

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Andrew N. Ferguson, Chairman**
 Melissa Holyoak
 Mark R. Meador

In the Matter of

**SOUTHERN HEALTH SOLUTIONS, INC.,
a corporation, also d/b/a NEXT MEDICAL and
NEXTMED,**

**ROBERT S. EPSTEIN, individually and as a
former officer of SOUTHERN HEALTH
SOLUTIONS, INC., and**

**FRANK PAT LEONARDO, III, individually and
as an officer of SOUTHERN HEALTH
SOLUTIONS, INC.**

DOCKET NO.

COMPLAINT

The Federal Trade Commission, having reason to believe that Southern Health Solutions, Inc., and Robert S. Epstein and Frank Pat Leonardo, III, individually and as officers of Southern Health Solutions, Inc. (collectively, “Respondents”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Southern Health Solutions, Inc., formerly named Helio Logistics, Inc., also doing business as Next Medical and as NextMed (“NextMed”), is a Delaware corporation with its principal office or place of business at 2248 Broadway #1158, New York, NY 10024.
2. Respondent Robert S. Epstein (“Epstein”) is the founder, majority owner, and a former director of NextMed. Until June 4, 2023, he was its Chief Executive Officer. Individually or in concert with others, he controlled or had the authority to control, or participated in the acts and practices of NextMed, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of NextMed.
3. Respondent Frank Pat Leonardo, III (“Leonardo”) is the Chief Executive Officer of NextMed. From February 2022 until June 4, 2023, he was its Chief Operating Officer and its

Chief Marketing Officer. Individually or in concert with others, he controlled or had the authority to control, or participated in the acts and practices of NextMed, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of NextMed.

4. Respondents have advertised, offered for sale, and sold telehealth services, including weight-loss plans. NextMed provides a telehealth platform that connects consumers to medical providers who will provide prescriptions for drugs to cause weight loss. Specifically, Respondents have advertised the availability of glucagon-like peptide 1 agonist drugs such as semaglutide and tirzepatide (“GLP-1 drugs”) through NextMed’s platform. GLP-1 drugs are “drugs” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

5. The acts and practices of Respondents alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

I. Overview

6. Respondents capitalized on the skyrocketing interest in prescription GLP-1 drugs for weight loss like Ozempic and Wegovy. In the course of offering their GLP-1 weight-loss programs, Respondents: misled consumers about what was included in the weight-loss programs; induced consumers into signing up for annual memberships; made claims about the weight loss achieved by their clients without a reasonable basis; used fake and false testimonials; failed to disclose material connections with testimonialists; engaged in deceptive consumer review practices; and failed to timely process cancellation or refund requests.

II. Background

7. Founded in late 2020, NextMed was initially a medical testing business. In early 2022, Respondents shifted the primary focus of NextMed to weight loss after recognizing the opportunity created by the increasing popularity of and demand for GLP-1 drugs. Respondents first offered their services on the website www.joinnextmed.com before switching their website to www.nextmed.com.

8. There are numerous GLP-1 drugs that are FDA approved for treatment of Type 2 diabetes, including Victoza, Trulicity, Ozempic, Rybelsus, and Mounjaro. Such drugs may be legally prescribed by a medical professional for off-label use for weight management to individuals who do not have Type 2 diabetes. In two studies of Ozempic, researchers reported that subjects with Type 2 diabetes experienced average weight loss of 15.2 pounds over 40 weeks (SUSTAIN FORTE trial) and average weight loss of 12.8 pounds over 40 weeks (SUSTAIN-7 trial).

9. In addition, there are several GLP-1 drugs that are FDA approved specifically for weight management in overweight and obese patients, including Saxenda, Wegovy, and Zepbound. The prescribing information for all three drugs states that they are indicated for chronic weight management in adults with either an initial body mass index (BMI) of 30 kg/m², or a BMI of 27 kg/m² or greater and the presence of at least one weight-related condition such as Type 2

diabetes or cardiovascular disease. All three of these drugs are indicated for use as an adjunct to a reduced calorie diet and increased physical activity. In the SURMOUNT-1 study of tirzepatide (the ingredient in both Mounjaro and Zepbound), researchers reported an average of 52 pounds of weight loss over 72 weeks on the highest dose. In the STEP-1 trial of Wegovy (which contains the same ingredient as Ozempic, but at a higher dosage), researchers reported average weight loss of 33.7 pounds over 68 weeks.

10. In 2022, Respondents began offering various membership programs that purportedly provided consumers with access to various GLP-1 drugs via the NextMed telehealth platform. These have included the “GLP Weight Loss Program” (first offered in March 2022 and also known as the “Wegovy Weight Loss Program” or the “Ozempic Weight Loss Program”) and the “GLP Weight Loss Complete Program” (first offered in April 2022). Consumers who enrolled in NextMed weight-loss programs prior to September 2022 were billed on a monthly basis, with typical fees of \$138 and \$188 per month, respectively, although consumers were commonly offered a promotional discount or no charge for the first month. In September 2022, Respondents changed the billing cycle for the programs to charge consumers every 28 days instead of once a month, i.e., requiring 13 payments in a calendar year, instead of 12.

11. NextMed has not directly employed any physicians or healthcare professionals to provide services to the consumers who enroll in its weight-loss programs. Respondents have not had access to medical records or weight information for consumers who have enrolled in NextMed weight-loss programs, with the exception of self-reported starting weight on intake forms and any information that consumers affirmatively volunteer (for instance, during a customer service interaction with NextMed or in a review left on a third-party site). Respondents have had no systematic knowledge of how many consumers who enroll in NextMed weight-loss programs are medically eligible for GLP-1 drugs, how many obtain and fulfill prescriptions for such drugs (or which specific drugs), or how much weight their clients have lost, if any.

12. The membership fees charged by Respondents for their weight-loss programs did not include all costs that were required for consumers to obtain GLP-1 drugs for weight loss. While the programs were advertised to include a monthly GLP-1 prescription and a lab order, the fees did not include the costs of: lab work required to determine eligibility for GLP-1 drugs; consultations with a medical provider that are required in order to obtain prescriptions for a GLP-1 drug; or the cost of the GLP-1 drug itself. If such drugs are not covered by insurance, a consumer’s out-of-pocket costs for such drugs can exceed \$1,000 per month.

13. Beginning in August 2022, Respondents implemented a one-year membership agreement for each of their GLP-1 weight-loss programs, and in April 2023 Respondents modified the agreement to include an early termination fee equivalent to one month of the program cost. The year-long commitment was not adequately disclosed to consumers before they enrolled in the programs and provided their payment information.

14. Respondents relied heavily on the use of purported consumer endorsements and reviews to promote NextMed’s weight-loss programs, including testimonials featuring before and after photos. Many testimonials disseminated by Respondents were fake, featuring actors or other individuals who had not used NextMed’s services. Respondents also deliberately distorted

reviews of NextMed on third-party sites by submitting fake positive reviews, selectively challenging negative reviews, offering refunds to consumers to modify or remove negative reviews, providing incentives to consumers for them to modify or withdraw their negative reviews, and soliciting reviews selectively from customers whose complaints had been resolved, or were otherwise satisfied with NextMed's services.

15. Despite requiring a one-year membership agreement, NextMed eventually did allow consumers to cancel. However, numerous consumers who attempted to cancel their memberships encountered substantial obstacles or delays in obtaining a cancellation or refund.

III. Respondents' Course of Conduct

Advertising Campaign

16. Respondents have disseminated or have caused to be disseminated advertisements for their telehealth services using national television ads, online banner and paid search ads, emails, SMS text messages, direct mail, and Facebook, YouTube, and other social media ads, including the following:

- A. A video ad that appeared on Facebook in mid-2022 depicting medication tablets and promoting the availability of "Personalized, doctor-backed weight loss medication... Starting at only \$99 for the first month..." as shown below:



- B. Television advertisements that included a voiceover stating: "NextMed offers new FDA approved weight-loss medications like Ozempic and Wegovy," accompanying depictions of Ozempic and Wegovy packaging, and also included both audio and visual claims that the service cost "only \$99," as shown below:

nextmed joinnextmed.com

OZEMPIC

wegovy™
solution for injection in pre-filled pen
semaglutide
subcutaneous use
once weekly

OZEMPIC®
solution for injection in pre-filled pen
semaglutide
subcutaneous use
once weekly

WEGOVY

All information is intended for your general knowledge only and is not a substitute for medical advice or treatment for specific medical conditions. We offer consultations with top caliber national physicians who always should be consulted or your own medical team for any specific health issues and consult the medical team before starting a new fitness regimen.

nextmed joinnextmed.com

ONLY \$99*
AND A PRESCRIPTION
AS SOON AS
TOMORROW

All information is intended for your general knowledge only and is not a substitute for medical advice or treatment for specific medical conditions. We offer consultations with top caliber national physicians who always should be consulted or your own medical team for any specific health issues and consult the medical team before starting a new fitness regimen.

- C. Numerous Internet ads that offered Wegovy, Ozempic, or an unspecified GLP medication for a specified price, e.g., “\$99 Ozempic Buy Now,” a specified monthly price, e.g., “\$119/month,” or a specified price for the first month, e.g., “only \$79 for your first month,” including those shown below:

Ad • https://www.joinnextmed.com/ozempic/near_you



\$99 Ozempic Buy Now - No Diet or Exercise Required

Members Lose 53+ lbs Without Diet or Exercise.
Ozempic Weight Loss Meds. Order Now! Personalized,
Doctor-Backed Ozempic in Your City. Change Your Life
Today. 53lb Average Weight Loss.



PERSONALIZED, DOCTOR-BACKED
WEIGHT LOSS
MEDICINE
WITH OZEMPIC, MOUNJARO AND WEGOVY

BOOK YOUR INITIAL ASSESSMENT IN MINUTES.
GET PRESCRIBED SAME-DAY AND START LOSING WEIGHT.
CHANGE YOUR LIFE TODAY.

NO DIET OR EXERCISE REQUIRED
ONLY \$79 FOR YOUR FIRST MONTH

Order now at
NXTMD.IO/GET20

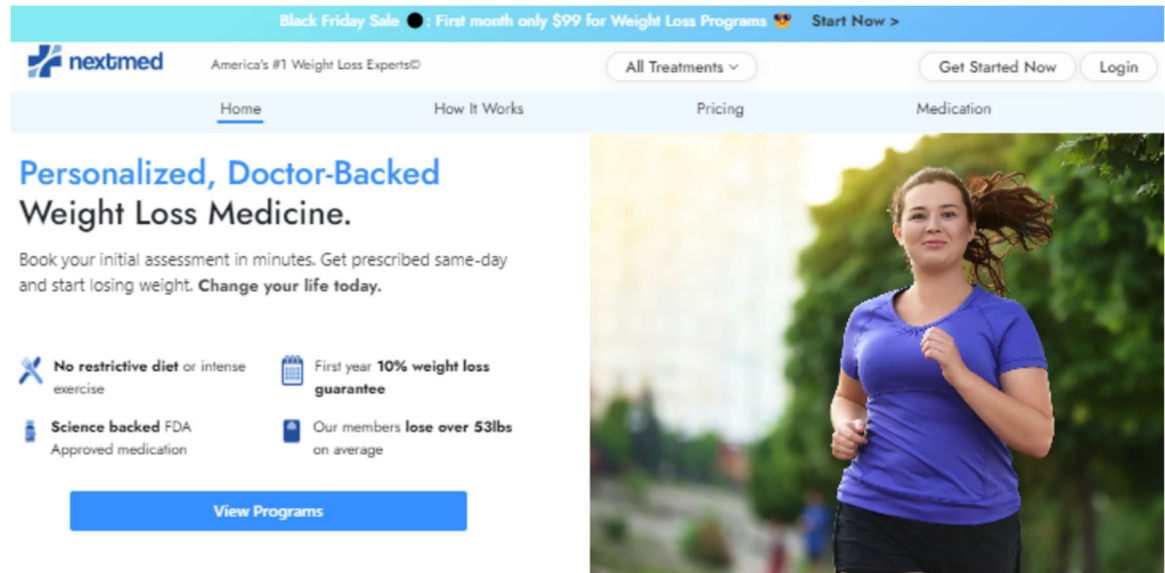




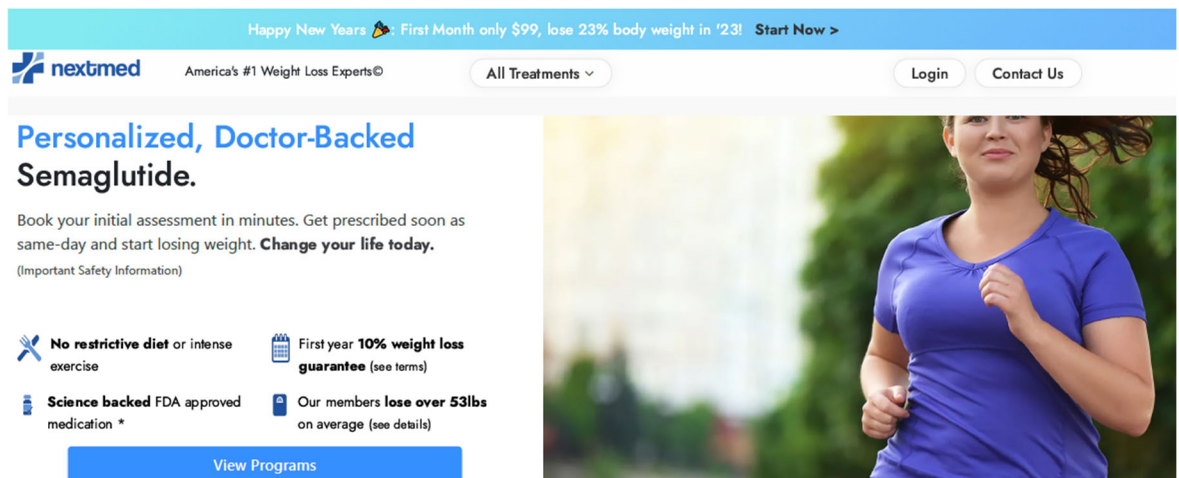
- D. A description of a weight-loss program on the NextMed website in 2022 stating that a membership in the Wegovy Weight Loss Program includes “Monthly Wegovy Refills,” as shown below:

A screenshot of the NextMed website interface. At the top left is the "nextmed" logo. At the top right is a blue button labeled "Select Program" next to a hamburger menu icon. Below this is a section titled "Most Popular" in a blue pill-shaped button. The main content area features a card for the "Wegovy - Monthly Weight Loss Program". The card text includes: "Monthly subscription to Wegovy, FDA-approved medication for weight-loss. Includes diagnostic testing to help derive your treatment plan. Requires insurance." followed by "Membership Includes:" and a list of four items, each with a checkmark icon: "Monthly Wegovy Refills", "Quarterly Metabolic Lab Testing & Analysis", "Customized Weight-Loss Plan", and "Ongoing support and unlimited messaging with Expert Doctors". At the bottom of the card is a large blue button that says "Add to cart - \$119 / month". Below the card, there are two smaller icons: a clock icon with the text "Prescribed in <24 hours" and a pill icon with the text "FDA Approved".

- E. A description of NextMed’s services on the NextMed homepage in November 2022 that stated: “First month only \$99,” “Personalized, Doctor-Backed Weight Loss Medicine,” “Get prescribed same-day and start losing weight,” and “Our members lose over 53lbs on average,” as shown below:



- F. A description of NextMed’s services on the NextMed homepage in February 2023 that stated: “First month only \$99, lose 23% body weight in '23!,” “Personalized, Doctor-Backed Semaglutide,” and “Our members lose over 53 lbs on average.”



- G. A chart that appeared on the NextMed website in 2023 stating the amount of weight loss with NextMed as “35-52 lbs” and “15-23%,” and that used a prominent blue checkmark to indicate that “GLP-1 Medication” was a part of its weight-loss programs, as shown below:

Next Medical vs. Other Weight Loss Programs

	 nextmed	 Clinic	 Digital Brands
Wait Time for Consult: (hover to see details)	1 Day	1 Month	1 Month
Pounds Lost in 12-18 months: (hover to see details)	35-52lbs	varies	varies
Weight Loss: (hover to see details)	15-23%	varies	varies
GLP-1 Medication:	✓	varies	
At-Home Labs:	✓		
Apple® Fitness+ Membership:	✓		
All 50 States:	✓		

- H. Representations on the NextMed website in 2022 and 2023 that consumers who used NextMed’s weight-loss program could “expect to lose up to an average of 23% of body weight,” and that NextMed’s average member had a starting weight of 230 pounds and “can lose 53 pounds at 23% weight loss,” as shown below:

Questions?

	Are these medications proven weight loss treatments?	▼
	How do GLP-1 medications work?	▼
	How does Bupropion Work?	▼
	How much weight can I expect to lose?	▲
Over the course of the program, eligible customers can expect to lose up to an average of 23% of body weight. Our average member has a starting weight of 230 pounds and can lose 53 pounds at 23% weight loss.		

- I. Representations on NextMed’s website in 2023 that its membership programs included a bundle of “prescription GLP-1 medication... monthly medical consultations, and lab-testing...,” as shown below:

Questions?

- ✦ Are these medications proven weight loss treatments? ✓
- ✦ How do GLP-1 medications work? ✓
- ✦ When can I expect to receive my first treatment? ✓
- ✦ How does the program work? ^

NextMed offers a truly doctor and provider led weight-loss program. Other companies may not offer you the ability to speak to a medical provider and, if they do, may only have one initial consultation before you never hear from them again. NextMed bundles prescription GLP-1 medication, insurance support, monthly medical consultations, and lab-testing to curate a precision weight-loss program.

Use of Testimonials

17. Prior to early 2023, Respondents routinely featured individuals who had not participated in a NextMed weight-loss program, or used GLP-1 drugs for weight loss, in testimonials and advertisements. In some cases, the individuals were actors solicited by Respondents through Craigslist or a hiring platform that connects businesses to content creators who will produce custom video ads for social media and other platforms.

18. For example, a Facebook and YouTube video ad that appeared from June 2022 through February 2023 featured a testimonial from “Connor,” who claimed to have lost 51 pounds and 20 percent of his body weight with NextMed, as depicted below. Respondents hired Connor through the hiring platform and had no knowledge of Connor having used GLP-1 drugs for weight loss. The NextMed website also featured a video testimonial from the same actor in which “Connor” claimed to have lost 40 pounds.



19. Respondents ran a series of video ads in late 2022 and early 2023 on Facebook and YouTube featuring an actress hired through the hiring platform. In these ads, the actress – who was not overweight and had not used any of NextMed’s weight-loss programs – claimed to have used NextMed to lose varying amounts of weight (between 10-22 pounds) over varying amounts of time (from a single month to a year). These videos included the depictions below:



20. Likewise, actors appeared in Respondents’ television ads for NextMed. One television ad that aired nationally from December 2022 through March 2023 featured individuals identified as “Ava from Utah” who lost 33 pounds in 12 weeks, “Brenda from Los Angeles” who lost 27 pounds in 11 weeks, and “Terry from Washington” who lost 38 pounds in 15 weeks, with depictions including the following:

nextmed joinnextmed.com



AVA
FROM UTAH LOST
33^{*} lbs.
After 12 wks.

**Individuals used medication with diet and exercise and were remunerated.*

All information is intended for your general knowledge only and is not a substitute for medical advice or treatment for specific medical conditions. We offer consultations with top caliber national physicians who always should be consulted or your own medical team for any specific health issues and consult the medical team before starting a new fitness regimen.

nextmed joinnextmed.com



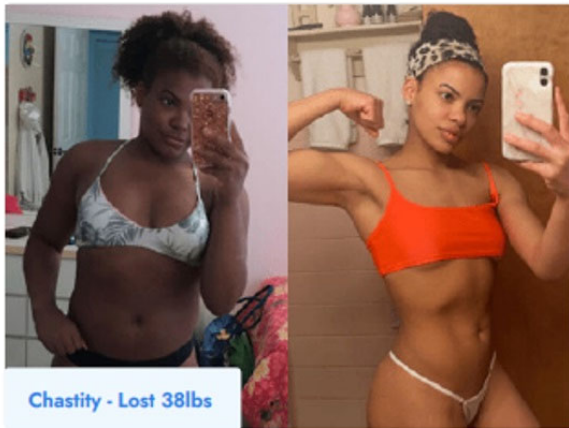
BRENDA
FROM LOS ANGELES LOST
27^{*} lbs.
After 11 wks.

**Weight lost with combination of medication and / or reduced caloric intake and exercise.*

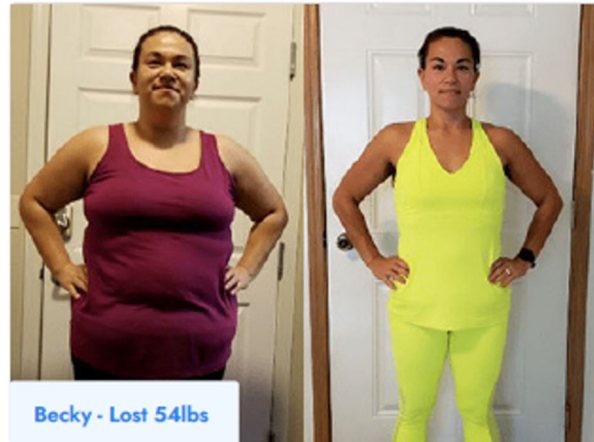
All information is intended for your general knowledge only and is not a substitute for medical advice or treatment for specific medical conditions. We offer consultations with top caliber national physicians who always should be consulted or your own medical team for any specific health issues and consult the medical team before starting a new fitness regimen.

In fact, “Ava,” “Brenda,” and “Terry” were all actors who had not used a NextMed weight-loss program, and their “before” photos were edited.

21. Below are examples of testimonials that Respondents displayed on the NextMed website from June 2022-February 2023:



I found Next Medical 5 months ago, and have already gotten down to my lowest weight since I was a teenager. My doctor has helped me get into the best shape of my life!



The hardest part of losing weight is getting started. I finally decided I wanted to get into shape in February, and signed up with Next Medical. I have already lost a lot of weight on Ozempic, and my husband loves it!



I researched the program, and decided to enroll. After only six months, I achieved my goal weight! On maintenance now. Thank you to my Coach Kevin for helping me get there.



NextMed's program really was a lifesaver for me. Wegovy helped me get to my lowest weight in five years. Great program.

22. The photos of “Chastity” and “Becky” in the testimonials above were submitted by individuals who responded to ads on Craigslist to provide before and after photos. Respondents had no knowledge of the individuals depicted as “Chastity” and “Becky” having taken GLP-1 drugs for weight loss. “Pam” in the testimonials above is the mother of Respondent Epstein. “Frank” in the testimonials above is Respondent Leonardo. Neither “Pam” nor Respondent Leonardo used GLP-1 drugs for weight loss. None of the individuals depicted in these testimonials made the statements that appeared next to their before/after photos, or used a NextMed weight-loss program.

23. In March 2023, *The Wall Street Journal* (“WSJ”) published an investigative article about NextMed’s business, including its use of consumer testimonials. After receiving an inquiry from the WSJ, NextMed removed from its website all testimonials that were not from genuine NextMed members, and stopped disseminating advertisements containing such testimonials.

Consumer Reviews on Third-Party Websites

24. The NextMed website touted positive reviews of its weight-loss programs from consumers that were posted on Trustpilot, a third-party review website. The NextMed website has prominently displayed the purported average Trustpilot star rating from users who rated its telehealth services, as well as displaying the actual text from certain Trustpilot reviews.

25. Respondents manipulated and distorted reviews of NextMed posted on third-party sites in several ways.

26. Respondents generated a large number of fake positive reviews that were posted on Trustpilot and other sites. In April 2022, Respondents Epstein and Leonardo discussed the need to leave fake reviews on Trustpilot, the need to create more Facebook and Google accounts, and the use of a VPN (to evade detection). Respondent Epstein said Respondent Leonardo’s “reviews are insane[,] I can’t tell if they’re fake.” In June 2022, Respondent Leonardo told his team, “we also need to add fake reviews for now. Do you have a staff member who I can give this task to full-time?” In September 2022, Respondent Leonardo wrote that they had been “leaving new (fake) reviews [but had] deprioritized this, because trustpilot has flagged us.” Someone asked if that meant they would not continue to use fake reviews. Respondent Leonardo responded, “we should, but we need to figure out how to get them to stay up because posting 5-10 a day and having them removed within minutes is stupid.” In October 2022, Respondent Leonardo asked his team for a volunteer to generate 100 fake weight-loss reviews.

27. Respondents selectively challenged negative reviews, requesting that they be removed from Trustpilot solely or primarily because they were negative.

28. Respondents proactively offered Amazon gift cards to consumers to remove or change negative reviews and offered refunds to consumers to remove negative reviews.

29. Respondents actively solicited Trustpilot reviews selectively from consumers they knew to be satisfied with the NextMed service.

30. Respondents’ manipulation of Trustpilot reviews was detected by Trustpilot, which removed many of Respondents’ fake reviews and told them that selectively requesting removal of negative reviews and soliciting reviews only from satisfied customers were problematic.

The NextMed Website and Enrollment Process

31. In many cases, consumers who enrolled in a NextMed weight-loss program on the NextMed website did not have adequate notice before signing up and paying that they were enrolling in an annual program or that their membership fees did not include the cost of

prescription weight-loss medication or other costs that would be necessary to obtain the medication.

32. The text at the very top of the NextMed homepage has touted either “Personalized, Doctor-Backed, Weight Loss Medicine” or “Personalized, Doctor-Backed Semaglutide” with no reference to the fact that the cost of the drugs themselves is not included. In addition, the various weight-loss programs were repeatedly described as including a “Monthly prescription to a GLP-1a medication for weight-loss...” such as in the graphic as shown below:

The Most Comprehensive Weight Loss Programs Available
(Hover to see important information)

Most Popular	Most Comprehensive
GLP-1 Weight Loss Program Monthly prescription to GLP-1a medication for weight-loss. Includes lab order to help derive your treatment plan. Subject to medical eligibility. Membership Includes: ✓ Monthly GLP-1a prescription (Semaglutide or Tirzepatide) if medically eligible ✓ Initial Metabolic Lab Order & Analysis ✓ Customized Weight-Loss Plan ✓ Support and Messaging with Expert Doctors Start Now \$138/month \$0 for first month*	GLP-1 Weight Loss Complete Program Monthly prescription to GLP-1a medication for weight-loss. Includes lab order to help derive your treatment plan. Subject to medical eligibility. Membership Includes: ✓ Monthly GLP-1a prescription (Semaglutide or Tirzepatide) if medically eligible ✓ Access to Quarterly Thyroid, Hormone, & Metabolic Testing ✓ Access to Concierge Home Lab Testing ✓ Support and Messaging with Expert Doctors ✓ Apple® Fitness+ Membership Start Now \$138/month \$0 for first month*

Below this graphic, an inconspicuous small-print disclaimer indicated, among other things, that the cost of medication and lab testing was not included.

33. Respondents knew that consumers believed that the cost of the medication was included:

- A. In April 2022, Respondent Epstein asked Respondent Leonardo, “Why r there so many f**king disputes Our dispute rate is 5.5%.” Respondent Leonardo then asked the customer service team about the high number of disputes and was told it was possible that “they thought meds are included, eventually leading them to dispute right away and email us for a refund.” He asked how frequent that was and was told, “all the time.” Respondent Leonardo informed Respondent Epstein about people thinking the medication was included and called those consumers “f**king idiots.”

- B. In May 2022, Respondent Epstein was concerned about negative reviews and said NextMed had to “edit our tiles With the out of pocket sh*t[.] We have to edit them[.] It’s kind of a scam otherwise[.] I get it[.] People just click thru blindly.” Respondent Leonardo tried to talk him out of it, “i don’t know if it’s scamming. i mean effectively what we’re doing is making it more attractive for people to purchase.”
- C. In August 2022, discussing the large number of cancellations, Respondent Leonardo told Respondent Epstein, “i think a lot of them think medication is included.”
- D. In July 2023, Respondent Leonardo was told by one NextMed’s medical partners “this is super misleading[,] receiving so many patients that think their entire first month is \$0 medication and visits included.”
- E. There were consumer complaints to the Better Business Bureau (“BBB”) (of which Respondents were aware) and to NextMed directly from customers who believed that the fee they paid included lab testing, the consultation, and/or the cost of medication.
- F. Although Respondents modified their disclosures in response to complaints, the revised disclosures were insufficient and complaints persisted from consumers who were unaware that the cost of medication was not included.

34. The March 2023 WSJ article stated that the WSJ had tested the NextMed sign-up process and was enrolled in a one-year contract that was not disclosed before checkout. The article noted that after WSJ inquired with NextMed about why the yearlong commitment was not disclosed upfront, the company added a link to its “Weight Loss Membership Agreement” on its checkout page.

35. At some times, language about the annual program was visible only if a consumer visited the website FAQ page, hovered over certain text on the website to reveal additional details about NextMed’s programs, or clicked an inconspicuous hyperlink at the bottom of the checkout page to read a lengthy “Weight Loss Membership Agreement.” Consumers were not required to open or view the Agreement to complete their purchase, or even to check a box acknowledging acceptance of its terms; small print at the bottom of the checkout page indicated that consumers were agreeing to all of the terms of the Agreement simply by making the purchase. NextMed has accepted payment for its weight-loss program via credit card, debit, and ACH (Automated Clearing House) transactions. At least some, and likely many consumers who enrolled in a NextMed weight-loss program never saw any clear disclosure of the 12-month required term before agreeing to pay.

36. Other material terms of NextMed’s weight-loss programs, including that the purchaser would be billed every four weeks (as opposed to monthly) and the existence of an early termination fee, were hidden in the Weight Loss Membership Agreement that was inconspicuously hyperlinked on the checkout page. At least some, and likely many consumers who enrolled in a NextMed weight-loss program never saw any clear disclosure of these terms before agreeing to pay.

Cancellation and Refund Requests

37. In late 2022, the BBB contacted NextMed, raising concerns about a marked increase in complaints against the company, noting specifically complaints from consumers who claimed: they were charged right away for services they did not receive; they received the runaround when trying to cancel or obtain a refund; or that inadequate telephone support and technology issues prevented them from resolving their customer service issues.

38. Between March 2022 and July 2023, more than 25,000 customers who enrolled in the GLP Weight Loss Program and GLP Weight Loss Complete Program requested to cancel their membership within the 12-month agreement period. Respondents were aware that many consumers who requested cancellations or refunds did so once they became aware that the cost of GLP-1 medications was not included in the monthly cost of NextMed's weight-loss programs.

39. At times, NextMed purposefully made it difficult to cancel or obtain a refund. In October 2022, Respondent Leonardo wrote to the customer service team, "Team, we really cannot cancel subscriptions unless people dispute [with their credit card company]. Even if somebody cancels, put it on pause. We can try and reactivate."

40. At numerous times, Respondents did not employ sufficient customer service personnel or maintain adequate technological capacity to address the large volume of customer requests and complaints. At some times, the vast majority of consumers who attempted to contact NextMed via telephone were unable to reach a representative. Although NextMed dramatically increased the number of personnel contracted to provide customer service support services in the spring of 2023, in many instances NextMed did not address requests for cancellations or refunds for months.

41. A significant number of customers instituted chargebacks with their banks or credit card companies. NextMed's chargeback rate was consistently above the industry threshold of 1%. One of NextMed's payment processors terminated NextMed after notifying it that NextMed's overall dispute exceeded the industry threshold. Prior to this termination, the payment processor notified NextMed that NextMed had been identified by Visa's Dispute Monitoring Program and Mastercard's Excessive Chargeback Merchant Program as having high levels of disputes and chargebacks.

Control and Participation of Individual Respondents

42. Respondent Epstein had ultimate control over all aspects of NextMed's conduct and marketing related to its weight-loss programs. Respondent Epstein directly participated in the acts and practices described in this complaint, including: approving the annual membership agreement; discussing whether to disclose out-of-pocket costs in NextMed's ads; deciding to remove a website element that led consumers to realize they were committing to an annual membership agreement; discussing filming fake testimonials and the hiring of models to give testimonials; writing or editing FAQs for the website; directing others to generate fake reviews for NextMed; responding to the WSJ reporter; and making certain changes to NextMed's advertising after becoming aware of the WSJ's intention to publish an article about the company.

Respondent Epstein was aware that many consumers who enrolled did not realize that the cost of GLP-1 medications and other required services were not included in the membership fees.

43. Respondent Leonardo was responsible for developing and enforcing NextMed's policies relating to membership terms and cancellation policies for its weight-loss programs. He was also responsible for overseeing customer service issues (including refund requests and customer complaints), ad buying and placements, reviewing all content on the NextMed website, handling communication with the BBB, and evaluating substantiation for advertising claims. Respondent Leonardo also personally solicited before and after photos and video testimonials from individuals who were not NextMed clients and had not taken GLP-1 drugs, that were presented as genuine testimonials. He was personally responsible for creating advertising. Respondent Leonardo directed: the creation of fake reviews; the offering of refunds or payments to consumers who edited or removed negative reviews; disputing negative reviews; and the solicitation of positive reviews specifically from individuals whose customer service inquiries were satisfactorily resolved. He responded to Trustpilot regarding the concerns it raised. He discussed the need to make it more difficult for consumers to cancel memberships and the high level of customer disputes. Respondent Leonardo was aware that many customers thought their entire first month was free, including GLP-1 medication and telehealth visits. He also personally provided a fake testimonial.

Violations of the FTC Act

Count I

Deceptive Cost Claims

44. In connection with the advertising, promotion, offering for sale, or sale of their NextMed weight-loss programs, Respondents have represented, directly or indirectly, expressly or by implication, that the price of NextMed weight-loss programs included the medication cost for Wegovy, Ozempic, or another GLP-1 drug, as well as the cost of other services that were required to obtain a prescription for such a drug.

45. In fact, the price of NextMed's weight-loss programs did not include the medication cost of Wegovy, Ozempic, or any other GLP-1 drug. The program fees also did not include the cost of laboratory testing or medical appointments that were required to obtain prescriptions for such drugs. Therefore, the representation set forth in Paragraph 44 is false or misleading.

Count II

Unsubstantiated Weight Loss Claims

46. In connection with the advertising, promotion, offering for sale, or sale of their NextMed weight-loss programs, Respondents have represented, directly or indirectly, expressly or by implication, that:

- A. Participants in NextMed's GLP-1 weight-loss programs lose 53 pounds of weight on average.

- B. Participants in NextMed's GLP-1 weight-loss programs lose on average 23% of their body weight.

47. The representations set forth in Paragraph 46 are false or misleading, or were not substantiated at the time the representations were made. NextMed did not maintain records regarding the weight loss of its members and Respondents had no knowledge of the average weight loss in terms of pounds or percentage body weight for consumers who enrolled in their weight-loss programs. Moreover, without knowledge of the starting weights of its members, which particular drugs its members were prescribed or at what dosages, and how long members continued taking such drugs, NextMed did not have a reasonable basis for assuming that its members would achieve or had achieved weight-loss results comparable to those of individuals in specific industry-sponsored GLP-1 clinical trials. Further, clinical trial participants engaged in diet and exercise, but NextMed claimed in some advertising that "no diet or exercise" was required to achieve the represented results.

Count III

False and Misleading Testimonials and Endorsements

48. In connection with the advertising, promotion, offering for sale, or sale of their NextMed weight-loss programs, Respondents have represented, directly or indirectly, expressly or by implication, that testimonials and endorsements for their weight-loss programs, including those described in Paragraphs 17 - 21 and Paragraph 26, represented the actual and genuine experiences and opinions of ordinary and impartial NextMed clients.

49. In fact, in numerous instances, testimonials and endorsements for Respondents' weight-loss programs did not represent actual and genuine experiences and opinions of ordinary impartial NextMed clients, including fake positive consumer reviews of NextMed that Respondents caused to be posted to third-party review sites, and: individuals who had not used NextMed weight-loss programs; individuals who had not used GLP-1 drugs; paid actors, some of whom were paid to submit "before" and "after" weight-loss photos; Respondent Leonardo; and Respondent Epstein's mother. Therefore, the representations set forth in Paragraph 48 are false or misleading.

Count IV

Unfair Consumer Review Practices

50. In connection with the advertising, promotion, offering for sale, or sale of their NextMed weight-loss programs, Respondents have taken numerous actions, including those described in Paragraphs 27-29, that have had or were intended to have the effect of distorting or otherwise misrepresenting what consumers thought of their medical weight-loss services. Respondents had customer service representatives selectively solicit consumer reviews from satisfied customers and offered refunds or Amazon gift cards to customers who would agree to change or remove negative consumer reviews. Respondents also caused negative consumer reviews to be removed by flagging or disputing negative reviews when they did not have a reasonable basis for doing so.

51. Respondents' actions described in Paragraph 50 with respect to consumer reviews caused or were likely to cause substantial injury to consumers that was not outweighed by

countervailing benefits to consumers or competition and was not reasonably avoidable by consumers themselves. These practices are unfair acts or practices.

Count V

Deceptive Failure to Disclose Annual Membership Agreement and Its Terms

52. In connection with the advertising, promotion, offering for sale, or sale of their NextMed weight-loss programs, Respondents have represented, directly or indirectly, expressly or by implication, that consumers who purchased a NextMed weight-loss program would receive a prescription for a GLP-1 drug.

53. Respondents failed to disclose, or to disclose adequately, the material terms and conditions of the offer, including, but not limited to:

- A. Respondents were obligating consumers to a one-year membership term;
- B. Respondents would use consumers' payment information to charge them every 28 days for their memberships;
- C. The total costs associated with the one-year membership;
- D. The existence of an early termination fee for canceling the membership and the cost of that fee; and
- E. Significant restrictions and limitations in policies pertaining to cancellations and refunds.

54. Respondents' failure to disclose the material information described in Paragraph 53, in light of the representation set forth in Paragraph 52, is a deceptive act or practice.

Count VI

Unfair Unauthorized Charges

55. In connection with the advertising, promotion, offering for sale, or sale of their NextMed weight-loss programs, Respondents charged consumers without obtaining their express, informed consent.

56. Respondents' practice of charging consumers without obtaining their express, informed consent caused or was likely to cause substantial injury to consumers that was not outweighed by countervailing benefits to consumers or competition and was not reasonably avoidable by consumers themselves. This practice is an unfair act or practice.

Count VII

Failure to Timely Process Cancellation and Refund Requests

57. In connection with the advertising, promotion, offering for sale, or sale of their NextMed weight-loss programs, Respondents failed to maintain sufficient personnel or technological capacity to handle customer cancellation and refund requests and did not timely process consumers' requests to cancel their membership agreements or obtain refunds.

58. Respondents' failure to timely process consumers' requests to cancel their membership agreements or obtain refunds caused or was likely to cause substantial injury to consumers that was not outweighed by countervailing benefits to consumers or competition and was not reasonably avoidable by consumers themselves. This practice is an unfair act or practice.

Violations of EFTA and Regulation E

59. Under Section 907(a) of the Electronic Fund Transfer Act (EFTA), 15 U.S.C. § 1693e(a), a preauthorized electronic fund transfer from a consumer's account may be "authorized by the consumer only in writing, and a copy of such authorization shall be provided to the consumer when made." Consumers who paid for NextMed weight-loss programs via debit or ACH transactions authorized electronic fund transfers to recur at substantially regular intervals, i.e., every month or every 28 days.

60. Section 1005.10(b) of the EFTA's implementing Regulation E, 12 C.F.R. § 1005.10(b), provides that "[p]reauthorized electronic fund transfers from a consumer's account may be authorized only by a writing signed or similarly authenticated by the consumer. The person that obtains the authorization shall provide a copy to the consumer."

61. Section 1005.10 of the Consumer Financial Protection Bureau's Official Staff Commentary to Regulation E, 12 C.F.R. § 1005.10(b), cmt. 5-6, Supp. I, provide that "[t]he authorization process should evidence the consumer's identity and assent to authorization," and that "[a]n authorization is valid if it is readily identifiable as such and the terms of the preauthorized transfer are clear and readily understandable."

Count VIII Unauthorized Electronic Fund Transfers from Consumer Accounts

62. In numerous instances, Respondents debited consumers' bank accounts on a recurring basis without obtaining a written authorization signed or similarly authenticated from consumers for preauthorized electronic fund transfer from their accounts, thereby violating Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a), and Section 1005.10(b) of Regulation E, 12 C.F.R. § 1005.10(b).

63. Further, in numerous instances, Respondents debited consumers' bank accounts on a recurring basis without providing a copy of written authorization signed or similarly authenticated by the consumer for preauthorized electronic fund transfer from the consumers' account, thereby violating Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a), and Section 1005.10(b) of Regulation E, 12 C.F.R. § 1005.10(b).

64. Under Section 918(c) of the EFTA, 15 U.S.C. § 1693o(c), a violation of the EFTA and Regulation E constitutes a violation of the FTC Act.

Violations of Sections 5 and 12

65. The acts and practices of Respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and/or 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this _____ day of _____, 20__, has issued this Complaint against Respondents.

By the Commission.

April J. Tabor
Secretary

SEAL: