



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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CLICK, ORDER, CONSUME: THE MISSING REGULATORY BACKBONE OF E-PHARMACIES IN INDIA.

~Adv. Rajnandini Tukaram Gadge

Imagine falling sick after getting caught in heavy rain and being too weak to visit a doctor or pharmacy. The easiest option is to search for medicine online, click “order,” and have it delivered to your doorstep. Convenient, certainly- but is it equally safe? Unlike ordinary e-commerce products, medicines require safeguards, including prescription verification and restrictions on certain drugs. This raises an important question: when a traditional pharmacy moves to a digital platform, does India’s existing regulatory system govern every stage of the process? India regulates medicines and pharmacies, yet e-pharmacies operate at their intersection, exposing gaps in the existing regulatory framework.

WHAT MAKES E-PHARMACIES DIFFERENT FROM ORDINARY E-COMMERCE?

The rapid growth of e-pharmacies reflects the increasing convenience and accessibility of digital commerce. However, medicines cannot be treated like ordinary products sold through e-commerce platforms. Unlike clothes, electronics and other consumer goods, drugs directly affect human health and their improper use can serious harm and, in certain circumstances, even prove fatal.

This distinction makes pharmaceutical regulation fundamentally different from ordinary e-commerce regulation. Article 21 of the Constitution protects the right to life and personal liberty,¹ which the Supreme Court has interpreted to include the right to health, safe medicines, and clean environment. In *Vincent v. Union of India*, the court emphasized the State’s responsibility to safeguard public health and prevent harmful drugs from reaching the

¹ INDIA CONST. art. 21.

market.² Clicking and ordering may be simple, but consuming a medicine can have serious consequences.

DOES INDIA'S EXISTING LAWS REGULATE E-PHARMACIES?

India already has laws regulating medicines and pharmaceutical transactions. The Drugs and Cosmetics Act, 1940 governs the import, manufacture, distribution and sale of drugs, while the Drugs and Cosmetics Rules, 1945 provides operational safeguards relating to licensing, prescription medicines and restriction on specific categories of drugs including medicines under Schedule H³ and X⁴. Rule 61⁵, for instance, requires retailers and wholesalers to obtain the appropriate licence to sell drugs. However, this framework was primarily designed around the traditional pharmacy model and does not comprehensively address the multiple actors involved in a digital medicine transaction.

Similarly, the Pharmacy Act, 1948 ensures that medicines are dispensed by qualified registered pharmacists, but question arises when the sale involves an online platform, a licensed pharmacy and a delivery partner. The Consumer Protection Act, 2019 and E-commerce Rules 2020 provide transparency and consumer safeguards, but they are not designed specifically for pharmaceutical risks. The Digital Personal Data Protection (DPDP) Act, 2023 regulates digital personal data but does not separately classify health information as "Sensitive Personal Data."

Thus, India regulates individual parts of the system, but lacks a unified framework governing the complete digital journey from click to consumption.

THE REGULATORY GAP: WHAT'S MISSING IN E-PHARMACY OVERSIGHT?

Despite the existence of multiple laws governing medicines, pharmacies, consumer transaction and digital data, three major concerns remain at the heart of the e-pharmacy debate.

A. Prescription Verification

Physical pharmacies traditionally dispense prescription medicines against a valid prescription. Online, however, this process may be reduced to uploading a scanned document,

² Vincent v. Union of India, (1987) 2 SCC 165

³ The Drugs and Cosmetics Rules, 1945, Sched. H.

⁴ The Drugs and Cosmetics Rules, 1945, Sched. X.

⁵ The Drugs and Cosmetics Rules, 1945, R. 61.

raising question about who verifies its authenticity and the identity of the prescriber. The Pharmacy Act, 1948 and the Drugs and Cosmetics Rules, 1945 establish safeguards concerning the dispensing and sale of medicines, particularly prescription and restricted drugs. Yet the same scanned prescription may potentially be uploaded across multiple platforms, enabling repeat orders, self-medication and misuse of controlled medicines. Verification cannot remain a mere formality, it must function as a genuine safeguard.

B. Accountability and Liability

A single online order may involve the platform, pharmacy, pharmacist, doctor and delivery partner. If a consumer receives a counterfeit, expired or improperly stored medicine, who is responsible? This uncertainty becomes sharper when platforms claim intermediary protection under Section 79⁶ of the Information Technology Act, 2000. In *Snapdeal Private Ltd. V. State of Karnataka*⁷, questions surrounding intermediary liability highlighted how digital platforms may fall outside traditional pharmaceutical accountability structures.⁸ India also lacks a clear nationwide certification mechanism to help consumer identify legitimate online pharmacies. Digital transaction, therefore, divide responsibility among multiple actors while potentially leaving accountability unclear.

C. Health and Personal Data

E-pharmacies process prescriptions, addresses and medicine-purchasing histories information that can reveal deeply personal aspects of an individual's life. The Consumer Protection Act, 2019 provides consumer safeguards, while the DPDP Act, 2023 regulates digital personal data. However, the DPDP Act does not separately classify health information as "Sensitive Personal Data." Combined with the absence of a specialized framework for health-data protection, this raises concerns about whether general data-protection rules adequately address the privacy risks created by digital pharmaceutical transactions.

The challenges, therefore, is not merely regulating the sale of medicines online but ensuring accountability throughout the entire journey from prescription to consumption.

⁶ Information Technology Act, 2000, § 79, No. 21, Acts of Parliament, 2000 (India).

⁷ *Snapdeal Private Ltd. v. State of Karnataka*, (2021) 1KCCR 193.

⁸ In *Snapdeal Private Ltd. v. State of Karnataka*, (2021) 1 KCCR 193, [*Snapdeal* was accused of displaying SUHAGRA-100 mg tablets, a Schedule H drug, for sale without the required licence. The Karnataka High Court held that the essential elements of Section 18 (1)(c) of the Drugs and Cosmetics Act, 1940 were not satisfied, and neither the company nor its directors could be prosecuted under Section 27(b)(ii) of this Act.]

THE 2018 DRAFT E-PHARMACY RULES: RECOGNITION WITHOUT A COMPLETE SOLUTION

By 2016, the government had begun engaging with the need to regulate internet pharmacies after the Drugs Consultative Committee flagged the unchecked online sale of medicines and stressed that drugs, unlike ordinary goods, demand strict oversight.⁹ This led to the Draft E-pharmacy Rules, 2018 which proposed registration for every e-pharmacy, prescription verification by a registered pharmacist, data storage within India, restriction on advertising, and periodic inspection effectively creating a dedicated regulatory framework for digital pharmaceutical commerce.

Yet these rules were never notified which leaving the gaps they sought to address unresolved. Later efforts, including the Draft Drugs, Medical Devices and Cosmetics Bill, 2022 and its 2023 revision,¹⁰ moved away from structured licensing towards broad governmental discretion to regulate online drugs sales through notification replacing a clear framework with continued uncertainty.

The significance of the draft framework lies not merely in what it proposed, but in what it acknowledge the online sale of medicines creates regulatory questions that cannot always be answered by simply applying the traditional pharmacy model.

WHAT SHOULD A MODERN REGULATORY FRAMEWORK LOOK LIKE ?

When medicine can move from a digital screen to doorstep within hours, India needs a unified e-pharmacy law rather than provisions borrowed from statutes built for physical pharmacies. One that directly addresses counterfeit medicines, prescription misuse, and consumer safety. A single window CDSCO licensing portal, consolidating existing state-level registration, would enable real-time oversight of licensing and supply chains. Prescription verification should require a stamp or digital signature from a doctor registered in India, with integrated tele-consultation offering a legitimate path for minor illnesses instead of self diagnosis.

⁹ SUB-COMMITTEE constituted by the Drugs Consultative Committee, Report on E-pharmacy (CDSCO), https://cdsco.gov.in/opencms/resources/UploadCDSCOWeb/2018/UploadCommitteeFiles/CommitteeReport_e-pharmacy_14.pdf (last visited Sept. 14, 2026).

¹⁰ Sen, N. *et al.* (2023b) *Regulation of online pharmacies in India*, SCC Times. Available at: <https://www.sconline.com/blog/post/2023/11/02/regulation-of-online-pharmacies-in-india/> (last visited Sept. 14, 2026).

App terms must be plain and fully visible before use, not hidden behind a click-through. Every transaction should generate a digital audit trail, with forged or banned-medicine orders flagged to authorities, backed by strict DPDP Act, 2023 compliance and AI tools to detect suspicious prescribing patterns.

CONCLUSION

Digital healthcare is growing, and online access can improve convenience and accessibility. But medicines is not an ordinary commodity, and it cannot regulated like one. The question is no longer whether medicines will be purchased online or whether India's regulatory framework is prepared to govern what happens after the consumer click "order." When medicine can move from digital screen to a patient's doorstep the law cannot afford to remain several steps behind.