

Eggs-aggeration: Goop Settles With California District Attorneys Over Misleading Health Claims

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The California Food, Drug, and Medical Device Task Force announced a settlement this week with Goop, the lifestyle brand founded by Gwyneth Paltrow, which we've written about [here](#) and [here](#). The complaint alleges that Goop made false and misleading representations regarding the effects or attributes of three products—the Jade Egg, Rose Quartz Egg, and Inner Judge Flower Essence Blend. According to the complaint, Goop advertised that the Jade and Rose Quartz Eggs—egg-shaped stones designed to be inserted vaginally and left in for various lengths of time—as well as the Inner Judge Flower Essence Blend could balance hormones, prevent uterine prolapse, increase bladder control and prevent depression. The complaint also alleges that none of Goop's claims regarding these products were supported by competent or reliable scientific evidence.

The stipulated judgment prohibits Goop from (1) making any claims regarding the efficacy or effects of any of its products without possessing competent and reliable scientific evidence that substantiates the claims; and (2) manufacturing or selling any misbranded, unapproved, or falsely advertised medical devices. In addition, Goop agreed to pay \$145,000 in civil penalties and will provide refunds to consumers who purchased the products during 2017.

Goop responded, in part, as follows: “Goop provides a forum for practitioners to present their views and experiences with various products like the Jade Egg. The law, though, sometimes views statements like this as advertising claims, which are subject to various legal requirements.”

Yep. True story. Here are a few other lessons:

- When made on a site promoting sale of a product, statements by practitioners or other testimonialists about the benefits of that product are advertising (not sometimes, always) and can never be used to support claims that are not otherwise supported by competent and reliable scientific evidence.
- Competent and reliable scientific evidence is a flexible standard. For health claims, though, it frequently requires well-designed clinical tests. Simply put, the standard isn't whether there is *any* evidence; it is whether there is credible evidence that experts in the field would agree is reliable.
- Fanciful claims that do not rise to the level of disease prevention aren't necessarily puffery either. Advertisers need to clearly understand when they are making objectively provable claims and have an obligation to substantiate them before dissemination.

- Products that feature claims of disease treatment or reduction may be classified as medical devices or drugs and may be subject to FDA clearance or approval prior to marketing.

[Goop claims](#) to have modified its claims to comply with the settlement. Notably, the Jade Egg remains available. We'll let you decide what to do with that.