

consumers' health and pocketbooks.

Like other health care promotions on the Internet, the availability of prescription drugs via online pharmacies offers potential benefits to consumers, including convenience and value. Many online pharmacies appear to operate in essentially the same manner as mail order pharmacies and in keeping with standards of state licensing authorities. Nevertheless, our review of the current practices of some online pharmacies and of some physicians that provide online prescription services indicates the potential for serious consumer injury. Significant potential for injury exists when prescriptions are issued without adequate review of the consumer's medical history or when unapproved drugs are sold to consumers over the Internet by overseas pharmacies. The Commission has limited anecdotal evidence of specific occasions where consumers have, in fact, received a prescription drug via the Internet that would be clearly inappropriate or even dangerous because of the age, health, or other drug use of the consumer.⁽⁴⁾

As the Subcommittee is aware, the rapid growth in online sales of prescription drugs and the increase in the practice of online prescribing, both of which are occurring across state and even international borders, present significant technological and logistical challenges to the traditional regulatory framework. State medical boards and state pharmacy boards have both expressed concerns that their existing

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patient relationship, including communications between doctors and patients about course of treatment decisions.⁽¹⁴⁾ The FTC does not have the authority to revoke an individual physician's license or to enforce state licensing requirements. The agency believes that judgments about the practice of medicine are better left to the individual state medical boards, which establish standards of practice and oversee the licensing of individual physicians. It is our understanding that many states currently prohibit the issuing of prescriptions based solely on a consumer's answers to an online questionnaire.⁽¹⁵⁾

Similarly, the licensing and regulation of pharmacies, like the licensing of physicians, has traditionally taken place at the state level by state pharmacy boards. The Commission does not have authority to revoke a pharmacy's license or to enforce regulations relating to licensing of pharmacies. Again, issues about what constitute appropriate practices by an online pharmacy are better left to the state authorities with the relevant expertise.

While the Commission believes that state authorities should continue to have responsibility for enforcement of licensing requirements for physicians and pharmacies, the FTC has and will continue to provide assistance to those authorities in individual investigations.

IV. Specific Commission Activities Relating to Online Pharmacies

The Commission believes its role with regard to online pharmacies is limited under the current legal framework and that the primary responsibility should remain with the states and FDA. Within the scope of our authority, we have taken a number of actions in this area: monitoring websites; conducting investigations; and making referrals to other federal and state authorities. In addition, we coordinate many of our activities through an interagency working group.

Because there are many federal and state authorities with specific roles in the regulation of physicians and pharmacies, it is critical that the various agencies coordinate closely. On April 26, 1999, an interagency working group, comprised of the FTC, FDA, the Department of Justice (DOJ), the Drug Enforcement Agency (DEA), and other federal and state agencies, met to consider the regulation of online pharmacies and other issues relating to the sale of drugs over the Internet. One of the group's tasks is to explore enforcement issues and potential jurisdictional gaps. One follow-up meeting has been held and an additional meeting is scheduled for September 1999. The FTC will continue to participate in the

drug Viagra®. For one of these consultations, staff described a number of factors in the "patient's" medical history that should have raised serious concerns about the appropriateness of issuing a prescription for Viagra® , such as bypass surgery, obesity, family history of heart disease and the absence of any information about other medications.

responsible parties and enforcing laws across state boundaries. State authorities and other groups are attempting to address the most troubling practices through issuance of guidelines, certification programs and other non-legislative approaches,⁽²¹⁾ but those efforts, while valuable, still do not provide the tools necessary for effective and meaningful enforcement.

Based on the Commission's experience in this area, we recommend that the Subcommittee consider legislative measures that would assist state authorities in their investigations by mandating that certain identifying information about physicians, pharmacies and website operators be posted. Specifically, we suggest that each website offering prescription drugs for sale be required to disclose the following information clearly and prominently:

- 1) the name, business address, and phone number of the pharmacy that will dispense the prescription and the state or states where such pharmacy is licensed or registered to do business;
- 2) the name, address, and phone number of each physician providing the online prescribing services and the state or states where such physician is licensed or authorized to practice medicine, if such service is offered;
- 3) the name, business address, phone number, and principal officers or owners of the online business offering prescription drugs, if different from the pharmacy or physician; and
- 4) the state or states from which the website will accept orders for prescription drugs.

Finally, the Commission recommends that consideration should be given to determining what other measures are necessary to assist state pharmacy and medical boards with enforcement of state laws against extraterritorial prescribing practices, including possibly granting states the authority to bring actions in federal district court.

Thank you for this opportunity to present the Commission's views. I will be happy to respond to your questions.

Endnotes:

1. This written statement presents the views of the Federal Trade Commission. Responses to questions reflect my views and do not necessarily reflect the views of the Commission or any Commissioner.
2. Cyberdialogue, Inc. (June 1999).
3. *Id.*
4. We have received very few complaints about online pharmacies. In one complaint filed with the FTC, however, a parent reported that her minor son had obtained Viagra® over the Internet. Part of the parent's concern was the fact that her son had bipolar disorder, neurocardiac syncope, and was taking blood pressure

liposuction).

15. See, e.g. attached letters from Alabama State Board of Medical Examiners, dated March 11, 1999; State of Colorado, Department of Regulatory Agencies, dated March 23, 1999; State of Connecticut, Department of