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National Association of Boards of Pharmacy

1600 Feehanville Drive • Mount Prospect, IL 60056-6014

Tel: 847/391-4406 • Fax: 847/391-4502

Web Site: www.nabp.net

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Fadi Chehade, President and Chief Executive Officer
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Dear Mr Chehade:

As you know, Web sites selling unregulated prescription drugs and/or prescription drugs without a valid prescription or pharmacy license – often referred to as “rogue” Internet drug outlets or Internet pharmacies – are a serious public health problem connected to adverse health consequences, overdoses, and even death.

As part of its ongoing efforts to protect the public health, National Association of Boards of Pharmacy® (NABP®) has sent the attached letter to the CEO of the Internet Corporation for Assigned Names and Numbers (ICANN) and a similar letter to more than 200 Domain Name Registrars. You are listed as a carbon copy recipient on each of those letters. In lieu of sending you a copy of each letter to the 200+ Domain Name Registrars, NABP is forwarding you a single copy.

About the Letter to ICANN and ICANN-Accredited Domain Name Registrars

The Internet is primarily governed by a series of contracts that exist between Domain Name Registrars and the organization that accredits most Registrars, ICANN. The most important of these contracts, the Registrar Accreditation Agreement, has been rewritten, and a new version went into effect on January 1, 2014.

The new accreditation agreement – unlike its 2009 predecessor – contains explicit obligations for Registrars to investigate reports of “Illegal Activity,” including alleged violations of applicable laws (Section 3.18.1) and to take action (Section 3.18.2). The phrase “Illegal Activity” is defined in Section 1.13 to mean conduct involving “use of a Registered Name sponsored by Registrar that is prohibited by “applicable law.” Although the term “applicable law” itself is not further defined in the 2013 RAA, legislative and judicial standards are clear that when it comes to the sale of regulated health care products such as prescription drugs, “applicable laws” includes those of the customers’ jurisdictions: to ensure drug quality and patient safety, a merchant selling regulated health care

products to a patient must comply with the health care laws and regulations in the patient's jurisdiction, irrespective of where the merchant is located.

Unfortunately, in order to create a virtual "safe haven" for their illicit activity and target customers in Country "A," many illicit online drug sellers register a domain name with an ICANN-accredited Registrar in Country "B" and take care not to violate any laws in Country "B" (eg, no drugs are shipped at all to or from country "B," or the drugs are not falsified and a prescription is required only for orders shipped to country "B"). In such cases, some Registrars permit the domain name to remain online, thus continually facilitating the illicit activity, based on the argument that the only "applicable laws" are those of the Registrar's own jurisdiction. This erroneous interpretation creates a "jurisdictionless space," a loophole for rogue Internet drug outlets to operate with impunity, continually putting patients at risk.

Accordingly, the purpose of our letter to ICANN and to ICANN-accredited registrars is to clarify that:

"...the "applicable laws" pertaining to any sale, marketing, prescribing or dispensing of prescription drugs include the laws and regulations of any jurisdictions (country, state, province, prefecture, et cetera) of a website's intended customers (where the website offers to ship drugs to), not merely the laws and regulations where the website operator resides, the drugs are shipped from, or where the domain name Registrar is located."

The letters also request that registrars adopt and implement policies and procedures to suspend and lock domain names used in the furtherance of the illegal sale and dispensing of prescription drugs in violation of applicable laws, which include those in the patients' or customers' jurisdictions. The letter also recommends and requests that domain name registrars act on abuse notifications submitted to them by LegitScript.com, an Internet pharmacy monitoring and classification program that bridges the gap between Internet/e-commerce platforms and drug safety/pharmacy licensure regulatory authorities by submitting notifications to Registrars about illegal prescription drug marketing Web sites and assisting Registrars in interacting with registrants.

The attached copy of our letter to ICANN and most Registrars is being forwarded to you because of the important role that your organization plays in drug and patient safety and/or Internet compliance issues. We appreciate your organization's commitment to patient safety, and I would be pleased to answer any questions.

Sincerely,

NATIONAL ASSOCIATION OF
BOARDS OF PHARMACY



Carmen A. Catizone, MS, RPh, DPh
Executive Director/Secretary

Enclosures: NABP Recognition Letter to LegitScript (2012), including LegitScript International Internet Pharmacy Certification Standards
NABP Letter to ICANN President and CEO Fadi Chehade
NABP Letter to ICANN-accredited Domain Name Registrars