

The Legal Protection of the Consumer from Drug Adulteration

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Introduction

Medicine is a necessary and effective mean to maintain the health of humans and protect them from diseases and epidemics. It is used to prevent and treat diseases, ease pain and as a result achieve the well being of people.

The pharmaceutical industry and the scientific and technological development have created a huge number of medicines for a diversity of different diseases. The pharmaceutical industry has become spread world-wide in different countries that compete with each other and produce a variety of medicines constantly. Nevertheless, in developed and developing countries, the case of drug fraud appears to be like any other commodity fraud that lacks considerations to the risk posed by adulterated drugs on the life of patients. In addition, there is damage to the original pharmaceutical companies as a result of the adulterated drugs. States are therefore seeking to enact legislation aimed at eliminating or minimizing this phenomenon and curbing those who sacrifice people's life to obtain substantial profits.

This act constitutes a criminal offense that requires the protection of the consumer from its severe consequences and the strict supervision to prevent the provision of adulterated drugs by all means and types of fraud in pharmacies and health institutions.

The importance of this subject will be discussed in three sections, the first of which we will identify the consumer and drugs adulteration and the second section will cover of the crime of drugs adulteration and the damage caused by it. Finally the third section will include types of legal protection for the consumer (patient).

Chapter 1

What is the consumer and drug adulteration

"The consumer here refers to the patient who is taking the drug for the purpose of recovering from or preventing the disease." The patient may take a drug that is adulterated which could lead to affect his or her health and life. For the purpose of expanding the knowledge of the consumers about drug adulteration with the aim to reach measures to protect them we have dedicated the first section to identify the consumer and the second for identifying drugs and drugs adulteration.

First Topic

Definition of the consumer

The consumer is defined in language as "loss and depletion", a word taken from the verb (destroy)(1) and defined by law as (2) the consumer as the individual perusing access to or needs a service or possesses goods for non-professional personal use. There are two approaches in defining this term. Some see that the consumer is every person who makes purchases to satisfy his personal and family needs and thus the one who makes purchases for the purposes of his profession or his business cannot be called a consumer. The other approach is considered broader for it entails the literal meaning of consumption, which is using all what the individual gets of the goods and services needed professionally or not, regardless of the reason for this acquisition (3) (such as a doctor, pharmacist, or an

engineer who buys equipments) because such equipment (goods) are consumed whether its purchaser intends to use it for personal or professional purposes.

The legislations did not lag behind in providing a definition of a consumer. The Iraqi legislator has defined the term as "The natural or legal person who obtains a commodity or service for the purpose of benefiting from it" (4). While the Syrian legislator has defined it as "every natural or legal person who purchases goods of various kinds, whether agricultural or industrial, for the purpose of nutrition or for personal or household purposes. Also it includes who benefits from any service, whether

(1) Mjad al-Din Muhammad ibn Ya`qub »Al- Muhheet Dictionary»: edition 2, Beirut »Al Risalah Foundation, 1987,» 1237,

(2) Faten Hussain Hawy » A Brief in the Consumer Protection Law» edition: 1 Halabi Legal Publications: 2012 p.

(3) See the explanation of the two approaches »Medhat Saleh Ghayeb» Consumer Protection in Civil Aviation »PhD thesis» Introduced to the Faculty of Law / University of Nahrain »2014 p: 24

(4) Article (1 / fifth) of the Law on the Protection of Iraqi consumers No. (1) for the year 2010.

provided by an individual or a group of individuals or by a legal person in the various fields provided for by law" (1). Furthermore, The Egyptian legislator has provided the following definition. "any person to whom a product is offered to satisfy his or her personal or family needs, or the one who is involved in such a process". (2)

The International Convention, held in Brussels in 1968, states in its article 13 that the consumer is "a person who acts in an activity which is alien to him from his professional activity." (3) Article 5 of the Rome Convention of 1980 states that the application of the Convention to Contracts that are the subject of the supply of material goods or services to the consumer for usage is considered not to involve his professional activities as well as the contracts allocated to finance this supply). (4)

Judicial decisions have also referred to a definition of the consumer: the Jordanian Court of Justice found in its verdict of March 6, 1997 that "a person who enters into a contract for professional activities is not considered a consumer because article 1 of the Brussels Convention defines The consumer as (the person acting in an activity that is alien to his or her professional activity). (5)

Second Topic

Definition of drug and drug adulteration

The drug is any substance used in the diagnosis or treatment of diseases that affect humans or animals, and it is helpful in reducing or preventing symptoms. The drug often works to increase or decrease the functioning of a part in the body and does not create a new function. Officially, it is any licensed drug (In Latin: Pharmaceuticum) that is legally used after ensuring that it is (relatively) free from any physical or psychological harm to the person who is using it.

Drugs are characterized by a huge diversity in their effects and impact on the body. There are drugs that increase blood clotting while others decrease it. There are also medicines to expand the pupil and the other shrink it. Sometimes the drug can cause a disease and

some drugs are to be taken in small quantities such as selenium and vitamin B12 as the body needs

Article (1) of the Syrian Consumer Protection Law No. (2) for the year 2008.

(2) Article (1) of the Egyptian Consumer Protection Law No. 67 of 2006.

(3) Article 13 of the Brussels Convention of 19 June 1968

(4) Article 5 of the Rome Convention of 19 June 1980

(5) quoting Medhat Saleh Ghayeb Al-Mafriji »The previous source» p. 35

only micrograms. A number of drugs have been very successful in treating diseases , including smallpox eradication, using smallpox vaccine.

The Iraqi Pharmacy Practice Law No. (40) for the year (1970) did not define the term drug but used the following expressions (special preparations) and (constitutional preparations) to indicate the nature of the drug.

Special preparations are preparations or compositions containing or described as containing one or more substances having medical properties for the recovery or prevention of human or animal diseases or for any other medical purpose even if it had not been announced explicitly. These special preparations are already prepared for sale, or presented to the public for external or internal usage or as injections, provided that they are not included in one of the editions of the constitutions of drugs and their official supplements. These preparations include liquids and preparations for disinfection which are not mentioned in the constitutions of medicines and household insecticides, as well as food products and cosmetics which are used only for medical purposes.(1) The Iraqi legislator distinguished between these special preparations and constitutional preparations with the latter being the drugs and the compositions mentioned in one of the recognized drug constitutions in Iraq. (2)

The drug may therefore be defined as the substance or substances that are prepared or produced in any form for use in the treatment of humans or animals or for the prevention of diseases or for any other medical purpose, whether listed in pharmaceutical constitutions or not as long as they are intended for the said purposes.

After we have defined the drug in this framework we move on to define drug adulteration.

Adulteration is defined as "any intentional act of positive intent with regard to a particular good or service which is contrary to the rules established in the legislation or in the trading provisions when it would impair its properties, utility or price", this intentional act may diminish the usefulness of the good or Reduces their required properties or hides their defects). (3)

Some of the laws, as in the Iraqi Transport Law No. (80) of year 1983, define adulteration as "any act or abstention from the carrier or its affiliates that hold the intention to cause harm.

Some (4) view that this definition is contained in a special law relating to a particular occupation:

- (1) Article (1) of the Pharmacy Practitioners Act No. (40) for the year 1970, published in the Iraqi Al-Waqa'eh newspaper. Edition (1854) in 19/3/1970.
- (2) Article 1 of the said Act.
- (3) Halder Asaad Ahmed, The Theory of Contract Fraud, House of Culture for publication and distribution» 2012 , p. 19 and beyond.
- (4) Hilder Asaad Ahmed, The Theory of Contract Fraud, previous reference, p. 19 and beyond.

The meaning of the definition seems closer to the concept of deliberate error than to cheating. The fiqh (1) has tended to establish several definitions of cheating, such that fraud is (the tendency to commit an act or unlawful abandonment as well as the tendency to cause harm).

Others see it as "showing one of the contractors or other contract other than the reality by means of a factual or actual, and the concealment of an undesirable description, if the other contractor learns to refrain from contracting it."

It was defined by some (2) as the illegal motive by which the right holder deviates from his natural and legitimate purpose, so that if he shows it, this illegal purpose is not achieved.

The cheating is not limited to goods and services far from the health and human life, but it includes all aspects of life, including drug fraud, drug fraud is part of commercial fraud, the most dangerous of all kinds of fraud because it threatens the health and life of the person and therefore a crime as a result of methods used in cheating medicine In various ways, starting with the use of pharmaceutical raw materials and the method of making them and violating their standard specifications, the defects that appear in the production and the use of various lies and deception in promoting, advertising or selling them so as to cause damage or death to the person or animal.

Drug fraud has become a growing global problem, including changing the active ingredient of the drug or its components or names or trademarks, resulting in deaths in two thirds of the world due to the spread of counterfeit and counterfeit drugs in the Arab region (about 35%) of the total drugs that are traded, The World Health Organization (WHO) figures showed a loss of \$ 75 billion in 2010 compared to 2007-08 due to drug fraud. (4)

Drug fraud can be divided into two types:

The first is the fraud caused by unintentional professional errors in the production of the medicine. The error may be from the raw materials used in the production and not to conform to the known standards or standards or the error in the method of manufacturing. The second type is deliberate commercial fraud, which constitutes a criminal offense, from the manufacture of the drug without its active ingredients, its reduction or increase from the required quantities or the error in the quantities, promotion and publicity, storage, distribution and smuggling or placing it in false packaging for human use, It will cause serious damage and frightening consequences that may cause human life, or cause permanent disability (1).

The second topic

The crime of drug fraud and its damage

It is no secret that the act of fraud constitutes a criminal offense in which any crime is committed, such as the physical nature of the illegal act of criminal and moral will,

against the will of the offender to deceive or initiate the drug, and to inform him of his deception of the ill consumer. Harming the health and life of the patient and the result of causing severe pain or permanent disability or reach the loss of life of the patient who is considered dead, whether it was intentionally or wrongly.

This is discussed in two cases, the first for the crime of medical fraud and the second for the damage caused by this crime.

First topic

Drug Fraud Crime

The crime was defined as a positive or negative act of criminal will imposed by the law, criminal punishment, and a trend in the jurisprudence to define the crime as an act or omission criminal punishment. (2)

If this was a general definition of the crime, what we mean a crime of fraud drug, it can be said that there is no specific definition of the crime of fraud drug crime within the scope of the Penal Code or provided for in the Iraqi Penal Code No. (111) for the year (1969) amended, similar to other crimes located Persons or funds, but the advanced definition of crime imposes necessary elements of action. The crime presupposes the commission of an act which constitutes its physical entity, since there is no crime without action, the fact that the act is unlawful and the act acquires a description of the existence of a text to criminalize it and finally the act of criminal will. (1)

In general, the crime of drug fraud can be defined as unlawful acts of criminal intent, contrary to scientific principles, standards and conditional measurements, in the use of substances involved in the manufacture and production of the drug, failure to follow the requirements of good pharmaceutical manufacturing, promotion and publicity, advertising and selling by means of deception, , Causing harm to humans and animals.

It is clear from this definition that the crime of medical fraud varies according to the wrongful acts and the damage resulting from these acts of murder, wrongful killing, permanent disability or severe pain. The principle of illegal practices was confirmed in the objectives of the Iraqi Consumer Protection Law No. 1) for the year (2010) as the law aims to ensure that basic consumer rights and protection from illegal practices that lead to the damage done, and prevent any action contrary to the rules of import, production or marketing of goods or detract from the benefits of, or lead to misleading the consumer (2) Each crime has two sides. A material aspect is whether the crime is deliberate or not, and a moral aspect, that is, the act was committed by a will. The person is asking about his wrongdoing, as the fault is the responsibility of the criminal.

In our study on the elements of the crime of medical fraud and in application of the general provisions of the Criminal Code, we examine the two aspects of the crime:

1. material element:

The physical element is defined as the commission of the offense of the law, and constitutes a crime if intended, and if unintentional, it involves the case of intentional and wrong, but the boundary between the criminal act and other is not intent, but harm and harm or

The corruption that ensued, so that there is no corruption in it or punishment, is not considered a crime, and there is corruption in it, and it requires punishment, even in the afterlife, which is a crime in the language of sharee'ah. (1)

Here we try to limit the acts in relation to the crime of medical fraud from the manufacturing and production to the use of medicine by the patient:

1. The use of raw materials in the pharmaceutical industry contrary to GMP requirements, as this requires, among other things, to put the materials under the custody until the quality control department allows them to be removed. The raw materials are purchased from the suppliers and it is advisable to buy them from their manufacturers directly, The way of supply, packing and packaging, inspection of each shipment to ensure the safety of the vessels and the affixed to it, the withdrawal of samples from each shipment, check the validity date and the date of re-analysis. The raw material shall not be used unless it is approved by the Quality Control Department. Before commencing any manufacturing process, steps should be taken to ensure that the work area and equipment are clean and free of any raw materials, preparations, waste, stickers or documents. (2) Any violation in the process of preparing the raw materials for the pharmaceutical industry is considered illegal and, in any case, it affects the production process and the emergence of a failed drugs or adulterated.
2. Unlawful acts in the production process These acts are shown by changing the active substance of the drug, which is the substance in the pharmaceutical product which has a therapeutic effect in the body or by changing the components of the medicine and the standard ratios known worldwide. The Director General of the Executive Council of the Council of Health Ministers of the GCC States The change in the active ingredient of the drug or its components or names or trademarks led to deaths in two thirds of the world. 3 The most dangerous thing in the production process is the contamination of any raw material or preparation by another substance or preparation, and thus will lead to disasters. As human Pray in the case of contamination of material FACTOR A AIDS-infected, where the company marketed Mario

French, the article to several countries including Iraq and caused hundreds of people infected with AIDS and their death from the deadly disease. Therefore, GMP requirements set out preventive, technical and regulatory measures to prevent pollution, avoid its transmission and avoid its high risk, especially for products where pollution is a major risk, both injectable and high-dose. (1)

3. The practice of cheating, deception and concealment of the fact of the articles constituting the specifications approved in the medicines (2).
4. Sell, display or advertise medicines that have not been labeled with the ingredients of the medicine and the warnings required, the side effects of the drug, how they should be avoided, and the date of commencement and expiry of the drug.
5. The practice of concealing, altering, removing or distorting the validity date. 3 This practice is common among brokers and counterfeiters by manipulating the date of entry into force and making it close to the date of production, while it is expired and the effectiveness of the medicine is not helpful in healing the patient. It has become corrupt and may cause serious damage.
6. Re-packaging the damaged or expired medicines in containers and packages that have a different validity and misleading to the consumer (4).

7. Replace the original medicines manufactured in international companies with less efficient drugs manufactured by other factories with low prices, but they carry the same brand and specifications on the covers so that it can not be easily identified and illegal material gain, has been proven to replace Plavix 75 mg) Of the company (Sanofi) French imitation material and have the same specifications of the outer envelope and the (3461) pack and the import price of this article (58.8) dollars (5).

The results of the examination showed the failure of the counterfeit material and the case was referred to the judiciary. In its decision No. 410 / C / 2013 on April 10, 2013, the Rusafa Criminal Court sentenced the convicted person to life imprisonment in absentia.

2. The moral corner of the crime of drug fraud:

The crime of deceit or deception of the consumer (the patient) is a deliberate crime that requires the establishment of criminal intent, in the direction of the offender to do the fraud or the initiation of the drug, as well as the availability of science to him by the deception of the consumer, and the offender can pay ignorance of the defects of hidden goods Or the phenomenon because it has an obligation to declare the specifications of the drug and inform the consumer, in the case of defects, the offender in this case can not pay ignorance of the defects of the goods because the intent of fraud fixed and clear. For example, a factory that contravenes the specifications of the drug, because it has to check the safety of the drug from defects, and then to know the defects, and if each crime a moral corner, there is no general moral corner for all crimes, the moral pillar may be the wrong committed by the actor and the mistake that But there are degrees of error where there is a deliberate error and it realized when the offender proceeds to commit the criminal act intended to create an illegal result and his image is clear in the crimes of fraud, for example. There is an error resulting from negligence or negligence when The culprit does not want the result guy As legitimate in the crimes of murder or manslaughter abuse, as well as the mistake, which consists of a lack of knowledge of the existence of this law imposes the obligation, in addition to this supposed error is evident once the lack of respect for the specific legal basis (1).

The second requirement

Damages arising from the crime of medical fraud

Drug fraud is a crime punishable by law. The act of cheating may lose the effectiveness of the medicine and become useless in healing the patient or relieving his pain. Medical fraud may result in complications and complications that cause new diseases or permanent disabilities or Patient.

As a result, the crime of medical fraud is entitled to the penalty provided for by law when one of the acts constituting the crime mentioned above has been achieved, 2 but this punishment is not sufficient when the results of the medical fraud and its effects on the health and life of the person appear, General laws such as the Iraqi Penal Code No. (111) for the year 1969 (amended). In addition to the entitlement of the victim or his family to compensate for the material and moral damages he suffered in accordance with the provisions of the Iraqi Civil Code No. (40) of the Penal Code, (1951), which will be addressed in the research.

The third topic

Consumer Legal Protection (Patient)

The legal protection of consumers from medical fraud can be considered from many angles. Protection in general laws may be part of consumer protection in general. Protection may be provided for in laws and decisions on the subject of medical fraud. In both cases, protection is either penal to punish the perpetrator, Or civil damages to the consumer.

We will discuss the types of legal protection in two cases, the first of which we have allocated for protection in the general laws, and we have specified the second requirement for protection in special laws and decisions.

First requirement

Legal protection of the consumer from medical fraud

General laws dealt with the protection of the consumer without the allocation of the type of profession, or the function of a producer or factory or seller or distributor of the service or commodity and we will discuss briefly in accordance with the following laws:

1. Consumer Protection in the Iraqi Civil Code No. (40) of (1951) The Iraqi Civil Code contains legal provisions relating to defects of will and arbitrary conditions and ensuring hidden defects as general means of consumer protection.

First: Disadvantages of will:

It is known that the defects of the will are coercion, error, fraud, defamation and exploitation, even if we refer to the provisions of the Civil Code, we find that any defect other than exploitation leads to make the contract suspended, and in our subject we may benefit from the absence of fraud or defamation without other defects as stated in paragraph (2) (121) of the Iraqi Civil Code stipulates that (if one of the contractors is tricked into the other and the contract is grossly unfair, the contract is suspended on the contracted contractor's license), and the means used by the producer shall be considered as means of fraud, Three conditions:

1. The use of illegal means, such as the promotion of large amounts and advertisements for the drug and repeated by all means of advertising, which prompt the consumer to seek medicine.
2. Contact the fraud of the other contractor, and we mean that the fraud of one of the contractors on the other contractor.
3. The cheating is the one that caused the consumer to contract. If the defect of fraud is the most faulty benefit for the consumer, he does not achieve it except in exceptional cases. For example, the judiciary does not judge cheating as a result of secrecy only on the basis of the failure of the cheater to do so. The duty, if the performance of this duty is subject to the authority of discretionary judge, this means that this means is inadequate. (1)

Second: Arbitrary Conditions:

The question first comes about the legal value of the arbitrary conditions in the contract for the purchase of medication and the possibility of achieving the necessary protection for the patient?

Such contracts can not be regarded as contracts of obedience, even if there is an imbalance between the parties to the contract, the pharmacist and the patient, since the pharmacist has the ability and experience in the drug, and the patient is not able to understand and understand what the drug and its composition and specifications and impact, The drug is not a monopoly on a particular company because of the spread and spread of the pharmaceutical industry in all countries of the world, and therefore we see

that the arbitrary conditions are not enough to ensure the necessary protection of the consumer.

Third: hidden defects:

Article (558) of the Iraqi Civil Code states that "If the sale shows an old defect, the purchaser is an arbitrator, if he wishes to refund it and if he wishes to do so before it." As for compensation for damages to the consumer, The Iraqi Civil Code stipulates that "if the debtor has not committed fraud or a gross error, it shall not exceed in compensation what is normally expected at the time of the contract to be lost.

These two texts indicate that the condition of the defect in the medicine is to be old and that the patient is a purchaser who has the right to terminate the contract and return the medication. Article (169/3) has fulfilled the requirement of committing the manufacture, manufacture or sale of a fraudulent drug or a serious mistake, and shall be required to compensate for all damages, whether expected or unexpected.

However, the responsibility for ensuring hidden defects has been unable to provide adequate protection for the consumer, leading the French judiciary to try to adopt a more effective and appropriate means of liability and compensation, namely recognition of a special obligation to ensure safety. (1)

In its resolution of 1998, the French Court of Cassation expressed its commitment to a peaceful guarantee by stating that "the manufacturer shall be obliged to deliver a hali product from all palaces that would endanger people and funds in the sense that it is a product through which it obtains safety." (2).

The Iraqi law did not address the obligation to ensure safety. The Iraqi legislator stressed the obligation to ensure hidden defects in the contract of sale. As we have noted previously, the responsibility of ensuring hidden defects is insufficient to achieve the necessary protection for the consumer. The legislator left this to the rule of general rules. Some images of responsibility that would endanger the safety of persons were put in jeopardy in special laws.

The second requirement

Legal protection of consumers from medical fraud in private laws

We have found that the Iraqi legislator and the guarantee of consumer safety has issued special laws sporadic and we are interested in this research to touch on those laws that provide protection against the dangers of adulterated medicine, many of these drugs cause the use of serious complications, and damages caused by the use of pharmaceuticals and pharmaceuticals the largest proportion Of the suits against producers, as the duty of space is very strict in terms of medicine and obligates its producers and sellers to the duty of disclosure even if the drug is licensed by the concerned authorities, 1 we will discuss these laws successively in four branches ...

Section I

Protection in the Narcotics Law No. (68) for the year (1965) amended Iraqi

The law regulates the use of narcotic drugs, which are used in some cases for medical purposes in terms of manufacture, import, export, and trade. (2) The legislator limited the manufacture of any drug listed in article 3 of the law to licensed institutions and shops and the need to obtain a special permit (4) No narcotic substance may be exported without the permission of the Ministry. 5 No narcotic substance may be acquired from the substances mentioned in Article (3) The third of the law is for doctors, dentists and

doctors Licensed pharmacists, licensed pharmaceutical manufacturers, government health institutions, institutions, institutes or persons who have been granted a permit for this purpose or who have been obtained by a licensed pharmacist under a prescription from a registered physician and authorized to him. (1)

The law forbids pharmacists to recall recipes containing cocaine or salts for use in eye droplets or for external use if the amount of cocaine or its salts in the prescribed product exceeds 30 mg or if it exceeds the percentage of cocaine or salts (4%). Cocaine or its salts with at least two medical substances. [2] The Iraqi legislator provided penal sanctions in Article 14 for violating the provisions of the law up to the death penalty. (3).

Section II

Protection in the law of practicing pharmacy profession No. (40) for the year (1970) Iraqi amended

This law aims to regulate the profession of pharmacy for the importance of this profession and its operators in the installation, fragmentation, processing or possession of any drug, drug or any substance for the purpose of selling or used to treat human or animal or protect them from diseases. (4)

As protect for the patients from the users of the drug, the law required everyone who practices the pharmacy profession on special conditions that no one else can practice. 5 However, the reality is that some pimps practice pharmacology despite their seriousness and their impact on the health and lives of patients because they deal with many types of medicines, Bad results occur due to lack of knowledge of these drugs and their complications. Despite the punishment imposed against those engaged in the profession of pharmacy without a permit, or obtaining a permit to open shop in a way to circumvent, since Article 50 of the law on the punishment of imprisonment for a period not exceeding three years or a fine not exceeding three hundred dinars, or both. The Iraqi legislator did not neglect to mention the corrupt or damaged medicines. The same penalty was imposed on the person who sold or offered to sell one of the medicines or medical or chemical or medicinal plants corrupt or damaged, and also dealt with the subject of medical fraud by stipulating the penalty of imprisonment or fine or both (Of cheating or imitating one of the medicines or medical or chemical preparations or selling any of them adulterated or imitated) (1). The legislator and Article 51 of the Law shall impose a penalty of imprisonment for a period not exceeding one year or a fine not exceeding one hundred dinars. Whoever imported, sold or offered to sell one of the preparations and chemicals without having a permit to do so. The promulgation of the Pharmacy Practitioners Act (1970) in Iraq, after 43 years, requires reconsideration of its provisions, especially the specific penalties for violating its provisions, since they are not commensurate with the current situation with the widespread and widespread phenomenon of cheating in the pharmacy profession and the tradition of medicines. The researchers and the researchers in the Arab Pharmacists Union have come up with an invention to create a new colored barcode on the pharmaceutical product through a sign that is impossible to counterfeit and respond to the mobile camera (3).

The law of the practice of pharmacists not only imposed penal sanctions on the manipulation, fraud, imitation and forgery of drugs, but also imposed sanctions on the closure of the profession, such as pharmacy, drug store, pharmaceutical factory, confiscation and destruction of tools and preparations and other materials seized during the violation. (4)

Section III

Protection in the Public Health Law No. (89) for the year 1981 (amended)

The Ministry of Health aims at creating the necessary requirements that guarantee the citizen the right to enjoy the full physical, mental, psychological and social health as stipulated in the Public Health Law. 5 In order to achieve its objectives. What is important in this research is the provision of medicines, medical supplies and equipment for the performance of their preventive and curative services, and this requires of course that there are special laboratories to conduct the biological, chemical and physical tests required on medicines and medical preparations to ensure that they are free of fraud, corruption or damage and determine their validity for human consumption (1)). There are in Iraq, the National Center for Pharmaceutical Control task examination of drugs imported and locally manufactured for the benefit of the public sector and the private sector, and the imposition of the legislature in the Public Health Law No. (89) for the year (1981) amended verdicts punitive in violation of its provisions between the closure of the shop and the fine, the penalty of imprisonment for a period not exceeding of two years (2). In order to impose control and inspection of the inspection devices to monitor stores and pharmacies and pharmaceutical factories, have those devices found large amounts of counterfeit and adulterated drugs often are cheating in medicine producing process by discreet international companies which are their drugs are expensive for example, it was found in one of the stores material (Duphaston) company (Abbott) purchased at a price of 2.5 dollars per pack, while the price of the original enclosure (9.5) dollars, making sure to control devices that Article adulterated (3). The establishment of a pharmaceutical factory on behalf of a pharmaceutical factory without formal approvals and the factory to manufacture and sell medical products, disinfectants and detergents, where the control devices proved the use of the factory for fake brands of known companies. The factory was seized and three samples of drugs seized at the factory To the national center in the factory to the National Center for Drug Control and Research. The results of the examination show that these materials do not conform to the standard specifications of the preparations. The models were contaminated with germs. The factory official was referred to the court to sell counterfeit medicines according to article 351. To endanger the health of citizens (4). In another case, it was discovered that one of the stores was used for the promotion and sale of untested drugs. Large amounts of medicines were found. The workers in the store processed the unregistered medicines in the Ministry of Health and there were other quantities of counterfeit medicines. And the transfer of the warehouse official to the Pharmacists' Syndicate, 1 and the official of the specialized drug store was referred to as a result of the seizure of several drugs that were counterfeit from the original companies such as:

Konacort vial, norgesic tab, dophaston tab, neurabin amp

Where the results of the examination of the samples of the seized drugs and compare them with the original medicines as counterfeit medicines for the original medicines, 2 that the process of drug fraud affected international companies in medicine, which affects the health of citizens who use the original material and find its effectiveness is good, while another citizen does not know It is noted that there is a drug with a great and dangerous effect, especially in the treatment of heart patients, diabetes and pressure and chronic diseases and intractable as in the material (Plavex) of the company (Sanofi),

which was found Simulated in one brain We can not distinguish between the imitator and the original, except for those with experience and competence (3).

It seems that the drug fraud has spread to most countries of the world without exception, even in developed countries, but this process relative, has been found large quantities of Viagra in Malaysia and Mexico, with a tradition of a well-packaged box and packaging discs with the brand and watermark of the company (Phizer) known globally (4).

Section IV

Protection in the decision of the Iraqi Revolutionary Command Council (dissolved) No. (39) for the year (1994)

The decision made the possession of the drugs for the purpose of trading if these materials are not equipped with an officially recognized source of the crimes of sabotage of the national economy and crimes against honor, and the perpetrators and all those who contributed or facilitated or participated in the commission of death or life imprisonment or temporary, And the confiscation of his movable and immovable property. [5] If these penalties can be considered deterrent, practical application indicates otherwise. There is negligence in imposing sanctions and taking legal action against manipulators. Some legal projects in Egypt were also provided to support the pharmaceutical industry, Because the current legislation is the Commercial Fraud Law, which does not exceed the penalty of 10,000 pounds and imprisonment for one month. This penalty does not represent the deterrent punishment, which made some cheating. Because of the temptations of the huge profits they are making (1).

Conclusion:

First: Results:

We found through the research that the phenomenon of medical fraud has expanded to include most of the countries of the world, and because of this phenomenon of the seriousness of the most important in affecting the health and life of man. And that the person is a consumer of medicine for the purpose of healing from disease and injuries, and that this phenomenon in itself constituted a crime described as a crime of economic sabotage and crimes against honor according to the laws of the situation.

The crime of cheating in the drug has taken many pictures starting from the process of manufacturing, production and use of raw materials, advertising and advertising of drugs and the practice of fraud and deception and fraud and conceal the fact of the articles constituting the approved specifications of the drug, and conceal or change or remove or misrepresent the validity date or re-packaging of damaged or expired medicines The validity of containers and packages of different validity and misleading to the patient, and the use of trade names of international companies in medicine.

We have also concluded that the countries of the world, including Iraq, have passed several laws aimed at protecting the sick consumer from fraud in medicine. These legislations included deterrent penalties for drug manipulators for the purpose of obtaining illegal and cheap material gain at the expense of patient safety and disease prevention and treatment.

We have seen from the study that the drug fraud led to the loss of large multi-million dollar damage to the economies of those countries, not to mention the loss of global manufacturers of medicine because of the tradition of their products.

In order to eliminate or minimize medical fraud, international cooperation has been achieved through conferences, seminars and targeted awareness.

It is noted that despite the existence of legislation that criminalizes these acts, but the role of censorship is still below the required level, as this requires the activation of the supervisory role and the tension with the manipulators of the lives of people and accountability.

Second: For the above, we present some suggestions regarding treatment of drug fraud:

First, because of the importance of the drug and its serious effects, it is necessary to find legislation on drug fraud instead of the legal texts scattered in many laws and that the draft law includes the necessary provisions for the protection of the patient, the supervisory role of state institutions, trade unions and associations concerned and the development of strict penal provisions.

Second: Giving importance to awareness programs, in order to educate citizens to avoid fraudulent, damaged and cheap medicines, and to report all cases of fraud, manipulation and forgery.

Third: Cooperation and coordination between the organs of the Ministry of Health and the Syndicate of Pharmacists to monitor the practice of pharmacy, and to prevent and account for those who are not authorized to practice the profession, and trade fake counterfeit medicines.

Fourth: The need to legislate a law for the Food and Drug Authority as an independent body to regulate the registration of medicines, inspection and control, and food control, similar to the bodies in the world, and at the level of the Arab world, the establishment of an Arab food and medicine to maintain the security of medicine and meet the challenges of drug quality.

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