
National Council Against Health Fraud

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Position Paper on Multilevel Marketing of Health Products

Multilevel marketing (MLM)—also called network marketing—is a form of direct sales in which independent distributors sell products, usually in their customers' home, by telephone, or through the Internet. In theory, distributors can make money not only from their own sales but also from those of the people they recruit as distributors.

Becoming an MLM distributor is simple and requires no real knowledge of health or nutrition. Many people do so initially in order to buy their own products at a discount. For a small sum of money—usually between \$35 and \$100—these companies sell a distributor kit that includes product literature, sales aids (such as a videotape or audiotape), price lists, order forms, and a detailed instructional manual. Many MLM companies publish a magazine or newsletter containing company news, philosophical essays, product information, success stories, and photographs of top salespeople. The application form is typically a single page that asks only for identifying information. Millions of Americans have signed up, including many physicians attracted by the idea that selling MLM products can offset reduced reimbursements from third-party payers.

Distributors can buy products “wholesale,” sell them “retail,” and recruit other distributors who can do the same. When enough distributors have been enrolled, the recruiter is eligible to collect a percentage of their sales. Companies suggest that this process provides a great money-making opportunity. However, it is unlikely that people who don't join during the first few months of operation or become one of the early distributors in their community can build enough of a sales pyramid to do well. Fewer than 1% of new distributors earn significant income; and many who stock up on products to meet sales goals get stuck with unsold products that cost thousands of dollars [1]. Many attorneys general have placed multilevel marketing and pyramid schemes on their “top ten” lists of consumer complaints.

MLM can also cause social harm. Many “believers” pester everyone they know to buy their products or become a distributor. In many cases, this pressure strains or terminates friendships.

Misleading Promotion

More than a hundred multilevel companies are marketing health-related products. Most claim that their products are effective for preventing or treating disease. A few companies merely suggest that people will feel better, look better, or have more energy if they supplement their diet with extra nutrients. Some companies cite research that is poorly designed, preliminary, or even irrelevant to their actual claims.

When clear-cut therapeutic claims are made in product literature, the company is an easy target for government enforcement action. Some companies run this risk, hoping that the government won't take action until their customer base is well established. Other companies make no claims in their literature but rely on testimonials, encouraging people to try their products and credit them for any improvement that occurs. Even when curative claims are forbidden by written company policies, the sales process encourages customers to experiment with self-treatment. It may also promote distrust of science-based health professionals and their treatment methods.

NCAHF Vice-President Stephen Barrett, M.D., who has examined the offerings of more than 100 MLM companies offering health-related products, has concluded that every one of them has made false or misleading claims in their promotional materials [2]. The products that have nutritional value (such as multivitamins) are invariably overpriced and usually not needed. The products promoted as remedies are either bogus, unproven, or intended for conditions that are unsuitable for self-medication [2].

MLM solicitations fail to give a clear picture of how difficult it is to earn money selling health-related MLM products. Because person-to-person sales are labor-intensive and involve high commission expense, MLM products generally cost much more than similar products purchased through pharmacies, health-food stores and other retail outlets.

Most supplement companies get their raw ingredients from the same bulk wholesalers and merely repackage them into brand-name products. To compete with retail outlets, MLM

distributors must persuade prospective customers that their products are superior, even though they are not and may even be identical to competing products that cost less. This requires misrepresentation. Moreover, people who like MLM products are likely to become distributors, which means that the original seller will no longer profit from retail sales to those customers.

Most multilevel companies tell distributors not to make claims for the products except for those found in company literature. (That way the company can deny responsibility for what distributors do.) However, many companies hold sales meetings at which people are encouraged to tell their story. Some companies sponsor telephone conference calls during which leading distributors describe their financial success, give sales tips, and describe their personal experiences with the products. Testimonials also may be published in company magazines, audiotapes or videotapes. Testimonial claims can trigger enforcement action, but since it is time-consuming to collect evidence of their use, government agencies seldom bother to do so.

Physician Involvement

During the past several years, many physicians have begun selling health-related multilevel products to patients in their offices. Doctors are typically recruited with promises that the extra income will replace income lost to managed care.

The sale of health-related products by physicians presents a financial conflict of interest that can undermine the primary obligation of physicians to serve the interests of their patients before their own [3]. The greater the potential profit, the greater the potential problem. In June 1999, the AMA House of Delegates narrowly approved new ethical guidelines emphasizing that physicians should not coerce patients to purchase health-related products or recruit them to participate in marketing programs in which the physician personally benefits, financially or otherwise, from the efforts of their patients. The guidelines frown on doctors profiting from the sale of health-related nonprescription products such as dietary supplements [3]. Although the guidelines do not mention products sold through multilevel marketing, the chairman of the AMA's Council on Ethical and Judicial Affairs has indicated that they were triggered by the growing number of physicians who selling MLM products to their patients [4].

Inadequate Government Regulation

Government enforcement action against multilevel companies has not been vigorous. These companies are usually left alone unless their promotions become so conspicuous and their sales volume so great that an agency feels compelled to intervene. Even then, few interventions have substantial impact once a company is well established.

During the past 20 years, more than 25 health-related MLM companies have faced regulatory actions for false

advertising, operating a pyramid scheme, or both [5]. Although such actions usually improve future behavior, they rarely provide adequate redress for victims. Moreover, the number of MLM frauds known to Federal Trade Commission vastly exceeds its capacity to prosecute them on a case-by-case basis.

Recommendations

To Consumers

- Avoid health-related multilevel products altogether. Those that have nutritional value are invariably overpriced and may be unnecessary as well. Those promoted as remedies are either unproven, bogus, or intended for conditions that are unsuitable for self-medication.
- Consider it likely that people who promote products to e-mail discussion groups are MLM distributors.
- Be very skeptical of claims for high income.
- People who feel they have been defrauded by MLM companies should file complaints with their state attorney general and with local FDA and FTC offices. A letter detailing the events may be sufficient to trigger an investigation. The more complaints received, the more likely that corrective action will be taken.

To Professional Organizations

- The American Medical Association should amend its guidelines to acknowledge that MLM-related sales represent a special problem that physicians should avoid. Other health professional groups should issue similar guidelines.

To Government Agencies

- Government agencies should police the multilevel marketplace aggressively, using undercover investigators and filing criminal charges when wrongdoing is detected.
- The Federal Trade Commission should require MLM companies to disclose full and truthful "income opportunity" information to all persons solicited to participate in the income program [6].

References

1. Fitzpatrick RL. Ten big lies of multilevel marketing. MLM Watch, Aug 4, 2002.
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3. AMA Council on Ethical and Judicial Affairs. Sale of health-related products from physicians' offices. CEJA Opinion 8.063, June 1999.
4. Should doctors sell non-health-related products to their patients? The AMA targets Amway. Health Care Business Digest 3(2):22-24, 1998.
5. See case reports on MLM Watch Web site, Jan 20, 2003.
6. Petition to prevent multilevel marketing companies from operating as pyramid schemes. MLM Watch Web site, Aug 30, 2002.