

## *Professional Code or Legal Sanctions: Pharmacy in China\**

Du Liping

THIS PAPER EXAMINES HOW NORMS ARE INTRODUCED AND IMPLEMENTED in the production and trade of medicines in China, with some reference to similar cases in Australia. The aim is to analyse the role of the State in the supervision of the pharmaceutical industry in China. The professional responsibility of the apothecary whose wares can cure or destroy a patient has always been self-evident in any cultural environment. The question to be raised here is not so much what these responsibilities are in China but who defines them and how they are defined.

The starting point for analysis is a set of materials concerned with the Chinese pharmaceutical industry. The materials consist of *The People's Republic of China's Full Account of Administrative Practices in Regard to Pharmaceuticals* (*Zhonghua Renmin Gongheguo Yaopin Guanli Shiyong Quanshu*), published in 1997, and similar administrative guidelines from the 1980s and 1990s. In China there are no guidelines for the pharmaceutical industry equivalent to those in Australia, which originate from within the industry.<sup>1</sup> The origin and style of the Chinese materials will shape much of the following discussion. In China, administrative rules or laws must be seen as the main creator and guarantor of norms prevailing in the production and trade of pharmaceuticals. Thus, unlike Australia where the validity of a pharmacists' professional code reduces the need for legal sanctions, in China the definition of professional standards and the control over their implementation are exclusively a matter for legal sanctions.

This feature of Chinese pharmaceutical practice results from the dominant role of the Chinese state; its strict monopoly in regard to social organisation and a certain institutional weakness that results from this are factors that necessarily curtail the self-determination of professional groups. So in this respect, despite the special issues involved in the production and sale of pharmaceuticals, pharmacists do not differ much in regard to their professional sovereignty or, rather, the lack of it from other professions. Consequently, in order to identify the Chinese understanding and formulation of professional ethics for pharmacists, we first need to look at the issue of the status of the pharmaceutical profession in China.

This issue is complex and shall here be dealt with only for the limited purposes of this paper. In order to get a picture of the present-day status of pharmacists we must keep in mind that the China of today is still connected, in varying degrees, to pre-modern conditions. It is, therefore, permissible to search for answers not only in contemporary material. The problem starts with the question of whom we call a 'pharmacist'. Pharmacists as producers and retailers of medicine, separate from medical practitioners, were widely established in nineteenth-century Chinese cities. Their trade was, of course, in traditional Chinese medicinal substances. From a commercial point of view their activities constituted private enterprise, and were seen as such during the early 'socialist' decades of the People's Republic. During the socialist transformation in the 1950s, the privately owned pharmacies came into the hands of the State, which reduced the role of the individual pharmacists. In addition, a wholesale network for medicines was set up in line with administrative channels, and run according to strict guidelines. During this period pharmacists, as a professional group, were in fact excluded from the management of the industry. Consequently, the Chinese Association of Pharmacy was classified as a purely academic organisation with the aim of promoting scientific research into pharmaceutical products.<sup>2</sup>

The return to a market economy in China from the 1980s onwards did not necessarily abolish all this but it certainly reinstalled the old-fashioned pharmacist who, in traditional manner, retails some of his wares and produces others. Today, pharmacies are obliged either to employ a person who has a professional qualification in pharmacy or to ensure that the owner personally passes an exam in pharmaceutical knowledge.<sup>3</sup> The academic pharmacists active in retail are expected to safeguard quality. At present, pharmacists as a professional group have returned to the field of medicine production and trade. In order to understand their status it will help to take a brief look at what it was in the past.

We know that the pharmacist was an object of official control at least from the Tang dynasty (618–907) onwards. The Tang laws stated that punishment would be imposed on those who made mistakes in handling pharmaceutical supplies. This principle, which was followed by succeeding dynasties, has led to the situation as it is today. While this was one aspect of the pharmacist's status, there is enough anecdotal evidence to propose that pharmacists attempted, and still attempt, a more positive definition of their own activities. This positive definition includes commercial considerations that are put forward in open terms, as if a pharmacist's moral code would conceive of the profit motive as legitimate. The saying 'customers supply our food and clothing' was often taken by pharmaceutical stores as a motto and also as

a guide for action. What this meant can be illustrated by the following example. In the pharmacy Henian Tang, which was established in Beijing during the Ming dynasty (1368–1644), different kinds of herbal medicines prepared in the shop were wrapped up separately with relevant information sheets in each pack of medicine. This information provided the name, production area, smell, function, and even a picture of the herb so that the buyer had some control over the product.<sup>4</sup> As a 1930s document shows, this service was both supplied and well received during that time.<sup>5</sup>

While such a service can well be seen as an aspect of proper commercial policy, another example seems to correspond with the highest standards of professional conduct. According to information from the 1920s–30s, the pharmacy Zhanglida Tang in Anqing (Anhui province) had established a rule by which it would sell medicine only to customers equipped with a doctor's written prescription. The pharmacist argued that a patient's safety had priority over his own profits.<sup>6</sup>

While these examples can be viewed from quite different angles, including the motive of increasing business, there are also cases of 'pure' goodness. One concerns Song Qing whose way of trading medicine became proverbial during the Tang dynasty (618–907). It is reported that he always purchased quality medicines at a high price and supplied them to all those in need regardless of whether they were able to pay or not. From those who were not able to pay, he would request a written pledge. At the end of each year, he burnt the pledges written by those whom he considered unable to honour the debt. Over the forty years of his trading, he is said to have burnt innumerable pledges.<sup>7</sup> While this is a powerful example of good conduct, its strong Buddhist connotations do not seem to make it into a generally applicable model for responsible professional behaviour, which must also respect the need to stay in business.

Aspects of professional identity were also manifest during certain religious activities undertaken jointly by local groups of pharmacists. The Pharmaceutical Guild in Beijing fulfilled certain supervisory control functions for the profession. Established in 1817, it conducted ritual worship to the medical deities Shennong, Sun Simiao and Wei Cizang, which were enshrined in the Three Deities Pavilion.<sup>8</sup> Legend recounts that Shennong, or the Fire Emperor, possessed a magic whisk that was used to discover whether a plant was poisonous and to determine the nature of such a plant. He also tasted plants himself to examine their effects, since his transparent body allowed him to neutralise any poisonous matter taken inadvertently by rubbing the appropriate herb on the affected part of his body.<sup>9</sup> Shennong was also known as the Divine Farmer who, in the mythology of ancient China, invented farming. Sun Simiao (581–682?) was regarded as the 'King of Prescrip-

tions' and is one of the most popular figures in the history of Chinese medicine.<sup>10</sup> Wei Cizang, a famous physician during the Tang dynasty (618–907), was once an official responsible for the meals at the imperial court.<sup>11</sup>

The guild's rituals were not for the wider public, but only for members of the guild, and were linked to the maintenance of discipline within the profession, as if religious sanctions would support good professional conduct. Divine support was also made use of to link the profession to the general public, as if the presence of a deity would allow trust to prevail among the patients and customers. The pharmacist's professional conduct was proclaimed to have an impact on his afterlife. Patients were assured that the God of Medicine would ensure that justice was done.<sup>12</sup> For this reason, markets for materia medica tended to develop in close vicinity to the temple of a deity in charge of medical practice.<sup>13</sup> It must be noted that here the medical and pharmaceutical professions differ from others. Tablets in the temples for carpenters' and other guilds do not link the rewards and punishments of the afterlife to professional conduct, although the deities revered were often the same. Guangong, for instance, or Duke Guan, a general of the State of Shu in the Three Kingdoms Period (220–280) and one of the most feared and respected generals in all of China, was seen as so important that various professional groups—carpenters, pharmacists and many others—worshipped him.<sup>14</sup>

Finally, the status of the Chinese pharmaceutical profession is also characterised by a certain social stigmatisation. Considering the low esteem in which the intellectual and political elite held religion and religious rituals, religious support for their practice increased rather than reduced the pharmacists' stigmatisation. As pharmacists handle medicines they are involved with illness and possibly death. Before 1949 pharmacies in Liuzhou in the province of Guangxi were forced to close down for about ten days around the Chinese New Year festival because their business was seen as inauspicious.<sup>15</sup> It is not clear to what extent this particular traditional view is still relevant today. When it did play a role, pharmacists were in need of counteracting their flawed image through exceptional professional conduct. Nonetheless, such stigmatisation did not help the social status of the profession or the internal coherence of its members.

All this shows that the pharmaceutical profession was reasonably well defined and that the public, as well as the professionals themselves, had certain expectations in regard to pharmaceutical practices. While there was general agreement on what these were, there is no indication that enforcement of good practice by proper administrative rewards and sanctions was expected to originate from within the profession. For the purposes of this paper and for the issue of professional

ethics, what we may conclude from all these and other examples is not, perhaps, too much. Chinese pharmacists were expected to behave as morality-conscious human beings and as customer-oriented businesspeople. They were also obliged to show respect to members of their guild and to conduct their business in a way that did not conflict with other professional groups. We may also argue that similar expectations are still in place.

However, all this does not amount to a professional code, which once accepted and enforced has in itself an impact on the status of the profession as viewed by the wider public and, in particular, the ruling elite, who propagated their own well-documented professional ethics as the model for all other attempts at standardising practices. The fact that the growing amount of privatisation and market orientation in China during the past two decades has, in turn, led to an increasing amount of fake medicines does not help to improve the profession's image. It signifies that the slackening in official control has not been matched by any growth in profession- or industry-centred supervision.

Although there is no professional code of conduct originating from within the industry, in the Chinese material that has been introduced so far we can still see some hints of such a code, for instance the need for customer information and the demand that dispensing occurs in line with the prescriber's intentions.<sup>16</sup> The link between public health and welfare on the one hand and the pharmaceutical industry on the other is also clearly seen in the Chinese environment. Such a link was particularly in vogue during the 'socialist' era, when pharmacies were, for instance, expected to remain open twenty-four hours a day to supply the needs of customers. The Chinese material also contains some advice on how to deal with medical practitioners. During the 1920s and 1930s, it was not permissible for employees of the Zhanglida Tang in Anqing in the province of Anhui to study medicine, which in the end would have enabled them to write out their own prescriptions.<sup>17</sup> Pharmacists who implemented such rules were considered to be particularly virtuous. However, they would remain pharmacists whether they adhered to a certain standard of practice or not. Those who did were entitled to claim moral value, but in the first place as individuals and not as members of a profession.

Many of the examples given above come from the pre-modern period, but it is also important to keep in mind the more recent past. After 1949 the implementation of policies that put 'politics in command', and created a unified ideological framework, obscured, at least in principle, the distinction between professional and individual ethics. Everyone, in whatever she or he did, was supposedly guided by socialist principles. Thus, the Chinese Communist Party argued that 'health care... is an important political issue, and the Party must properly man-

age it'.<sup>18</sup> Professional work in the field of health care was seen as attached to the party's political cause. For this reason the pharmacists' professional conduct was viewed as fully defined by those moral requirements that were set up by the political leadership. This left no room for an independent professional status—'experts' were stigmatised—nor for a self-defined code of professional conduct. Pharmacists were expected to be 'red', in their political, personal and professional conduct. The difficulties faced by Chinese professional associations in the years from 1949 to 1979 still have an impact. So, too, does the role played by the State during those years. Public health was seen as an important sector and, thus, the strictest means of government control were employed. All these more recent developments do not change the image arrived at by a more long-term historical outlook. We may say, however, that chances for professional independence and responsibility were further weakened during the first decades of the People's Republic.

Our search for a professional code in China's pharmaceutical industry has revealed certain rudiments but not a coherent set of standards. For example, the role of personal moral beliefs with regard to the professional conduct of Chinese pharmacists has never been an issue, as far as we know. In China such sophistication was, and perhaps is, the exclusive privilege of the public servant and his or her professional conduct. The pharmacists' lowly social status, the limited role of their guilds and associations, and the lack of a professional code of conduct all work together to give the Chinese State complete authority to regulate all details of the industry. An example of this is the rules set up for advertising pharmaceutical products. These rules attempt to curtail the marketing effect of advertising such products in the interest of consumer education and information. The aim is to arrive at a balance between health care and commercial considerations.

To demonstrate more clearly the role of the Chinese State in this matter a comparison can be made with Australia, where the rules for advertising pharmaceutical products are dealt with in some detail in the Code of Conduct of the Australian Pharmaceutical Manufacturers' Association (APMA). These rules are, however, much less detailed, reminding their readers only of certain well established guidelines

Comparison of products must not be disparaging, but must be factual, fair... In presenting a comparison, care must be taken to ensure that it does not mislead by distortion, by undue emphasis or in any other way.<sup>19</sup>

The Chinese material stresses the informative component of advertising to such an extent that its marketing aspect is almost ignored. Advertising new medicines is viewed not so much as promotion but more as an impartial introduction of the new product to the pharma-

ceutical retail sector, medical professionals and patients. The official guidelines claim that the management of 'advertising' should be strengthened, and the purpose of doing this is so that the new product can be used properly.<sup>20</sup> Thus, advertisements are still seen to serve the goal that prevailed during the era of Mao Zedong when the health care industry was not expected to be profitable. Although policies for the health care program as a whole were altered late in the 1980s in order to meet the requirements of economic reforms, the political content of this advertising policy has continued to affect the regulation of the sector.

For similar reasons, concern for consumer protection is almost radical in the Chinese material. For example, unlike in Australian commercials children cannot be used for advertising medicines. Furthermore, sex-related drugs and products, such as condoms, may not be advertised. An argument regarding the advertisement of condoms on Chinese television demonstrates this to a certain extent. According to a Chinese newspaper, a television commercial on condoms produced with the purpose of promoting public health was shown on 29 November 1999 in connection with World AIDS Day. One day later, the advertisement was stopped as it was argued that it violated advertising laws.<sup>21</sup>

All this also signifies that the Chinese administration has, as yet, little experience with the conflict between competing interests that advertising usually generates. In Australia, different forms for the advertisement of medicines are presented in the code under respective sub-headings, such as a section on 'Journal Advertising', on 'Reference Manual Advertising' and on 'Television Advertising'. In China, the forms of advertising are not approached as a commercial issue, but as a matter that must be managed by political authority. The government regulates both the contents of the advertisement and the form in which it is produced. An advertisement cannot go ahead until it is granted not only a general approval number, but permission to appear in a specific form as well. The terms *shi* (view), *sheng* (sound) and *wen* (writing) are employed to represent respectively television, radio and the printed form of advertising. In each case an extra permission must be obtained, with each document of approval indicating the form in which the advertisement may appear.

How serious this is can be further illustrated by specific official requirements. For example, in the document issued by the State Ministry of Public Health on 18 May 1995 (No. 39) it is stated that an advertisement may only be publicised in the form that has been approved and is shown on the approval document. If a different media is used, another application must be submitted for approval.<sup>22</sup> This statement is followed by further explanations, which emphasise that legal action

will be taken against those advertisements that appear in a form different from the original grant of approval.<sup>23</sup>

Few similarities exist between Australia and China in regard to specific requirements. The Australian Pharmaceutical Manufacturers' Association's code states that an advertisement must contain, among other things, the product's brand; the Australian Approved Name(s) of the active ingredient(s); the name of the supplier and the location of the registered office; an approved indication or indications for use together with the dosage and method of use; a succinct statement of the contraindications, precautions and side effects; a clear statement for prescribers to review the product information before prescribing; and a statement to the effect that product information is available.<sup>24</sup> Other requirements are more technical; for instance, as to where the product information should be placed in the body of an advertisement, and, if it is not practicable to include the full or abridged product information in an advertisement, what size the statement should be that indicates where production information can be found.<sup>25</sup> There is little concern of this kind in the Chinese material.

In China, although the need for control is stressed there is less detailed regulation in regard to the information expected in the advertisement of pharmaceutical products. Several official documents have been issued on this topic since 1985, for example, *Managerial Measures for the Advertisement of Medicines* issued by the State Bureau of Industrial and Commercial Management and the State Ministry of Public Health on 20 August 1985. Most of the items listed deal with an explanation of the State Bureau's own function: why it regulates advertisements, which departments are involved in this, and how and where to submit applications. There is also a list of prohibitions: you must not advertise without permission, you may not change your advertisement after you have been granted permission, and so on. Little is said about the contents of the advertisement, but it is mentioned that medicine produced without government approval must not be advertised. The same holds true for drugs used for anaesthetics and for mental illnesses, or those involving certain levels of toxicity, and for products still in the process of clinical testing. Item eight of the regulations deals with the approval procedures for medicines produced on a local scale. Item nine states that the government holds the right to suspend and even cancel approvals for an advertisement that has already been issued, if the advertised medicines have been found to have a serious problem during their first phase of clinical use. Item ten concerns punishments for those who do not follow official requirements.<sup>26</sup> All this signifies that in China regulations are designed outside of the industry, and have an interest in the principle of control but little insight into how to make the industry beneficial or even effective.

While this demand for control is not matched by Australian regulations, the rules that are in place are probably more strictly enforced in Australia than in China. As the Australian industry itself is involved in formulating the rules, supervision and control can also be expected to come from within. The APMA has issued a 'Code of Conduct' and is prepared to take steps against members who neglect it; members are also entitled to watch over each other. In the Chinese case, control is virtually impossible. If it can be upheld at all then it is only so for the national or perhaps provincial media, but certainly not on a local scale. According to a notice issued in 1987, in the two years after the above-mentioned document came into force, many problems occurred in the advertisement of medicines.<sup>27</sup>

This last point is important in that it helps to modify the conclusions that can be drawn from this paper. Where government control fails the public can only rely on the pharmacists' own code of conduct, as it always has. Although this code does not seem to exist in written form, and is certainly not upheld by the organisational power of a major professional association, it is still a force to be reckoned with. The relatively high quality of health care in pre-modern China is in itself proof of high professional standards. The State saw the control of these standards as its monopoly. Its failure to exercise that monopoly makes possible a degree of professional self-determination that is otherwise hard to measure.

### University of Melbourne

\* I would like to thank Dr Barbara Hendrichske for her important comments both on the general approaches to the issues raised in the article and on individual arguments. I would also like to thank Professor Merle Ricklefs for his important comments on the article.

1. Australian guidelines are exemplified by the *Code of Conduct of the Australian Pharmaceutical Manufacturers Association Inc and the Professional Practice Standards of the Pharmaceutical Society of Australia*. There is no doubt that these guidelines are supported by the general and specific laws and regulations that govern the profession and the industry at large.

2. Zhang Yimin (ed.), *Zhongguo weisheng wushi nian licheng, 1949–1999 (The Fifty Year Development of the Public Health Program in China, 1949–1999)*, Publishing House for the Classics of Traditional Chinese Medicine, Beijing, 1999, p. 519.

3. State Bureau of Medicinal Management & State Bureau of Industrial and Commercial Management, 'The Regulations of Medicines Retailing by Collectively, Privately and Individually Run Retailers', (2 December 1989), in Department of Policy and Laws of Ministry of Public Health & Department of Policy and Laws of State Bureau of Medicines (eds), *Zhonghua renmin gongheguo yiyao weisheng falü quanshu (The Whole Collection of Laws and Regulations of Medicine and Public Health in the People's Republic of China)*, China's Procuratorial Press, Beijing, 1992, p. 980.

4. An Guanying, Han Shufang & Pan Xichen (eds), *Zhonghua bainian lao yaopu (The Hundred Year Old Pharmaceutical Stores in China)*, China's Literature and History Press, Beijing, 1993, p. 3.

5. Li Hong (ed.), *Beijing tong (About Beijing)*, The Mass Culture Press, Beijing, 1991, p. 341. The book is a collection of the articles written by Jin Shoushen in the Column of 'Beijing tong' ('About Beijing') in *Liyun huakan* from 1938 to 1945.

6. An, Han & Pan, *Zhonghua bainian lao yaopu*, p. 320.
7. Fu Limin & He Minglun (eds), *Zhongguo shangye dacidian (The Dictionary of Commercial Culture in China)*, vol. 1, China's Development Press, Beijing, 1993, p. 319.
8. Hu Chunhuan & Bai Hequn, *Beijing de huiguan (The Guild Halls in Beijing)*, China's Economic Press, Beijing, 1994, p. 300.
9. Dominique Hoizey & Marie-Joseph Hoizey, *A History of Chinese Medicine*, Paul Bailey (trans.), Edinburgh University Press, 1993, p. 5.
10. *ibid.*, p. 66.
11. Hu & Bai, *Beijing de huiguan*, p. 300.
12. For example, from the record inscribed on the tablet in the Shanghai Medical Deity Temple dated Jiaqing 24 Year (1819), we find the following: all people in our trading area need to remind each other that those who have good conduct will be rewarded with good. In the record inscribed in the Suzhou Medical Deity Temple dated Guangxu 18 Year (1892), it stated that, in a general sense, bad conduct means to commit a sin. See Peng Zeyi (ed.), *Qingdai gongshang hangye beiwen jicui (A Collection of Important Qing Dynasty Industrial and Commercial Records Inscribed on the Tablets)*, Central China Publishing House for Classics, Zhengzhou, 1997, pp. 82, 175.
13. This can be seen from establishment of the materia medica markets, such as Anguo Materia Medica Market in Hebei province.
14. Peng, *Qingdai gongshang hangye beiwen jicui*, pp. 2, 121.
15. Liu Yuqing, 'The Pharmaceutical Trade in Traditional Chinese Medicine in Liuzhou Prior to Liberation', in *Liuzhou wenshi ziliao (Literary and Historical Materials on Liuzhou)*, June 1989, no. 6, p. 118.
16. See Standards 2 and 4 of PSA's *Professional Practice Standards*, launched on 22 November 1999 (<http://www.psa.org.au>) for an example of such a code in Australia.
17. An, Han & Pan, *Zhonghua bainian lao yaopu*, pp. 319–20.
18. Central Committee of the Chinese Communist Party, 'The Instruction to the Party Committees at All Levels on the Consolidation of Political Leadership to the Public Health Work' (April 1954), in Zhang, *Zhongguo weisheng wushi nian licheng*, pp. 20–1.
19. Australian Pharmaceutical Manufacturers Association (hereafter APMA), *Code of Conduct of the Australian Pharmaceutical Manufacturers Association Inc.*, 12th edn, 1998, p. 14.
20. State Bureau of Industrial and Commercial Management & Ministry of Public Health, 'The Managerial Measures for the Advertisement of Medicines' (20 August 1985), in Department of Policy and Laws of Ministry of Public Health & Department of Policy and Laws of State Bureau of Medicines (eds), *Zhonghua renmin gongheguo yiyao weisheng falü quanshu*, p. 585.
21. *Zhongguo funübao* (newspaper; *Chinese Women*), 6 November 2000.
22. Ministry of Public Health, 'A Notice on Strengthening Supervision and Examination of Medicinal Advertisements' (18 May 1995), in Guan Zhou (ed.), *Zhonghua renmin gongheguo yaopin guanli shiyong quanshu (The People's Republic of China's Full Account of Administrative Practices in Regard to Pharmaceuticals)*, The Red Flag Press, Beijing, 1997, p. 1223.
23. *ibid.*, p. 1224.
24. APMA, *Code of Conduct*, p. 22.
25. *ibid.*, p. 24.
26. State Bureau of Industrial and Commercial Management & Ministry of Public Health, 'The Managerial Measures for the Advertisement of Medicines' (20 August 1985), in Department of Policy and Laws of Ministry of Public Health & Department of Policy and Laws of State Bureau of Medicines (eds), *Zhonghua renmin gongheguo yiyao weisheng falü quanshu*, pp. 585–6.
27. Ministry of Public Health, State Bureau of Industrial and Commercial Management, Ministry of Broadcast, Film and TV & State Office of Information and Press, 'A Notice on Further Strengthening the Management of Advertisement of Medicines' (25 March 1987), in *ibid.*, p. 583.