

CHINA



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1. Legislation	
Topic:	Shanghai standardizes the procedure for issuing Certification for Medical Ads
When:	March 2006
Where:	People's Republic of China
What Happened:	<p>The Shanghai Health Bureau issued the <i>Interim Rules for Issuing Certificates for Medical Ads</i> on March 9th, 2006.</p> <p>The newly effective rules prescribe that:</p> <ul style="list-style-type: none">• Medical Ads are those released by Medical institutions through media to the public in order to promote its ability to cure illness through advanced technology.• All medical institutions need to obtain the Certificate for Medical Ads from the Shanghai Health Administration before they publicize their medical ads. The Certificate is a document used to prove the contents of the medical ad. <p>The rules also prohibit all medical ads from using the following vocabulary:</p> <ul style="list-style-type: none">• the name of diseases, for example AIDS, Cancer, etc;• any words related to the medicine, itself, including name of the medicine, or Chinese herbal medicines, produced by the institution itself;• any words related to selling medical equipment, cure guarantees, successful curing rates;• any words promoting the doctor's non-professional title, including "Ph.D.", "Expert", etc. <p>The medical institutions bear the burden of providing true and authentic information when they apply for the Certificate for Medical Ads; otherwise the Certificate may be later cancelled.</p>
Comment:	More government regulations will be placed on medical ads because of its significant impact on the public's health.

2. Legislation	
Topic:	Price of Ad Services shall be Clearly Known
Who:	The State Development and Reform Committee and the State Administration of Industry and Commerce
When:	January 2006
Where:	People's Republic of China
What Happened:	<p>In order to regulate the price of all Ad Companies, the State Development and Reform Committee and the State Administration of Industry and Commerce jointly issued the <i>Regulations on Clear Pricing for Advertising Services</i>. The Regulations will take effect since January 1, 2006 and require that:</p> <ul style="list-style-type: none">• All advertisement companies must provide their clearly listed fee schedules when they provide advertisement-related services to their clients.• The fee schedule provided to the clients shall explicitly contain the name of the Ad company, various services it can provide, detailed introduction of the services, fee schedule and fee payment method. If there is discount available, then the detailed information of the price

	<p>discount shall also be clearly stated, as well as any free service.</p> <ul style="list-style-type: none"> • The Ad Company may publicize its fee schedule or price information through the media, public bulletin, company brochures, internet search, multi-media searches or any publicly acceptable means. • The Ad Company shall also provide an invoice and detailed breakdown of the final bill which lists all services it has provided to clients. • Any adjustment of the current Ad service fee schedule shall be released through various media, a minimum of three days prior to the effective date. • All Ad companies are prohibited from fraud by providing deceptive or confusing price information to the clients or charging any unclear fee, other than those in the fee schedule. • If fraud is found, fine or punishment will be applied according to the <i>Price Law of China</i> and other relevant legal regulations.
Comment:	It has been widely accepted by the public that all tangible merchandise shall be clearly priced to consumers. Advertisement services are now being recognized as special merchandise and shall follow the same price rule as well.

3. Industry Self-Regulation	
Topic:	Twelve medicine-ads were exposed by the State Food and Drug Administration (SFDA)
Where:	Beijing, China
When:	March 24, 2006
What Happened:	The State Food and Drug Administration issued its 6 th session of Illegal Medicine-Advertisement Notice of 2005 (concerning medicine ads issued Between November 2005 and December 2005) in which 12 medicine ads were exposed. The registration numbers of the 12 ads were cancelled after the SFDA found that the effects of the medicines in their respective ads were incorrectly exaggerated. The 12 medicines were mostly produced in Northeast China, including both modern medicines and Traditional Chinese Medicines.
Comments:	Recently, the State Food and Drug Administration was required to strengthen its role in supervising safety and security of food and drugs. After the government lifted or lowered various thresholds for medicine producers, competition in the industry forced medicine makers to conduct a lot of advertisements, which resulted in widespread complaints about incorrect information and exaggeration of the effects from patients.

4. Case Report:	
Topic:	The first fraudulent medicine-ad case transferred to Police by the State Administration of Industry and Commerce (SAIC)
Where:	Zhejiang Province, China
When:	March 30, 2006
What Happened:	Huaxia Hospital in Hangzhou, Zhejiang Province placed ads in the local media in July-August 2005, which purported that the hospital has imported a new technology called Immunity Balancing Surgery exclusively developed by the Hong Kong Rheumatism Research Institute. The ads purported that this technology can greatly alleviate patients from suffering and pains within 24 hours after receiving surgery and other symptoms of rheumatism will also disappear quickly. They also further claimed that just one surgery can help patients recover completely. By November 2005, a total of 38 patients received surgery in that hospital after seeing the ads, with a total medical bill of RMB255,000 (US\$31,000). However, not a single patient recovered after their surgery. The health conditions of most patients even worsened, and some even lost their capacity to care for themselves after the surgery.

	Investigations conducted by the Zhejiang Administration of Industry and Commerce found the ads to be fraudulent. They found no existence of the so-called Hong Kong Rheumatism Research Institute, let alone the so-called imported technology. It was also found that the so-called Immunity Balancing Surgery has never been mentioned by any domestic or international authoritative guidance in this area, the efficiency and safety of that method of surgery have not been approved by the industry either. The promise "one surgery, health once for all" was proved to be exaggerating and misleading. This case was the first transferred to the police by the Zhejiang AIC waiting for further legal proceedings. The local consumer protection association also launched a civil suit against the hospital for indemnification and damages on behalf of the patients.
Comment:	In the past, few, if any, hospitals, placed ads in the media, but with the process of hospital privatization, many hospitals are making efforts to attract patients by way of advertising. Due to the lack of efficient administration in the area of medical and hospital ads, misleading and exaggerating ads by hospitals and medicinal producers are becoming more and more rampant. Traditionally, fraudulent ads were regarded as a way of improper competition, and penalizing those improper actions fell within the jurisdiction of the SAIC only. By transferring this case to the police for the first time, the SAIC is demonstrating its seriousness about improper ads to the public and forcing the irresponsible entities to think twice before making fraudulent ads.

5. Case Report:	
Topic:	Court Enforces Company's Promise in Ads
Who:	Fujian Xiamen Intermediate Court
When:	March 2006
Where:	People's Republic of China
What Happened:	<p>In March 2006, the Xiamen Intermediate Court rendered a final decision related to a Company's advertisement promise.</p> <p>Mr. Lai, a customer, bought an AAF air purifier machine model 400, and placed it in his newly decorated apartment. The purifier machine producer promised in its advertisement that its product can "clear up formaldehyde in a newly decorated apartment within 3 days, and RMB100,000 compensation will be paid if there is no effect." The client carefully followed the directions for use of the product. However, after a substantial amount of time, the smell was still strong as a result of the decorating material in his apartment. The official result of the inside air showed that the percentage of formaldehyde was high above normal standards. Therefore, Mr. Lai brought the producer to court, claiming for RMB100,000 in compensation as promised in the ads.</p> <p>The first trial court believed that, according to the principle of honesty, the producer shall perform all its duty arising from sales transactions. That means, if the relevant air purifier did not perform as it is promised in the ad, then the producer has breached its contract and shall bear liability accordingly; that is RMB100,000 in compensation. The producer appealed after the first trial, but the Appellate Court confirmed the decision of the first trial.</p>
Comment:	Producers must be careful when they make those big promises in ads.