

RICHARD BLUMENTHAL
CONNECTICUT

COMMITTEES:

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JUDICIARY

VETERANS' AFFAIRS

United States Senate

WASHINGTON, DC 20510

March 9, 2020

706 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-2823
FAX: (202) 224-9673

90 STATE HOUSE SQUARE, TENTH FLOOR
HARTFORD, CT 06103
(860) 258-6940
FAX: (860) 258-6958

915 LAFAYETTE BOULEVARD, SUITE 304
BRIDGEPORT, CT 06604
(203) 330-0598
FAX: (203) 330-0608
<http://blumenthal.senate.gov>

The Honorable Joe Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

The Honorable Stephen Hahn, M.D.
Commissioner
United States Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Chairman Simons and Commissioner Hahn,

As Americans respond to the coronavirus (COVID-19) crisis, I urge the Federal Trade Commission (FTC) and the Food and Drug Administration (FDA) to immediately take strong enforcement action against the slew of bogus products and their deceptive, illegal marketing practices and scientifically unsupported claims by companies falsely claiming to treat or prevent COVID-19. These products were included in the warning letters issued today by your agencies. But warning letters are insufficient to protect against the deceptive and deeply dangerous claims made by scammers. I urge that immediate, additional well publicized action be taken stop the sale of these products, hold scammers accountable, and refund consumers.

No vaccines or drugs have yet been proven to cure or stop the virus. To protect public health the FTC and FDA should take strong, swift steps to prevent the sale of misleading and potentially dangerous products—including supplements, essential oils, and teas—posing as medicine and targeting vulnerable Americans.

U.S. televangelist Jim Bakker recently promoted colloidal silver on his show, claiming that it would “eliminate” viruses such as coronavirus. This claim is running rampant on online platforms, such as Facebook. However, while there is no evidence regarding the effectiveness of colloidal silver, it has been linked to serious side effects including seizures, argyria, and kidney damage.¹ In light of this troubling development, the office of New York Attorney General Letitia James, sent a cease and desist letter to Bakker on March 3, expressing concern about The Jim Bakker Show misleading consumers about the effectiveness of colloidal silver to protect against or treat COVID-19.²

¹ National Center for Complementary and Integrative Health, National Institutes of Health, *Colloidal Silver*, <https://nccih.nih.gov/health/colloidalsilver>.

² Lisa Landau Chief, Health Care Bureau to James Orsen Bakker, March 3, 2020 in author's possession. https://ag.ny.gov/sites/default/files/bakker_cease_and_desist_letter_notification.pdf

Currently, dietary supplements and personal care products are not subject to premarket review by the FDA, or to the rigorous manufacturing practices required of prescription drugs. Given this glaring regulatory gap, the FTC has previously brought enforcement actions against dietary supplement marketers making false and deceptive claims, and the FDA and FTC have issued warning letters to companies deceptively advertising colloidal silver as a cure for certain diseases. I was pleased to see that today, the FTC and FDA sent warning letters to seven companies making unsupported COVID-19 treatment claims, including: Vital Silver, Quinessence Aromatherapy Ltd., N-ergetics, GuruNanda, LLC, Vivify Holistic Clinic, Herbal Amy LLC., and The Jim Bakker Show.³ However, warning letters are not enough to ensure that consumers are aware of misleading marketing and unsupported scientific claims that potentially put them at greater risk, when they should instead be seeking appropriate medical care from their doctor.

I strongly urge the FTC and FDA to swiftly use their full authority to hold such scammers accountable for their egregious actions that prey on already vulnerable consumers. The FTC should file charges against anyone making unfounded claims and obtain refund checks for affected consumers. The FDA must take action against these products because they are making medical claims and should thus be subject to premarket approval as drugs. I also implore you to monitor the marketplace for additional products making deceptive claims about preventing or treating COVID-19, and take similar action, as necessary. I encourage the FTC and FDA to continue to coordinate efforts to ensure that these predatory products are removed from the market and that fraudsters are held accountable. These potentially dangerous, unsubstantiated products have no place on store shelves, online websites, or in Americans' homes. I stand ready and willing to work with both agencies to ensure that Americans grappling with COVID-19 are protected from predators.

Thank you for your attention to this critical matter. I respectfully request a response outlining what concrete actions you intend to take to address this issue by March 23, 2020.

Sincerely,

A handwritten signature in blue ink that reads "Richard Blumenthal". The signature is fluid and cursive, with the first name being the most prominent.

Richard Blumenthal
United States Senate

³ Federal Trade Commission, "FTC, FDA Send Warning Letters to Seven Companies about Unsupported Claims that Products Can Treat or Prevent Coronavirus," March. 9th, 2020, <https://www.ftc.gov/news-events/press-releases/2020/03/ftc-fda-send-warning-letters-seven-companies-about-unsupported>.