

## China Tightens Controls over Commercial Bribery in the Health Care Industry

As of March 1, 2014, the China National Health and Family Planning Commission (the “Commission”) will compile bribery blacklists in the health care industry from its provincial counterparts and publish such information on its official website. According to the *Circular Concerning Rules on the Establishment of Commercial Bribery Blacklists for Purchase and Distribution in the Health Care Industry* (Circular No. [2013] 50) (“Circular”) issued by the Commission on December 25, 2013, companies and individuals providing financial or other benefits to staff in health care institutions will be put on the blacklist if found associated with any of the following violations:

- Have been convicted of bribery as a criminal offence;
- Have been issued a non-prosecution decision by the People’s Procuratorate when the bribery offenses are deemed minor;
- Have been investigated and punished for bribery by the discipline supervision authorities of the China Communist Party; or
- Have received administrative penalties for bribery from relevant administrative authorities.

Public or state-funded hospitals in any province shall be prohibited from purchasing any pharmaceutical or medical device products from the companies blacklisted by the health authority in the same province for two years. Public or state-funded hospitals in other provinces are entitled to reduce such companies’ bidding scores during centralized tenders for two years as well. Companies that are blacklisted twice in any five-year period will be deprived of their qualifications for supplying all public and state-funded hospitals nationwide for two years.

The blacklist system for companies and individuals that have been charged with, sued for, or investigated for bribery in the health care industry was originally developed in rules issued by the Commission (previously known as the Ministry of Health) in 2007<sup>1</sup> (the “2007 Rules”), and the Circular was amended on the basis of the 2007 Rules. The 2007 Rules will be abolished once the Circular becomes effective.

The Commission also recently issued a *Notice on the Nine Prohibitions* with immediate effect to reinforce its anti-bribery determination. Health care institutions are prohibited from connecting remuneration of health care professionals with their prescriptions of drugs or medical exams, connecting procurement of pharmaceuticals or medical devices with donations or sponsorships made by companies, releasing statistics of prescriptions to any company for a commercial purpose, or receiving kickbacks (including non-financial benefits) from any company or individual. Local health authorities will impose penalties ranging from written citations/warnings, rectification orders, downgrading, orders for cease of operation, or license revocation for any breach of the Nine Prohibitions. Health care professionals found associated with any breach of the Nine Prohibitions will be subject to administration disciplines, dismissals, orders for cease of medical practice, or revocation of professional licenses, and the breaches will be made public by the Commission.

If you would like to discuss the foregoing or any other related matter, please contact [Katherine Wang](#) or your usual Ropes & Gray advisor.

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<sup>1</sup> Rules on Establishment of Commercial Bribery Blacklist for Purchase and Distribution in the Pharmaceutical Industry (Circular No. [2007] 28); promulgated by the Ministry of Health on January 19, 2007