



**Association of  
American Medical Colleges**  
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September 25, 2008

Michele M. Leonhart  
Acting Administrator  
Drug Enforcement Administration  
8701 Morissette Drive  
Springfield, VA 22152

**Submitted electronically to:** [dea.diversion.policy@usdoj.gov](mailto:dea.diversion.policy@usdoj.gov)

**RE: DEA-218P, Electronic Prescriptions for Controlled Substances, 73 Fed. Reg. 36772**

Dear Acting Administrator Leonhart:

The Association of American Medical Colleges is a not-for-profit association representing all 129 accredited U.S. and 17 accredited Canadian medical schools; nearly 400 major teaching hospitals and health systems, including 68 Department of Veterans Affairs medical centers; and 94 academic and scientific societies. Through these institutions and organizations, the AAMC represents 109,000 faculty members, 67,000 medical students, and 104,000 resident physicians. The AAMC welcomes the opportunity to comment on the proposed regulation, *Electronic Prescriptions for Controlled Substances*.

The AAMC appreciates the complexities that must be addressed to develop a regulation for the e-prescribing of controlled substances, particularly when it must meet the needs of law enforcement officials while relying for its implementation on health care providers whose main mission is to care for patients. After reviewing the proposal with a group of chief information officers from our member medical schools and teaching hospitals, we have identified a number of concerns. In particular, the proposal does not take into account: (1) whether current capabilities of electronic health records allow them to meet the proposed standards; (2) physician work patterns, including those of physicians who regularly practice and prescribe at multiple locations, and at times in multiple states; (3) the interaction of this regulation with existing state requirements regarding e-prescribing; and (4) the interaction of this regulation with e-prescribing provisions in the recently enacted Medicare Improvement and Patient Protection Act of 2008 (MIPPA).

The AAMC is concerned that if the proposed regulation is finalized, it will serve as a disincentive to the e-prescribing of controlled substances, as many of the requirements are unrealistic and burdensome. The Association also is worried about the liability that may extend to hospitals if

they make an error in the performance of identity proofing, and to physicians if they fail to meet some of the more onerous requirements, such as a monthly review of the log of e-prescriptions. Therefore, rather than finalizing the regulation as proposed, the AAMC strongly urges DEA to establish a stakeholders group comprised of representatives of hospitals, physicians, pharmacies, electronic health records vendors, CMS staff, representatives from states that have e-prescribing requirements, and other appropriate interested parties, to develop a regulation that is consistent with existing federal and state requirements, relies on proven technologies currently in use, and acknowledges the wide variations in medical practice patterns. Further, there should be no national roll-out of requirements related to the e-prescribing of controlled substances until a pilot test has been conducted. The stakes are too high to issue a regulation that will impede progress and fail to achieve the goal of the DEA and others to encourage e-prescribing.

If you need further information, please contact Ivy Baer of my staff at 202-828-0499 or [ibaer@aamc.org](mailto:ibaer@aamc.org).

Sincerely,



Robert M. Dickler  
Chief Health Care Officer