



Key Takeaways:

- The FTC is prioritizing investigations into and actions against false and misleading advertisements in healthcare markets.
- Companies with healthcare products, especially those advertising medical treatments, should take care to ensure they do not overstate the efficacy of those treatments and back up advertising with necessary scientific evidence.

On July 1, 2021, the FTC adopted a [series of resolutions](#) authorizing investigations into several areas designated as key law enforcement priorities during the next ten years. [One of those resolutions](#) designates "acts or practices

affecting healthcare markets" as an enforcement priority. In the months after adopting this broad mandate, the FTC has actively pursued false and deceptive advertising in healthcare markets. For example, on August 16, 2021, the FTC and the Georgia Attorney General [sued](#) the co-founders of the Stem Cell Institute of America for false marketing in advertising stem cell therapy to seniors. Specifically, the defendants advertised their stem cell therapies as effectively treating orthopedic conditions and diseases. The FTC and the Georgia Attorney General alleged that the defendants never conducted any randomized clinical testing of the treatments to support these claims and that no other studies exist demonstrating that stem cell treatments are effective in treating any orthopedic conditions or diseases. Similarly, in early September 2021, the [FTC sent cease-and-desist letters](#) to ten different companies demanding that they, among other things, stop selling unapproved diabetes products and making efficacy claims that are not supported by sufficient evidence. These two actions, coming on the heels of the resolution prioritizing enforcement in the healthcare industry, may portend aggressive FTC policing of healthcare-related advertising. Accordingly, companies offering healthcare services or products—especially those offering treatments—should ensure that their advertisements are backed up by competent and reliable scientific evidence.

Authors



[Jessica Frenkel](#)

Associate

JFrenkel@perkinscoie.com [303.291.2305](tel:303.291.2305)

Explore more in

[Consumer Protection](#)

Blog series

Consumer Protection Review

Consumer Protection Review helps businesses that market and sell to consumers navigate federal and state legal issues related to advertising, privacy, promotions, products liability, government investigations, unfair competition, class actions and general consumer protection.

[View the blog](#)