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Jessie Bekker Details Dietary Supplement Regulation Challenges in University of Arkansas Journal of Food Law & Policy

Articles / Publications
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Burr & Forman health care attorney, Jessie Bekker, published an article in the University of Arkansas Journal of Food Law & Policy, with co-authors Alex Flores and Michael Sinha, discussing the regulation of dietary supplements and deficiencies in the Food and Drug Administration's (FDA) authority to oversee this sector effectively.

"Despite the increased market size of dietary supplements, the FDA's pre-market authority to regulate the introduction of dietary supplements into the stream of commerce has remained subdued," Bekker, Flores and Sinha wrote. "The FDA is taking steps to reign in the multi-billion-dollar industry, but under the Dietary Supplement Health and Education Act of 1994 (DSHEA) – the law granting the FDA authority to regulate dietary supplements – the FDA's authority is practically limited to post-market review of supplement safety."

In detailing the FDA's challenges in addressing health risks associated with adulterated dietary supplements in the market, the authors noted that more than 23,000 emergency department visits per year are attributable to the use of dietary supplements. In order to enhance the FDA's ability to intervene, the article called on Congress to amend DSHEA to grant the FDA the express statutory authority to:

1. Regulate dietary supplements before entering the market;

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2. Require manufacturers to submit Supplement Labels to the FDA for pre-market review;
3. Require that supplements undergo both pre-market composition testing and post-market randomized composition testing;
4. Strengthen agency authority to remove adulterated dietary supplements from the market; and
5. Establish an excise tax on dietary supplements.

The full article is available for download here.