

Order of the Ministry of Justice

(No. 112)

The Administrative Measures for the Practice of Law by Lawyers, which were adopted at the executive meeting of the Ministry of Justice on May 28, 2008, are hereby promulgated, and shall be implemented on the day of promulgation.

Justice Minister Wu Aiying

July 18, 2008

Administrative Measures for the Practice of Law by Lawyers

Chapter I General Provisions

Article 1 To regulate the licensing for practice of law by lawyers, safeguard the lawful practice of law by lawyers, and strengthen the supervision and administration of the practice of law by lawyers, these Measures are formulated in accordance with the provisions of 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 A lawyer refers to a practitioner who has acquired a lawyer's practicing certificate according to law and accepts an authorization or appointment to provide legal services for a client.

Article 3 A lawyer shall maintain the legal rights and interests of a client, maintain the correct enforcement of law, and maintain the social fairness and justice, through the practice of law.

Article 4 The lawful practice of law by a lawyer shall be protected by law, and no organization or individual shall infringe upon the legal rights and interests of a lawyer.

The justice administrative organs and the lawyers' associations shall protect the practicing rights of lawyers according to law.

Article 5 The justice administrative organs shall supervise and provide guidance for the practice of law by lawyers in accordance with the Lawyers Law and these Measures.

The lawyers' associations shall conduct professional self-regulation of the practice of law by lawyers in accordance with the Lawyers Law, bylaws of lawyers' associations and professional rules.

Chapter II Conditions for Practice of law by Lawyers

Article 6 To apply for practicing law, an applicant shall satisfy the following conditions:

- (1) Upholding the Constitution of the People's Republic of China;
- (2) Passing the uniform national judicial examination and acquiring the legal profession qualification certificate;
- (3) Completing one-year internship at a law firm; and
- (4) Having good character and conduct.

In the application for practicing law, a certificate of lawyer qualification acquired before the adoption of the uniform national judicial examination shall be equally authentic with a legal profession qualification certificate.

A person who enjoys the relevant preferences in respect of the conditions for signing up or passing the national uniform judicial examination and acquires the legal profession qualification certificate shall be subject to the relevant provisions on any territorial restriction on his application for practicing law.

A person applying for practicing law shall participate in the internship activities organized by a lawyers' association according to the legal provisions, and pass the assessment conducted by the lawyers' association.

Article 7 To apply for practicing law on a part-time basis, besides the conditions prescribed in Article 6 of these Measures, an applicant shall satisfy the following conditions:

- (1) Being engaged in the legal education or research work in an institution of higher learning or research institute; and
- (2) Acquiring the consent of his current employer.

Article 8 To apply for practicing law on a special permission basis, an applicant shall satisfy the conditions prescribed by the Lawyers Law and the relevant regulations of the State Council.

Article 9 A person who is under any of the following circumstances shall not practice law as a lawyer:

- (1) Having no or limited capacity in civil conduct;
- (2) Having a record of criminal punishment, except for a negligent crime; or
- (3) Having been expelled from a public office or subject to the revocation of his lawyer's practicing certificate.

Chapter III Licensing Procedures for Practice of Law by Lawyers

Article 10 In the licensing for practice of law by lawyers, the justice administrative organ of a districted city or a district (county) of a municipality directly under the Central Government shall be responsible to accept an application for practicing law, conduct the preliminary examination, and report it to the justice administrative organ of a province, autonomous region or municipality directly under the Central Government for examination and approval, which shall make a decision on approval or disapproval of practice of law.

Article 11 To apply for practicing law, an applicant shall submit the following materials to the justice administrative organ of a districted city or a district (county) of a municipality directly under the Central Government:

- (1) Application form for the practice of law;
- (2) Legal profession qualification certificate or lawyer qualification certificate;
- (3) Document issued by a lawyers' association on the applicant's pass of the internship assessment;
- (4) Identification certificate of the applicant; and
- (5) Certificate issued by a law firm on agreeing to accept the applicant.

When applying for the practice licensing, the applicant shall truthfully fill in the Registration Form for an Application for Practicing Law.

Article 12 To apply for practicing law on a part-time basis, besides the relevant materials submitted according to

Article 11 of these Measures, an applicant shall submit the following materials:

- (1) Statement of experiences and evidential materials on experiences of being engaged in the legal education or research work in an institution of higher learning or research institute; and
- (2) Certificate of consent of the applicant's current employer to the applicant's practice law on a part-time basis.

Article 13 The justice administrative organ of a districted city or a district (county) of a municipality directly under the Central Government shall handle an applicant's application for practicing law as follows:

- (1) Where the application materials are complete and consistent with the statutory form, the justice administrative organ shall accept the application;
- (2) Where the application materials are incomplete or inconsistent with the statutory form, the justice administrative organ shall inform the applicant of all the contents to be added or redressed at one time on the spot or within five days from the day of receipt of the application materials; if the applicant has added or redressed the contents as required, the application shall be accepted; if the justice administrative organ fails to inform the applicant within the above time limit, the application shall be regarded as having been accepted from the date of receipt of the application materials; or
- (3) Where any application matter obviously does not meet the statutory conditions, or the applicant refuses to add or redress or is incapable of adding or redressing the relevant material, the justice administrative organ shall reject the application, and give reasons for the rejection to the applicant in written form.

Article 14 The justice administrative organ accepting an application shall complete the examination of the application materials within 20 days from the day of decision on acceptance.

During the examination, the justice administrative organ accepting the application may solicit opinions of the justice administrative organ at the county level at the place of application for practicing law; and if it is necessary to investigate or verify the relevant information, the justice administrative organ accepting the application may require the applicant to submit the relevant evidential material, or authorize the justice administrative organ at the county level to verify the relevant information.

Upon examination, the justice administrative organ accepting the application shall present its examination opinions on whether the applicant meets the statutory conditions and whether the submitted materials are authentic and complete, and submit its examination opinions and all application materials to the justice administrative organ of the province, autonomous region or municipality directly under the Central Government.

Article 15 The justice administrative organ of a province, autonomous region or municipality directly under the Central Government shall review an application for practicing law within ten days from the day of receipt of the examination opinions and all application materials submitted by the justice administrative organ accepting the application, and make a decision on approval or disapproval of practice of law.

If the practice of law is approved, it shall issue a lawyer's practicing certificate to the applicant within ten days from the day of decision on approval.

If the practice of law is disapproved, it shall give written reasons for the disapproval to the applicant.

Article 16 For an application for practicing law on a special permission basis, the materials to be submitted and the procedures for acceptance, assessment and approval shall be subject to the provisions of the relevant regulations of the State Council.

Article 17 No applicant under any of the circumstances prescribed in Article 9 of these Measures shall be

approved to practice law.

Article 18 A lawyer's practicing certificate shall be the valid certificate that a lawyer has been legally approved to practice law.

The measures for the contents, specification of making and sequencing of certificate number of a lawyer's practicing certificate shall be formulated by the Ministry of Justice. The lawyer's practicing certificate shall be uniformly made by the Ministry of Justice.

Article 19 Under any of the following circumstances, the justice administrative organ of a province, autonomous region or municipality directly under the Central Government which made the decision on approval of an applicant's practice of law shall revoke the original decision on approval of practice of law, and take back and cancel the lawyer's practicing certificate of the applicant:

- (1) An applicant has acquired the decision on approval of practice of law by fraud, bribery or any other illicit means; or
- (2) An applicant who does not satisfy the statutory conditions has been approved to practice law, or a decision on approval of practice of law has been made in violation of the statutory procedures.

Article 20 To change a firm of practice, a lawyer shall apply to the justice administrative organ of a districted city or a district (county) of a municipality directly under the Central Government at the place of the prospective firm of practice, and submit the following materials:

- (1) Certificate that the applicant has none of the circumstances prescribed in Article 21 of these Measures issued by the justice administrative organ at county level at the place of the former firm of practice;
- (2) Certificate that the applicant has terminated the employment relationship or partnership with the former firm of practice and completed the handover procedures for business, archives, finance, etc.;
- (3) Certificate that the prospective firm of practice agrees to accept the applicant; and
- (4) Evidential materials on the practicing experiences of the applicant.

The justice administrative organ accepting the application shall present examination opinions on the application for modification and the submitted materials, and submit the examination opinions along with all application materials to the justice administrative organ of the province, autonomous region or municipality directly under the Central Government for review. If the modification is approved, the review organ shall replace the lawyer's practicing certificate for the applicant; if the modification is disapproved, the review organ shall give written reasons for the disapproval to the applicant. The relevant time limits for the examination, review for approval or disapproval and replacement of certificate shall be subject to the procedures in Articles 14 and 15 of these Measures by analogy.

If the modification is approved, before collecting the new practicing certificate, the applicant shall hand over the original practicing certificate to the original review organ issuing the certificate.

Where the prospective firm of practice of a lawyer who changes his firm of practice is located in another districted city or province, autonomous region, or municipality directly under the central government, the justice administrative organ at the place of the former firm of practice shall hand over and the justice administrative organ at the place of the prospective firm of practice shall receive the practicing archives of the lawyer.

Article 21 During the period of suffering a penalty of cessation of practice, a lawyer shall not apply for changing his firm of practice; if the time limit of a penalty of cessation of practice for correction imposed on a law firm is

unexpired, the person in charge, a partner or a lawyer directly liable for the penalty of cessation of practice for correction imposed on the law firm shall not apply for changing his firm of practice; if a law firm shall be terminated, before liquidation is completed and deregistration is conducted, the person in charge, a partner or a lawyer directly liable for the penalty of revocation of the law firm's practicing license shall not apply for changing his firm of practice.

Article 22 Where a lawyer is dispatched by his law firm to a branch to practice law, the replacement and administration of his lawyer's practicing certificate shall be subject to the relevant provisions of the Ministry of Justice.

Article 23 Where a lawyer falls under any of the following circumstances, the original review organ issuing the certificate at the place of his practice of law shall take back and cancel the lawyer's practicing certificate:

- (1) A penalty of revocation of the lawyer's practicing certificate is imposed on the lawyer;
- (2) The original decision on approval of practice of law is revoked according to law;
- (3) The lawyer himself applies for cancellation because he is no longer engaged in the profession of lawyer;
- (4) The lawyer is not hired by any other law firm within six months after he terminates his employment contract with his current law firm or after his current law firm is deregistered; or
- (5) The lawyer terminates his practice of law for any other reason.

Where a person whose lawyer's practicing certificate is cancelled under the circumstance of subparagraph (3), (4) or (5) of the preceding paragraph reapplies for practicing law, he shall apply for practicing law according to the procedures in these Measures.

Chapter IV Code of Conduct of Practicing Lawyers

Article 24 In practicing law, a lawyer must observe the Constitution and laws, and adhere to the professional ethics and practicing disciplines of lawyers.

In practicing law, a lawyer must take fact as the basis and take law as the yardstick.

In practicing law, a lawyer must accept the supervision of the state, public and client.

Article 25 A lawyer may be engaged in the following practices:

- (1) Accepting the authorization by a citizen, legal person or any other organization to serve as a legal consultant;
- (2) Accepting the authorization by a client in a civil or administrative case to represent the client in legal proceedings;
- (3) Accepting the authorization by a criminal suspect in a criminal case to provide legal advice for him, represent him in filing a petition or charge or apply for a bail for awaiting trial for an arrested criminal suspect, and accepting the authorization by a criminal suspect or defendant or the appointment by a people's court to serve as a counsel, and accepting the authorization by a private prosecutor in a case of private prosecution or by a victim or his close relative in a case of public prosecution to represent the client in legal proceedings;
- (4) Accepting an authorization to represent a client in filing a petition in any litigation;
- (5) Accepting an authorization to participate in mediation or arbitration;

(6) Accepting an authorization to provide non-contentious legal services; and

(7) Answering questions on law and preparing litigation documents and other documents on the relevant legal affairs on behalf of a client.

Article 26 For a lawyer to handle cases, the law firm shall uniformly accept the authorization by a client, and enter into a written lawyer-client contract with the client, and the lawyer shall be subject to the law firm's examination of conflicts of interest in the accepted case and obey its decision.

Article 27 A lawyer shall not represent both parties in a same case, or represent a client in a legal matter involving any conflict of interest with the lawyer himself or his close relative.

A lawyer, who is a member of the standing committee of the people's congress at any level, shall not be engaged in representation or defense in legal proceedings during his term of membership.

A lawyer, who once served as a judge or prosecutor, shall not be engaged in representation or defense in legal proceedings within two years after leaving his post in the people's court or the people's procuratorate.

Article 28 A lawyer serving as a legal consultant shall, as agreed upon, provide opinions on the relevant legal issues for a client, draft and examine legal documents for a client, represent a client in legal proceedings, mediation or arbitration, handle other legal affairs as authorized by a client, and protect the legal rights and interests of a client.

Article 29 A lawyer representing a client in a contentious or non-contentious legal matter shall represent the client in the legal matter within the extent of authorization by the client to protect the legal rights and interests of the client.

Article 30 A lawyer serving as a counsel shall present materials and arguments on the innocence, less offence, or mitigation of or exemption from criminal liability of a criminal suspect or defendant on the basis of fact and law to protect the legal rights and interests of the criminal suspect or defendant.

Article 31 In presenting legal opinions, a lawyer shall perform his duties strictly according to law, and ensure the authenticity, accurateness and integrity of the opinions presented by him.

In providing legal advice and preparing legal documents on behalf of a client, a lawyer shall take fact as the basis and take law as the yardstick, and observe the rules on legal advice and requirements for the style and format of legal documents.

Article 32 In handling cases, a lawyer shall inform a client of the possible legal risks during his handling the authorized matter, and shall not explicitly or implicitly make any improper promise to the client on the handling results.

In handling cases, a lawyer shall timely inform a client of the progress of his handling the authorized matter; if it is necessary to change the authorized matter or the extent of authorization, the lawyer shall obtain the consent and authorization of the client.

After accepting an authorization, a lawyer shall not refuse to defend or represent a client without good reasons; however, if the authorized matter violates the law, the client makes use of the services provided by the lawyer to be engaged in illegal activities or the client deliberately conceals any material fact related to the case, the lawyer shall be entitled to refuse to defend or represent the client.

Article 33 In handling cases, a lawyer shall direct a client to claim rights and settle disputes through legitimate

channels and by legitimate means, and shall not incite or abet the client to settle disputes through such illegal means as disturbing the public order or endangering the public safety.

A lawyer shall not take advantage of the provision of legal services to seek any disputed right or interest of a party, accept any property or other benefit from the opposite party, or maliciously collude with the opposite party or a third party to damage the rights and interests of his client.

Article 34 In representing a client in the litigation, arbitration or administrative disposition activities, a lawyer shall observe the disciplines of the court or arbitral tribunal or the rules on administrative disposition, and shall not have any of the following conduct which impedes or disturbs the normal litigation, arbitration or administrative disposition activities:

- (1) Meeting a judge, prosecutor, arbitrator or any other relevant staffer in violation of legal provisions;
- (2) Bribing, promising the provision of any benefit to or instigating or inducing the client to bribe a person handling the case;
- (3) Deliberately providing the justice administrative organ, arbitral institution or administration authority with false evidence, or intimidating or inducing others into providing false evidence, to obstruct the opposite party from legally obtaining evidence;
- (4) Delivering a speech which compromises the national security, defames another person or disrupts the court order; or
- (5) Any other conduct which impedes or disturbs the normal litigation, arbitration or administrative disposition activities, as prescribed by law.

Article 35 A lawyer shall respect colleagues and insist on fair competition, and shall not develop practices by defaming other law firms or lawyers, paying middleman fees or other illicit means.

Article 36 A lawyer shall keep the national secrets and trade secrets known in his practice of law, and shall not divulge any privacy of a client.

A lawyer shall keep confidential any condition or information known in his practice of law which a client or any other person is reluctant to disclose, except the fact of or information on a crime compromising the national security or public safety or seriously endangering the physical or property safety of another person which a client or any other person prepares to commit or is committing.

Article 37 In handling cases, a lawyer shall not privately charge any fee to or accept any property or other benefit from a client, and the lawyer's fees and relevant case-handling costs shall be uniformly charged to the client by the law firm according to legal provisions.

Article 38 A lawyer shall perform the obligation of legal aid according to the provisions of the state, provide the aided persons with standard legal services, and protect the legal rights and interests of the aided persons.

Article 39 In handling cases, a lawyer shall properly keep the legal documents, evidential materials, business files and working records relating to the matters being handled. After completion of handling the legal matters, the lawyer shall create archives according to the relevant provisions and submit them to the law firm for keeping.

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

During the practicing period, a lawyer shall practice law on a full-time basis, except a part-time lawyer or as otherwise provided for by a law or administrative regulation.

In practicing law, a lawyer shall observe the practice management rules of his law firm, accept the guidance and supervision by his law firm, and participate in the annual practice assessment of a lawyer.

Article 41 A lawyer shall properly use and keep the lawyer's practicing certificate, and shall not alter, mortgage, lend or lease it. Where a lawyer's practicing certificate is lost or damaged, the lawyer shall timely report to the local justice administrative organ at the county level, and the local justice administrative organ of a districted city or a district (county) of a municipality directly under the central government shall apply to the original review organ issuing the certificate for reissuance or replacement of the certificate. For a lost certificate, a declaration of loss shall be published on a local newspaper or periodical.

Where the licensing for a lawyer's practice of law is cancelled, and a penalty of revocation of the lawyer's practicing certificate is imposed on the lawyer, the justice administrative organ at the county level at the place where his firm of practice is located shall take back his practicing certificate.

Where a penalty of cessation of practice is imposed on a lawyer, the lawyer shall turn in the lawyer's practicing certificate to the justice administrative organ at the county level at the place where his firm of practice is located for keeping after the penalty decision takes effect and before the penalty period expires.

Article 42 A lawyer shall participate in the professional training organized by the justice administrative organ and the lawyers' association according to legal provisions.

Chapter V Supervision and Administration by Justice administrative organs

Article 43 The justice administrative organ at the county level shall conduct daily supervision and administration of the practice of law by lawyers whose firms of practice are located within its administrative area, and perform the following functions:

- (1) Inspecting and supervising a lawyer's compliance with the laws, regulations, rules, professional ethics and practicing disciplines during the practice of law;
- (2) Accepting any report or complaint against a lawyer;
- (3) Supervising a lawyer's performance of an administrative punishment and implementation of rectification;
- (4) Controlling the information on the annual practice assessment of a lawyer conducted by a law firm; and
- (5) Other functions prescribed by the Ministry of Justice or the justice administrative organ of a province, autonomous region or municipality directly under the central government.

Where, during the daily supervision and administration, the justice administrative organ at the county level finds or confirms after investigation any problem with a lawyer during his practice of law, it shall have a warning talk with the lawyer, order him to make correction, and supervise his rectification; if deeming that an administrative punishment shall be legally imposed for the illegal conduct of the lawyer, shall submit punishment opinions to the superior justice administrative organ; or if deeming that a professional discipline shall be imposed on the lawyer, shall transfer the case to the lawyers' association for handling.

Article 44 The justice administrative organ of a districted city shall perform the following functions of supervision and administration:

- (1) Controlling the information on the building and development of lawyers within its administrative area, and formulating the measures and methods for strengthening the building of lawyers;

(2) Guiding and supervising the work of the justice administrative organ at the next lower level on the daily supervision and administration of practice of law by lawyers, organizing and conducting the work on the special inspection or special assessment of practice of law by lawyers, and guiding the investigation and punishment of major cases of complaints against lawyers;

(3) Commending lawyers;

(4) Imposing an administrative punishment for the illegal conduct of a lawyer according to statutory functions; or where the penalty of revocation of the lawyer's practicing certificate shall be imposed according to law, submitting punishment opinions to the superior justice administrative organ;

(5) Implementing archival supervision over the results of annual practice assessment of lawyers conducted by a law firm;

(6) Accepting and examining matters on the application of a lawyer for practice of law, change of firm of practice or cancellation of practicing certificate;

(7) Creating the practice archives of lawyers, and taking charge of the work on the disclosure of information on the licensing, modification, cancellation, etc. of practice of law by a lawyer; and

(8) Other functions prescribed by laws, regulations and rules.

The justice administrative organ of a district (county) of a municipality directly under the central government shall have the relevant functions prescribed in the preceding paragraph.

Article 45 The justice administrative organ of a province, autonomous region or municipality directly under the central government shall perform the following functions of supervision and management:

(1) Controlling and assessing the information on the building of lawyers and the overall practice level of lawyers within its administrative area, formulating the development plans and relevant policies for lawyers, and formulating normative documents for strengthening the administration of practice of law by lawyers;

(2) Supervising and guiding the work of a lower justice administrative organ on the supervision and administration of practice of law by lawyers, and organizing and guiding the work on the special inspection or special assessment of practice of law by lawyers;

(3) Organizing activities of commendation of lawyers;

(4) Imposing the penalty of revocation of the lawyer's practicing certificate for the serious illegal conduct of a lawyer according to law, supervising and guiding the administrative punishment work of the justice administrative organ at the next lower level, and handling the relevant cases of administrative reconsideration and appeal;

(5) Handling matters on the examination and approval of practice of law by a lawyer, examination and approval of modification of a lawyer's firm of practice and cancellation of a lawyer's practicing certificate;

(6) Taking charge of the work on the disclosure of major information on the lawyers, practice of law by lawyers, administration of affairs, etc. within its administrative area; and

(7) Other functions prescribed by laws, regulations and rules.

Article 46 In the supervision and administration of practice of law by lawyers, the justice administrative organs at all level and their staffers shall not obstruct the lawful practice of law by lawyers, shall not infringe the legal

rights and interests of lawyers, shall not ask for or accept property from lawyers, and shall not seek other benefits.

Article 47 The justice administrative organs shall strengthen the tiered supervision over the implementation of licensing for practice of law by a lawyer and daily supervision and administration, and establish the statistics, instruction request, reporting, supervisory handling and other systems for the relevant work according to legal provisions.

The justice administrative organ taking charge of implementing the licensing for practice of law by a lawyer, archiving of the results of annual practice assessment of lawyers, or reward and punishment shall timely inform the lower justice administrative organ of the relevant decision on licensing, archival status and information on reward and punishment, and report the same to the justice administrative organ at the next higher level.

Article 48 The justice administrative organs shall strengthen the guidance and supervision of lawyers' associations, support the lawyers' associations implementing professional self-regulation of the practice of law by lawyers according to the Lawyers Law, bylaws of lawyers' associations and professional rules, and establish and improve the mechanism of coordination and cooperation combining the administrative regulation with the professional self-regulation.

Article 49 The justice administrative organs at all level shall regularly submit the statistical data and the annual administrative work summary on the building of lawyers and practice of law by lawyers within its administrative area to the justice administrative organ at the next higher level.

Article 50 Where, in the licensing for practice of law by a lawyer or implementation of supervision and administration, a staffer of a justice administrative organ abuses his powers or neglects his duties, which constitutes a crime, he shall be subject to the criminal liability; or which does not constitute a crime, he shall be subject to an administrative sanction according to law.

Chapter VI Supplementary Provisions

Article 51 The justice administrative organ of a province, autonomous region or municipality directly under the central government may formulate the specific implementation measures according to these Measures, and submit them to the Ministry of Justice for archival purpose.

Article 52 These Measures shall be implemented on the day of promulgation. Where any rule or normative document on the administration of practice of law by lawyers previously enacted by the Ministry of Justice conflicts with these Measures, these Measures shall prevail.