

**Congress of the United States**  
**Washington, DC 20515**

July 10, 2014

Marilyn Tavenner  
Administrator Center for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, Maryland 21244-18559

Dear Administrator Tavenner:

We write to ask that CMS, in its upcoming Stage 3 Electronic Health Record (EHR) Incentive Program proposed rule, grant a significant hardship exception to all eligible pathologists for the full five year maximum allowed under the American Recovery and Reinvestment Act (ARRA). As you know, ARRA established the EHR Incentive Programs for Medicare and Medicaid to provide payments to eligible hospitals and eligible professionals for implementing EHRs in ways that can positively impact patient care.

In its September 2012 Final Stage 2 Electronic Health Record Incentive Program rule, CMS acknowledged that pathologists face significant barriers in meeting the current meaningful use requirements, as evidenced by CMS' granting of the significant hardship exception to pathologists for 2015 – the first year of payment adjustments. Laboratory testing and pathology diagnostic information are without question a key influence on health care decision making.

The EHR Meaningful Use Program is designed to incentivize the adoption of EHRs. Pathologists have limited direct contact with patients and do not operate in EHRs. Instead, pathologists use sophisticated computerized laboratory information systems (LISs) to support the work of analyzing patient specimens and generating test results. These LISs exchange laboratory and pathology data with EHRs.

As a result, pending SGR legislation (H.R. 4015, the *SGR Repeal and Medicare Provider Payment Modernization Act of 2014*) recognizes that it is exceedingly difficult for non-patient-facing professionals, such as pathologists, to meet the current requirements of certain quality programs, including the EHR Meaningful Use Program. Therefore, the SGR legislation includes language giving the Secretary of Health and Human Services the flexibility to create measures and activities under the Merit-Based Incentive Payment System that reflect the way pathologists, and other physicians that do not have direct interaction with patients, practice medicine.

In conclusion, we request that CMS grant all eligible pathologists the significant hardship exception from meaningful use incentives and penalties for the full five years allowed under current law. Thank you in advance for your consideration of our request. We remain committed to working with you to enhance the requirements of the program and look forward to your reply.

Sincerely,

*Ron Kind*

Ron Kind  
Member of Congress

*Tom Price*

Tom Price, M.D.  
Member of Congress

*Jim Matheson*

Jim Matheson  
Member of Congress

*Hank Johnson*

Henry C. "Hank" Johnson  
Member of Congress

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Jim Moran  
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*F. James Sensenbrenner, Jr.*

F. James Sensenbrenner, Jr.  
Member of Congress

*Mike Thompson*

Mike Thompson  
Member of Congress

*Phil Roe*

Phil Roe, M.D.  
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*Chris Stewart*

Chris Stewart  
Member of Congress

*Michael Burgess*

Michael Burgess, M.D.  
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Tim Griffin  
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*Marsha Blackburn*

Marsha Blackburn  
Member of Congress

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Andy Harris, M.D.  
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Blake Farenthold  
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Phil Gingrey, M.D.  
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Steve Scalise  
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Joe Wilson  
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Peter Roskam  
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Charles Boustany, M.D.  
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Lynn Jenkins  
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Denny Heck  
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Brett Guthrie  
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Lee Terry  
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G. K. Butterfield  
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Keith Rothfus  
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Richard Neal  
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Dan Benishek, M.D.  
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Dave Loebsack  
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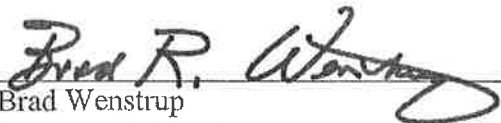
Chris Collins  
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*Gus Bilirakis*


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*Michelle Lujan Grisham*

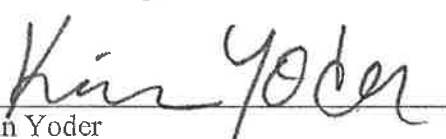
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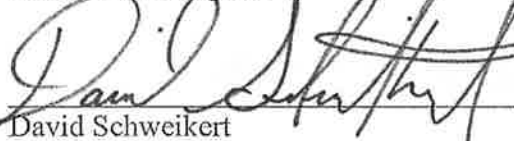
  
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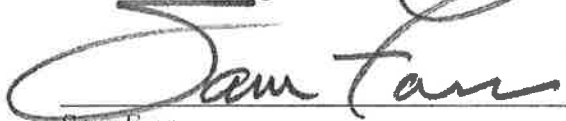
  
Rick Crawford  
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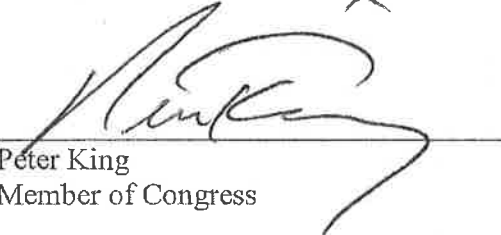
  
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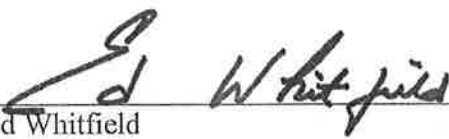
  
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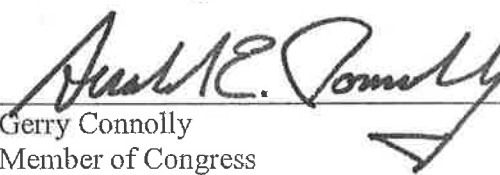
  
Peter King  
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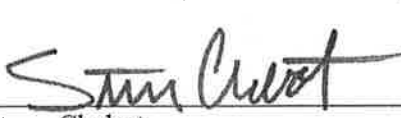
  
Cheri Bustos  
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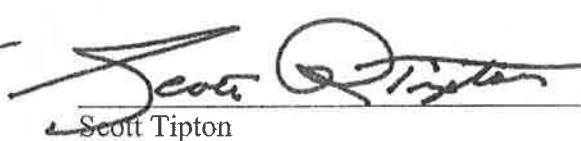
  
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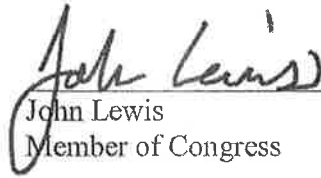
  
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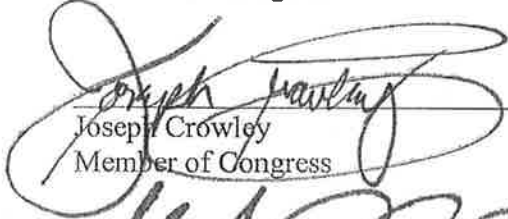
  
Dan Lipinski  
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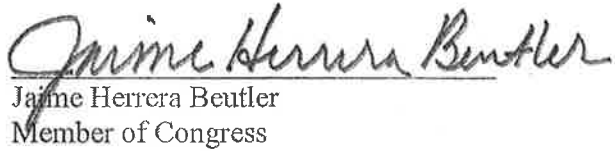
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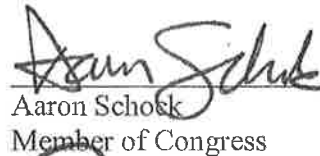
Joseph Crowley  
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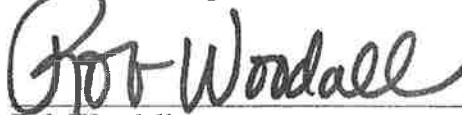
Steve Southerland  
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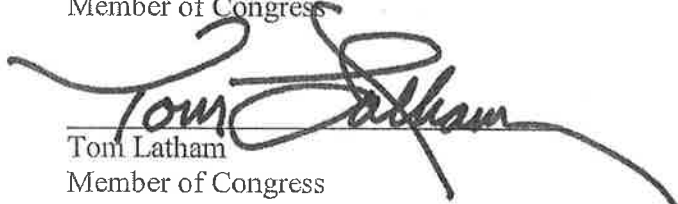
Aaron Schock  
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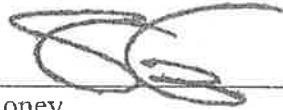
Rob Woodall  
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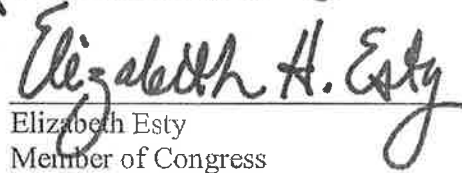
Tom Latham  
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Todd Young  
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Sean Maloney  
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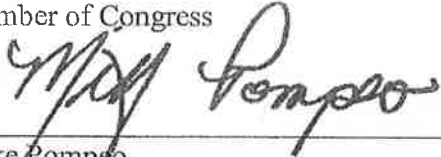
Elizabeth Esty  
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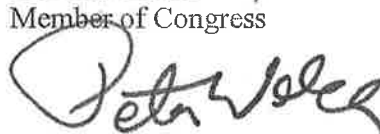
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