

ADVERTISING, MARKETING & PROMOTIONS

>> **ALERT**

FTC AND FDA SENT WARNING LETTERS TO COMPANIES ADVERTISING PRODUCTS THAT CLAIM TREATMENT OF DISEASE

The Federal Trade Commission (FTC) and the Food and Drug Administration (FDA) have sent joint letters to three companies warning them about advertising for dietary supplements on their websites and on social media channels regarding claims that their products will treat, remediate or cure various diseases and illnesses.

THE AGENCIES' CONCERNS

The agencies sent the letters to Gold Crown Natural Products, TEK Naturals and Pure Nootropics, LLC. The letters explained that the government had reviewed the companies' advertisements and believed that they might violate the FTC Act by making false or unsubstantiated health claims about their ability to treat or cure Alzheimer's, Parkinson's, heart disease, cancer or other illnesses or diseases.

In particular, the letters said that claims on websites, blogs, Facebook, Instagram and Twitter established that the companies' products were drugs for purposes of the United States Federal Food, Drug and Cosmetic Act (FDCA) because they were intended for use in the cure, mitigation, treatment or prevention of disease. The agencies said that the products were not generally recognized as safe and effective for the uses for which they were advertised and that they were "new drugs" within the meaning

THE BOTTOM LINE

The FTC and FDA are aggressively reviewing companies' websites and social media channels for false or unsubstantiated health claims and efficacy claims. Advertisements on company websites and in social media posts must avoid false or unsubstantiated health claims, and efficacy claims made for dietary supplements and other health-related products must be supported by competent and reliable evidence. Companies advertising these kinds of items should review their promotional materials with these letters in mind.

of the FDCA that could not be legally introduced or delivered for introduction into interstate commerce without the FDA's prior approval.

Moreover, the agencies asserted that products advertised by the companies were misbranded because they were intended for treatment of one or more diseases that were "not amenable to self-diagnosis or treatment without the supervision of a licensed practitioner."

In addition, the government said that it was concerned that one or more of the efficacy claims made by the companies might not be supported

by competent and reliable scientific evidence including, when appropriate, well-controlled human clinical studies, substantiating that the claims were true when made and, therefore, that they might be in violation of the FTC Act.

EXAMPLES OF CHALLENGED STATEMENTS

The letters contained dozens of statements that the agencies indicated were of concern. Among many others, they included:

>> "Scientifically proven to . . . reduce a woman's risk for heart disease"

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- >> "Reduce feelings of anxiety"
- >> "Well-known for its anti-anxiety benefits"
- >> "Possesses a wide range of therapeutic properties . . . used in the treatment and prevention of some forms of cancer, Parkinson's disease, human papilloma virus, and kidney stones"
- >> "Positive effects in the regulation of high blood pressure and as an anti-diabetic supplement"
- >> "Responsible for lowered LDL cholesterol"
- >> "The treatment of ear infections . . . and even some forms of cancer"
- >> "Used as a dietary supplement in the treatment and management of Type 2 Diabetes"
- >> "Possible treatment for Alzheimer's patients"
- >> "Known to . . . treat the symptoms of ADD and ADHD"
- >> "Vital to fighting off depression and anxiety"
- >> "Has been used to act as a natural remedy for erectile dysfunction"
- >> "Helps prevent cancer"
- >> "Great for brain injury recovery"
- >> "Can slow the buildup of plaque deposits and reduce heart attack risk"
- >> "Been shown to help eliminate allergies"
- >> "Has been shown in some tests to help the human body's immune system fight cancer"

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