Testimony of

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Statement of
SureScripts, LLC
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Presented by:
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Electronic Prescribing of Controlled Substances:
Addressing Health Care and Law Enforcement Priorities

Chairman Leahy, Ranking Member Specter, and distinguished Committee members, thank you for the opportunity to testify today on behalf of SureScripts on the important topic of the electronic prescribing of controlled substances.

My name is Kevin Hutchinson, and I am the president and chief executive officer of SureScripts. In addition, I am a member of the Board of Directors of the eHealth Initiative, and a commissioner, appointed by Secretary Leavitt of Health and Human Services, to the American Health Information Community.

We at SureScripts have been interested in the implementation of electronic prescribing for controlled substances for several years, and we are pleased to share our experiences and views on this very important matter.

SureScripts was created by the National Community Pharmacists Association ("NCPA") and the National Association of Chain Drugs Stores ("NACDS") in 2001. Our mission is to improve the overall prescribing process and to ensure, among other things, neutrality, patient safety, privacy and security, and enforce a patient's ability to choose their pharmacy and a physician's ability to choose the appropriate therapy without encountering any commercial messages within the process of prescribing a medication. Under the leadership and with the backing of the pharmacy industry, SureScripts has created a neutral and secure network that is compatible with all major physician and pharmacy software systems.

What is electronic prescribing: put simply, it is the private and secure electronic delivery of prescription and other healthcare information from a prescriber's computer to the computer of the pharmacy, and back again. Allow me to point out what the term e-prescribing does "NOT" include: it is not using a computer generated fax; it is not sending a prescription in an unsecure manner over the internet; and it does not entail unlicensed or rouge internet pharmacies. The pharmacies that are connected to the network are duly licensed and legitimate retail and mail order pharmacies.

The case for electronic prescribing is compelling. According to the Center for Information Technology Leadership (CITL), every year, more than 8 million Americans experience Adverse Drug Events (ADEs). CITL's research estimates that, by addressing ADEs caused by preventable medication errors, e-prescribing systems with a network connection to pharmacy and advanced decision support capabilities can help avoid more than 2 million ADEs annually -- 130,000 of which are life-threatening. Electronic prescribing will also save money. To take one example, the Henry Ford Health System in the state of Michigan states that it saved more than $1 million in 2005 and 2006 with the use of e-prescribing. By increasing use of generics, reducing administrative costs and decreasing the number of adverse drug events, e-prescribing is estimated to help Henry Ford increase its savings to $1.7 million for 2007, 2008 and 2009.

SureScripts was founded in late 2001. During its first two years, the Company focused on development of the technology necessary to transmit prescription information electronically. The Company's services were first put into production, sending and receiving electronic prescription transactions, in January, 2004. Today, more than 95 percent of the nation's pharmacies have computer systems that have been certified for a connection to the Pharmacy Health Information Exchange, and 70% of nation's pharmacies are live on the network today. In addition, physician software vendors including electronic medical record vendors and stand alone electronic prescribing applications, whose combined customer base represents well over 150,000 prescribing physicians, have contracted and certified their applications on the nation's Pharmacy Health Information Exchange.

Electronic prescribing with respect to non-controlled substances is a reality today. In 2007, 35 million prescription transactions will have been routed electronically in the U.S., over 35,000 prescribers will have been utilizing e-prescribing in the U.S., and over 40,000 pharmacies will have been e-prescribing in the U.S. This represents 70 percent of pharmacies in the U.S. In fact, more prescribers electronically prescribed in the first 10 months of 2007 than in all of 2004, 2005, and 2006, combined, and there were more electronic prescriptions transmitted in the first eight months of 2007 than in all of 2004, 2005, and 2006, combined as well. For 2008, SureScripts estimates the number of prescription transactions routed electronically will grow to over 100 million. We estimate that, in 2008, the number of electronic prescribers will grow to approximately 85,000. And finally, for 2008, SureScripts estimates the number of e-prescribing pharmacies will grow to 45,000. Today, SureScripts is issuing the National Progress Report on E-Prescribing, an "at-a-glance summary" of key statistics detailing the status of e-prescribing adoption and utilization in the U.S.

The deployment and use of electronic medical records is a bi-partisan priority of Congress, as well as a priority of President Bush's Administration. The automation of the prescribing process is considered by many to be the first step in the deployment of robust electronic medical records. Many would argue that if we cannot get providers to take the first step of e-prescribing, then how can we expect them to adopt a full fledged electronic medical record system. Federal policymakers and a growing number of Congressional and state legislators are calling for e-prescribing of controlled substances to enable public and private payers, consumers and others to take full advantage of the safety benefits, quality of care improvements and increased cost savings accruing from e-prescribing.

Adoption and utilization of e-prescribing is on the rise, but there are still barriers to adoption, and one of the significant barriers is the fact that prescribers cannot process controlled substances electronically. This prohibition directly affects more than the 11 to 13% of prescribed medications in the U.S. today that are controlled substances. Prescribers want and need to use just one tool and one process to prescribe their patient's medications. Using one process for one drug and another process for a second drug is inefficient, dangerous, and unnecessary. Consider a physician that is about to prescribe both controlled and non-controlled medications to his/her patient, but cannot use electronic prescribing for all of the prescriptions. As a result, part of the prescriptions are written electronically in which an automatic drug interaction check is performed and the remaining drugs, which are controlled substances, are written by hand and no drug interaction check is performed against those medications leaving the patient vulnerable to an adverse drug event. The more likely case is the prescriber chooses to just use the paper and pen to issue all of their patient's prescriptions and the advantages of automatic drug interaction checks and use of available clinical decision support tools is lost. Time and time again we hear from prescribers that they will not e-prescribe at all because they cannot process controlled substances electronically. Accordingly, the DEA prohibition affects not just the 11 to 13% of controlled substances, but a far greater number of precriptions. This is truly a barrier to adoption.

We agree that the criminal element is interested in leveraging today's paper based process using fraudulent means to obtain schedule II through V medications. And we absolutely agree that the DEA and other law enforcement officials need the necessary tools to find and prosecute those who abuse drugs and break the law. We believe, however, that the current system used for e-prescribing supports the highly secure transmission of prescriptions, regardless of schedule. We believe that today's system of e-prescribing would enhance, not deter, law enforcement. E-prescribing is far safer and more secure than today's paper world, in which prescription pads are stolen, home computers easily can print out counterfeit prescriptions, signatures can be scanned and forged easily, and drug quantities can be altered manually by patients before prescriptions are delivered to the pharmacy. In fact, Congress has already concluded that e-prescribing is a substitute for paper and pen with respect to the prevention of fraud. In Section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007, Congress mandated the use of tamper proof pads for all Medicaid prescriptions, but specifically allowed for e-prescribing as an alternative even to tamper proof paper. Among other things, the law aimed to prevent patients from

illegally obtaining controlled drugs. Accordingly, Congress already has recognized that e-prescribing prevents fraud as much, if not more, than the vulnerable paper based system that exists today. When the paper prescription is removed from the hands of the patient, that in and of itself is a key deterrent to fraud and criminal activity.

The business and technical structure of e-prescribing provides a framework for the secure and auditable transmission of a prescription. All transmissions are processed using secure connections such as private leased lines or secure and encrypted Internet connections using either a virtual private network or secure socket layer encryption techniques equivalent to those used in on-line banking and e-commerce transactions today. Moreover, e-prescribing networks must comply with all of the security provisions of HIPAA, the federal privacy law, as well as applicable federal and state laws regarding privacy and security of systems that transmit personally indentifiable health information.

The current e-prescribing system also allows for the tracking of prescriptions on a real-time basis, which is not possible at least in a timely and scalable way with the paper processes in place today. E-prescribing could help law enforcement to quickly identify, in real time, patients who doctor shop and garner multiple prescriptions for controlled substances. E-prescribing additionally creates an immediate electronic audit trail that is documented and time-stamped through each point in the process, from the prescribing clinicians' office to the pharmacy. These electronic audit trails show who touched the prescription and when. If the prescription is created and sent electronically, these built-in audit trails also could be used to identify drug shopping, even if the patient pays cash. These electronic records, available from the proactive process that is now live in all 50 states and the District of Columbia, when subpoenaed, could assist law enforcement in prosecuting diversion cases in a much more timely and efficient manner than today's reactive process.

Accordingly, we call upon Congress to encourage the adoption of regulations that would allow for the electronic prescribing of controlled substances. Such regulations should set forth policy that achieves the goals and mandate of law enforcement authorities, and not mandate particular technologies. E-prescribing as currently conducted not only will enhance law enforcement, but will advance the legislative agenda of promoting electronic health records, which will save the federal government millions of dollars and will save lives. We at SureScripts thank the Committee for the opportunity to share our experiences with respect to electronic healthcare, and it would be my pleasure to answer any questions that you might have.