

Administrative Measures for Practice by Lawyers

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Chapter 1: General Provisions

Article 1 These Measures are formulated to regulate lawyers' practice licensing, secure lawyers' lawful practice, and intensify the supervision and regulation on lawyers' practice in accordance with the Law of the People's Republic of China on Lawyers (hereinafter referred to as the Lawyers Law) and other relevant laws and regulations.

Article 2 The "lawyer" refers to a practitioner who has acquired a law license in accordance with applicable laws and accepts the authorization or appointment to provide legal services for a client.

Article 3 Lawyers shall safeguard the lawful rights and interests of their clients, guarantee the accurate implementation of applicable laws and maintain social fairness and justice through their practice.

Article 4 The lawful practice of lawyers shall be protected by law, and the lawful rights and interests of the lawyers may not be infringed upon by any organization or individual. Judicial administrative authorities and lawyers associations shall protect the practicing rights of lawyers in accordance with applicable laws.

Article 5 Judicial administrative authorities shall supervise and guide lawyers' practice in accordance with the Lawyers Law and these Measures. Lawyers associations shall implement industrial self-discipline in lawyers' practice in accordance with the Lawyers Law, articles of association and the industry code.

Chapter 2: Requirements for Practice by Lawyers

Article 6 When applying for practice as a lawyer, the applicant shall:

- (1) support the Constitution of the People's Republic of China;
- (2) have passed the National Judicial Examination and obtained the Qualification Certificate of Legal Profession;
- (3) have been an intern at a law firm for a full year; and
- (4) be of good character and conduct.

A Certificate of Lawyer Qualification obtained prior to the implementation of the National Judicial Examination shall have equal validity with the Qualification Certificate of Legal Profession in the application for practice as a lawyer.

Where an applicant conforms to the requirements for attending the National Judicial Examination, enjoys the preferential policy for those who have passed the examination, and obtains the Qualification Certificate of Legal Profession, the geographical limitations in the application for practice as a lawyer shall be in observance with relevant provisions.

Any applicant for practice as a lawyer shall participate in internship activities organized by a lawyers association in accordance with relevant provisions and shall pass the evaluation of the lawyers association.

Article 7 When applying for practice as a part-time lawyer, in addition to the requirements stipulated in Article 6 hereof, the applicant shall also:

- (1) engage in legal education or research in a college or university or a scientific research institution;

and

(2) obtain the consent of the college or university or the scientific research institution where he or she works.

Article 8 When applying for practice as a chartered lawyer, the applicant shall conform to the requirements as are stipulated in the Lawyers Law and relevant regulations of the State Council.

Article 9 A person may not practice as a lawyer in case where he or she:

- (1) has no capacity for civil acts or has limited capacity for civil acts;
- (2) has been criminally penalized, except for a negligent crime; or
- (3) has been discharged from a public office or has had his or her law license revoked.

Chapter 3: Procedures for Lawyer Practice Licensing

Article 10 In lawyers' practice licensing, a judicial administrative authority at the level of a city with districts or that of a district (county) of a municipality directly under the Central Government, shall process the applications for practice and conduct preliminary examinations, and report the same to the judicial administrative authority of the province, autonomous region, or municipality directly under the Central Government for review and approval.

Article 11 When applying for practice as a lawyer, the applicant shall submit to the judicial administrative authority at the level of a city with districts or that of a district (county) of a municipality directly under the Central Government:

- (1) a letter of application for practice;
- (2) Qualification Certificate of Legal Profession or the Certificate of Lawyer Qualification;
- (3) internship performance evaluation of the applicant produced by a lawyers association;
- (4) applicant's identification documents; and
- (5) credentials produced by a law firm indicating its willingness to accept the applicant.

When applying for a practice license, the applicant shall truthfully complete and submit the Registration Form of Application for Practice as a Lawyer.

Article 12 When applying for practice as a part-time lawyer, in addition to the materials stipulated in Article 11 hereof, the applicant shall also submit:

- (1) experience of his or her engagement in legal education or research in a college or university or a scientific research institution and credentials thereof; and
- (2) credentials indicating the consent by the college or university or the scientific research institution where he or she works for the applicant's practice as a part-time lawyer.

Article 13 A judicial administrative authority at the level of a city with districts or that of a district (county) of a municipality directly under the Central Government shall deal with the applications for practice as lawyers as follows:

- (1) where the application materials are complete and comply with the legal form, the said judicial administrative authority shall process such application;
- (2) where the application materials are incomplete or do not comply with the legal form, the said judicial administrative authority shall inform the applicant of all the materials to be supplemented or corrected within five days following the reception of the application materials. Where the applicant makes the supplement or correction as required, his or her application shall be processed; and where the said judicial administrative authority fails to inform the applicant within the time limit, the application shall be deemed processed as of the date of reception of the application materials; and
- (3) where the application item is obviously not in compliance with the legal requirements, or the applicant refuses or is unable to make the supplement or correction as required, the said judicial administrative authority shall deny the processing of the application, and explain the reason(s) to the applicant in writing.

Article 14 The judicial administrative authority processing the application shall complete the

examination of the application materials within twenty days from the date of deciding to process such application.

During the examination, the said judicial administrative authority may consult with the judicial administrative authority at the county level of the applied practice place and, where it is necessary to investigate and verify relevant information, the said judicial administrative authority may either require the applicant to provide relevant credentials, or commission the judicial administrative authority at the county level to verify such information.

Through examination, the said judicial administrative authority shall produce examination opinions as to whether the applicant meets legal requirements and whether the materials submitted are truthful and complete, and submit the same, together with all application materials, to the judicial administrative authority of the province, autonomous region, or municipality directly under the Central Government.

Article 15 The judicial administrative authority of the province, autonomous region, or municipality directly under the Central Government shall review the application materials within ten days following the receipt of the examination opinions and all the application materials submitted by the authority processing the application, and decide whether to approve the application for practice .

Where the application for practice is approved, a law license shall be issued to the applicant within ten days following the decision.

Where the application for practice is disapproved, the reason(s) shall be explained to the applicant in writing.

Article 16 When applying for practice as a chartered lawyer, the materials to be submitted and the procedures for processing, evaluation and approval shall be in observance with relevant regulations of the State Council.

Article 17 Where an applicant is involved in any case stipulated in Article 9 hereof, his or her application for practice shall be disapproved.

Article 18 A law license is a valid certificate for a lawyer to practice under approval of and in accordance with applicable laws.

The contents to be indicated in a law license, the specification of the license, and the method for numbering shall be subject to stipulation by the Ministry of Justice. Licenses shall be made uniformly by the Ministry of Justice.

Article 19 Under any of the following circumstances, the judicial administrative authority of a province, autonomous region, or municipality directly under the Central Government, which approves the applicant for practice, shall revoke such approval and withdraw and cancel the law license:

- (1) the applicant obtains the approval by such dishonest means as deception or bribery; or
- (2) the approval granted to an applicant does not meet the legal requirements or is granted in violation of legal procedures.

Article 20 In the event of alteration of the practice institution, a lawyer shall apply to the judicial administrative authority at the level of a city with districts or that of the district (county) of the municipality directly under the Central Government where the practice institution to be changed is located, and submit the following materials:

- (1) credentials produced by the judicial administrative authority at the county level where the original practice institution is located, which indicate that the applicant is not involved in any case stipulated in Article 21 hereof;
- (2) credentials indicating termination of employment with the original practice institution and completion of handover procedures in respect of, among other things, business files and finance;
- (3) credentials produced by the practice institution to be changed to indicate its willingness to accept the applicant; and
- (4) credentials of the applicant's practice experience.

The authority processing the application shall produce examination opinions on the application for change and the materials submitted, and submit the same together with all application materials to the

judicial administrative authority of the province, autonomous region, or municipality directly under the Central Government for review. Where the application for change is approved, the reviewing authority shall issue a new law license to the applicant; and where the application for change is disapproved, the reviewing authority shall explain the reason(s) to the applicant in writing. The procedures stipulated in Article 14 and Article 15 shall apply to the time limits for the said examination, approval, and issuance of a new certificate.

Where the application for change is approved, the applicant shall submit the original license to the original reviewing and issuing authority prior to the receipt of a new practice certificate.

Where a lawyer changes his or her practice institution to another one in another city with districts, or another province, autonomous region, or municipality directly under the Central Government, the judicial administrative authority where the original practice institution is located shall hand over said lawyer's practice file to the judicial administrative authority where the alternative practice institution is located.

Article 21 A lawyer under the penalty of practice suspension may not apply for change of his or her practice institution; where the term for business suspension and rectification imposed on a law firm is unexpired, the principal, any partner, and any lawyer directly responsible for the penalty may not apply for change of his or her practice institution; and where a law firm shall be terminated, the principal, any partner, and any lawyer directly responsible for the revocation of practice license of such firm may not apply for change of his or her practice institution prior to the completion of liquidation and cancellation.

Article 22 Where a lawyer is dispatched by the law firm where he or she works to practice at one of its branches, relevant provisions of the Ministry of Justice shall apply to the change and administration of his or her lawyer's practice certificate.

Article 23 The original reviewing and issuing authority of a lawyer's practice place shall revoke and cancel his or her law license in cases where:

- (1) such lawyer is imposed with the penalty of revocation of his or her law license;
- (2) the original decision of admission to practice is withdrawn in accordance with applicable laws;
- (3) such lawyer applies for revocation of his or her license because he or she is no longer working as a lawyer;
- (4) such lawyer is not employed by any other law firm within six months following the rescission of the employment contract with the law firm where he or she works, or the cancellation of such law firm; or
- (5) the practice of such lawyer is terminated for any other reason.

Where a person, whose law license is cancelled in any case specified in Items (3), (4) or (5) of the preceding paragraph, reapplies for practice as a lawyer, the procedures for application for practice as a lawyer stipulated in these Measures shall apply.

Chapter 4: Code of Conducts for Lawyers' Practice

Article 24 A lawyer must abide by the Constitution and other applicable laws, and strictly observe lawyers' professional ethics and practice disciplines in his or her practice.

A lawyer must take facts as the basis and laws as the criterion in his or her practice.

Practice by lawyers shall be subject to supervision of the State, the society and the parties concerned.

Article 25 A lawyer may:

- (1) accept authorization by a natural person, legal person or any other organization to act as a legal counsel;
- (2) accept authorization by a party in a civil or administrative case to act as an agent and participate in the proceedings;
- (3) accept authorization by a criminal suspect in a criminal case to provide legal advice and represent such suspect in filing a petition or charge, or obtaining a guarantor pending trial in case of such suspect being arrested; accept authorization by a criminal suspect or defendant or appointment by a people's court to act for the defense; and accept authorization by a private prosecutor in a case of private prosecution or by a victim or any close relative of such victim in a case of public prosecution to act as an

agent and participate in the proceedings;

(4) represent clients in filing petitions in all types of litigation;

(5) accept authorization by a party to participate in mediation and arbitration;

(6) accept authorization to provide non-litigious legal services; and

(7) answer inquiries regarding laws and represent clients in drafting litigation documents and other documents regarding legal matters.

Article 26 Where a lawyer undertakes business, the law firm where such lawyer works shall accept the authorization by a client, and a contract of authorization signed with such client and such lawyer shall obey the investigation on conflict of interests and the decision by the law firm.

Article 27 A lawyer may not act as an agent for both parties in the same case, nor as an agent in any legal matter that has conflict of interests for such lawyer or any close relative of such lawyer.

A lawyer may not act as an agent ad litem or for the defense while serving as a member of a standing committee of a people's congress at any level.

A lawyer who once served as a judge or procurator may not act as an agent ad litem or defender within two years after leaving his or her post in a people's court or a people's procuratorate.

Article 28 A lawyer acting as a legal counsel shall provide the client with advice regarding legal issues, draft and review legal documents, act as an agent to participate in proceedings, mediation or arbitration, handle other legal matters authorized by such client, and protect the lawful rights and interests of such client as agreed.

Article 29 A lawyer acting as an agent in litigious or non-litigious legal matters shall, within the authorized powers, protect the lawful rights and interests of the client.

Article 30 A lawyer acting as a defender shall present, on the basis of facts and laws, materials and arguments to prove that the criminal suspect or the defendant is innocent or is less guilty than charged, or that the criminal responsibility of the criminal suspect or the defendant in question should be diminished or relieved, in order to protect the lawful rights and interests of the criminal suspect or the defendant.

Article 31 A lawyer shall strictly observe applicable laws to perform his or her duties when producing legal opinions, and ensure the truthfulness, accuracy and completeness of the opinions that he or she produces.

A lawyer shall take facts as the basis, laws as the criterion, observe the rules for legal consultation and the requirements for style and format of legal documents when providing clients with legal consultation and when representing clients in drafting legal documents.

Article 32 A lawyer, in undertaking business, shall disclose to the client the possible legal risks that could arise from the authorized matter, and may not, explicitly or implicitly, make any improper promise to the client in respect of the results of such authorized matter.

A lawyer, in undertaking business, shall inform the client of the progress of the authorized matter in a timely matter; and where it is necessary to alter the authorized matter or authorized powers, such lawyer shall obtain prior consent and authorization of the client.

After accepting authorization, a lawyer may not, without legitimate reason, refuse to defend or to represent a client; however, if the authorized matter violates applicable laws, the client uses the service provided by the lawyer to engage in illegal activities, or the client conceals material facts in connection with the case, the lawyer shall have the right to refuse to defend or to represent the client.

Article 33 A lawyer, in undertaking business, shall instruct the client to claim rights and resolve disputes by lawful means and approaches, and may not instigate or abet the client to resolve disputes by such illegal means as disturbing public order or endangering public safety.

A lawyer may not utilize the advantage of providing legal service to seek rights and interests that the parties have disputes over, accept the properties or other interests offered by the opposite party, nor

maliciously collaborate with the opposite party or any other third person to impair the rights and interests of the client.

Article 34 A lawyer acting as an agent to participate in litigation, arbitration or administrative disposal shall observe the disciplines of the court or the arbitration tribunal, may not hinder or disturb the normal proceedings of the litigation, arbitration or administrative disposal by:

- (1) meeting with a judge, procurator, arbitrator or any other relevant personnel in violation of provisions;
- (2) bribing the officials in charge of the case, offering such officials benefits, or inciting or inducing the client to bribe such officials;
- (3) purposefully providing the judicial authority, arbitration agency or administrative authority with false evidences, or threatening or luring any other person to provide false evidences or hinder the opposite party from lawfully obtaining evidences;
- (4) delivering remarks that endanger State security, slander any other person, or disturb the order in the court; or
- (5) other conducts stipulated by applicable laws that hinder or disturb the normal proceedings of the litigation, arbitration or administrative disposal.

Article 35 Lawyers shall respect their peers and compete fairly, and may not solicit business by unfair means such as slandering other law firms or lawyers, or paying middleman's fees.

Article 36 A lawyer shall keep confidential any secret of the State and any trade secret that he or she comes to know during his or her practice and may not divulge private information of the parties concerned.

A lawyer shall keep confidential the situations and information that he or she comes to know during his or her practice that the client and other persons are not willing to divulge, except the facts and information indicating that the client or any other person is preparing to commit or is committing a crime that may jeopardize State security and public safety, or severely impair the personal and property safety of other persons.

Article 37 A lawyer, in undertaking business, shall charge the clients attorney fees and other expenses arising from and in connection with handling cases through the law firm where he or she works, and may not charge the clients privately, nor accept properties or other interests from any client.

Article 38 A lawyer shall perform the obligation of legal assistance in accordance with relevant national provisions to provide the assisted with up-to-standard legal services and to protect the lawful rights and interests of the assisted.

Article 39 A lawyer, in undertaking business, shall properly keep the legal documents, evidences, business documents and job records in connection with the matter undertaken. After settlement of the legal matter, the lawyer shall put the said materials on file, and submit the same to the law firm where he or she works for safekeeping.

Article 40 A lawyer can only practice in one law firm.

A lawyer shall work full-time during his or her practice, except in the case of a part-time lawyer, or otherwise stipulated by applicable laws and administrative regulations.

A lawyer shall, during his or her practice, abide by the practice management system of the law firm where he or she works, accept guidance and supervision by the law firm, and attend annual evaluation for lawyers' practice.

Article 41 A lawyer shall properly keep and use his or her law license, and may not falsify, mortgage, lend or lease such certificate. In case of loss or damage incurred to such certificate, the lawyer shall, in a timely manner, report to the judicial administrative authority at the county level where the lawyer is located, and apply to the original reviewing and issuing authority for a new certificate through the judicial administrative authority at the level of a city with districts or that of the district (county) of a

municipality directly under the Central Government where such lawyer is located. In the case of a law license loss, the lawyer shall publish a statement of loss in the local newspaper.

Where a lawyer has his or her license cancelled or is subject to the penalty of revocation of his or her practice certificate, the judicial administrative authority at the county level where his or her practice institution is located shall be responsible for collecting his or her practice certificate.

Where a lawyer is subject to the penalty of practice suspension, such lawyer shall remit his or her license to the judicial administrative authority at the county level where his or her practice institution is located for deposit upon the effectiveness of the decision on penalty and prior to the expiry of the penalty term.

Article 42 A lawyer shall attend professional trainings organized by judicial administrative authorities and lawyers associations in accordance with relevant provisions.

Chapter 5: Supervision and Regulation by Judicial Administrative Authorities

Article 43 A judicial administrative authority at the county level shall conduct daily supervision and regulation on the practice by lawyers whose practice institution is within its administrative region, and shall perform the following duties:

- (1) inspect and supervise lawyers' observance of applicable laws, regulations, rules, professional ethics and practice disciplines during practice;
- (2) process reports and complaints against lawyers;
- (3) supervise lawyers' execution of administrative penalty and rectification;
- (4) obtain information on annual evaluation of lawyers' practice by law firms; and
- (5) other duties as stipulated by the Ministry of Justice and judicial administrative authority of the province, autonomous region or municipality directly under the Central Government.

Where a judicial administrative authority at the county level discovers and verifies any problem existing in a lawyer's practice during its daily supervision and regulation, such judicial administrative authority shall warn the lawyer in question, order such lawyer to make rectification, and supervise the rectification by such lawyer; and where it deems that a lawyer should be subject to administrative penalty for his or her illegal activities, according to applicable laws, it shall propose suggestions on penalty to the higher-level judicial administrative authorities; where the higher-level judicial administrative authority deems that industrial punishment is necessary, the case will be handed over to the lawyers association.

Article 44 A judicial administrative authority at the level of a city with districts shall perform the following duties of supervision and regulation:

- (1) familiarize itself with the team construction and development of lawyers within its administrative region, and formulate measures and methods for intensifying the team construction of lawyers;
- (2) instruct and supervise lower-level judicial administrative authorities to conduct daily supervision and regulation on lawyers' practice, organize special inspection or special evaluation for lawyers' practice, and give instructions on investigating serious cases of complaints against lawyers and penalizing the lawyers concerned;
- (3) commend lawyers;
- (4) impose administrative penalty on lawyers for illegal activities within its legitimate authority; propose suggestions on penalty to the higher-level judicial administrative authority where, according to applicable laws, a lawyer is subject to the penalty of revocation of his or her lawyer's practice certificate;
- (5) supervise the filing of the results of annual evaluation for lawyers' practice by law firms;
- (6) process and review applications for practice as lawyers, change of practice institutions and cancellation of licenses;
- (7) establish lawyers' practice files, and assume responsibility for disclosing such information as grant, alteration and cancellation of law licenses ; and
- (8) other duties stipulated by applicable laws, regulations and rules.

A judicial administrative authority of a district (county) of a municipality directly under the Central Government shall perform relevant duties as are stipulated in the preceding paragraph.

Article 45 A judicial administrative authority of a province, autonomous region, and municipality directly under the Central Government shall perform the following duties of supervision and regulation:

- (1) become familiar with and assess the team construction and the overall practice level of lawyers within its administrative region, formulate development plans and policies for the team construction of lawyers, and prepare regulatory documents to strengthen the administration on lawyers' practice;
- (2) supervise and instruct lower-level judicial administrative authorities to conduct supervision and regulation on lawyers' practice, and organize and provide instructions on special examination or special evaluation for lawyers' practice;
- (3) organize commending activities for lawyers;
- (4) impose penalty of revocation of license in case of severe illegal activities committed by a lawyer, supervise and instruct lower-level judicial administrative authorities in respect of administrative penalty, and handle relevant administrative review and appeal cases;
- (5) handle approval for practice as lawyers, change of practice institutions, and cancellation of licenses;
- (6) be responsible for disclosing such significant information as team of lawyers, lawyers' practice and administrative affairs within its administrative region; and
- (7) other duties stipulated by applicable laws, regulations and rules.

Article 46 Judicial administrative authorities at any level and their staff, when supervising and regulating lawyers' practice, may not hinder lawyers from lawful practice, impair the lawful interests and rights of lawyers, ask for or accept properties of lawyers or seek other profits.

Article 47 Judicial administrative authorities shall intensify the implementation of lawyers' practice licensing and hierarchical supervision in daily regulatory activities, and establish systems such as statistics, requests, reports and supervision for relevant works in accordance with relevant provisions. Judicial administrative authorities responsible for the implementation of lawyer practice licensing, filing of annual evaluation results for lawyers' practice or giving rewards and penalties shall, in a timely manner, inform the lower-level judicial administrative authorities of the relevant decision on licensing, information on filing and rewards and penalties, and submit the same to the higher-level judicial administrative authority.

Article 48 Judicial administrative authorities shall intensify the guidance and supervision of lawyers associations, support lawyers associations to carry out industrial self-discipline in regard to lawyers' practice and in accordance with the Lawyers Law, articles of association and the industry code, and establish and improve the coordinative and cooperative mechanism of administrative management and industrial self-discipline.

Article 49 Judicial administrative authorities at each level shall periodically submit to the higher-level judicial administrative authority, statistical information on the team building of lawyers and the practice activities within their respective administrative regions and summary of annual administration.

Article 50 Where any person, who works within a judicial administrative authority, abuses powers and neglects duties that constitute a crime, such person shall be investigated for criminal liability in accordance with applicable laws; where no crime is constituted, administrative sanctions shall be imposed in accordance with applicable laws.

Chapter 6: Supplementary Provisions

Article 51 The judicial administrative authority of a province, autonomous region, or municipality directly under the Central Government may formulate specific measures for implementation based on these Measures, and submit the same to the Ministry of Justice for filing.

Article 52 These Measures shall become effective as of the date of issuance. In the case of any conflict between the rules or regulatory documents previously formulated by the Ministry of Justice on administration of lawyers' practice and these Measures, the latter shall prevail.