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(Meta)tag You're It: FDA Takes Enforcement Action Against Metatag Claims

The Food and Drug Administration (FDA) struck again recently in the area of promotional activities through the Internet. This time, the agency issued a Warning Letter to a dietary supplement company for its use of metatags. The agency concluded certain metatags to be disease treatment claims, making the products unapproved new drugs and misbranded.¹

In the Warning Letter, FDA cited specific instances of metatags, which it determined to be disease treatment claims. These metatags directed consumers to purchase the company's dietary supplement products on the company's website or on www.amazon.com. Some of the examples of these metatags included:

- "cholesterol lowering supplements,"
- "herbs for high blood pressure,"
- "reduce your blood pressure,"
- "diabetes relief," and
- "anti-cancer herbs."

FDA-regulated companies, whether food, cosmetic, medical devices, or pharmaceutical, routinely develop metatags to draw consumers to product or company websites through Internet searches. However, such metatags might also attract FDA's attention. The agency's enforcement here is noteworthy because it reflects the scope and vigilance of FDA review.

The lack of clear guidance from FDA on social media and Internet promotion further complicates the matter. There are no clear-cut guidelines. To mitigate such risk, companies and their third-party vendors should continue to take an active role when it comes to their evaluation of promotional strategies, including metatag usage. Companies must carefully evaluate potential claims during their internal promotional review process to consider express or implied claims and stay current on FDA announcements and enforcement actions.

¹ The Warning Letter can be found by clicking [here](#).

Mr. Minsk would like to thank Sari Bourne who assisted significantly with the preparation of this article. Ms. Bourne is a recent law school graduate and an employee of Arnall Golden Gregory LLP in our life sciences practice. Ms. Bourne is not yet admitted to the State Bar of Georgia.

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