

NATURE'S SUNSHINE PRODUCTS, INC.

REGULATORY UPDATE JANUARY–MARCH 2016

VOLUME IV, ISSUE I

This brief newsletter is designed to provide our Members with a snapshot of the key regulatory issues affecting our industry and, where applicable, the Company's role in those issues. Each quarterly newsletter will focus on some of the major developments in our industry since the previous edition. As always, if you have questions or would like more detail, please contact a member of the Nature's Sunshine Legal Department. Finally, we welcome your feedback. Please let us know what we can do better. **This is for NSP Members/ Distributors/ Managers and not for public dissemination.**

HEALTH SAVINGS ACT OF 2016

In late February, 2016, all five of the leading trade associations signed a letter supporting inclusion of supplements in the FSA. Millions of supplement and meal replacement consumers would LOVE to spend their HSA savings on supplements as a key part of their health and wellness budget.

A section by section of the bill can be found at this link: See, <http://www.finance.senate.gov/download/health-savings-act-of-2016-section-by-section>. Text of the bill can be found at this link: See, <http://www.finance.senate.gov/download/health-savings-act-of-2016>. **Nature's Sunshine Legal will continue to monitor and provide updates on this newly introduced legislation.**

THE COALITION TO PROMOTE INDEPENDENT ENTREPRENEURS

On March 1, 2016, DSA President Joseph Mariano appeared on a discussion panel for the Coalition to Promote Independent Entrepreneurs to talk over independent work and the American economy.

Mr. Mariano discussed (see link to his remarks below) how the independent contractor model works for direct sellers and explained the value of the model to the 18.2 million Americans involved. He also noted that direct sellers have been involved in numerous policy discussions about independent contractor status over the years and are uniquely qualified to help shape the debates of the future. **Legal will continue to monitor and provide future updates from the DSA.**

IMPORTED SUPPLEMENTS MAY NOT BE SAFE

The FDA has recently released a consumer news release concerning imported dietary supplements and nonprescription drugs. Many imported supplements sold in ethnic stores, flea markets, gas stations, etc., are spiked with illegal ingredients, drugs, etc. Ethnic populations are at risk: buyer beware.

UNPA thinks this is a good news/bad news story.

The bad news: It's a repetition of the thinking that supplements are not safe or regulated.

The good news: FDA is more accurately focusing on the real problem, i.e., spiking, illegally imported, and unlawful products.

Watch out for these claims:

- One product does it all. Be suspicious of products that claim to cure a wide range of diseases.
- Personal testimonials. Success stories such as "It cured my diabetes," or "My tumors are gone," are easy to make up and are not a substitution for scientific evidence.

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- Quick fixes. Few diseases or conditions can be treated quickly, even with legitimate products. Beware of language such as “lose 30 pounds in 30 days,” or “eliminates skin cancer in days.”
- “All natural.” Some plants found in nature can kill if you eat them. Plus, FDA has found products promoted as “all natural” that contain hidden and dangerously high doses of prescription drug ingredients.
- Miracle cure. Alarms should go off when you see this claim or others like it such as “new discovery” or “scientific breakthrough.” A real cure for a serious disease would be all over the media and prescribed by doctors—not buried in print ads, TV infomercials, or on Internet sites.
- FDA-Approved. Domestic or imported dietary supplements are not approved by FDA.

Finally, consumers should be aware if they are purchasing unproven product or one with questionable claims. See, <http://www.prnewswire.com/news-releases/some-imported-dietary-supplements-and-nonprescription-drug-products-may-harm-you-300231786.html>. **Nature's Sunshine Legal will continue to monitor and get in touch with R&D to determine what, if any, effects this may have on the company.**

INDEPENDENT CONTRACTOR POLICY PROPOSALS

On March 14, 2016, the Government Relations Committee of the DSA engaged in a weekly telephone conference with the General Counsel Committee and Lawyers Council to discuss the various proposals being put forth for re-examining the treatment of independent contractors being utilized in today's economy companies. One of the proposals considered has been taken from a paper that was written by Seth Harris and Alan Kruger (Brookings Hamilton Project), which specifically mentions direct selling in the context of a proposal that would create a third classification of worker called “independent worker (also known as an independent contractor).”

These authors, Harris and Kruger, discuss three main factors for determining if direct sellers would fall under this third classification:

- The extent of a company's involvement with customers;
- Whether the direct seller bears the opportunity for risk and loss; and
- Other control factors such as requiring a uniform.

At this time, the Harris/Kruger proposal has not been widely reviewed or promoted and no such legislation has been introduced consistent with this proposal. With this year being a Presidential election year, the industry will not likely see any promotion of this classification of direct sellers; however, the DSA does believe that the portion of the paper dealing with direct selling does warrant a meeting with the authors and/or the Hamilton Project staff. A link to the full paper is below; the section discussing direct sellers is on page 24: See, http://www.hamiltonproject.org/assets/files/workers_and_the_online_gig_economy.pdf

Nature's Sunshine Legal will continue to monitor and provide updates to the Brookings Hamilton Project.

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HEINRICH URGES NEW FDA LEADER TO UTILIZE ENFORCEMENT TOOLS TO ELIMINATE BAD SUPPLEMENT PLAYERS

Sen. Martin Heinrich (D-New Mexico) sent a letter on March 10 to newly appointed FDA Commissioner Robert Califf, M.D., calling for increased enforcement in the dietary supplement market and the removal of criminal bad actors causing trouble for the reputable supplement industry.

Heinrich further expressed his hope Califf will guide FDA to fully utilize the newly elevated Office of Dietary Supplement Programs to exercise all authorities under DSHEA (Dietary Supplement Health and Education Act) to regulate the “vital” supplement industry. This article is for information only.

Senate Says 'NO' to Voluntary Labeling for GMO Foods

On March 18, 2016, the US Senate met and failed to gather enough votes on a procedural vote that would have created a revised voluntary labeling scheme for foods containing GMO-based ingredients.

Roberts' revised bill sought to:

- Preempt states from requiring the labeling of GMO foods
- Continue the current voluntary labeling system by permitting companies to use 1-800 numbers, URLs, QR codes and even social media to provide consumers with GMO information
- Allow USDA to determine what GMO information is provided through the voluntary labeling system
- Permit the USDA to require the use of 1-800 numbers, URLs, QR codes or other off-pack disclosure five years after enactment.

Critics, including many consumer advocacy groups and Sens. Barbara Boxer, D-Calif., and Jeff Merkley, D-Ore., who both have introduced mandatory labeling bills, said Roberts' bill ignores the wishes of more than nine in 10 Americans, who want mandatory labeling.

It is anticipated that a revised bill, perhaps brokered by Sen. Debbie Stabenow, D-Mich., the minority chair of the AG committee, will be reintroduced shortly, as voluntary labeling advocates are keen to head off mandatory labeling prior to the June implementation of the Vermont law. See, http://www.mediapost.com/publications/article/271466/senate-blocks-bill-curtailling-states-gmo-label-la.html?utm_source=newsletter&utm_medium=email&utm_content=headline&utm_campaign=91216

Nature's Sunshine Legal will continue to monitor and provide updates on this legislation.

NC S 564 – INDEPENDENT CONTRACTOR

This bill would add a direct seller definition regarding unemployment compensation in North Carolina to ensure that individual direct sellers will be classified as independent contractors. This bill did not pass through the North Carolina Senate during the 2015 legislative session. DSA is in ongoing communications with key legislators and are anticipating another series of meetings in Raleigh soon. The language will likely be included in a broader unemployment compensation bill being prepared by the North Carolina Senate Commerce Committee for the 2016 legislative session. **Nature's Sunshine Legal will continue to monitor the bill and provide updates on this legislation.**

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NJ A 2004 / NJ S 731 – ANTI-PYRAMID

Anti-pyramid legislation consistent with the Council for State Governments (GSC) model has been re-introduced in the New Jersey Senate and filed for introduction in the Assembly for the 2016-2017 legislative session. DSA is currently reviewing amended language provided by the New Jersey Attorney General's Office. **Nature's Sunshine Legal will continue to monitor the bill and provide updates on this legislation.**