



The Supreme People's Procuratorate Releases Six Typical Cases on Deepening the Public Interest Litigation for Food and Drug Safety Procuratorial Supervision - Beijing Railway Transport Procuratorate Supervising the Administrative Public Interest Litigation Case Regarding the Rectification of Disguised Sales of Prohibited Online Medicines in the Form of False Online Consultations¹

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Abstract


In response to unlawful conduct by certain clinics on e-commerce platforms that engaged in the disguised sale of pharmaceuticals prohibited from online distribution, the procuratorial authorities accurately identified the substantive legal relationships involved. By employing a big data-driven legal supervision model, they uncovered relevant leads and, through methods including the online collection of electronic evidence and on-site investigations, ascertained the full course of the illegal activities. These efforts facilitated the inclusion of medical institutions' sales of online-prohibited pharmaceuticals within the scope of regulatory oversight, thereby promoting the standardization and compliance of internet-based pharmaceutical distribution.

Basic facts of the case:

Certain e-commerce platforms operate a "Convenient Medicine Search" service section, which provides users with services such as "online appointment booking, offline consultation, and medication reservation for later pickup." After some clinics domiciled in Beijing joined this service section, they failed to require users to attend in-person consultations. Instead, they relied solely on automated question-and-answer interactions through customer service chat interfaces. Upon users providing payment verification codes for their orders, the clinics directly supplied pharmaceuticals to users via postal delivery and other means. As a result,

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pharmaceuticals prohibited from online sale circulated freely on the internet, giving rise to risks of drug misuse and causing harm to the public interest.

Performance of Duties by the Procuratorial Authorities


In April 2024, multiple media outlets reported that certain pharmaceuticals prohibited from online sale were being freely purchased over the internet and could even be used for illegal or criminal purposes. In order to comprehensively identify relevant leads, the Beijing Railway Transport Procuratorate (hereinafter referred to as the “Beijing Railway Procuratorate”) developed a big data–driven legal supervision model for the online sale of counterfeit and substandard food and pharmaceuticals. Through this model, it verified the unlawful conduct of clinics engaging in the disguised sale of pharmaceuticals prohibited from online distribution, and accordingly filed a case on October 12, 2024.

Through simulated online purchases and offline field investigations, it was ascertained that users could, by searching within the “Convenient Medicine Search” section of certain e-commerce platforms, locate clinics offering pharmaceuticals listed in the *Prohibited List for Online Drug Sales*, including “Colchicine” and “Warfarin Sodium Tablets.” After completing online payment for the pharmaceuticals, the clinics sent preset questions via customer service chat interfaces and utilized keyword-triggered automated responses. Without obtaining users’ medical records, specific medical conditions, or conducting any in-person diagnosis or treatment, the clinics merely required users to provide a verification code before dispatching the pharmaceuticals prohibited from online sale by mail. The aforementioned conduct in the sale of pharmaceuticals violated the provisions of the *Drug Administration Law of the People’s Republic of China* and the *Measures for the Supervision and Administration of Online Drug Sales*, among other regulations, thereby infringing upon the public interest.

On October 28, 2024, the Beijing Railway Transport Procuratorate issued a procuratorial recommendation to the market supervision authority of a certain district, advising it to lawfully perform its regulatory duties, establish and improve a long-term working mechanism, and strengthen oversight of online pharmaceutical sales within its jurisdiction. Upon receipt of the recommendation, the administrative authority attached great importance to the matter; however, disputes arose regarding the legal characterization of the clinics’ provision of pharmaceuticals.

In response, the Beijing Railway Transport Procuratorate convened a public hearing. Following deliberations by legal experts in the pharmaceutical field, relevant market supervision authorities, health administration authorities, and representatives of e-commerce platforms, a consensus was reached: the automated question-and-answer format merely imitates the form





of medical consultation but lacks the substantive elements of disease diagnosis. The conduct of clinics in providing pharmaceuticals to users is consistent with the online sales model of pharmaceutical operators—namely, “online ordering with delivery by courier.” Accordingly, the substantive legal relationship between the clinics and users should be characterized as a “sale” rather than “medical diagnosis and treatment,” and regulatory oversight should fall under the jurisdiction of the market supervision authorities. The health authorities, as the competent administrative bodies overseeing medical institutions, should coordinate with market supervision authorities to form a joint regulatory framework.

Following the hearing, the aforementioned two authorities conducted a joint inspection of the clinics involved in the case. The market supervision authority issued an *Administrative Warning Notice* on site, requiring the clinics to carry out comprehensive rectification measures. At the same time, a special rectification campaign was launched, during which a total of 161 medical institutions and online pharmaceutical sales enterprises were inspected, 208 types of pharmaceuticals were subject to sampling inspection, 12 enterprises were interviewed and admonished, and 21 pharmaceutical-related cases were investigated and handled. In addition, the platforms were prompted to carry out 40 batches of sampling inspections on pharmaceuticals currently on sale.

To further enhance governance effectiveness, the Beijing Railway Transport Procuratorate promoted the relevant administrative authorities to sign a *Memorandum of Administrative Law Enforcement Cooperation on Strengthening the Supervision of Prohibited Online Pharmaceutical Sales*. The memorandum clarified the respective responsibilities for investigating and addressing specific categories of unlawful conduct, interviewed e-commerce platforms to strengthen regulatory oversight, and urged them to enhance the qualification review and behavioral supervision of platform merchants, increase transaction risk warnings, and prevent the occurrence of illegal activities.

Typical Significance

With the continuous emergence of new business models in internet-based pharmaceutical distribution, corresponding risks in medication use and regulatory challenges have also arisen. The procuratorial authorities have promptly responded to public concerns by utilizing a big data-driven legal supervision model to keenly identify the covert unlawful practice of disguised sales of pharmaceuticals prohibited from online distribution. Through the convening of a public hearing, they facilitated the formation of a coordinated regulatory framework among administrative authorities. At the same time, emphasis was placed on advancing long-term governance of such activities through the application of technological models, the development of institutional mechanisms, and the strengthening of platform governance, thereby safeguarding the safety of public medication use.

