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Walter Cowan, MD
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July 25, 2002

Dockets Management Branch, FDA

Dear Sir:

In the July 3rd JAMA there was an invitation to comment on the FDA's questions about the effect of commercial speech on public health, and the FDA's obligations within 1st Amendment Rights.

Right now isn't a good time to limit free speech. While there are national security concerns and your legal obligation to protect the public's health, it would be best if you erred on the side of free speech and didn't run the risk of the courts setting a precedent which further limited what we or companies could say.

You consider defining an ad as "inherently misleading" if it doesn't comply with FDA requirements: it might well turn out later that it was the FDA requirements which were misleading. For an ingenious explanation of this last statement see the article by John Swales on page 402 of the August 2000 Journal of the Royal Society of Medicine. (starting on page 404).

Sincerely,

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