



April 3, 2023

Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: BetterHelp, Inc.; File No. 202 3169

Psychotherapy Action Network (PsiAN) advocates for accessible, affordable and ethical psychotherapies with lasting impact for anyone who wants or needs them. PsiAN is a nonprofit organization with more than 5,200 individual members and 80 organizational partners. PsiAN writes to thank the Federal Trade Commission for investigating issues at BetterHelp with consumer privacy and misrepresentation of privacy and advertising policies. We strongly support the proposed consent order.

BetterHelp and its affiliated companies contract with licensed mental healthcare practitioners and market their brands as providers of therapy. However, the ways in which they have handled fundamental aspects of the interactions and communications with users are unlikely to be found in most therapists' practices. Some of BetterHelp's actions and policies entail violations of therapists' codes of ethics and represent a profound disservice to individuals who are seeking mental health care – and may thus be considered vulnerable and under duress – and to the mental health profession as a whole.

Confidentiality is at the heart of effective therapy and mental health treatment. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the codes of ethics by which licensed therapists must abide explicitly outline the many ways in which therapists are obligated to protect an individual's private health information. For-profit companies such as BetterHelp that contract with licensed therapists to provide services should be held to these same standards. The mental health and medical professions as well as the government take HIPAA violations seriously; such violations can result in both civil and criminal penalties¹. That BetterHelp misrepresented its own status by displaying a "HIPAA certified" seal when "no government agency or third party had reviewed BetterHelp's information practices for compliance with HIPAA" is reprehensible.

Transparency and clear communications are also necessary to build a trusting relationship between client and therapist. According to the proposed consent order, BetterHelp repeatedly failed to communicate clearly its own policies on data use and privacy, and offered false assurances to new and existing customers. It allegedly failed to protect consumers' information within the company, and also shared that information outside the company (with third-party platforms including Facebook, Pinterest, Snapchat, and Criteo) for advertising purposes. Misleading potential or actual clients in any way pollutes and destroys the capacity to develop a trusting therapeutic alliance and conduct

¹ <https://www.ama-assn.org/practice-management/hipaa/hipaa-violations-enforcement>

effective therapy; that the misleading actions and policies involved confidentiality and privacy is particularly egregious.

We appreciate the provisions of the proposed consent order that would address the allegations that BetterHelp failed to protect consumers' health information, failed to obtain appropriate consent, failed to disclose that the information was used by third parties for advertising purposes, and misrepresented itself as having met the requirements of HIPAA.

In addition to these important provisions, we also request that BetterHelp publicly and broadly announce the alleged violations and changes it will make to its business, data privacy and advertising practices under the proposed order. A public information campaign from BetterHelp seems necessary to counter the high frequency of its online, radio and print advertisements for its business and other brands.

Additionally, we request that BetterHelp make explicit any marketing, advertising, or customer-acquisition strategies in which it engages going forward. In our previous letter to the FTC dated September 1, 2022², along with our petition of nearly 2,500 signatories, we outlined a series of concerns regarding a company called CareDash. CareDash presented itself as an independent directory of mental healthcare providers, but in fact it seemed to exist to drive potential referrals to clinicians affiliated with CareDash and BetterHelp. CareDash received commissions from BetterHelp and used the names and information about therapists without their knowledge or consent for the purposes of CareDash's and BetterHelp's profits. None of this was clearly stated up front on its website.

We were pleased to see that BetterHelp (and Talkspace, which had a similar paid relationship with CareDash) quietly exited the marketing agreement with CareDash soon after our petition was launched, and that in February, 2023, CareDash announced that it would dissolve its business.

Should BetterHelp enter into any similar marketing agreements with other companies, these should be clearly and explicitly stated so that consumers have full and complete information about whom they are doing business with.

We appreciate the FTC monitoring the intersection of for-profit businesses with mental healthcare provision. We hope the FTC's actions regarding BetterHelp will also send a strong message to similar companies.

Sincerely,

Psychotherapy Action Network (PsiAN)

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² [PsiAN letter to FTC on CareDash, BetterHelp](#)