

Egyptian Law on Promotion of Healthcare Products and Services

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In its attempt to protect consumers' health, Egypt has recently issued Law No. 206 of 2017 (the "Law") regulating the promotion of any healthcare goods and/or services. An important element of the Law is the forming of a committee that has sole authority to supervise the content of any advertisement related to medical goods and services (the "Committee").

The Law defines healthcare goods as any products, natural materials, cosmetics or medical goods that serve a therapeutic, cautionary, or any other medical purpose, regardless of form, component, or material including packaging manner or country of origin. Healthcare services is defined in the Law as any business, activity or effort exerted for therapeutic, cautionary or other medical purpose which does not fall within the scope of healthcare goods.

As for the definition of promotion, the Law has also allowed for a very wide definition of what can be considered a promotion of medical goods and services, including written, auditory, visual, and electronic promotion.

The Law will become effective upon the issuance of its related executive regulations ("Executive Regulations"). Until such date, the current regulations governing the promotional content of healthcare goods and services will remain applicable. However, the formation of the Committee will dramatically change the application of these current regulations, given that the Committee will be tasked with supervising all promotions of medical goods and services, a task that was previously distributed among many different administration bodies in the Ministry of Health.

Formation of the Committee

The formation of the Committee shall take place by virtue of a Decree by the Prime Minister. According to the Law, the Committee will be headed by the Minister of Health or a representative. Further, the Committee's members must include representatives from the Ministry of Health, Ministry of Supply and Internal Trade, Ministry of Interior Affairs, Ministry of Justice, Medical and Pharmaceutical Syndicates and a representative of the Consumer Protection Authority.

In addition to the above members, the Committee may temporarily use any experts who may be deemed required. However, such experts will not have any counted votes on any resolutions to be made by the Committee's members.

Competence of the Committee

The Committee is tasked with granting licenses in relation to the promotion of health products or services, reviewing the content of all kinds of advertisements and ensuring their compliance to public order and morals, contacting the competent authorities to cease publishing or broadcasting unapproved marketing material, and monitoring and ensuring that the health products and services meet their legal

requirements.

However the competence and authority of the Committee may be further strengthened and broadened upon the issuance of the Executive Regulations since this is a common pattern of executive regulations.

Impact of the Law on existing relevant regulations

The current applicable regulations, namely Ministerial Decree No. 106 of 1996, established a supervisory authority for the content of promotions related to cosmetics only (i.e. products manufactured for non-therapeutic and external use). The authority has to approve the content of the promotion prior to its broadcast and release.

As for the promotion of therapeutic medications, this is regulated by Decree No. 113 of 2004 detailing the process for licensing a medication for trading. Once a licence is obtained, the promotion of the product is authorised but no further supervision or monitoring was set out in or regulated by such decree.

Therefore, due to the necessity of further protecting consumer health, the content of the 1996 and 2004 decrees was deemed inadequate and incomplete since a complete supervision over promotions of products and services related to the health of a human body was deemed necessary and in line with international standards. To this end, the Egyptian government should be successful in achieving such objective by establishing the aforementioned Committee with extensive powers.

Through the Law, the Committee shall unify the way in which the marketing of all health products are regulated and monitored. The promotion of health products was auxiliary to the tasks of the current committees, which should have a more scientific role, rather than a censorship role on the promotion of healthcare products and services. Therefore, it was essential to assign an independent committee with rules that, if violated, would lead to clear and assertive penalties, which is most likely to be established, upon the enforcement of the Law.

Applied Sanctions in case of breach

Given the sensitivity of the subject matter, severe sanctions shall be applied to persons publishing or allowing publishing of any advertisement of any health products or services without obtaining the required licensing from the Committee. Such persons may be subject to:

the confiscation of the medical products, gained profits and any materials;

imprisonment of a period of not less than one (1) month and/or payment of a fine of not less than EGP 50,000 and not exceeding EGP 100,000.

In the event that such advertised health product or service caused the death or permanent disability of a consumer, the sanction shall be the imprisonment for a period not less than one (1) month and a fine of not less than EGP 200,000 and not exceeding EGP 500,000.