



Alliance for Natural Health USA

1350 Connecticut Ave NW
5th Floor
Washington DC 20036

email: office@anh-usa.org
tel: 800.230.2762
fax: 202.315.5837
www.anh-usa.org

ANH-USA is a regional office of ANH-Intl

INTERNATIONAL
anhinternational.org

P R E S S R E L E A S E

Contact: Darrell Rogers
202.255.0527
email: darrell@anh-usa.org

For Immediate Release

ANH-USA Files Citizen’s Petition Alleging Unconstitutional Limits to Free Speech by the FTC

April 26, 2011 Washington, DC — The Alliance for Natural Health USA (ANH-USA), together with dietary supplement formulators Durk Pearson and Sandy Shaw, filed a Citizen Petition with the Federal Trade Commission (FTC) over the limits the agency recently and unconstitutionally placed on free speech. In recent actions against food companies, the FTC stipulated that companies are now required to provide two random-controlled human clinical trials for any health-related claim—which ANH-USA believes is in direct violation of federal law.

“The FTC simply does not have the statutory authority to create and impose new guidelines for food and supplement advertising,” said Gretchen DuBeau, executive and legal director of ANH-USA. “The health claims that are allowed on the packaging of products are guided by a legal framework built from decades of laws, FDA regulations, and legal precedent. For the FTC to arbitrarily limit freedom of speech is unconstitutional,” said DuBeau.

Although the FTC denies creating the new requirements, recent consent decree letters show that the FTC now requires two random-controlled clinical trials (RCTs) for any health-related claim for any product. “The FTC is essentially enforcing provisions of the Federal Food, Drug, and Cosmetic Act. Only the FDA has that jurisdiction,” said DuBeau.

The Alliance for Natural Health USA filed a Petition for Rulemaking before the Federal Trade Commission. ANH-USA is alleging the following:

- FTC lacks jurisdiction to enforce the Federal Food, Drug, and Cosmetic Act.
- The FTC’s two clinical trial requirement violates the First Amendment standard set by the landmark case *Pearson v. Shalala*.
- The FTC cannot violate the Constitution in consent orders.

- The FTC's new policies chill protected speech.

Attorney Jonathan W. Emord, of Emord and Associates, said, "This petition calls on the FTC to recognize its constitutional and jurisdictional limits and to remove from existing and future FTC orders the two random-controlled clinical trials requirement. We would hope that FTC will comply with the law voluntarily. If it does not, we will sue the agency in federal court and seek to compel compliance." Mr. Emord is representing the plaintiffs in the lawsuit.

"More and more Americans are taking charge of their personal health—determined to improve their diets and emphasize preventive care in order to stay or get healthy," said DuBeau. "Consumers are looking for reliable information backed by legitimate scientific research to assist in making informed choices. Access to this information is essential to knowing which foods and food supplements really are healthy and helpful for good health. By attempting to force foods and natural supplements into a pharmaceutical drug approval-and-advertising model will severely limit the amount of information available to the public," DuBeau concluded.

Link to petition: <http://www.anh-usa.org/wp-content/uploads/2011/04/FTCPETITION1.pdf>

#

About the Alliance for Natural Health USA (ANH-USA) <http://anh-usa.org>

The Alliance for Natural Health USA is part of an international organization dedicated to promoting natural, sustainable healthcare through good science and good law. We protect the right of natural health practitioners to practice, and the right of consumers to choose the healthcare options and treatment modalities they prefer, including complementary and alternative medicine. As a membership-based organization, we unite consumers, practitioners, and industry to speak with a common voice and have worked since 1992 to shift the medical paradigm from an exclusive focus on surgery, drugs and other conventional techniques to an "integrative" approach incorporating food, dietary supplements and lifestyle changes.