

## 《医药企业防范商业贿赂风险合规指引》配套案例手册

### Supporting Cases for the Compliance Guidelines for Healthcare Companies to Prevent Commercial Bribery Risks

#### 1. 学术拜访 ACADEMIC VISITS

##### 案例 1

A 公司系药品生产经营企业，主要从事“B 品牌”处方药品的生产及营销推广业务。

为提升“B 品牌”处方药品临床用量，A 公司医药代表甲某与 C 医院 D 科室主任乙某、护士长丙某达成口头约定：由丙某定期统计汇总“B 品牌”处方药品在 D 科室的开方量，于每月底甲某进院拜访交流时交给甲某核对。甲某则按照统方情况按月向乙某、丙某给付回扣。

经核实，上述回扣系 A 公司财务先后以报销餐饮费、差旅费等销售费用名义从账内套出交由甲某，再由甲某在开展学术拜访活动中以现金形式给付乙某、丙某。A 公司的上述行为构成商业贿赂。

##### Case 1

Company A is a pharmaceutical manufacturer and distributor primarily engaged in the production and marketing of “Brand B” prescription drugs.

To increase the clinical usage of “Brand B” drugs, Company A’s medical representative, Mr. X, reached a verbal agreement with the director of Department D, Dr. Y, and the head nurse, Ms. Z, at Hospital C. Ms. Z would regularly compile and report the prescription volume of “Brand B” drugs in Department D. At the end of each month, Mr. X would visit the hospital for academic exchange and collect the data for verification. Based on the prescription volume, Mr. X would pay monthly kickbacks to Dr. Y and Ms. Z.

Upon investigation, these kickbacks were disguised as reimbursed expenses for catering and travel, processed through Company A’s finance department and then handed to Mr. X, who paid them in cash during academic visits. The above conduct by Company A constitutes commercial bribery.

##### 案例 2

A 公司系“B”品牌医疗器械、耗材经销商，通过公开投标方式获得 C 地区医院的血透耗材供货机会。

为获得 C 地区医院肾内科主任甲某支持，A 公司实际负责人乙某多次利用学术拜访机会向甲某给付现金“好处费”，给付标准为每次 10000 元至 30000 元不等。在甲某的不正当关照下，C 医院肾内科关于“B”品牌耗材的使用量得到明显提升，A 公司的上述行为构成商业贿赂。

## **Case 2**

Company A is a distributor of “Brand B” medical devices and consumables. It secured a supply contract for dialysis consumables with a hospital in Region C through public bidding.

To gain support from the nephrology department director, Dr. X, at the hospital, Company A’s actual controller, Mr. Y, repeatedly used academic visit opportunities to pay cash “incentives” to Dr. X, ranging from CNY 10,000 to 30,000 per visit. Under Dr. X’s improper influence, the usage of “Brand B” consumables in the nephrology department significantly increased. The above conduct by Company A constitutes commercial bribery.

## **2. 业务接待 BUSINESS HOSPITALITY**

### **案例 1**

A 公司系药物生产、销售公司，主要从事“B”品牌处方药物的生产、销售及市场推广业务。为加强与医生沟通交流，A 公司邀请多家医院神经内科科室医生及家属参加公司年会庆典，并在庆典结束后安排高档酒店宴请参会医生及家属。经查明，A 公司医药代表在宴请活动中，以“年终慰问金”名义当场向医生家属发放现金红包。

上述宴请、“红包”等费用开支由 A 公司医药代表填写“费用申请单”进行审核申请，再由 A 公司财务在账内以年会餐饮费用名目列支报销。A 公司的上述行为构成商业贿赂。

### **Case 1**

Company A is a pharmaceutical manufacturing and sales company, primarily engaged in the production, sales, and marketing of “Brand B” prescription drugs. To enhance communication with healthcare professionals (HCPs), Company A invited neurologists and their family members from several hospitals to attend its annual celebration. After the event, the company hosted a banquet at a luxury hotel for the attendees. Upon investigation, it was found that during the banquet event, Company A’s medical representative distributed cash-filled red envelopes to the family members of doctors under the pretense of “year-end appreciation payments.”

The expenses for the banquet and the red envelopes were submitted by the medical representative through “expense application forms” for internal approval, and subsequently reimbursed by Company A’s finance department under the category of annual meeting catering expenses. This conduct by Company A constitutes commercial bribery.

### **案例 2**

A 公司系 B 市知名药品研发、生产企业。为庆祝自主原研新药“C”品牌药品成功获批上市，A 公司筹备召开了新药上市庆典活动，邀请与 A 公司存在业务关系的 D 市三甲医院科室主任甲某参加庆典活动。

为了拉近与甲某关系，A 公司销售经理乙某在庆典活动结束后安排甲某前往 B 市的 5A 级旅游景点游玩，并于当晚在某高档会所宴请甲某，期间乙某以赠送庆典纪念礼品为由，向甲某个人赠送价值人民币 2 万元的黄金吊坠一只。A 公司的上述行为构成商业贿赂。

## **Case 2**

Company A is a well-known pharmaceutical R&D and manufacturing company in City B. To celebrate the market approval of its new proprietary drug “Brand C,” Company A organized a launch event and invited Dr. X, a department director from a top-tier hospital in City D with whom it had business dealings.

To build rapport with Dr. X, Company A’s sales manager, Mr. Y, arranged for Dr. X to visit a 5A-rated tourist attraction in City B after the celebration event. That evening, Mr. Y hosted a banquet for Dr. X at a high-end private club. During the dinner, under the pretense of presenting a commemorative gift for the celebration, Mr. Y personally gave Dr. X a gold pendant valued at CNY 20,000. This conduct by Company A constitutes commercial bribery.

## **3. 咨询服务 CONSULTING SERVICES**

### **案例 1**

A 公司系医疗器械经销商，主要从事“B”品牌冠脉支架、球囊、导管等产品的经销业务。为维护与客户单位 B 医院心内科科室主任医师甲某、副主任医师乙某的业务关系，A 公司指使业务员丙某编造会议邀请函、签到表、讲者协议等会议证明材料、以此假借支付“讲课费”“咨询费”名义先后向甲某、乙某支付现金合计 6000 元。经核实，甲某、乙某实际并未为 A 公司提供过任何咨询、讲课服务，A 公司提供的上述会议证明材料均为虚假证明材料。A 公司的上述行为构成商业贿赂。

### **Case 1**

Company A is a medical device distributor primarily engaged in the distribution of “Brand B” coronary stents, balloons, catheters, and related products. To maintain its business relationship with the cardiology department at Hospital B, specifically with Dr. X (who heads the department) and Dr. Y (the deputy head of the department), Company A instructed its sales representative, Mr. Z, to fabricate documentation including meeting invitations, sign-in sheets, and speaker agreements. These documents were used to justify payments characterized as “lecture fees” and “consulting fees,” totaling CNY 6,000 in cash to Dr. X and Dr. Y.

Upon verification, neither doctor had provided any actual consulting or lecture services to Company A, and all supporting documents were found to be falsified. The above conduct by Company A constitutes commercial bribery.

#### 4. 外包服务 OUTSOURCING

##### 案例 1

A 公司系药品销售企业，主要从事心血管类药品的销售。为谋求交易机会，A 公司组织其员工近亲属注册成立多家推广咨询类小微企业，并将相关小微企业银行账户、印鉴、U 盾及负责人银行卡交由 A 公司财务部门统一保管。

嗣后，A 公司以营销推广服务费名义与上述小微企业签订市场营销策划服务协议，并支付数千万元服务费用，再由 A 公司财务通过小微企业银行账户进行资金分解后转入特定人员（各地药品销售区域经理和代理商）账户，用于向客户医院医生给付财物，促进药品销量。A 公司的上述行为构成商业贿赂。

##### Case 1

Company A is a pharmaceutical sales company primarily engaged in the distribution of cardiovascular drugs. To secure business opportunities, Company A organized for its employees' close relatives to register multiple small consulting firms. These entities were set up as shell companies and classified as marketing and promotional service providers. Company A's finance department centrally managed these entities' bank accounts, company seals, bank account authentication keys, and the responsible individuals' bank cards.

Subsequently, Company A signed marketing planning service agreements with the aforementioned small enterprises under the guise of "marketing and promotional service fees," and paid tens of millions of yuan in service fees. Company A's finance department then used the bank accounts of these small enterprises to split the funds and transfer them to designated individuals (regional pharmaceutical sales managers and agents) for the purpose of providing benefits to HCPs and boosting drug sales. This conduct by Company A constitutes commercial bribery.

##### 案例 2

A 公司系药品生产企业，主要从事精神类药物的生产。为推广自营“B 品牌”处方药品，与医药推广企业 C 公司签订为期一年的市场营销策划服务协议，书面约定由 C 公司为“B 品牌”处方药品在 D 地区提供包括市场信息收集维护、组织学术推广活动（开展学术会议、走访医生）以及市场策划分析报告等服务，A 公司向其支付服务费。

经核查，C 公司实际并未向 A 公司提供过市场信息收集维护、组织学术推广活动等服务，也未向 A 公司提交推广证明材料。上述服务费实际由 C 公司推广人员根据 A 公司授意以现金方式向多名医生行贿。A、C 公司上述行为共同构成商业贿赂。

##### Case 2

Company A is a pharmaceutical manufacturer primarily engaged in the production of neurological drugs. To promote its self-marketed "Brand B" prescription drugs, Company A signed a one-year marketing planning service agreement with a

pharmaceutical promotion company, Company C. The agreement stipulated that Company C would provide services in Region D for “Brand B” drugs, including market intelligence collection and maintenance, organizing academic promotion activities (such as academic conferences and HCP visits), and preparing market strategy analysis reports. Company A paid service fees accordingly.

Upon investigation, Company C did not actually provide any of the agreed services—no market intelligence, no academic events, and no promotional materials were delivered. Instead, the service fees were used by Company C’s promotional staff, with Company A’s approval, to make cash payments to multiple HCPs.

The conduct of both Company A and Company C constitutes commercial bribery.

## **5. 折扣、折让及佣金 DISCOUNTS, REBATES AND COMMISSIONS**

### **案例 1**

A 公司系医疗器械销售企业，主要从事医疗器械及配套耗材的批发、零售业务。B 公司系 A 公司授权经销商，通过平台分销商向 A 公司采购医疗器械及配套耗材，再销往医院。为了提升球囊扩张导管销量，A 公司销售人员甲某和 B 公司销售经理乙某经过商议决定向医院科室主任丙某给付现金回扣，钱款由双方共同承担，A 公司承担的部分通过货款抵扣方式传递给 B 公司。甲某、乙某与丙某口头约定，根据其手术中球囊扩张导管的使用数量按照 600 元/ 个的标准给付回扣。

经统计，A 公司和 B 公司先后多次向丙某给付现金回扣合计 60 万余元。A、B 公司上述行为共同构成商业贿赂。

### **Case 1**

Company A is a medical device distributor engaged in the wholesale and retail of medical devices and related consumables. Company B is an authorized distributor of Company A, purchasing products through a platform and reselling them to hospitals. To boost sales of balloon dilation catheters, Company A’s sales representative, Mr. X, and Company B’s sales manager, Mr. Y, agreed to pay cash kickbacks to a hospital department director, Dr. Z. The payments were jointly funded by both companies, with Company A’s portion transferred to Company B via payment deductions.

Mr. X, Mr. Y, and Dr. Z verbally agreed to a kickback rate of CNY 600 per catheter used in surgeries. According to statistics, Companies A and B paid Dr. Z over CNY 600,000 in cash kickbacks across multiple transactions.

This conduct by Companies A and B jointly constitutes commercial bribery.

## **6. 捐赠、赞助、资助 DONATIONS, SPONSORSHIPS, GRANTS**

### **案例 1**

A 公司系药品销售企业，为谋取交易机会，与 B 基金会签订科研项目定向捐赠协议，指定甲某、乙某、丙某 3 名客户医院医生为具体受益人选。为实现 A 公司定向捐赠目的，B 基金会未按照流程公开发布项目征集通知，前述 3 名医生根据 A 公司授意向 B 基金提交了项目申报材料。嗣后，甲某、乙某、丙某三人作为项目唯一申请人获得定向捐赠 300 万余元。A 公司的上述行为构成商业贿赂。

### **Case 1**

Company A is a pharmaceutical sales company. To secure business opportunities, it signed a directed donation agreement with Foundation B under the guise of a scientific research project. The agreement designated three hospital doctors—Dr. X, Dr. Y, and Dr. Z—as specific beneficiaries. To ensure the directed donation was executed, Foundation B did not follow standard procedures to publicly announce or solicit project applications. Instead, the three HCPs submitted project proposals directly to Foundation B based on Company A’s instructions. Subsequently, Dr. X, Dr. Y, and Dr. Z were the sole applicants and received over CNY 3 million in directed donations. The above conduct by Company A constitutes commercial bribery.

### **案例 2**

A 公司系药品经销企业，主要从事神经系统类药物的经销。为维护客户医院医生关系，A 公司主动联系 B 协会，帮助客户医院科室主任甲某获得“国际阿尔兹海默症研讨会”的自费参会名额。

嗣后，A 公司为甲某购买往返行程的头等舱机票，并支付五星级酒店总统套房住宿等差旅费用，共计人民币 10 万余元。A 公司的上述行为构成商业贿赂。

### **Case 2**

Company A is a pharmaceutical distributor primarily engaged in the distribution of neurological drugs. To maintain relationships with customer HCPs, Company A proactively contacted Association B to assist a hospital department director, Dr. X, in obtaining a self-funded conference registration at the “International ALS Research Conference.”

Subsequently, Company A purchased first-class round-trip airfare for Dr. X and covered travel expenses including accommodation in a presidential suite at a five-star hotel, totaling over CNY 100,000. This conduct by Company A constitutes commercial bribery.

## **7. 设备无偿投放 PROVISION OF FREE EQUIPMENT**

### **案例 1**

A 公司系医疗器械经营企业，与 B 医院签订协议，约定 A 公司免费提供 3 台胶片打印机给 B 医院使用，合作期五年。

协议规定，合作期内 B 医院必须从 A 公司采购该医疗设备配套胶片，B 医院必须保证每月胶片采购数量不少于 1000 张。配套胶片采购款满 50 万元后，医疗设备的产权归 B 医院所有。

A 公司的上述行为构成商业贿赂。

### **Case 1**

Company A is a medical device distributor. It signed an agreement with Hospital B to provide three film printers free of charge for hospital use, with a term of five years.

The agreement stipulated that during the term, Hospital B must purchase the corresponding film sheets for the equipment from Company A. Hospital B was required to ensure a minimum monthly purchase volume of 1,000 sheets. Once the cumulative purchase amount reached CNY 500,000, ownership of the medical equipment would be transferred to Hospital B.

This conduct by Company A constitutes commercial bribery.

## **8. 临床研究 CLINICAL RESEARCH**

### **案例 1**

A 公司系药品生产企业，主要从事抗癌类药物研发制造，委托 B 公司为其开展新药临床试验相关服务。

为“等效性预实验”项目尽快开展、降低“生物等效性预实验”项目合同金额、缩短项目周期，并维护与甲某的关系，A 公司指使 B 公司先后多次向 C 临床试验机构负责管理临床试验主任甲某赠送现金，并赠与甲某关联公司 20% 股份。A 公司的上述行为构成商业贿赂。

### **Case 1**

Company A is a pharmaceutical manufacturer focused on the development and production of oncology drugs. It engaged Company B to conduct clinical trial services for a new drug.

To expedite the launch of a “preliminary equivalence study,” reduce the contract value of the “bioequivalence pre-study,” shorten the project timeline, and maintain its relationship with Dr. X, Company A instructed Company B to repeatedly provide cash payments to Dr. X, the clinical trial director at Institution C. Additionally, Company A arranged for Dr. X to receive a 20% equity stake in a related company.

This conduct by Company A constitutes commercial bribery.

### **案例 2**

A 公司系医药生产企业，主要从事“B”品牌神经类临床药物的生产、销售及市场推广业务。为谋取竞争优势，A 公司指使医药代表与甲某等十余家客户医院的神经内科科室主任达成口头约定：根据对应医院“B”品牌药品临床销售额的增长量向甲某等科室主任个人支付“顾问费”。

嗣后，A 公司以开展临床研究为名与甲某等十余家客户医院的神经内科科室主任签订外聘劳务协议，再由 A 公司医药代表编造会议签到表、学术讨论记录、调研文章等凭证报销“顾问费”，以此假借支付“顾问费”名义向甲某等人支付现金合计二十余万元。

经核实，甲某等人实际并未与 A 公司合作开展临床研究项目，A 公司提供的签到表、学术讨论记录、调研文章资料均为虚假证明材料。A 公司的上述行为构成商业贿赂。

## **Case 2**

Company A is a pharmaceutical company engaged in the production, sales, and marketing of “Brand B” neurological drugs. To gain a competitive advantage, Company A instructed its medical representatives to reach verbal agreements with neurology department heads at over ten client hospitals, including Dr. X. Under these agreements, Company A would pay “consulting fees” to the department heads based on the increase in clinical sales of “Brand B” drugs at their respective hospitals.

Subsequently, under the pretense of conducting clinical research, Company A signed external labor service agreements with these department heads. Company A’s medical representatives then fabricated supporting documents—including meeting sign-in sheets, academic discussion records, and research articles—to justify the reimbursement of “consulting fees.” Using this method, Company A paid over CNY 200,000 in cash to the individuals involved, including Dr. X.

Upon investigation, it was confirmed that Dr. X and the other department heads had not actually collaborated with Company A on any clinical research projects, and all supporting materials provided by Company A were falsified. This conduct by Company A constitutes commercial bribery.

## **9. 零售终端销售 RETAIL SALES**

### **案例 1**

A 公司系药品，从事药品推广业务，为提升代理药品的销量，A 公司员工甲某与 B 药店销售人员乙某口头约定优先推荐 A 公司药品，并按照每盒药品几十元不等的金额给予乙某好处费。乙某通过微信将购物小票照片发给甲某。月底，甲某根据小票统计月销量并以红包的方式向乙某发放好处费，再以“推广费”的名义向公司报销。A 公司的上述行为构成商业贿赂。

### **Case 1**

Company A is a pharmaceutical company engaged in drug promotion. To increase the sales volume of its distributed drugs, an employee of Company A, Mr. X, reached a



verbal agreement with Ms. Y, a sales clerk at Pharmacy B, to prioritize recommending Company A's drugs. As part of the agreement, Ms. Y would receive a cash incentive of several dozen yuan per box sold. Ms. Y would send photos of the purchase receipts to Mr. X via WeChat. At the end of each month, Mr. X would calculate the monthly sales volume based on the receipts and distribute the incentives to Ms. Y in red envelopes. These payments were then reported to the company as "promotion fees."

This conduct by Company A constitutes commercial bribery.

## **案例 2**

A 药店系从事药品销售，为提升药店药品的销量，与 B 医院门诊部医生甲某和乙某达成一致，甲某和乙某在开具处方过程中，以医院药房无某款处方药为由，推荐患者到 A 药店购买该款处方药。

A 药店每月根据甲某和乙某开具该款处方药的销售量，按约定比例以现金的方式支付给甲某和乙某。

A 药店的上述行为构成商业贿赂。

## **Case 2**

Pharmacy A is engaged in pharmaceutical retail. To increase its drug sales, it reached an agreement with Dr. X and Dr. Y, outpatient doctors at Hospital B. During the prescription process, Dr. X and Dr. Y would inform patients that certain prescribed drugs were not available at the hospital pharmacy and recommend that they purchase the drugs at Pharmacy A.

Each month, Pharmacy A would calculate the sales volume of the recommended drugs based on the prescriptions issued by Dr. X and Dr. Y and pay them cash incentives according to a pre-agreed percentage.

This conduct by Pharmacy A constitutes commercial bribery.