United States Senate
WASHINGTON, DC 20510

February 9, 2016

The Honorable Sylvia Mathews Burwell
Secretary of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Madam Secretary:

The prescription drug abuse epidemic is a nationwide and growing crisis that continues to have devastating effects on families across America and on public health and safety. In many states, it has also become a heroin crisis, overwhelming our communities and families with often tragic consequences. Recently, the Centers for Disease Control and Prevention (CDC) announced that deaths from opioid pain relievers as a result of misuse and abuse have soared over the last fifteen years.[1] Moreover, the CDC reports that healthcare providers wrote 259 million prescriptions for painkillers in 2012, enough for every American adult to have a bottle of pills.[2] It is alarming that Americans consume opioids at a greater rate than any other nation, including twice as many opioids per capita as Canada.[3] Such an ample supply of prescription opioids is subject to misuse and diversion, which has become one of the foremost public health challenges facing our nation.

The evolving scope of this crisis leads us to write you about one factor that may be contributing to these staggering statistics. As you know, the Centers for Medicare and Medicaid Services (CMS) operates the Hospital Value-Based Purchasing Program, an important part of our efforts to transition Medicare from a program that rewards providers for the volume of services provided to one that rewards high quality care. Under the Hospital Value-Based Purchasing Program, CMS will withhold 1.75 percent of participating hospitals' base operating diagnosis-related group payments in fiscal year 2016 and redistribute those funds to hospitals in accordance with their performance on certain quality measures. One quarter of this adjustment is based on the patient experience of care, which CMS measures according to the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey. This survey asks discharged patients to respond to questions including, "During this hospital stay, how often was your pain well-controlled?" and "During this hospital stay, how often did the hospital staff do everything they could to help you with your pain?"

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[1] CDC Newsroom Archives. "Drug overdose deaths hit record numbers in 2014," December 18, 2015. Accessed from http://www.cdc.gov/media/releases/2015/p1218-drug-overdose.html.
[2] "Opioid Painkiller Prescribing." *CDC Vital Signs.* Accessed from http://www.cdc.gov/vitalsigns/opioid-prescribing/.
[3] Paulozzi, Leondard. "Vital Signs: Variation Among States in Prescribing of Opioid Pain Relievers and Benzodiazepines – United States, 2012," *Morbidity and Mortality Weekly Report* 2012. Accessed from http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6326a2.htm.

Pain control is a critical component of quality inpatient care. Patients can often be expected to experience pain, as pain is naturally associated with many events that may necessitate an inpatient stay, like acute surgery or trauma. Moreover, for many years, patients faced many barriers to accessing effective pain treatment because pain management was unfortunately ignored and often needlessly less than optimal.

The pendulum, however, may have swung too far. For millions of patients who are suffering from illness or injury, prompt delivery of pain control – which may or may not include opioid pain relievers – is proper and humane. Yet inappropriate use of opioid pain relievers does not provide any clinical benefit and may actually pose a risk of harm. The evidence suggests that physicians may feel compelled to prescribe opioid pain relievers in order to improve hospital performance on quality measures.[4]

As we take steps to reward high quality care in the Medicare program, it is critical that we correctly measure the quality we are rewarding. Currently, there is no objective diagnostic method that can validate or quantify pain. Development of such a measure would surely be a worthwhile endeavor. In the meantime, however, we are concerned that the current evaluation system may inappropriately penalize hospitals and pressure physicians who, in the exercise of medical judgment, opt to limit opioid pain relievers to certain patients and instead reward those who prescribe opioids more frequently. We understand that HHS has begun an examination of whether there is a connection between these measurements and potentially inappropriate prescribing patterns, and whether the survey should be modified to address this concern. We hope this is a robust examination of this issue and includes more input from hospitals and providers, many of whom have expressed concern to us about the survey's impact on opioid prescribing practices. We ask that you apprise us of the results of this examination when it is complete.

Sincerely,

Susan M. Collins

Senator Susan M. Collins

Heidi Heitkamp

Senator Heidi Heitkamp

Kelly A. Ayotte

Senator Kelly Ayotte

Kirsten Gillibrand

Senator Kirsten E. Gillibrand

[4] Gunderman, Richard. "When Physicians' Careers Suffer Because They Refuse to Prescribe Narcotics," *The Atlantic* 2014, http://www.theatlantic.com/health/archive/2013/10/when-physicians-careers-suffer-because-they-refuse-to-prescribe-narcotics/280995/.

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