



Contact Attorney Regarding  
This Matter:

Aaron M. Danzig  
404.873.8504 - direct  
404.873.8505 - fax  
[aaron.danzig@agg.com](mailto:aaron.danzig@agg.com)

## **Congress Passes and President Bush Signs Into Law the Ryan Haight Online Pharmacy Consumer Protection Act of 2008**

The U.S. Congress has suffered low poll ratings in the past months and, more recently, has been subsumed with addressing the economic crisis facing the United States and the rest of the world. However, the government has managed to work on other important business and, on October 15, 2008, President Bush signed into law the Ryan Haight Online Pharmacy Consumer Protection Act of 2008. This law continues the government's efforts to protect citizens from rogue internet pharmacies and from counterfeit pharmaceuticals entering the consumer supply chain and the potential life-threatening health and safety risk associated with ingesting counterfeit drugs. It also recognizes the benefits of allowing individuals to fill valid prescriptions via legitimate internet sites. This article reviews the recently passed law.

The price of prescription medications has increased significantly in recent years, and there are many legitimate internet sites where such medications can be purchased at lower costs. However, the often high cost of prescription medication, combined with the prevalence of e-mail spam and other internet-based marketing of lower cost pharmaceuticals, has also led to an increase of counterfeit pharmaceuticals being brought and distributed into the United States. Counterfeit drugs, manufactured without adherence to FDA regulations and in unsanitary conditions, can pose serious health risk for patients.

Even if the purchased pharmaceutical is not counterfeit, there are risks in purchasing medicines from the internet. The case of Ryan Haight is a tragic example of the risks of taking pharmaceuticals with proper medical supervision. In 2001, Mr. Haight obtained Vicodin over the internet. A medical doctor that Mr. Haight never saw prescribed the drugs over the internet, an internet pharmacy mailed them to his home, and Mr. Haight died of an overdose of the drug when he was 18 years old. The Ryan Haight Online Pharmacy Consumer Protection Act of 2008 was enacted to protect purchasers of pharmaceuticals over the internet, and, as DEA Acting Administrator Michele M. Leonhart has stated, "This landmark piece of legislation will bring rogue pharmacy operators out of the shadows by establishing a clear standard for legitimate online pharmaceuticals sales. The legislation will allow customers to know they are doing business with a trusted, legitimate pharmacy, and give law enforcement the tools we need to identify illegitimate online pharmacies."<sup>1</sup>

Arnall Golden Gregory LLP  
Attorneys at Law  
171 17th Street NW  
Suite 2100  
Atlanta, GA 30363-1031  
404.873.8500  
[www.agg.com](http://www.agg.com)

<sup>1</sup> "Congress Passes Ryan Haight Online Pharmacy Consumer Protection Act," press release from Drug Enforcement Administration, October 15, 2008. Available at [www.usdoj.gov/dea/pubs/pressrel/pr100108.html](http://www.usdoj.gov/dea/pubs/pressrel/pr100108.html).

Legitimate internet-based pharmacies provide a valuable function in enhancing the convenience of filling prescriptions, in providing consumers in remote areas greater access to necessary medications, and in competing with traditional “bricks and mortar” pharmacies to bring costs down. However, as noted below, there are rogue internet sites that operate illegally in dispensing pharmaceuticals without proper prescriptions and/or in filling prescriptions with counterfeit drugs that may or may not even contain the active pharmaceutical ingredient the patient requires. The Ryan Haight Act works to combat this problem.

## Summary of the Ryan Haight Online Pharmacy Consumer Protection Act of 2008

The Ryan Haight Act states clearly, “No controlled substance may be delivered, distributed, or dispensed by means of the Internet without a valid prescription.”<sup>2</sup> A “valid prescription” means that it “is issued for a legitimate medical purpose in the usual course of professional practice” and that, with certain limited exceptions, must be prescribed by a practitioner who has “conducted at least one in-person medical evaluation of the patient.”<sup>3</sup>

The law also now requires pharmacies to obtain a registration to dispense controlled substances via the Internet.<sup>4</sup> According to the Department of Justice, the registration provision will not serve to block online pharmaceutical sales but instead will place such sales on equal footing with existing regulations and registrations for traditional bricks-and-mortar pharmacies. Every online pharmacy is required under the new law to display on its homepage a statement that it complies with the requirements of the law and must also display the following information: (1) name, address, telephone number and e-mail of pharmacy; (2) name, telephone number, professional degree and states of licensure of the pharmacist-in-charge; (3) a list of states in which the pharmacy is licensed to dispense controlled substances; (4) a certification that the pharmacy is registered to deliver, distribute, or dispense controlled substances by means of the internet; and (5) full contact information of any practitioner who has a contractual relationship to provide medical evaluations, or issue prescriptions for controlled substances, through referrals from the website or at the request of the owner or operator of the website.<sup>5</sup>

The law also increases criminal penalties for distribution of controlled substances, in particular Schedule III, IV, and V drugs, which are those drugs associated with most prescription medications.<sup>6</sup> Schedule III drugs include anabolic steroids; Schedule IV drugs include alprazolam and diazepam; and Schedule V drugs include narcotic drugs such as codeine, in limited amounts.<sup>7</sup> Further, the new law explicitly prohibits, under penalty of criminal law, delivering, distributing, or dispensing a controlled substance by means of the inter-

<sup>2</sup> Pub. Law 110-425, section 2.

<sup>3</sup> *Id.* The law does allow prescriptions issued by a “covering practitioner” at the request of a practitioner who has previously conducted an in-person evaluation and is temporarily unavailable to conduct an evaluation and also allows prescriptions issued by practitioners engaged in the practice of “telemedicine,” as defined in the law. *Id.* at sections 2 and 3(a).

<sup>4</sup> *Id.* at section 3(b).

<sup>5</sup> *Id.* at section 3(d).

<sup>6</sup> *Id.* at section 3(e).

<sup>7</sup> See 21 U.S.C. § 812(c); 21 C.F.R. §§ 1308.13, 1308.14, and 1308.15.

net, except as provided and allowed under the new law.<sup>8</sup> Finally, the new law allows states the right to sue individuals or entities violating the new internet pharmacy requirements.<sup>9</sup>

## Conclusion

Physicians and other health care providers should take steps to educate their patients on the dangers of purchasing pharmaceuticals from unauthorized or suspect sources. They should also familiarize themselves with the requirements of the Ryan Haight Act, including the telemedicine provisions, to ensure that they comply with its prescription provisions.

Patients should be informed of the risk of purchasing prescriptions from non-reputable or unknown sources. Filling prescriptions from state-licensed pharmacies in the United States is the best way patients can be confident of the quality, safety, and efficacy of their drugs. Additionally, although many internet-based pharmacies provide safe and legitimate drugs, patients need to be careful if they decide to purchase drugs from internet-based pharmacies because these pharmacies may not be legitimate and properly licensed, and they may be located outside the United States. One tip for patients who purchase prescription medications via the internet is to look for sites that have the Verified Internet Pharmacy Practice (“VIPP”) seal. These are licensed pharmacies where FDA-approved medications can be purchased. Additional information about this verification can be found at the VIPP website located at [www.vipps.info](http://www.vipps.info). Additionally, the Ryan Haight Act requires the posting of additional information on internet pharmacy websites, including the pharmacy’s contact information and licenses. Patients can utilize this information to contact the pharmacies and the state licensing authorities to confirm the legitimacy of the websites.

<sup>8</sup> Pub. Law 110-425 at section 3(h).

<sup>9</sup> *Id.* at section 3(h).