Judiciary

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"Electronic Prescribing of Controlled Substances:  
Addressing Health Care and Law Enforcement Priorities"

Chairman Leahy, Ranking Member Specter, Senator Whitehouse, and Members of the Senate Judiciary Committee. I am Mike Podgurski, Vice President, Pharmacy Services for the Rite Aid Corporation. I am a pharmacy graduate of the West Virginia University School of Pharmacy, and have been involved with many aspects of the practice of pharmacy for 35 years.

We thank you for this opportunity to provide testimony today for this important hearing regarding the electronic prescribing of controlled substances. Rite Aid, which is based in Camp Hill, Pennsylvania, is one of the nation's largest retail pharmacy chains. We operate approximately 5,100 pharmacies in 31 states and the District of Columbia.

## Rite Aid Supports E-Prescribing for Controlled Substances

Rite Aid has been involved for many years in the development of the current electronic prescribing, or e-prescribing, infrastructure. For example, I was involved in the development of Rite Aid's own e-prescribing system in 1998. Our company has also been very actively involved in the development of the Pharmacy Health Information Exchange operated by SureScripts. This system currently serves as a secure platform for the transmission of all the e-prescriptions which Rite Aid receives today.

Rite Aid strongly supports the ability of prescribers to send and retail pharmacies to receive e-prescriptions for controlled substances. These include controlled substances in Schedules 2 through 5. We especially appreciate your support for this initiative, Senator Whitehouse, as you recently expressed in a colloquy with other Senators.

Rite Aid is also a member of the "E-Prescribing Controlled Substances Coalition", which includes stakeholders such as pharmacies, health insurers and PBMs, business related groups, and technology companies. This Coalition is

encouraging the Congress and the Administration to develop a workable approach to allow electronic prescriptions for controlled substances.

#### E-Prescribing Can Help Reduce Paper Prescriptions

The health care system needs to increase the number of prescriptions that are transmitted electronically. About 3.2 billion prescriptions are filled in the United States each year. The majority of these prescriptions are still written by prescribers on little 3" by 5" pieces of paper, handed to the patient, and brought by the patient to the pharmacist for filling. In this day and age, the health care system can and must do better in using technology in transmitting all prescriptions to pharmacies, including controlled substances.

Each of our 5,100 pharmacies across the United States is currently able to receive - and does regularly receive - e-prescriptions. These include new prescription orders as well as approvals to refill existing prescriptions. The electronic transmissions of these new prescriptions and refill authorizations to our pharmacies have greatly enhanced the efficiency of our pharmacists in providing pharmacy services. This allows pharmacists additional time to interact with patients, and lessens the time the pharmacist spends on the phone trying to obtain refill authorizations, or clarify prescription orders with the prescribers' offices.

The frequency with which prescribers are sending prescriptions electronically is increasing. But, we need to encourage more prescribers to transmit new prescriptions electronically, and we need to permit and encourage those who do e-prescribe today to send all prescriptions electronically.

Allowing controlled substance prescriptions to also be sent electronically is an important step in accelerating the rate of growth in e-prescribing in general.

Currently, about 13 percent of all prescriptions written are for controlled substances. We believe that prescribers would be more willing to make the necessary technology infrastructure changes in their practices if all prescriptions - including controlled substance prescriptions - were able to be sent to pharmacists electronically.

#### Benefits of E-Prescribing for Controlled Substances

There are multiple health care and efficiency benefits to e-prescribing for all prescriptions, including those prescriptions for controlled substances.

- First, e-prescriptions are easier for the pharmacist to read, which may reduce the chances that errors might be made in the filling of these prescriptions. It also reduces the likelihood that a pharmacist may make a transcription error when taking a prescriber's oral prescription order over the telephone.
- Second, before the prescriber sends an e-prescription to the pharmacy of the patient's choosing, the prescriber is able to perform an initial "drug interaction" or "adverse reaction" review to make sure that the new drug being prescribed does not conflict with a prescription drug that the patient is already taking.
- Third, e-prescribing provides significant convenience for patients. Using this system, prescribers can transmit prescriptions so that they are ready for the patient to pick up when the patient arrives at the pharmacy. However, because controlled substance prescriptions cannot be electronically transmitted, the patient convenience benefits of e-prescribing are significantly reduced. Non-controlled substance prescriptions can be sent, but controlled substance prescriptions cannot.

Why is this important? Let's use the example of an elderly dental patient that is prescribed both an antibiotic medication as well as a controlled substance painkiller.

This elderly patient can have her prescriber electronically transmit the prescription for the antibiotic to her pharmacy. The pharmacy would receive the e-prescription for the antibiotic and the pharmacist would fill the prescription so that

it is complete and waiting for the patient when she is able to visit the pharmacy. This same patient, however, would still have to physically drop off the controlled substance prescription at her pharmacy and wait before it could be filled.

This is the same situation that a mother faces when needing to get a codeine-containing cough syrup prescription filled for a sick child. While a prescriber could phone in certain controlled substance prescriptions to the pharmacy, it is more secure if the physician transmits these prescriptions through the e-prescribing system.

#### Congress Recognizes Benefits of E-Prescribing

Congress has already recognized the multiple health care and efficiency benefits of e-prescribing. The Medicare Modernization Act (MMA) of 2003 requires that Medicare Part D plans support the ability of prescribers to send and pharmacists to receive e-prescriptions for Medicare beneficiaries. CMS has already developed certain foundation standards for e-prescribing and other proposed standards have been issued.

Congress also exempted e-prescriptions from the new requirements which go into effect on April 1st that Medicaid prescriptions be written on tamper proof paper. This means that Congress has already expressed its faith in the security of prescriptions being sent over the existing e-prescribing infrastructure.

#### E-Prescribing Can Reduce Diversion and Abuse

We understand and recognize the concerns of law enforcement agencies - including the Drug Enforcement Administration (DEA) - about the need to assure that e-prescribing does not result in additional diversion of controlled substances.

Rite Aid takes seriously our responsibilities to appropriately dispense and account for the controlled substances we purchase and provide to our patients, pursuant to legitimate prescriptions. However, we believe that e-prescribing of controlled substances will reduce diversion and abuse of controlled substances because of the significant security features incorporated into the e-prescribing system.

An increase in the electronic transmission of prescriptions may also help reduce the need for paper prescription pads. These paper prescription pads are more subject to theft and forgery. In addition, pharmacists make every effort to verify the authenticity of the person communicating oral prescriptions for controlled substances. However, the secure electronic transmission of controlled substance prescriptions may reduce the incidence of phony controlled substance prescriptions being called into a pharmacy.

Allowing e-prescribing of controlled substances should not be confused with policymakers' attempts to shut down the many rogue internet pharmacy sites that sell controlled substances to individuals without legitimate prescriptions. These sites should be shut down and eliminated. However, e-prescriptions are not sent over unsecured internet lines. E-prescriptions are only legitimate prescriptions, issued by licensed providers, and sent only to licensed and authorized pharmacies, all pursuant to standards established by the Department of Health and Human Services pursuant to the MMA.

We appreciate the efforts of Senators Feinstein and Sessions, and others on this Committee, in trying to eliminate these rogue internet sites through the bill that has already been reported out of this Committee, the "Ryan Haight Online Pharmacy Consumer Protection Act of 2007". However, we view these as two separate issues. Concerns regarding availability of controlled substances over the internet should not be used to impede or slow down adoption of e-prescribing of controlled substances.

#### Conclusion

In conclusion, we look forward to working with the Congress and the DEA to ensure that workable regulations are developed that would allow for the e-prescribing of controlled substances. We believe that e-prescribing of controlled substances would enhance medical benefits to patients, increase efficiencies in the prescribing and dispensing of

controlled substances, and reduce - not increase - the potential for diversion and abuse of these substances. I look forward to answering any questions you may have. Thank you.