



Important Message to the Community about FTC and Other Regulatory Actions

The AANP has recently become aware of several ND clinics (along with dozens of other alternative and integrative medicine providers) which have received warning letters from the FTC for making claims to prevent, treat or cure COVID-19 that the FTC asserts are unlawful advertising.

We want to share an update about what's happening, what the AANP is doing about it, and what NDs and your staff need to know to protect yourself and your community.

First, we'd like to clearly state that the AANP and many state associations and licensing boards are sharing language guidelines NOT in an attempt to censor naturopathic doctors, but rather to help you navigate through an environment where heightened fear is leading to unprecedented and aggressive regulatory actions. Naturopathic Medicine is essential in our national response to COVID-19 and the AANP encourages all NDs to utilize their full scope of practice in supporting their communities. Far from limiting our medicine, we will continue to defend your ability to treat your patients without restriction.

Keeping clinics open and thriving is an essential prerequisite to being able to utilize the full naturopathic medicine toolkit, but this threat to your ability to do so is real. One attorney AANP consulted said she has never seen this many warning letters coming from so many regulatory agencies in this volume over her entire career. It's not just the FTC; it's also the FDA, FBI, OSHA, state consumer protection bureaus and departments of labor, to name just a few.

So our job at the AANP is two-fold:

1. **Help You Manage Your Risk** - AANP has and will share guidance you can deploy to immediately mitigate your risk and PREVENT you from getting any warning letters. This may seem uncomfortable or overly restrictive, but the goal is not censorship, it's protection from harm.
2. **Push Back and Defend Your Rights** - AANP is working to defend the right to practice, to educate patients and the public, to call out double standards, and to reaffirm that natural approaches to health are equally if not more valid now than ever before. Our medicine holds unique value in the national response and AANP will continue to advocate on behalf of every ND.

What's at risk?

A warning letter from the FTC can seem like a fairly benign bureaucratic request: they identify something they don't like on your website or in a published article, they ask you to take it down.

But unfortunately, it doesn't stop there. AANP has reached out to NDs who have received letters, and found that these notices are shared with local Departments of Justice as well as the banking system, and can trigger a cascade of downstream repercussions, including:

- In at least one state, the FTC letter triggered a state **Department of Justice Investigative Demand for violation of the Unlawful Trade Practices Act** - this is a serious charge that requires (often expensive) legal assistance.
- Local **Departments of Justice may involve your ND licensing board**;
- Banks are advised to **shut down merchant service accounts** of anyone who has received an FTC letter. This not only disrupts business operations, but are also very difficult to clear off your record.
- If you are found in violation and sanctioned by any agency, your **ND regulatory authority may get involved potentially impacting your license**.

What's AANP doing?

1. Collecting data and analyzing trends. If you receive *any* notice from *any* regulatory authority, please send the notice and any supporting documentation to executive@naturopathic.org. We will de-identify it and add it to a database to help us identify patterns and triggers so we can refine our guidance and strategy.
2. Built a team of attorneys, consultants, state associations, stakeholders and physicians to develop messaging and strategies.
3. Consulted with malpractice carriers to coordinate risk management strategies.
4. Developing a Sign-On Letter to the FTC to respectfully disagree with some of their assertions, educate them about naturopathic medicine, and challenge the double standard that allows conventional medicine to use un-researched and experimental approaches to treat COVID-19 with impunity.
5. Developing template language to help NDs respond to warning letters with professional, well-referenced and unified messaging that does not put them or their practice at further risk.
6. Supporting NDs to prevent undue regulatory scrutiny, or manage the stress of responding if necessary.
7. Consulting with the World Naturopathic Federation which is conducting rapid reviews of the scientific literature around the more common naturopathic supportive approaches to preventing or managing patient COVID-19 symptoms.

What seems to be triggering FTC notices?

AANP is still working on analyzing patterns with the help of CNDA, OANP and our consultant/legal teams, but preliminary trends would seem to warrant the following cautions:

- Content being flagged does not have to be a direct claim to prevent, treat, or cure. Even indirect references may be flagged (i.e., discussing an herb for upper respiratory tract infections, but including a #covid at the end of the post would be an *indirect* claim)
- Do include references to the research for any treatment recommendations.

- Do not commercialize or market the natural treatment approaches you reference. Saying “Vitamin D boosts immunity” is free speech, but saying “Vitamin D boosts immunity and you can buy it at my store” is marketing and trying to influence conduct.

If you share our concern that these regulatory actions are going down a slippery slope of censorship, or restricting the ability of licensed professionals to be able to diagnose, treat, and educate patients and the community, please consider joining the AANP to support our efforts to coordinate strategy, protect naturopathic doctors, and defend naturopathic medicine.

And again, we need help collecting data, so if your clinic has been contacted by ANY regulatory authority, whether local, state or federal, please send the letter you received, as well as any supporting materials that ostensibly triggered the letter to executive@naturopathic.org and we will coordinate with you as much as possible.

Sincerely,

Rob Kachko, ND AANP President

Robert Kachko ND LAc

Laura Farr, AANP Executive Director

Laura Cullen Farr