



nabp

National Association of Boards of Pharmacy

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January 6, 2014

Registrar EasyDNS
easyDNS Technologies, Inc.
304A-219 Dufferin Street
Toronto, Ontario M6K 3J1

Dear Registrar:

As you are aware, the 2013 Registrar Accreditation Agreement (RAA) adds 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.’” Should the Illegal Activity continue, the 2013 RAA gives Internet Corporation for Assigned Names and Numbers (ICANN) the express authority to terminate its Agreement with a Registrar (Sections 5.5.4 and 5.5.6). Similarly, the Uniform Dispute Resolution Policy (UDRP) prohibits the use of domain names “for an unlawful purpose” (UDRP, Paragraph 2).

On behalf of the government regulatory authorities that license and regulate the practice of pharmacy in the United States, Canada, and other countries whose regulatory boards the National Association of Boards of Pharmacy® (NABP®) represents, the purpose of this letter is to request that you adopt and implement policies and procedures, consistent with this letter, the RAA and Paragraph 2 of the UDRP, for suspending and locking domain names used in furtherance of illegal sale and dispensing of prescription drugs.

Specifically, we wish to formally advise you 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 Web site’s intended customers (where the Web site offers to ship drugs to), not merely the laws and regulations where the Web site operator resides, the drugs are shipped from, or where the domain name Registrar is located.

About the National Association of Boards of Pharmacy

NABP is the independent, international, and impartial Association that assists its member regulatory boards and jurisdictions in developing, implementing, and enforcing uniform standards for the purpose of protecting the public health. NABP’s member boards are government agencies that regulate pharmacies and pharmacists in their jurisdiction. NABP is the only professional association that represents these

government agencies in all 50 United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, New Zealand, nine Canadian Provinces, and Australia.

About Rogue Internet Drug Outlets

NABP research has found that nearly 97% of Web sites engaged in the sale of prescription drugs violate applicable drug safety laws and pharmacy practice standards, putting patients at risk. These have a direct effect on human and animal safety. Rogue Internet drug outlets typically violate laws in three ways, by (1) selling counterfeit medication, (2) selling prescription medicine without a valid prescription, and (3) operating without the required valid pharmacy license(s). With roughly 35,000 to 50,000 active Internet pharmacy Web sites operating at any one time, many of which make millions of US dollars in sales each month, we know that this global public health threat will continue unless further action is taken.

What the Laws and Regulations Require

Although every jurisdiction has its own laws and regulations, there is a remarkable degree of uniformity across all nations pertaining to drug safety and pharmacy practice laws, regulations and standards. Across the globe, relevant laws and regulations incorporate the following principles:

- If a drug is designated as a prescription-only medicine, it may not be provided to a customer without a valid prescription. This means that with specific, rare exceptions that we are aware of (and exempt from notifications to Registrars), a prescription drug may only be prescribed by a medical practitioner (eg, an in-person examination) licensed in the patient's jurisdiction who has examined the patient.
- Pharmacies must either be licensed in the patient's jurisdiction or be recognized through a reciprocity process.
- Only drugs approved for sale in the customer's jurisdiction may be sold; again, with specific, rare exceptions that we are aware of (and exempt from abuse notifications to Registrars), drugs imported from outside of the patient's country directly to the patient are considered unregulated for safety and efficacy and thus unapproved for sale.

"Rogue" Internet drug outlets, also commonly known as "illegal online drug sellers" or "illegal Internet pharmacies," typically disregard not just one of the criteria above, but often all of them. Registrars should respond to abuse notifications regarding domain names engaged in such activity that can have serious, even fatal, consequences for human and animal health.

LegitScript Abuse Notifications and ICANN-Accredited Registrars

On behalf of the NABP's member regulatory boards, NABP continues to recommend and request that domain name Registrars act on abuse notifications submitted to them by LegitScript, LLC (LegitScript.com). LegitScript is 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.

We confirm that LegitScript is well aware of where exceptions exist to these common global standards (eg, where pharmacy licensure reciprocity exists as a matter of regulation) and Internet pharmacies falling under an exception are not designated as rogue and not included in rogue Internet pharmacy abuse notifications to Registrars.

Applying the 2013 RAA and UDRP

Upon receipt of an abuse notification, some Registrars claim that a court order is required or that they are not violating the laws of the Registrar's country. Both assertions are wrong.

ICANN Compliance has previously stated, [in writing](#), that a **court order is not required** for a Registrar to suspend and lock domain names engaged in illegal behavior, and many Registrars do not require a court order to act on abuse complaints.¹ Furthermore, we emphatically remind you that the “applicable law” is not solely the law of the Registrar’s country. Rather, **“applicable laws” refers to the laws and regulations of the jurisdictions where the domain name is being used to market or sell drugs to.**

For example: A domain name is registered with a Registrar in Germany and uses the Web site to sell illicit pharmaceuticals to US and Japan residents — but not German residents. In this case, the Registrar may respond that because the illegal online pharmacy is not selling to German residents, it is not violating German law and is thus not illegal. That is wrong.

In this example, “applicable law” includes the laws of Germany, the US, and Japan. The domain name’s use must therefore comply with the laws and regulations of each applicable country, irrespective of the registrant’s, Registrar’s, reseller’s, or drug distributor’s location. Even for Registrars that will remain bound by an earlier version of the RAA, this interpretation holds true for Paragraph 2 of the UDRP as well, in which a Registrar is required to prohibit the use of a domain name for unlawful purposes.

Transfer Policy/Appeals Process

You should not allow domain names engaged in the illegal sale or distribution to transfer to another Registrar: the question of legality does not relate to where the Registrar is located, but rather to the activity of the Web site. NABP’s and LegitScript’s experience has been that virtually 100% of the time that a transfer is requested by a registrant whose domain name has been suspended, the registrant’s purpose, despite whatever promises might be made, is to continue to engage in the same criminal, dangerous conduct. Allowing the transfer in this case simply puts you, the Registrar, in a position of helping the rogue Internet pharmacy operator continue their illegal activity.

Prohibiting transfer is consistent with ICANN’s Inter-Registrar Domain Name Transfer policy, which permits “fraud” as a basis for denying transfer. We remind you that prescription drug distributors must be licensed and in compliance with the laws and regulations where they distribute prescription drugs; the failure to do so puts the registrant in the position of fraudulently operating as a pharmacy without adequate legal authorization.

If you or the registrant believe that they should be entitled to transfer the domain name, or simply wish to challenge the suspension, LegitScript, with NABP’s support, maintains an appeals process for rogue Internet pharmacy domain names. More information is available by contacting abuse.team@legitscript.com.

Note, however, that due to the high level of accuracy involved in the abuse notification process, there has never been a successful appeal, even past Stage 1.

¹ Indeed, this would be an impossible requirement, because most courts would not issue court orders to entities such as Registrars in another jurisdiction: a US court would not, for example, issue a court order to a Registrar located in Japan, since the Registrar is not within the court’s jurisdiction – precisely the dynamic that illicit drug distributors, and the Registrars that harbor them, count on to get away with their crimes.

Call to Action

As pharmacy regulators dedicated to patient safety, NABP's members are committed to enforcing pharmacy laws and practice standards offline and online. When it comes to the Internet, however, we cannot do it alone, as the global nature of Internet pharmacy crime requires international coordination and private sector action. For that reason, we are glad to see the clarifying language in the 2013 RAA stating that domain names may not be used in violation of applicable laws and regulations and the new, affirmative obligation under the 2013 RAA on Registrars to investigate reports of Illegal Activity.

However, the NABP emphasizes that Registrars must accurately interpret these provisions of the RAA. A domain name registrar in China, Canada, or Malaysia may not serve as a "safe haven" for domain names used to sell falsified prescription drugs, or prescription drugs without a valid prescription or valid pharmacy license, to residents of (for example) the US, European Union, or Japan, and rebuff abuse complaints submitted on behalf of regulatory authorities by arguing that even if the domain name is violating the laws of the patients' countries, it is not violating the laws of the Registrars' country.

NABP calls on you to ensure that your registration services are not used by illegal online drug outlets. We encourage you to work with LegitScript to monitor for and pursue enforcements against rogue Internet pharmacy Web sites using your platform in violation of applicable laws, which again, are not only the laws of your country, but any jurisdiction where the website offers to ship prescription drugs to.

I am available to discuss our concerns with you over the phone or in person as well.

Sincerely,

NATIONAL ASSOCIATION OF
BOARDS OF PHARMACY



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

Enclosure: NABP Recognition Letter to LegitScript (2012), including LegitScript International Internet Pharmacy Certification Standards

Cc: Internet Corporation for Assigned Names and Numbers
US Food and Drug Administration
Irish Medicines Board
US Drug Enforcement Administration
INTERPOL
US Federal Bureau of Investigation
UK Medicines and Healthcare Products Regulatory Agency
Italian Medicines Agency-AIFA
US Government Advisory Committee
UK Government Advisory Committee
ICANN Government Advisory Committee
Korea Ministry of Food and Drug Safety