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HEALTH CARE ALERT | NIXON PEABODY LLP

AUGUST 5, 2021



## Facebook strengthens policies around prescription drug advertising for online pharmacies, telehealth providers, and pharmaceutical manufacturers

By Rebecca Simone, Laurie T. Cohen, Christina S. Chang, and Harsh P. Parikh<sup>1</sup>

Facebook recently [announced](#) that it has updated its policies related to prescription drug advertising. The changes seek to provide more clarity and serve to strengthen Facebook's enforcement of its policies related to prescription drugs. The updates directly impact pharmacies, telehealth providers, and pharmaceutical manufacturers, and may indirectly impact individuals who are paid to promote healthcare items/services on the platform. Facebook made many of its advertisers aware of these changes prior to notifying the public.

Although promoting prescription drugs is common practice in the healthcare industry, Facebook prohibits the sale of prescription drugs across its entire platform, and requires advertisers to comply with all applicable laws and regulations. Historically, Facebook has required online pharmacies to go through a certification process prior to running ads on the platform; however, the upcoming changes require similar certification for telehealth providers and implement additional requirements.

### What is changing?

Beginning on August 25, 2021, Facebook will implement additional pre-approval requirements for telehealth providers, pharmaceutical manufacturers, and online pharmacies that seek to place advertisements on the platform that include the promotion of prescription drugs. Advertisers will now need to present a written certification from [LegitScript](#), a third-party certification provider, prior to running ads on the platform. Pharmaceutical manufacturers will not be subject to the LegitScript certification process, but will be required to go through Facebook's pre-approval process prior to running ads.

The company is restricting advertising on its platform to advertisers that fall into one of the following three categories: online pharmacies, telehealth providers, and pharmaceutical

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manufacturers. The advertisers may only promote their products in the United States, Canada, or New Zealand, and the ads must not target individuals under the age of 18.

Facebook is also implementing a new pre-approval process for businesses that want to “raise awareness and promote prescription drugs, for example in order to share information around medical efficacy, accessibility[,] and affordability of different types of treatments.” The updated policies also add more clarity surrounding such use cases.

Instead of a single ad policy, Facebook is implementing three separate policies: [promotion of online pharmacies](#); [promotions of prescription drugs](#); and [promotion of unsafe substances](#).

## **How does this impact you?**

Telehealth providers, online pharmacies, and pharmaceutical providers should be aware of the changes in order to ensure compliance with the new policies by August 25. Further, individuals who are tapped to promote the foregoing should be aware of the platform rules to avoid having content removed and disputes with the brands over breach, payments, and make goods.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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