Administrative Public Interest Litigation Case Regarding the Rectification of Disguised Sales of Prohibited Online Medicines in the Form of False Online Consultations

China – Supreme People's Procuratorate

Main information

Scope of Application:

Administrative public interest litigation case filed under the Drug Administration Law and the Measures for Supervision and Administration of Drug Network Sales, which prohibit the online sale of listed drugs

Effective Date:

February 9th, 2026

Related Provisions:

- Measures for Supervision and Administration of Online Drug Sales
- Prohibited List for Online Drug Sales
- Drug Administration Law

Pharm.east.

Key Topics

Framework

- **Factual Pattern:** The case involves clinics on e-commerce platform "convenient drug search" sections that used automated Q&A to simulate consultations, requiring only a payment verification code from users—without any medical records or offline diagnosis—before mailing prohibited drugs directly to consumers.

- **Legal Characterization Dispute ("Sale" vs. "Treatment"):** The core legal dispute was whether the conduct constituted "treatment" (which would fall under health department jurisdiction) or "sale" (subject to market regulator oversight). The public hearing unanimously concluded that automated Q&A only mimics consultation format without substantive diagnostic content, making the substantial legal relationship between clinic and user "sale" rather than "treatment" —therefore market regulators have primary supervisory authority, while health departments provide coordinated oversight.

What's new

- **Big Data Legal Supervision Model for Clue Detection:** The Procuratorate independently developed and applied a "**big data legal supervision model for online sales of counterfeit and substandard food and drugs**" to detect leads. The model cross-referenced the NMPA's Prohibited Online Drug Sales List with e-commerce platform product data to precisely identify violating clinics—representing a novel digital approach to uncovering concealed violations.

- **Public Hearing Mechanism to Resolve Regulatory Ambiguity**: When market regulators disputed the legal characterization of the conduct, the Procuratorate convened a public hearing bringing together pharmaceutical law experts, market regulatory authorities, health departments, and e-commerce platform representatives.

Sensitive Factors

- **Patient's Health Risks**: in the case concerned, High-Risk Drugs Involved: The prohibited drugs sold included colchicine and warfarin sodium —both toxic substances with abuse potential that could be used for suicide or poisoning.

Drivers

- **Platform Merchant Compliance Audits**: E-commerce platforms must strengthen qualification review and behavior monitoring of clinics and pharmacies in "convenient drug search" or similar services, with particular attention to automated Q&A mechanisms used to circumvent offline diagnosis requirements
- **Prohibited Drug Sales Monitoring System**: Platforms should establish internal control mechanisms to screen for sales of drugs on the NMPA's Prohibited Online Sales List, including real-name registration requirements and prescription validation for prescription drugs