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Resistance, regulation, and governmentality: interrogating the defunding of homeopathy in France and England (2000 to 2022)

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Abstract

This paper employs a governmentality framework to explore resistance by CAM sceptics to homeopathy's partial settlement in the public health systems of England and France, resulting in its defunding in both countries in 2018 and 2021, respectively. While partly dependent upon long-standing problematisations (namely, that homeopathy's ability to heal is unproven, its mechanisms implausible, and its consequences for patients potentially dangerous), the defunding of homeopathy was also driven by the conduct of CAM sceptics, who undermined homeopathy's position in strikingly different ways in both contexts. This difference, we suggest, is a consequence of the diverging regulatory arrangements surrounding homeopathy (and CAMs more generally) in England and France—and the ambivalent effects of CAM's regulation. If law and regulation have been a key component of CAM's integration and (partial) acceptance over the past four decades, the fortunes of homeopathy in England and France highlight their unpredictability as techniques of governmentality: just as the formal regulatory systems in England and France have helped to normalise homeopathy in different ways, they have also incited and galvanised opposition, providing specific anchor-points for resistance by CAM sceptics.

Keywords Regulation · Resistance · Governmentality · England and France · CAM Homeopathy

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Introduction

Complementary and alternative medicine (CAM) is a controversial set of healthcare practices and beliefs, which has nevertheless achieved partial acceptance and integration into national healthcare systems across Europe and, indeed, the world (WHO 2013). Law and regulation are a key aspect to such a settlement, as ‘unregulated’ non-medically qualified (NMQ) practitioners have sought and sometimes achieved statutory self-regulation, regulated biomedical professionals have integrated CAM therapies into their practice, and medicines regulators have accommodated CAMs through various special licensing regimes (Stone 2015). In recent years, however, there has been a concerted pushback against such an accommodation by so-called ‘sceptics’ across different countries: individuals and groups ‘with key spokespeople holding high-ranking positions in academia, science or medicine’, who dismiss CAM as ‘non-science’, ‘pseudoscience’ or ‘anti-science’ and lobby for CAM to be ‘de-funded, de-registered, and removed from public education systems’ (Brosnan et al. 2018, p. 9).

In this paper, we analyse challenges by CAM sceptics to homeopathy’s tenuous settlement in the public health systems of England¹ and France, resulting in its defunding in both countries in 2018 and 2021, respectively. We do so from a Foucauldian governmentality perspective (Foucault 2007); a theoretical framework particularly well-suited to exploring tactics and strategies of power and resistance through governmental assemblages comprising actors within and ‘beyond the state’ (Rose and Miller 1992). If CAMs were, to a large extent, regarded as incorrigible and deviant healthcare practices by biomedical authorities for much of the twentieth century (Wahlberg 2007), a perceptible shift occurred during the years leading up to the twenty-first century, as they were increasingly absorbed into public healthcare systems and normalised through different regulatory regimes (Clarke et al. 2004; Wahlberg 2015). Our focus is on the means by which CAM sceptics in England and France worked assiduously to unravel and resist one of the more integrated forms of CAM—homeopathy—in both national contexts. While this partly depended upon long-standing problematisations (namely, that homeopathy’s ability to heal is unproven, its mechanisms implausible, and its consequences for patients potentially dangerous), the processes by which CAM sceptics undermined homeopathy looked very different in each context. This is largely thanks to the unique regulatory arrangements in England and France, which contributed to homeopathy’s normalisation and acceptance, but which, we contend, also helped incite and galvanise opposition, providing anchor-points for resistance for CAM’s sceptics. In England, where homeopathy is governed through a dispersed regulatory regime, involving state and non-state bodies, CAM sceptics targeted an equally dispersed set of institutions through direct action over several years in different ways. In France, by contrast, homeopathy is regulated more strictly, as it can only lawfully be practiced by qualified medical doctors. Thus, resistance emerged primarily from within the

¹ England has been chosen rather than the United Kingdom as a whole, given the devolved responsibility of healthcare to the devolved governments of Northern Ireland, Scotland and Wales.



medical profession itself, as CAM sceptic doctors not only challenged the validity of homeopathy as a medical practice, but accused their homeopathic colleagues of engaging in ‘pseudoscientific deviance’. Moreover, the resistance initiated by CAM sceptics in France itself generated an unexpected counter-attack by doctor-homeopaths, who enacted quasi-judicial disciplinary proceedings against their sceptic colleagues through the professional regulator.

Our analysis of these events builds on and contributes to recent scholarship interrogating the dilemmas and tensions generated when states regulate the epistemologically and ontologically heterogeneous practices grouped under the label CAM (Wahlberg 2015; Ijaz and Boon 2018; Ashworth and Cloatre 2022). Our contribution is empirical and conceptual: we provide insights into the tensions surrounding a controversial field of healthcare by comparing diverging national regulatory systems, including the French regime, which has thus far remained underexplored in English-language CAM scholarship (Cloatre 2019); and, by way of this comparative analysis, we provide different examples of the ambivalence of regulating CAM, using a governmentality analytical lens to do so. While law and regulation may help to bring into the fold and to normalise previously ‘deviant’ practices, they can simultaneously incite and/or shape resistance, providing a means for sceptics to target the very practices regulation seeks to accommodate.

The paper is structured as follows. First, we introduce relevant CAM literature and the contrasting governmental regimes surrounding homeopathic products and professionals in England and France. We outline our methods, comprising a documentary analysis of official (policy, legislative) and unofficial and/or popular texts (mass media and blogs from key figures in both contexts). We provide an overview of the two case studies, highlighting how, despite some parallels, each context has been marked by very different processes of resistance, shaped by particular legal and institutional arrangements that have incited and galvanised opposition in different ways. Finally, we conclude by reflecting on what our findings suggest of the different stakes of such debates in England and France.

Background and framework

Although homeopathy has a long history in both France and England, its relationship to biomedicine, and to healthcare institutions, has always been complicated (Bivins 2010). Originating in the writings of eighteenth-century German physician Samuel Hahnemann, its underlying principles, including the law of similars (i.e., like cures like) and of infinitesimals (i.e., the more diluted a homeopathic medicine, the more potent its healing effects), have sat uneasily with some of the core ideas of biomedicine. Yet it has also been popular both with users and numerous doctors around the world (Cant and Sharma 1995; Almeida 2012; Ijaz et al. 2015). In France and England, it was publicly funded from the first half of the twentieth century until the recent challenges that form of the focus of this paper (Nicholls 2005). Despite its incorporation into national healthcare systems, accusations of quackery on the part of its practitioners, implausibility and ineffectiveness of the part of its remedies, and gullibility on the part of its patients never quite went away (Bivins 2010). Since the



start of the millennium, the acceptability of such public funding, and of homeopathy as a whole, has also been increasingly questioned by CAM sceptics, ultimately leading to the withdrawal of its public fundings. Consequently, homeopathy's place appears more fragile than ever.

Here, we analyse this process through a governmentality lens; a voluminous literature that has been used to explore the various means by which the government of conduct is achieved through techniques, technologies, experts and programmes that lie within and beyond the state (Rose and Miller 1992). Thus far, Foucauldian concepts and governmentality frameworks have been employed in the analysis of different aspects of the sociology of CAM, in particular, the self-government of 'empowered' CAM users, often in ways consistent with overarching neoliberal logics of responsabilisation in health (Broom et al. 2014; Ning 2018; Pedersen 2018). Yet in the analysis of CAM's regulation, particularly in the UK context, attention has tended to focus on professionalisation, and the underpinning process of social closure since the 1970s (Cant and Sharma 1996; Welsh et al. 2004; Gale 2014). A small body of scholarship has also taken advantage of the conceptual tools provided by Foucault and his interlocutors to explore the neoliberal modes of governance involved in organising CAM (Clarke et al. 2004; Wahlberg 2007, 2015). In so doing, these works have brought to light the internal dividing practices, by which 'safe and competent' CAM practitioners can be separated out from the unsafe, the incompetent, and the deviant (Wahlberg 2007; Ashworth 2023). In other words, previously dangerous, ineffective, or otherwise deviant CAM has been increasingly penetrated and sub-divided by the normalising power of governmentality. Healers have been encouraged, nudged and induced into organising themselves around codes of conduct, professional standards of practice, accredited forms of training and education, and have rendered themselves amenable to external audit, with the aim of assuring the ethical and competent behaviour of a given practitioner (Wahlberg 2015). In short: CAMs have been, to varying degrees, welcomed into the fold over the past few decades and formal regulation appears to have been a key component in such a process.

Yet, as another small but growing body of literature has highlighted, CAM sceptics have begun to mobilise in a concerted fashion against specific CAMs and CAM as a whole in recent years. Thus far, this scholarship has attended to the means by which CAMs have been 'delegitimised' in terms of its teaching at universities (Brosnan 2015; Brosnan and Cribb 2019) and/or its representation through the mass media (Caldwell 2017; Lewis 2019). Our approach joins these scholars in analysing sceptics' moves to undermine CAM, but differs in its more specific attention to the conditions created by state governmentality and formal legal orders. We approach the sceptics' actions as a form of resistance to the normalising power of governmentality—a resistance that is also shaped by the possibilities and spaces offered by legal orderings. From a Foucauldian perspective, resistance is immanent to relations of power: the two presuppose one another. If, as Wahlberg suggests, regimes of governmentality have increasingly let CAMs 'in' as a means of normalising them, then this paper attends to some of the resistances the modes of CAM's regulation have incited and shaped, and how resistance to CAM has taken different forms in different regulatory contexts. At times, resistance has emanated from some CAM healers



themselves, who regard their practice as inimical to the standardisation and bureaucratisation required by formal regulation (Cant and Sharma 1995). In the case of homeopathy, much resistance has come from those outside of the CAM professions. Such resistance seemingly rejects per se the notion that ‘good’ homeopathy (or CAMs more generally) can be distinguished from ‘bad’—and, hence, the idea that state institutions should grant any form of legitimacy to such practices. By grounding our analysis in a governmentality perspective, we invite a closer consideration of the means by which homeopathy’s regulation (and its conditional acceptance by formal institutions)—a core component of its normalisation—has incited irritations, aggravations and resistances which have paradoxically helped to challenge its place in the national healthcare systems of England and France.

The regulatory regimes governing homeopathy in England and France

The regulation of CAM in general, and homeopathy in particular, varies greatly across states, including within Europe. Such diversity builds on contrasting cultures within medicine, and contrasting legal systems relevant to medical and medicinal practice (Naraindas 2011; Givati and Almeida 2016; Galesi and Lombi 2019). France and England represent two starkly different legal contexts for CAM. Whereas in England professional self-regulation has played a significant part in the organisation and legitimisation of CAM professions, separately from biomedical institutions, the legal practice of CAM in France has grown primarily within the biomedical professions (Cloatre and Ramas 2019). This difference is particularly striking when observing the specific forms of recognition, and later of resistance, that homeopathy (products and practitioners) has generated over the years. Some similarities between the countries exist as far as the regulation of products is concerned, with state agencies in the UK (Medicines and Healthcare Products Regulatory Agency—or MHRA) and France (*Agence Nationale de Sécurité de Médicament et des Produits de Santé* or ANSM) granting marketing authorisation to homeopathic remedies which can provide clinical data on safety and quality (rather than efficacy). However, unlike in England, where the sale of licensed homeopathic remedies is diffuse throughout the market, homeopathic products are more strictly controlled in France and can only be purchased at licensed pharmacies. Beyond the issue of regulation of products, the two contexts differ markedly in how they regulate homeopathic professionals; something which has contributed to a different positioning of homeopathy as practice that has contributed to different institutional tensions—and opportunities for CAM sceptics to resist.

In England, the practice of homeopathy is governed through a dispersed and generally light-touch regulatory regime. While doctor-homeopaths are regulated by the statutory General Medical Council (GMC), the majority of homeopaths are non-medically qualified and are instead nudged into affiliating themselves with ‘voluntary’ CAM registers, such as the British Register of Complementary Practitioners, or specific homeopathic associations, such as the Society of Homeopaths. These registers and associations, which aim to normalise the conduct of practitioners to varying degrees, have been indirectly supported by the UK government, which has



repeatedly encouraged CAM healers to ‘get their house in order’ through professional self-regulation (Wahlberg 2015). The emergence of the Professional Standards Authority (PSA) in 2012 has been a major development in this regard: an independent statutory meta-regulator for regulated health professions (such as medical doctors), which provides voluntary accreditation to registers of ‘unregulated’ health and care professionals, such as homeopaths or other CAM professions. Although there is no legal requirement to undergo specific training to provide homeopathic services to patients, training courses can be undertaken at private colleges or schools (which may, in turn, be accredited by bodies such as the Society of Homeopaths), and for a 10-year period from the late 1990s to the late 2000s, a small number of British universities offered Bachelor of Science (BSc) degrees in homeopathy (Caldwell 2017).

In contrast to its dispersed practice and light-touch regulation in England, homeopathy in France is more firmly anchored in the medical profession and its attendant state regulatory structures. Homeopathy can only lawfully be practiced by biomedical doctors (and to some extent other biomedical practitioners), as the French *Code de la santé publique* prohibits all except medical professionals from engaging in any form of diagnosis or treatment, defined so broadly as to (at least potentially) encompass most CAM. Hence, French homeopaths, who must be medically qualified, are subject to the regulatory jurisdiction of the *Ordre des Médecins* (the *Ordre*, or the French Medical Council) which licenses and regulates the conduct of all medical doctors in France. Homeopathy is open to study at some French Universities as an optional part of a medicine or pharmacy degree (rather than as an independent degree). Like in England, courses and certificates are available in the private market, although, unlike in England, they are only open to qualified biomedical professionals. While homeopathy is a practice internal to medicine in France, it occupies a relatively fragile and ambivalent place within biomedicine. To be accredited as medical practitioners, the *Ordre* expects doctor-homeopaths to practice homeopathy *in addition to* (rather than instead of) biomedicine. To defend their rights, doctor homeopaths are represented by two main ‘*syndicats*’.²

Aside from the dispersal of practice and regulation in England and its centralisation within the medical profession in France, key differences also exist in others ways. Notably, the English division between public (e.g., NHS) and private (e.g., non-NHS medical doctor-homeopaths and/or NMQ homeopaths) homeopathy does not formally exist in France. Healthcare costs in France are in general covered by the *Sécurité Sociale*, which reimburses patients a set percentage of consultations with doctors (including homeopathic consultations) and prescriptions (including homeopathic remedies, until recently). Importantly, the reimbursement rates for prescriptions are banded according to the ‘service rendered’ (*Service Médical Rendu* or SMR); a technical evaluation of the value to public health and the effectiveness of

² They are the Syndicat National des Médecins Homéopathes Français (SNMHF) and the Fédération Française des Sociétés Homéopathiques/Société Médicale de Biothérapies (FFSH/SMB).



a medication, amongst other considerations.³ Moreover, while central government is responsible for setting the overall healthcare budget in both contexts, funding decisions around clinical practices are more decentralised in England, with different regions of NHS England making funding decisions regarding specific therapies, such as homeopathy. Given the different regulatory and institutional set-up of homeopathy in our case studies, the stakes of sceptics' moves to defund and undermine homeopathy were markedly different in both contexts, something which we reflect on in our conclusion.

Methods

For this paper, we followed key debates challenging the place of homeopathy (and its funding) in England and France through documentary methods. We analysed a mix of official policy documents, publications from individuals and groups opposed to CAM (including reports, open letters, blogs) and news media from online databases. We analysed a 22-year timeframe, selected on the basis of the relative strength homeopathy enjoyed at the turn of the millennium in both contexts and the shift in fortunes it experienced over the following two decades, most notably with the defunding of homeopathy in both contexts by 2021. As will become evident in the analysis below, this period looks different in England and in France, with a more marked process of acceleration in vocal attacks against homeopathy (and later against its detractors) visible in France from 2018.

Resistance, regulation, and governmentality: homeopathy in England and France: 2000–2022

In 2000, homeopathy had long-been funded within the national healthcare systems of England and France (where homeopathic medicine was reimbursed at a rate of 65%; the second-highest possible rate) and hence appeared to enjoy a relatively strong position in the national healthcare systems of both countries, as compared to many other forms of CAM. Over the following two decades, however, homeopathy would find itself defunded and in a more precarious and fragile position than ever before. In the following section, we analyse the actions of CAM sceptics in attempting to undermine homeopathy in both contexts, paying close attention to the place of law and regulation in facilitating or complicating their moves against it.

England: dispersed targets and judicial resistance to homeopathy

1. Build-up of dispersed sceptic activism

³ In 2000, the bands were: 100% (irreplaceable SMR); 65% (significant SMR); 35% (moderate SMR); and 15% (weak SMR).



CAM sceptics' initial resistance to homeopathy began to emerge in a coordinated fashion in the mid 2000s, and can best be described as a cumulative build-up of dispersed sceptic activism and campaigning on the part of a loose coalition of prominent non-state, non-official individuals, often, but not always, from outside the medical profession itself. It included high profile scientists and academics such as Edzard Ernst and David Colquhoun, and sceptic campaigning groups, such as Sense About Science (SAS), which was founded in 2002. In other words, the multifaceted nature of their campaigning and the dispersal of their targets appeared to be a reaction to the diffuse, decentred provision and regulation of homeopathy in England and the involvement of a broad range of actors 'beyond the state'. In the following section, we focus on four of their primary targets during the mid-to-late 2000s, which in each instance generated sometimes considerable media coverage, with the creation of media spectacles representing a key tactic, the literature suggests, of the sceptic's movements against CAM's accommodation (Brosnan et al. 2018).

The first target was, unsurprisingly, the NHS and its continued funding of homeopathy. In 2006, a group of scientists and medical doctors, including Ernst, wrote to several NHS Primary Care Trusts (PCTs) to challenge the use of public money on 'unproven' treatments, including homeopathy. Their actions were a consequence of the institutional set-up of healthcare in England: although central government was responsible for setting the overall budget provided for the NHS, successive reforms had provided greater autonomy for individual PCTs (after 2013, Care Commissioning Groups or CCGs) to manage their own budgets and, importantly, to make clinical funding decisions. The letter, which was narrowly focussed on the question of evidence and cost-effectiveness, received considerable media coverage at the time, with *The Times* newspaper devoting its front page to the story (Henderson 2006, p. 1). While their letter writing may have generated publicity for their campaign, homeopathy continued to be funded across much of the NHS. However, they secured an early victory in the months following their letter: West Kent PCT, which funded the Tunbridge Wells Homeopathic Hospital, withdrew its funding for homeopathic services, highlighting that their decision lay in their duty to 'make the best use of public money by commissioning clinically cost-effective care' (Kent Online 2007).

CAM sceptics' second discernible target was less focussed on the question of cost-effective use of public funds and more on the normalisation of homeopathic medicines through state licensure and marketing authorisation. Thus, the MHRA's launching of a new licensing scheme for homeopathic remedies in 2006, intended to provide 'better information' to potential consumers, became a focal point of sceptic campaigning. The MHRA's new licensing regime would enable homeopathic remedies to be sold with indications for minor, self-limiting conditions, so long as manufacturers could demonstrate safety and quality. Sceptics once again took to the media to denounce the new regulatory scheme, arguing explicitly that it gave 'homeopathic products a legitimacy they did not deserve' (Jha 2006). Sceptics such as Ernst and Colquhoun appeared across multiple news articles, and opposition to the licensing scheme appeared to implicate more mainstream biomedical bodies, such as the Academy of Medical Science and the British Pharmacological Society, whose critical quotes and comments were collated and circulated by groups such as Sense About Science via their websites (Sense About Science 2006). Lord Taverne,



Chair of SAS and member of the House of Lords, went as far as introducing an annulment debate and, in calling for the licensing scheme to be quashed, suggested that it was ‘the first time, since the thalidomide tragedy and the 1968 Medicines Act, that the regulation of medicines has moved away from the science rather than towards it.’ However, homeopathy retained support within Parliament: the annulment debate was withdrawn and, by early 2007, a cross-party Early Day Motion, which supported the continued provision of homeopathy on the NHS, gained the support of 208 MPs (UK Parliament 2007).

By 2007, CAM sceptics had also begun to target the teaching of CAM—and homeopathy specifically—at British universities. The launch of CAM degrees in the 1990s was consistent with central government’s desires to normalise CAM practitioners by standardising education and training of NMQ practitioners, given that the legal and regulatory arrangements surrounding nearly all forms of CAM did not require any particular educational or training standards to practice (Caldwell 2017). Rather than accreditation through private courses and colleges of variable length and (perceived) quality, a standardised three-year BSc degree in homeopathy was seen by the government as providing a means by which the public could best be ‘protected from incompetent practitioners’ (House of Lords 2000). However, the presence of CAM within the university space, under the designation of BSc, incensed sceptic campaigners such as Colquhoun, who issued Freedom of Information requests on course numbers and teaching materials—and consequently published a 2007 article in the scientific journal *Nature*, which received considerable mass media coverage. Excoriating the ‘gobbledygook’ being taught at 16 Universities offering 45 BSc degrees in CAM, Colquhoun singled out homeopathy—taught as a BSc at five Universities—as ‘the most obvious delusion because the “medicine” contains no medicine’ (Colquhoun 2007). Moreover, by 2009, just over 10 years after the first BSc in homeopathy was opened and just two years after Colquhoun’s intervention in *Nature*, the final BSc degree in homeopathy closed (Colquhoun 2009).

By the end of the decade, CAM sceptics were also targeting high-street retailers such as Boots (which sold homeopathic remedies) via coordinated spectacles of resistance. Given the liberalised regulatory regime which did not dictate *where* homeopathic medicines could be sold in England, high street retailers and health or beauty stores had, prior to 2010, been on the receiving end of covert recording and other sting operations by sceptics and mass media outlets, which sought to highlight ‘dangerous’ advice being given to potential consumers (Ghosh 2006; Lewis 2008). Boots, however, emerged as a specific and coordinated target after a parliamentary Committee assessed the evidence base for government policy towards homeopathy in 2009—both its NHS funding and the MHRA licensing. While the Committee provided an opportunity for sceptic campaigners, such as Ernst and Colquhoun to lobby Parliament directly, submitting oral and written evidence which highlighted homeopathy’s lack of proof and the implausibility of its stated healing mechanisms, the Committee also took evidence from manufacturers and retailers of homeopathy, who largely defended the practice from charges of quackery. During the course of the Committee’s work, a senior representative of Boots submitted he had ‘no evidence’ homeopathy was efficacious, despite selling large numbers of homeopathic



products, and defended the sale of such products on the grounds of consumer choice (House of Commons 2010, p. EV 11). His comments were widely reported and, in response, sceptics organised ‘mass overdoses’ of homeopathy outside Boots stores across the country, in which they consumed entire bottles of homeopathic remedies, as a means of demonstrating that homeopathic remedies were not medicine, but rather, inert (and therefore medically useless) sugar pills (Jones 2010).

2. Legal activism, court challenges and judicial resistance

Although the parliamentary Committee issued its final report in 2010, wherein it sided with the sceptics and recommended that NHS funding and the MHRA’s licensing of homeopathy should both be withdrawn (House of Commons 2010), central government refused to be drawn in on the question of NHS funding. In keeping with the largely decentralised issue of clinical funding within the NHS, the Department of Health argued that such clinical decision-making was for individual PCTs and that ‘political’ interference from government would be inappropriate (Department of Health 2010). While it committed to consulting on the labelling requirements of MHRA’s licensing scheme for homeopathic remedies (a process which opened in 2011), the resultant consolidating legislation, the Human Medicines Regulations 2012, simply restated existing rules the MHRA used to govern homeopathic products.

Shortly thereafter, prominent sceptic Simon Singh formed the Good Thinking Society (GTS), marking the beginning of a new, explicitly juridical strategy of CAM sceptics, which targeted public authorities through judicial review. Its first and most notable target was the continued funding of homeopathy via the NHS, something which the non-judicial campaigning had yet to significantly affect. Given the devolved responsibility for clinical decision-making, it was not the Department of Health which was initially threatened with legal action, but individual CCGs, which were targeted in a piecemeal fashion between 2015 and 2018. From 2016, GTS secured wins as one-by-one CCGs across England announced the withdrawal of funding for homeopathic services. At the same time, GTS sought guarantees from NHS England that homeopathy would be added to a central NHS blacklist⁴—meaning its prescribing by NHS doctors would be formally prohibited. When they failed to provide such a guarantee, GTS again threatened legal action, resulting in NHS England drawing up new guidelines for GPs (Good Thinking Society 2015). These listed 18 ‘items which should not be routinely prescribed in Primary Care’—including homeopathy—on the basis of low clinical and cost-effectiveness (Good Thinking Society 2017). Although homeopathic groups attempted to use the very same juridical tools to challenge the legality of the new guidelines, their appeal was dismissed.⁵

Thanks to GTS’ predominantly legal efforts, homeopathy had effectively been defunded from public healthcare in England by 2018. Yet resistance to homeopathy

⁴ Products added to Schedule 1 of the National Health Service (General Medical Services Contracts) (Prescription of Drugs, etc.) Regulations 2004 cannot be prescribed by NHS GPs.

⁵ R (British Homeopathic Association and others) v NHS England [2018] EWHC 1359 (Admin).



by CAM sceptics did not end with its defunding from the NHS: GTS used the same legal tactics to challenge public bodies seen to be protecting or normalising homeopathy or homeopathic groups in some capacity. Thus, in light of the fact that some homeopathy groups had been awarded charitable status—and with it, enjoyed favourable tax arrangements, GTS took the Charity Commission to court. Similarly, the PSA's decision to reaccredit the Society of Homeopaths in 2019 (the largest representative body for NMQ homeopaths in the UK) on the strength of its professional standards led GTS to threaten legal action to challenge the accreditation. In both instances, GTS' threat of legal action resulted in changes to their respective registration processes: the Charity Commission tightened up its evidentiary rules in determining whether a potential CAM registrant provided a public benefit in matters relating to health (Charity Commission 2018); and the PSA created a new 'public interest' test, in which it weighed the potential risks to the public in deciding whether to accredit a particular register, rather than solely focussing on the question of their professional standards (PSA 2021). The Society of Homeopaths, which had been accredited by the PSA, was suspended and ultimately withdrew from the PSA's accreditation scheme in 2021. It was soon followed by the Federation of Holistic Therapists, meaning that, as of 2023, there are no registers of homeopathic practitioners accredited by the PSA.

France: from technical decision-making to Intraprofessional conflicts

1. Slow build-up of technical state decision-making around reimbursement

Unlike in England, initial shifts in the position of homeopathy in French healthcare were not driven by CAM sceptics or explicit resistance to homeopathy (or CAMs) per se. Rather, homeopathy was caught within broader neoliberal debates around resource constraints in healthcare, which had emerged in the 1990s, as deficits in the *Sécurité sociale* brought a renewed focus on 'cost-effectiveness' in medicine. This had knock-on effects for homeopathy, which struggles to 'prove' its efficacy according to the usual standards of biomedicine science (Bezât 1995; Nau 1998). This emphasis on rationalising healthcare costs means that conversations around funding were often of a technical, rather than political or legal, nature. Moreover, these initial debates were focussed narrowly on the costs of prescription medicine, which included homeopathy, rather than the provision of homeopathy as a practice by doctors. Taking place between central governmental actors and agencies involved in drawing high-level spending budgets for healthcare, these debates were largely disentangled from broader debates on the purported deviance of homeopathy as a whole.

In the early 2000s, governmental concern around the sustainability of the social security system led to a spending review, in which Health Minister Jean-François Mattei proposed a 'de-reimbursing' of medications without a sufficient SMR (Le Monde 2002). Homeopathic remedies, alongside many other medicines, were re-banded from 65 to 35% reimbursement (indicating a moderate SMR) (Piolot et al. 2015, p. 443). In keeping with the technical language employed in such discussions thus far, Mattei justified the reduction on the basis of 'equity'



between homeopathic and pharmaceutical companies, as dozens of orthodox medicines had suffered reductions of reimbursement due to insufficient SMR, whereas homeopathy's SMR had never even been evaluated by relevant state agencies. Despite the technical framing, the political tensions surrounding homeopathy could be seen in the responses to the decision, notably from the homeopathic *syndicats*, but also the opposition Socialist party, which judged the cuts to be 'economically absurd, socially unjust and ethically reprehensible' (Le Monde 2003).

The continued reimbursement of homeopathy at the reduced rate of 35% triggered a series of statements over the following years, which navigated the boundary between the technical and political. In September 2004, the *Académie Nationale de Médecine* issued a press release attacking the continued reimbursement of homeopathy, describing it as an 'obsolete method' and 'devoid of scientific foundation'. Expressing bemusement at its popularity, the Académie reiterated the cost-benefit argument: that homeopathy's reimbursement 'seems absurd at a time when, for economic reasons, many conventional drugs are de-reimbursed' on the basis of insufficient SMR (Académie Nationale de Médecine 2004). Jacques-Louis Binet, permanent secretary to Académie, took part in a debate, published in *Le Monde*, in which he emphasised the need for homeopathy to demonstrate efficacy according to biomedical standards to continue to receive public funding (Le Monde 2004).

Yet this technical argument continued to meet resistance from supporters of homeopathy, including from within the state itself. Subsequent Health Ministers affirmed they would not defund homeopathy entirely, with some turning the cost-benefit argument for de-reimbursing homeopathy on its head. Defunding homeopathy would, in fact, precipitate a transfer of prescriptions from relatively inexpensive homeopathy to pricier biomedical pharmaceuticals, thus increasing overall costs to the French state (Blanchard 2005). Hence, the rate of reimbursement was left untouched until May 2011, and then only decreased from 35 to 30% alongside all products—pharmaceutical or otherwise—in the same funding band (Piolot et al. 2015).

2. A spectacle of resistance: FakeMed Collectif and the public undermining of homeopathy's position in medicine

Although discussions and debates continued in the background, a more visible political shift driven by CAM sceptics occurred in 2018, when a campaign group staged a highly public intervention in a major newspaper in France, triggering a type of attention-grabbing intervention more familiar in England. However, unlike in England where CAM sceptics predominantly emanated from outside of medicine and directed their attention towards a dispersed set of targets, the spectacle of resistance to homeopathy emerged primarily from within the medical profession itself and was inwardly directed. In March 2018, the so-called FakeMed Collective issued an open letter in *Le Figaro* newspaper. Originally signed by 124 medical professionals at the time (and over 3300 at the time of



writing), their letter contrasts with the technical debates focussed on the cost of prescriptions that had been taken place in previous years at a governmental level. More than a request to reconsider the public funding of homeopathy, the letter constituted a series of demands for public institutions to clamp down on doctors using techniques deemed ‘quackery’, including homeopathy. Not only was homeopathy described as ‘dangerous and fantasist’, but as practiced by ‘charlatans of all kinds, who use the moral authority of the “doctor” title to promote false and illusory therapies’ (Collectif Fakemed 2018).

Their demands included, but went much further than, defunding homeopathic prescriptions: the signatories sought to prevent anyone using homeopathy (or other CAM techniques) from using the title of ‘Dr’ (and therefore practicing medicine) and to end any associated teaching in medical faculties. If followed through, the consequences for homeopathy would have amounted to a de facto ban, given that French law dictates that treatment and diagnosis can only be performed by a licensed, biomedical professional. Following the publication of their letter, the Collective—initially a relatively informal gathering of like-minded doctors and other health professionals—grew more institutionalised, setting itself up as an ‘association’ and branching out into resisting more generally what they saw as pseudo-scientific, deviant techniques. For example, the Collective’s website includes the ‘Fake-O-Meter’; a tool designed to measure and rank Universities on the basis of their susceptibility to ‘quackery’, the overwhelming focus of which is perhaps unsurprisingly on CAM (Collectif Fakemed 2021).

Moreover, the Collective’s public resistance to homeopathy and its practice by medical doctors seemingly accelerated changes in policy from institutional actors. The *Ordre*, for example, appeared to implicitly harden its stance, without explicitly calling for homeopathy to be purged from the medical profession entirely: highlighting that doctors may provide ‘an adjuvant or complementary’ medical intervention, along biomedicine, the *Ordre* reiterated that the *Code*’s provision on medical ethics prohibits presenting ‘unproven treatments or therapies’ as ‘beneficial or safe’ (Ordre des Médecins 2018). Central government, too, appeared to shift its stance, with Health Minister Agnès Buzyn requesting that the *Haute Autorité de Santé* (HAS), whose expert evaluations the government employs in decisions around public funding of medicines, study the scientific efficacy of homeopathy and, hence, the basis for its reimbursement (Connexion 2019). In a process reminiscent of the UK’s parliamentary Committee, the HAS conducted its investigation over several months, hearing evidence from proponents and opponents of homeopathy, before ultimately concluding in May 2019 there was poor evidence for homeopathy’s efficacy and calling for reimbursements to be withdrawn entirely.

As the HAS was in the process of deciding whether to continue funding homeopathic medicines, other biomedical institutions publicly positioned themselves against homeopathy’s reimbursement and teaching at universities (and, by implication, its practice by medical doctors). In some instances, medicine departments at French universities themselves took action: the Faculty of Medicine at Lille, for example, suspended its diploma in homeopathy, pending the outcoming of HAS’ investigation (Le Figaro 2018). In other cases, it was associations of medical professionals, such as the *Collège National des Généralistes Enseignants* (CNGE),



the national association for teaching GPs, which echoed the charged language used by the Collective and affirmed there was ‘no way to justify the reimbursement of these “medicines”’, nor its teaching at universities. It added that it was ‘necessary to abandon these esoteric methods, which belong to the history books, but which continue to trip up patients, and [even] some professionals’ (Connexion 2019). Just as in England, where the trend over previous decades had been towards institutionalising CAM within Universities, the pushback against homeopathy in French universities went against prevailing trends, in which bodies such as the Conference of Deans (Escoffier-Lambiotte 1983) and the *Ordre* itself (Nau 1998) had called for more standardised training and formal recognition of homeopathy at universities (within medicine and pharmacy degrees) in the 1980s and 1990s. Several months after its initial intervention, the CGNE went further, writing to the Minister of Higher Education to call for governmental intervention to protect medical students from such ‘pseudoscientific deviances’ (Le Figaro 2019). The *Académie Nationale de Médecine*, for its part, issued press release co-signed by the *Académie Nationale de Pharmacie* which concluded that no university degree in homeopathy should be issued by faculties of medicine or pharmacy and that the funding of homeopathy should be stopped until sufficient SMR had been proven (Académie Nationale de Médecine 2019).

Unlike in England, where the institutional and political set-up of public health-care meant that clinical funding decision-making was largely delegated to individual PCTs/CCGs, in France, it was the Minister of Health herself who ultimately made decisions around clinical funding. Buzyn, in responding to HAS’ report, defended the government’s stated intention to withdraw funding for homeopathic prescriptions. She once again relied upon technical justifications, stating that she understood ‘the attachment that the French people have for this type of treatments’ but emphasised that homeopathy ‘has not proven [its] benefit to public health’ (Thompson 2021). Thus, the reimbursement of homeopathic treatment was gradually reduced to 0% in 2021.

3. Resisting the resistance: doctor-homeopaths and quasi-judicial processes

Although the explosive FakeMed letter seemingly precipitated the rapid unravelling of homeopathy’s funding in France (as it pertains to medicines, at least thus far), the letter—and the legal, regulatory framework surrounding the practice of homeopathy—also provided opportunities for homeopaths to resist their sidelining in a way that was not possible for homeopaths in England. Not only did the letter trigger an explosion of media interest, but it incited an intense intra-professional conflict that the medical regulator, the *Ordre*, was asked to adjudicate. That both homeopaths and their critics were medical doctors provided judicial opportunities for resistance, as French homeopaths sought to defend themselves against critical colleagues. Where homeopaths in England had attempted unsuccessfully to use the tools of judicial review to challenge the defunding of homeopathy in the NHS, doctor-homeopaths in France were able to use professional codes of conduct to challenge the behaviour of sceptical colleagues who had signed the



letter attacking them. Intraprofessional conflicts between doctor-homeopaths and sceptical biomedical doctors were not entirely new, as scattered stories in the media over the decades demonstrates (Nau 1998), although these were dwarfed by the scale of the conflict triggered by the Collective's letter. Where the Collective sought to use the Oath and codes of conduct of medical doctors to try to expel homeopathy from the national healthcare systems of France, homeopaths used the same norms to counter-argue that the signatories had failed to meet the standards of collegiality which applied to doctors, given the scornful language used in the letter. In response, one of the main homeopathic *syndicats* lodged around 60 disciplinary complaints to the *Ordre* for '*non-confraternité*'. By December 2019, the number had increased to 63, with 11 judgments already rendered, leading to seven warnings and four acquittals or rejections (Thibert 2019). This is not to suggest a unidirectional flow of judicial action from doctor-homeopaths to sceptical colleagues: complaints would periodically be adjudicated by the *Ordre* against doctor-homeopaths seen not to be providing adequate medical care, such as claiming to treat autism with homeopathy or having hostile attitudes to vaccination. However, the scale of the complaints lodged at the *Ordre* doctors who signed the letter went well above the usual regulatory adjudications over standards of care, and marked a significant point of departure when compared to the experiences of homeopathy in England.

Conclusion

The defunding of homeopathy in England and France, was at least in part the outcome of CAM sceptics resisting its (partial) acceptance in different ways in both contexts. To make this argument, we drew from and built on insights from governmentality scholarship, which has pointed to the role of law and regulation in accounting for CAM's move from marginalisation to normalisation in the second half of the twentieth century in western Europe. That is, from a largely undifferentiated mass of (purportedly) dangerous, ineffective quackery, to a field internally subdivided, wherein 'good', 'safe', 'competent' healers can increasingly be distinguished from the 'bad', 'unsafe' and 'incompetent' on the basis of their adherence to regulatory norms. By comparing the different means by which homeopathy was undermined in both contexts, we demonstrated that if law and regulation can contribute to CAM's normalisation and acceptance in different ways, it can also incite and galvanise opposition to the very practices regulation seeks to accommodate. Our comparative analysis therefore not only highlights the unpredictability of law and formal regulation as a technique of governmentality, but it contributes to the broader sociological, anthropological and socio-legal scholarship which highlights in different ways the ambivalent effects of regulating CAM (Urquiza-Haas and Cloatre 2022). In both France and England, the story of the homeopathy's defunding sheds light on the role of formal regulations and their underpinning legal systems as, on the one hand, instruments of ordering and control, and, on the other, anchor-points for resistance. In both countries, the regulatory accommodations offered to homeopathy as a profession (within or outside biomedicine) or as a medicinal product also



provided spaces through which homeopathy's very legitimacy could be challenged. Legal norms are a dynamic make-up that stratifies the forms and layers of governmental ordering, while always creating spaces for strategic resistance.

Moreover, the regulatory regimes governing homeopathy (and the resistance they helped incite) yielded different stakes in each context. In England, where homeopathy was mostly accessed privately, CAM sceptics' coordinated resistance resulted in its homeopathy's displacement from public institutions into a discrete private market. However, there were no implicit or explicit moves towards its prohibition. By contrast, in France, CAM sceptics' moves against the funding of homeopathic medicines and FakeMeds' attempts at purging homeopathy from medical practice amount to a much more significant attack on the ability of patients to access homeopathy lawfully. Indeed, the Collective's ambition of banning doctors from practicing homeopathy would have amounted to a *de facto* ban, given that the NMQ homeopathy is prohibited by French law. Although the defunding of homeopathy has already had significant economic impact on homeopathic producers in France (Bezat 2020), and has shaken the position of doctor homeopaths, the Collective have not yet achieved their objective of purging homeopathy from the medical profession, although its position is arguably significantly more precarious in France than in England.

These tensions also present different expressions of contemporary crises in expertise, and the renegotiation of what should constitute legitimate knowledge for state governance. Once settled and legitimised knowledge is always open to renegotiation, and institutional legitimacy itself may become a source of crisis and opposition. In the wake of the Covid crisis, governmentality scholars continue to reflect on contemporary forms of governmentality, both in analytical and ethical terms. Many have called for the crisis to also be an opportunity to rethink the nuances of biopolitical modes of governance and the ambivalence of specific tools of governance (Arminjon and Marion-Veyron 2021; Meloni and Vatter 2023). Hence, our paper highlights why the technical specificities of legal orders remain a relevant aspect of understanding how crises of expertise and processes of de/legitimation may unfold in different ways through different governmental orderings.

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Declarations

Conflict of interest None.

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