



March 27, 2013

**VIA FEDEX**

Jacquelyn Garman, Esq.  
Vice President, General Counsel  
Children's Hospital & Research Center Oakland  
747 52<sup>nd</sup> Street  
Oakland, CA 94609

Re: Hospital's alleged involvement in the deceptive marketing of dietary supplement SpeechNutrients speak™

Dear Attorney Garman:

I am writing to you on behalf of Truth in Advertising, Inc. ("TINA"), a nonprofit consumer advocacy organization dedicated to protecting consumers from deceptive advertising.

Since 2008, Illinois-based company, NourishLife LLC and its subdivision SpeechNutrients (collectively "NourishLife" or the "company") have been advertising and selling a dietary supplement called SpeechNutrients speak™ ("Speak") that is marketed as a treatment for childhood speech delays. On the bottom of every single page of its website, [www.speechnutrients.com](http://www.speechnutrients.com), as well as on other marketing materials,<sup>1</sup> the company displays Children's Hospital & Research Center Oakland (CHRCO)'s logo. NourishLife also touts its relationship with CHRCO by stating, in numerous places, that the Speak formula is patented and that CHRCO has granted NourishLife an exclusive license to use the patented formula.<sup>2</sup>

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<sup>1</sup> See, e.g., photograph of NourishLife trade show booth display (Exhibit 1).

<sup>2</sup> See, e.g., <http://www.speechnutrients.com/> (Exhibit 2); <http://www.speechnutrients.com/products/speak/>, under "Formulation" tab (Exhibit 3); photograph of Speak product package - front (Exhibit 4); photograph of Speak product package - side (Exhibit 5).

The problem, however, is that there is no patented formula for the Speak vitamin and never has been. Though Dr. Claudia Morris, a pediatric emergency medicine physician at CHRCO, filed a patent application in February 2008 with the U.S. Patent and Trademark Office,<sup>3</sup> the application was never granted. In fact, it was officially rejected in December 2011.<sup>4</sup> Accordingly, NourishLife's representations that it is selling a "patented" formula are deceptive, to say the least. Further, because there is no patent, NourishLife's use of the CHRCO logo and the publicizing of its relationship with the Hospital is misleading.

NourishLife also engages in other deceptive acts:<sup>5</sup>

- It states that there is clinical evidence to back its claim that Speak supports normal and healthy speech development and maintenance, when, in fact, there is no competent and reliable scientific evidence to support such a claim. (Dr. Morris's study – *Syndrome of Allergy, Apraxia, and Malabsorption: Characterization of a Neurodevelopmental Phenotype that Responds to Omega 3 and Vitamin E Supplementation* – which is cited on NourishLife's website, does not provide the level of substantiation required by the Federal Trade Commission and U.S. Food and Drug Administration for the claims made by NourishLife.)
- It posts testimonials on its website that are accompanied by photographs of the families – the problem is that all but one of the photos that accompany the testimonials regarding the effectiveness of Speak are fake (i.e., professional photos that were purchased on iStock.com).
- It claims that Speak contains "pharmaceutical grade" omega-3, when, pursuant to the U.S. Food and Drug Administration, there is no such thing.
- It created another website, ApraxiaResearch.com, that poses as an independent resource for information on apraxia, but is really just another forum used to market Speak.
- Its supplement contains an amount of vitamin E that far exceeds the tolerable upper intake level set by the Food and Nutrition Board, and may be

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<sup>3</sup> Patent application submitted to U.S. Patent and Trademark Office (Exhibit 6).

<sup>4</sup> Rejection of Patent Application – Summary (Exhibit 7); Detailed Rejection Statement (Exhibit 8). In April 2012, following the final rejection, the patent application was amended. No official action has yet been taken with respect to the amendment.

<sup>5</sup> Supporting evidence for the following information can be found on our website at [www.truthinadvertising.org/complaint-filed-against-nourishlife](http://www.truthinadvertising.org/complaint-filed-against-nourishlife).

hazardous to the health of children, but it does not alert consumers to this fact.<sup>6</sup>

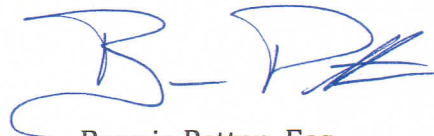
In short, NourishLife uses deceptive advertising practices to persuade parents of children with disabilities to buy Speak. TINA brought this matter to the company's attention on March 19, 2013, requesting that it correct the deceptive advertising of its product and alert its Speak customers of the issues by March 26, 2013. The company did not comply with TINA's requests.<sup>7</sup> Knowing how much the Hospital cares about this vulnerable population, we trust CHRCO will take whatever action it deems necessary in order to put an end to NourishLife's use of the CHRCO logo, as well as its misleading references to its relationship with CHRCO.

If you have any questions or would like additional information, please do not hesitate to contact me.

Sincerely,



Laura Smith, Esq.  
Legal Director  
Truth in Advertising, Inc.



Bonnie Patten, Esq.  
Executive Director  
Truth in Advertising, Inc.

Cc: Bertram Lubin, MD, President & Chief Executive Officer, Children's Hospital & Research Center Oakland

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<sup>6</sup> One mother reported that her 3-year-old daughter experienced seizure-like behavior for the first time after taking Speak. *See Speech experts wary of untested supplement sold as a speech aid for kids with verbal apraxia*, Deborah L. Shelton, Chicago Tribune, Sep. 16, 2010, available at [http://articles.chicagotribune.com/2010-09-16/health/ct-met-speech-supplements-20100915\\_1\\_dietary-supplements-speech-therapy-vitamin-e-supplements](http://articles.chicagotribune.com/2010-09-16/health/ct-met-speech-supplements-20100915_1_dietary-supplements-speech-therapy-vitamin-e-supplements) (Exhibit 9).

<sup>7</sup> Because of this, TINA has filed complaints with the Federal Trade Commission, the U.S. Food and Drug Administration, and the Illinois Attorney General's Office, urging each of them to take prompt action to halt NourishLife's deceptive advertising and marketing of Speak. All of these letters are available at [www.truthinadvertising.org/complaint-filed-against-nourishlife](http://www.truthinadvertising.org/complaint-filed-against-nourishlife).