

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

Jim Moran

Jim Moran
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James Sensenbrenner, Jr.

F. James Sensenbrenner, Jr.
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Mike Thompson

Mike Thompson
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Phil Roe, M.D.
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Michael Burgess, M.D.
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Tim Griffin
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Marsha Blackburn
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Andy Harris, M.D.
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Blake Farenthold
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Walter Jones
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Chris Collins

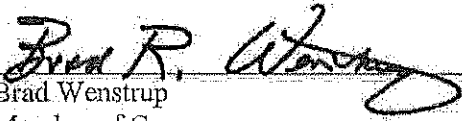
Chris Collins
Member of Congress

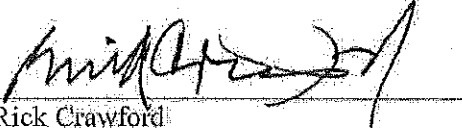
Gus Bilirakis

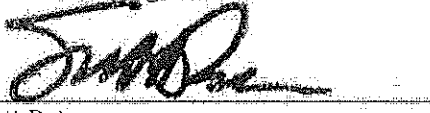
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Michelle Lujan Grisham

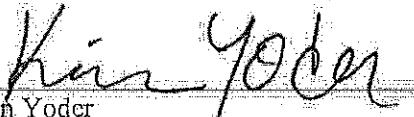
Michelle Lujan Grisham
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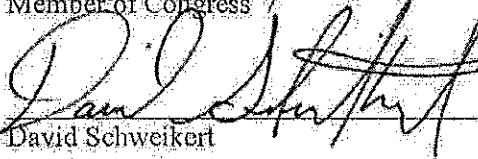

Brad Wenstrup
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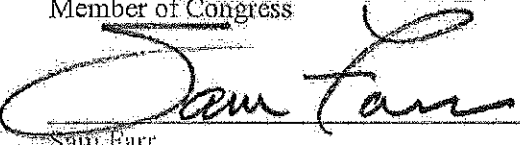

Rick Crawford
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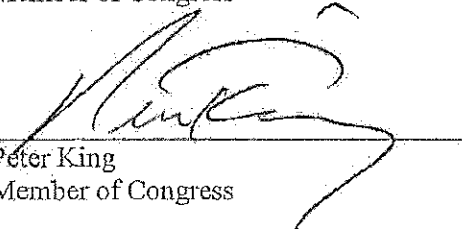

Scott Peters
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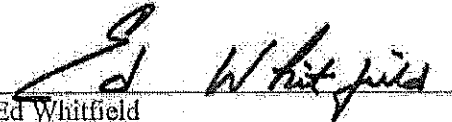

David Schweikert
Member of Congress


Sam Farr
Member of Congress

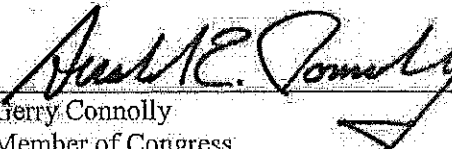

Peter King
Member of Congress



Cheri Bustos
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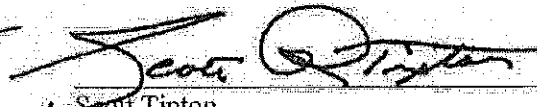

Pat Tiberi
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Ed Whitfield
Member of Congress



Billy Long
Member of Congress

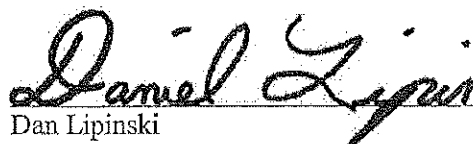

Gerry Connolly
Member of Congress


Steve Chabot
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Scott Tipton
Member of Congress

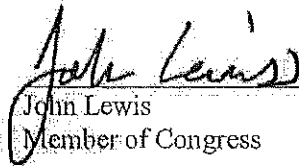

Jackie Speier
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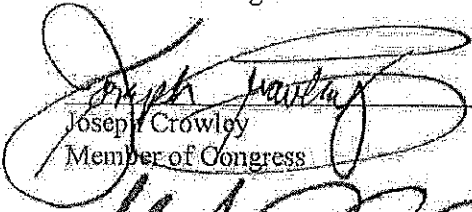

Dan Lipinski
Member of Congress



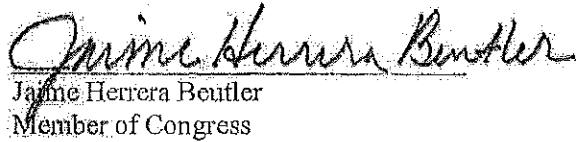
John Barrow
Member of Congress



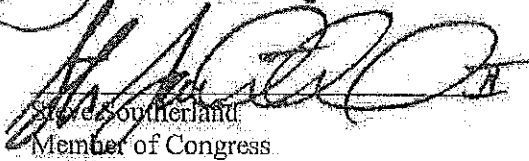
John Lewis
Member of Congress



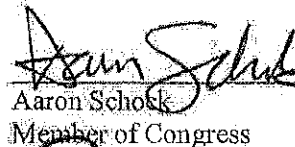
Joseph Crowley
Member of Congress



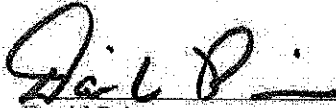
Jaime Herrera Beutler
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Steve Southerland
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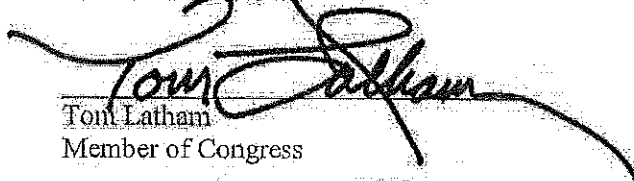
Aaron Schock
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David Price
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Rob Woodall
Member of Congress



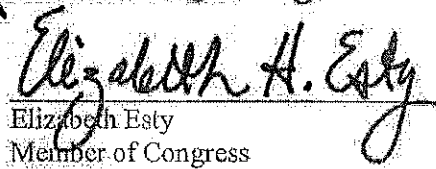
Tom Latham
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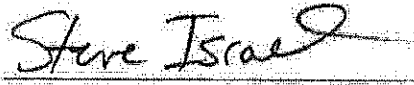
Todd Young
Member of Congress



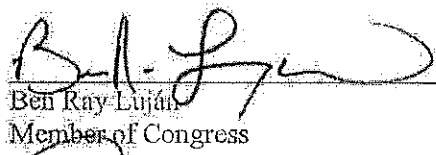
Sean Maloney
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Elizabeth Esty
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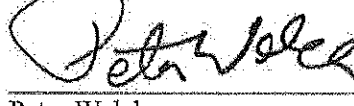
Steve Israel
Member of Congress



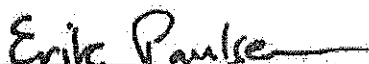
Ben Ray-Lujan
Member of Congress



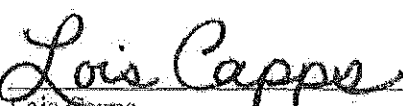
Mike Pompeo
Member of Congress



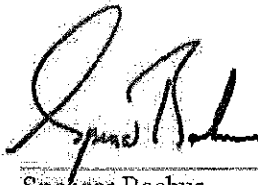
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