Government censorship of natural health products on the rise

written by Alliance for Natural Health | May 5, 2023

While I'm away this week, I wanted to take the opportunity to share this important message from my friends at the Alliance for Natural Health. I've been a board member at ANH for the last 20 years and now serve as Medical Director and President; I hope you'll join in our commitment to preserving access to natural health choices!

Learn more about the latest encroachment on our liberties in the following article, and let's join forces to let our representatives know we won't go down without a fight! For a limited time, I'm matching all donations to ANH from my audience up a total of $5000. Click for more info.

—Dr. Hoffman

Hundreds of letters have been sent to natural products companies warning them that if they fall afoul of the FTC's ridiculous rules by sharing information that can benefit your health, there will be hell to pay. **Action Alert!**

Once again, the government is trying to limit access to the information we have about the benefits of natural products. The FTC sent letters to 670 companies, including those selling dietary supplements, homeopathic products, and functional foods, warning them that if they make claims without proper scientific substantiation, they will face large civil penalties—up to $50,120 per violation. This unprecedented move is a warning shot to the natural health industry signaling that we're entering a new era of enforcement in which the government will be even more aggressive than it has been in censoring speech about the benefits of natural products. We must push back.

This is a complex issue that is quite technical, but what we're facing is a government-led campaign to conceal the remarkable truth about the healing and disease-preventing powers of foods and nutrients, ultimately misleading the public so that they spend their money on drugs rather than natural

supplements.

The crux of the issue is that the FTC, in conjunction with the FDA, is trying to impose drug standards on supplements, requiring expensive clinical trials in order for supplement companies to make most health claims. Not only are clinical trials often inappropriate for studying nutrients, they are not economically feasible. As we've explained many times, clinical trials are incredibly expensive. Drug companies can afford them because drugs are patentable and the costs can be recouped when the drug is approved and sold for exorbitant prices. Nutrients generally cannot be strongly patented, so the costs of clinical trials cannot be recouped. The government knows this, so the attempt to require clinical trials for supplement claims is a backdoor ban on most claims. This makes sense if your goal is to protect the drug industry from competition, but not if you want to promote public health by empowering consumers with information so they can take control of their own health.

The salvo of FTC letters was preceded by a revision to the agency's Health Products Compliance guidance in December 2022, which includes a crucial change. Companies must have "competent and reliable" scientific evidence in support of health claims in advertising. Previously, this could include all kinds of studies, such as animal, *in vitro*, or epidemiological studies—though clinical trials were considered "best." The revised guidance states that:

"…substantiation of health-related benefits will need to be in the form of randomized, controlled human clinical testing (RCTs) to meet the competent and reliable scientific standard…Animal and in vitro studies may provide useful supporting or background information, but, without confirmation by human RCTs, they aren't sufficient to substantiate health-related claims."

This change can be traced to the lawsuit brought by the FTC against Pom Wonderful, the pomegranate juice company, in 2014. Recall that the agency went after Pom Wonderful for advertising the health benefits of its products—even though the company spent $35 million on studies to back up its claims. But this wasn't enough for the FTC—they wanted two RCTs, a drug standard, to substantiate health advertising claims. The courts rejected the two RCT standard but said one RCT could be required. The FTC is now alerting companies that it plans to enforce this ridiculous standard.

In the FTC's updated guidance there is even an indication that the agency will, in practice, require two RCTs, not just one—contrary the opinion delivered by the Court in the Pom case:

"Although there is no requirement for a specific number of RCTs, the replication of research in an independently conducted study adds to the weight of the evidence. Replication in a second study by independent researchers reduces the chance that the results of a single RCT may be influenced by unanticipated, undetected, systematic biases that may occur despite the best intentions of sponsors and investigators."

Note that the FDA and the FTC work together to regulate health claims, and both apply a similar framework that heavily weights evidence provided by

clinical trials when reviewing health claims. FDA rules state that there must be “significant scientific agreement” among qualified experts that health claims are supported by the totality of publicly available science. Like the FTC, the FDA categorically rejects most kinds of evidence other than clinical trials in determining what constitutes “significant scientific agreement.”

Given these agencies’ history, the outlook for free speech isn’t good. The government has a proven track record in egregiously restricting truthful claims about supplement benefits. We’ve reported on the FDA’s attack on cherry and walnut growers for listing the health benefits of those foods on their websites. We’ve told you about the FDA’s restriction of legal structure/function claims because they are “implied disease claims”—an FDA fabrication that isn’t in the law. There was the massive, coordinated censorship campaign launched during COVID by the FDA and the FTC threatening doctors and clinics that told us about the benefits of natural products like vitamin D and zinc for COVID treatment and prevention. We reported on the FTC’s campaign against Xlear, a nasal spray company, for discussing the results of more than a dozen studies demonstrating the plausibility of using its nasal spray to help with COVID. There are many more examples.

This is also another instance of US regulators trying to “harmonize” US law with the European Union’s (EU) draconian system. As our friends at ANH-International have pointed out, most botanicals in the EU aren’t allowed any health claims, and there are only a handful of approved claims for vitamins and minerals. The EU’s FDA equivalent rejected the vast majority of some 44,000 proposed nutrient health claims because they didn’t have what they considered to be the proper substantiation. We cannot allow the US government to follow this model.

ANH-USA supports legislation that would allow the free flow of information about supplements by allowing companies to cite peer-reviewed studies demonstrating health benefits. Help us push back against the government’s censorship campaign and support free speech!

Action Alert! Write to Congress, telling them to stop the FTC’s censorship campaign and to support the free flow of information about supplements. **Please send your message immediately, using the form at the bottom of this page.**