

# COUNTERFEIT MEDICINES:

## AN IMMINENT RISK FOR THE LEBANESE HEALTH SECTOR

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## Counterfeit Medicines: an imminent risk for the Lebanese health sector

For some time now, the Lebanese have been living with the constant worry of how to secure their medicines following the deterioration of the economy and the financial crisis that the country has been suffering from and which has led to the lack of availability of most of the medicines from the pharmacies and hospitals. The Lebanese citizen is thus left to his own resources to search for any medicine that can cure him or prevent him from diseases, even coming from any source without verifying its credibility, quality or its importation according to the mandatory international standards.

Rather, he is left to beg for the medicines in the pharmacies, hospitals, on the internet and social media pages or resorts to asking relatives and friends coming to Lebanon from abroad to buy medicines from here or there, not to mention the merchants who are selling these drugs in the black market at high prices in foreign currencies without any accountability or supervision.

All these circumstances that currently accompany the process for buying medicines in Lebanon, increase the risks on the patient who unknowingly may buy counterfeit or expired or non-compliant medicines which might affect his health and constitute an imminent risk on his life especially with the outbreak of Corona Virus which threatens the lives of millions in the world including Lebanon.

The Counterfeit or falsified medicine is a medicament that bear the same name, packaging, pill design or color of the genuine medicament, where it cannot be differentiated in the form from the genuine one, but it is not manufactured in the Manufacturing Company factories or any of its branches or any of the Licensed Factories. It is mainly manufactured in Primitive factories that do not have any of the elements of good manufacturing and hygiene. In addition, most likely, it does not contain any active materials and it is manufactured from clay or flour or other substances not related to the medicament, or it contains a very low percentage of active materials which do not give the same result in the treatment that the patient is expecting. The World Health Organization (WHO) estimates that 10% of the total medicines in poor and developing countries are counterfeit and this percentage may reach up to 50% in some countries namely in African Countries.

In Lebanon, even before the current crisis, counterfeit medicines were found from time to time in the market and in some pharmacies which were, knowingly or unintentionally, selling counterfeit medicines to the patients. Some of these incidences were raised in the media such as the seizure of large quantities of counterfeit medicines targeting patients with heart diseases in several pharmacies, or the provision of counterfeit cancer treatments to patients consisting of water instead of active materials which could help in their treatment, relieve their pain or save their lives. The most recent case was related to COVID-19 Vaccines, where some patients in one of the hospitals were given counterfeit vaccines made of water and salt instead of the original vaccines.

In addition, the current situation and the lack of medicines and vaccines in the Lebanese Market could encourage some merchants to tamper with the citizen's health and make huge profits thereof, by changing and falsifying the expiry date of the medicaments and vaccines which are expired and selling them in the black market as valid and at very high prices.

On the other hand, the importation of medicines through illegitimate channels, even if genuine and valid, may lead to its damage since the importation and freight of the medicaments should be done according to specific conditions respecting certain requirements of temperature, humidity and other mandatory factors to ensure the quality of this medication and not converting it into ineffective or even toxic substances. As for the ways in which the medicines are currently delivered to Lebanon from outside the specialized and licensed companies, whether by land in cars and trucks, or by air through those coming from abroad, it does not provide the conditions required to preserve these medicaments and to ensure their quality.

The phenomenon of importing generic medicines has also increased recently which are medicines that contain the same pharmaceutical composition as the original medicine that carries a famous brand but it is manufactured by other companies under different brand names. In most of the cases, these medicines are good and effective and do not differ from the genuine brand. While in other cases, the medicine considered as "generic" does not contain sufficient active materials and thus will not have the same effect as the genuine one.

This may pose a threat to the health and lives of patients, especially with the absence of a central laboratory in Lebanon that must examine these medicines and ensure their composition and the percentage of active substances in them before registering them with the Ministry of Public Health and allowing their import, which is not currently available in Lebanon. Therefore, even when searching for a generic medicament, we should verify its source and the manufacturing company and its reputation and the extent of its abidance by the standards of good manufacturing of medicines.

As from a legal perspective, the Pharmacist Law in Lebanon no. 367 dated 01/08/1994, punishes the Counterfeiting or the sale of counterfeit, smuggled and expired medicines and those that are circulated without being duly registered with the Ministry of Public Health where article 92 of this law stipulates that he shall be condemned for prison period of 5 years minimum and for a fine from One Hundred Million to One Hundred and Fifty Million Lebanese Pounds, in addition the destruction of the medicines at its expense, whoever commits fraud in pharmaceutical substances, or sells, manufactures, imports, distributes, or in general, performs any work related to counterfeit, smuggled, expired, not registered or prohibited to be traded medicines.

Several Decisions and judgements were issued by the Lebanese Judiciary which criminalizes these acts and imposes severe penalties on infringers, sometimes reaching imprisonment. The Criminal Judge of Beirut Pr. Chadi Kardouhi issued a decision in a legal action related to the seizure of counterfeit medicines in a shop and ruled as follows:

- 1- To convict the defendant N.S of the offense set forth in Article 702 of the Penal Code and imprisonment for 3 months.
- 2- To convict the defendant of the offense set forth in Article 714 and 201 of the Penal Code with a fine of one hundred thousand Lebanese Pounds.
- 3- The convict the defendant of the offense set forth in Article 92 of the law No. 367/94 amended by Law No. 117 dated 26/06/2010 with imprisonment for a period of 5 years and a fine of one hundred million Lebanese Pounds.
- 4- The imposition of the strictest penalty, the imprisonment for a period of 5 years and a fine of one hundred million Lebanese Pounds in addition to obliging him to destroy the seized drugs at his expense provided that in the event of non-payment, he shall be imprisoned for one day against every then thousand Lebanese Pounds.

5- To impose upon the defendant the payment of fifty million Lebanese Pounds to the plaintiff company as a compensation for the damage.

**(Criminal Judge of Beirut, Decision No. 354/2018 dated 25/09/2018, Eli Lilly and Company vs. N.S- Not published).**

For all these reasons, the Lebanese citizen has been put in a dilemma today between deciding not taking the necessary medicines, especially those related to chronic or incurable diseases, and trying to secure the medicine from any source and at any cost and bearing the risks that may result from the fact that this medicine is counterfeit, expired or non-compliant due to the import method that does not conform with the mandatory conditions.

The awareness of the citizen and the verification of the source of the medicines that he receives before using it, the intervention of the State and its bodies to secure the medicines to the patients in Lebanon and to stop the black market, seize the counterfeit, expired or non-compliant medicaments, and to prosecute the perpetrators and severely condemning them, is the only way out of this crisis with the least possible losses.