

## **Nu Skin Enterprises, Inc. Regulatory Update for Distributors who are Healthcare Professionals**

---

**Introduction:** We remind each distributor that he/she is responsible for making sure he/she complies with all applicable federal, state, and local laws and regulations in connection with their activities as a Nu Skin distributor. In addition to laws that are applicable to all distributors generally, such as deceptive advertising regulations and telephone solicitation laws, certain distributors may be subject to laws and regulations unique to their profession or position. It is important that distributors take into consideration these laws and regulations in determining whether there are restrictions or limitations on their participation as a Nu Skin distributor. This is particularly true with respect to healthcare professionals that are subject to a variety of federal, state and local laws unique to their healthcare practices.

**Regulatory Issues:** It has come to our attention that the laws or regulations in some states may limit the ability or manner in which some healthcare professionals may participate in our business as a distributor as a part of their healthcare practice.

For example, the Wisconsin governing board for chiropractors recently adopted an administrative rule that curtails chiropractor participation in multi-level marketing plans.<sup>1</sup> We also are aware that the board of chiropractic examiners in New Jersey has enacted licensing provisions that specifically prohibit sale of any vitamins or nutritional products.<sup>2</sup>

There are various laws that apply to healthcare professionals, including the following which is not an exhaustive list, but a representative sample of types of potentially applicable laws:

- State “anti-kickback” laws
- Physician “self-referral” laws
- State patient brokering and fee-splitting prohibitions
- Licensing and professional standards including codes of conduct, ethical requirements and state administrative rules governing practice of medicine
- Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)
- State ownership disclosure laws

The above are typically quite broad in scope and govern commissions, fees, rebates or other types of remuneration received by or paid to physicians and healthcare professionals in connection with the referral of patients by or to healthcare professionals. Although we have not done a survey of potentially applicable laws in all 50 states, we have consulted with healthcare attorneys in California (with respect to chiropractors) and Florida (with respect to physicians). Based on this consultation, we believe that some anti-kickback and patient brokering self-referral laws may be applicable to Nu Skin distributors who are also healthcare professionals and limit their ability to receive commissions from Nu Skin with respect to patients in their healthcare practice.<sup>3</sup>

**Review Urged:** If you are a healthcare professional who is actively participating now or thinking of joining Nu Skin you should undertake a thorough review of these laws and regulations and become familiar with how they may be applicable to you and the limits they may impose on activities associated with acting as a Nu Skin distributor in conjunction with your healthcare profession.

This is of high importance to both healthcare professionals and Nu Skin. We are anxious to assure that you and all of our distributors understand and comply with all applicable laws and regulations. A lack of compliance could result in administrative actions, civil and criminal penalties and in some cases, the suspension of a healthcare professional's license.

**Legal Advice:** We cannot give you independent legal advice. You are an independent contractor which means you are not an agent or employee of Nu Skin and as such you are responsible to assure your own compliance with all federal, state and local laws and regulations. Nu Skin is not and cannot assure such compliance on your behalf. If you or any healthcare professional talking to you has questions regarding this Regulatory Update, we advise them to seek legal counsel from a qualified healthcare attorney.

**Questions:** If you have any questions regarding Nu Skin Policies and Procedures or this Regulatory Update, you may contact:

Tyler V. Whitehead, General Counsel  
Nu Skin Enterprises Legal Department  
[twhitehe@nuskin.com](mailto:twhitehe@nuskin.com)  
(801) 345-3800

---

<sup>1</sup> Wisconsin Chiropractic Examining Board: Nutrition Questions and Answers re: New Administrative Rule Effective February 15, 2007. Q: May I participate in a multi-level marketing plan for nutrition? A: Multi-level marketing plans involve "down-line" delegation and a chiropractor who participates in a multi-level marketing plan would be violating the law." See Wi. Admin. Code Ch. 12.06(1): Prohibited practices. A chiropractor shall not delegate to any chiropractic assistant or other person any recommendation, analysis, advice, consultation or dispensing with respect to vitamins, herbs, or nutritional supplements."

<sup>2</sup> A licensee shall not, incidental to chiropractic care, sell, dispense or derive any financial benefit from the sale of vitamins, food products or nutritional supplements. A licensee shall not represent himself or herself as a nutritional consultant. N.J.A.C. 13:44E-1.1(d)

<sup>3</sup> See Fl. Stat § 817.505 (patient brokering illegal); Fl. Stat. 456.054 (illegal referrals).