Lawyers Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of improving the lawyer system, standardizing the practice of law by lawyers, ensuring that lawyers practice in accordance with the law, and enabling lawyers to play their role in the construction of a socialist country governed by the rule of law.

Article 2 — For the purposes of this Law, "lawyer" means a practicing legal professional who has obtained a lawyer's practicing certificate in accordance with the law, accepts entrustment or designation, and provides legal services to clients.

Lawyers shall safeguard the lawful rights and interests of clients, ensure the correct implementation of the law, and safeguard social fairness and justice.

Article 3 — In their practice, lawyers must abide by the Constitution and laws and shall observe the professional ethics and practice discipline of lawyers.

Lawyers' practice shall be subject to supervision by the state, society, and clients; however, the lawful practice of law by lawyers shall be protected by law, and no organization or individual may infringe upon the lawful rights and interests of lawyers.

Article 4 — The judicial administration departments of the people's governments shall exercise supervision and provide guidance over lawyers, law firms, and lawyers associations in accordance with this Law.

Article 5 — Lawyers and law firms shall join a local lawyers association. Lawyers and law firms that have joined a local lawyers association shall simultaneously be members of the All-China Lawyers Association.

Chapter II — Lawyer Practicing Permits

Article 6 — An applicant for practicing as a lawyer shall meet the following conditions:

(1) uphold the Constitution of the People's Republic of China;

(2) have passed the national unified legal profession qualification examination;

(3) have completed a one-year internship at a law firm;

(4) be of good character and conduct.

Article 7 — An applicant shall not be issued a lawyer's practicing certificate under any of the following circumstances:

(1) having no capacity for civil conduct or having limited capacity for civil conduct;

(2) having been subjected to a criminal penalty, except for a crime of negligence;

(3) having been dismissed from public employment or having had a lawyer's practicing certificate revoked.

Article 8 — A person with a bachelor's degree or above in law from an institution of higher learning who engages in legal research, teaching, or other professional legal work and has a senior professional title or an equivalent professional level may, upon approval by the judicial administration department of the State Council, be issued a lawyer's practicing certificate.

Article 9 — To apply for a lawyer's practicing certificate, an applicant shall submit the following documents:

(1) an application for practicing as a lawyer;

(2) the legal profession qualification certificate;

(3) internship appraisal materials issued by the law firm;

(4) a copy of the applicant's identity document.

Article 10 — The judicial administration department of the people's government of a province, autonomous region, or municipality directly under the Central Government shall complete the examination of an

application within 20 days from the date of acceptance and submit its review opinion and all application materials to the judicial administration department of the State Council. The judicial administration department of the State Council shall complete the examination within 10 days from the date of receipt and make a decision on whether to approve the application.

Article 11 — The judicial administration department of the State Council shall issue a lawyer's practicing certificate within 10 days from the date of making the approval decision.

Article 12 — A lawyer's practicing certificate shall not be rented, lent, or transferred by any person.

Article 13 — A lawyer may practice in only one law firm and shall not practice in two or more law firms simultaneously.

Chapter III — Law Firms

Article 14 — A law firm is the institution in which lawyers practice. Law firms shall meet the following conditions:

(1) having a name, domicile, and articles of association of its own;

(2) having lawyers that meet the requirements of this Law;

(3) the promoter shall be a practicing lawyer of certain experience who has not been subjected to the penalty of suspension of practice within three years;

(4) having assets that meet the amount prescribed by the judicial administration department of the State Council.

Article 15 — A law firm may be established in the form of a partnership or as a sole proprietorship. The establishment of a partnership law firm may adopt an ordinary partnership or a special general partnership.

Article 16 — A partnership law firm shall be liable for its debts with its entire assets.

Article 17 — To apply for the establishment of a law firm, the applicant shall submit the following documents:

(1) an application for establishment;

(2) the name and articles of association of the law firm;

(3) the list of lawyers, resumes, identity certificates, and lawyer's practicing certificates;

(4) proof of domicile;

(5) proof of assets.

Article 18 — The judicial administration department that accepts the application for establishment of a law firm shall complete the examination within 20 days and submit the review opinion to the relevant judicial administration department for approval. The approving department shall complete the examination within 10 days from receipt and make a decision on whether to approve.

Article 19 — A law firm shall, within 15 days from the date of issuance of the practice permit for the law firm, commence practice. Where time is needed to prepare for practice, the law firm shall submit the relevant situation to the issuing authority.

Article 20 — A law firm may establish branch offices. To establish a branch office, an application shall be made to the judicial administration department of the people's government at the place where the proposed branch office is located.

Article 21 — Where a law firm changes its name, domicile, articles of association, or partners, or is to be dissolved, it shall report to the original examination and approval department.

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Article 22 — A law firm shall, in accordance with the provisions of the articles of association, hold meetings of partners or lawyers meetings to discuss and decide on major matters.

Article 23 — A law firm shall strengthen the management of lawyers' practice activities, and lawyers shall not carry out practice activities in violation of the law and regulations or the internal management system.

Article 24 — A law firm shall report to the judicial administration department on its practice activities, practice income, tax payment, and other matters in accordance with the provisions.

Article 25 — If a law firm is unable to maintain the statutory establishment conditions after its establishment, the relevant judicial administration department shall order it to make corrections within a specified period; if it fails to make corrections after the specified period, the practice permit of the law firm shall be revoked in accordance with the law.

Article 26 — A law firm shall not carry out other business activities by engaging in legal services or engaging in other business activities.

Article 27 — A law firm shall not engage in unfair competition.

Chapter IV — Lawyer Practice Rights and Obligations

Article 28 — A lawyer may engage in the following businesses:

(1) accepting engagement by natural persons, legal persons, or other organizations to serve as legal counsel;

(2) accepting engagement by parties to civil or administrative cases to act as agent ad litem and participate in litigation;

(3) accepting engagement by criminal suspects, defendants, or appointment by legal aid institutions to serve as defenders; accepting engagement by private prosecutors in private prosecution cases, by victims in public prosecution cases, or by their close relatives to act as agent ad litem and participate in litigation;

(4) accepting engagement to act as agent in appeals in various litigation cases;

(5) accepting engagement to participate in mediation and arbitration activities;

(6) accepting engagement to provide non-litigation legal services;

(7) answering inquiries regarding law and providing legal opinions;

(8) drafting and reviewing legal instruments on behalf of clients.

Article 29 — When serving as legal counsel, a lawyer shall, in accordance with the agreement, provide the client with consulting opinions on relevant legal issues, draft and review legal instruments, act as agent in litigation, mediation, or arbitration activities, and handle other legal matters entrusted by the client to safeguard the client's lawful rights and interests.

Article 30 — When acting as agent in litigation or non-litigation legal matters, a lawyer shall safeguard the lawful rights and interests of clients within the scope of the entrustment.

Article 31 — When serving as a defender, a lawyer shall, based on facts and law, present materials and opinions proving that the criminal suspect or defendant is innocent or that the crime is minor, or that the criminal liability should be reduced or exempted, so as to safeguard the lawful rights and interests of the criminal suspect or defendant.

Article 32 — A lawyer may meet with a criminal suspect or defendant in custody with a lawyer's practicing certificate, supporting documents of the law firm, a power of attorney, or an official legal aid letter. Defense lawyers' meetings with criminal suspects or defendants in custody shall not be monitored.

Article 33 — From the date on which the people's procuratorate examines the case for prosecution, a defense lawyer may access, excerpt, and reproduce the case file materials. From the date on which the people's court accepts the case, a defense lawyer may access, excerpt, and reproduce all materials of the case.

Article 34 — A lawyer may, with the consent of the witness or other relevant entities and individuals, gather materials related to the case from them, and may also apply to the people's procuratorate or people's court to gather and obtain evidence.

Article 35 — A lawyer may not refuse to defend or represent a client without justifiable reasons. However, where the entrusted matter violates the law, the client uses the lawyer's services to engage in illegal activities, or the client conceals facts, the lawyer shall have the right to refuse the defense or representation.

Article 36 — A lawyer who has served as a judge or prosecutor shall not act as an agent ad litem or defender within two years of leaving the people's court or people's procuratorate.

Article 37 — A lawyer shall not practice law in two or more law firms simultaneously and shall not practice law as a part-time lawyer except as otherwise provided.

Article 38 — A lawyer shall keep confidential the state secrets, commercial secrets, and personal privacy of clients that become known in the course of practice. A lawyer shall also keep confidential other information and materials relating to clients that become known in the course of practice and that the client does not wish to be disclosed, except where the client or another person is preparing for or is committing a crime that endangers national security or public security.

Article 39 — A lawyer shall not accept engagement from both parties to the same case, nor shall a lawyer from the same law firm act as agent for both parties in the same case, except where there is only one law firm in a county.

Article 40 — A lawyer shall not engage in any of the following acts in the course of practice:

(1) privately accepting engagement, privately charging fees, or accepting property from clients;

(2) seeking disputed interests and rights for the benefit of oneself by taking advantage of the convenience of providing legal services;

(3) accepting money or property from the opposing party or from a third party with whom the lawyer has an interest relationship, or maliciously colluding with the opposing party or third party to infringe upon the rights and interests of the client;

(4) meeting with judges, prosecutors, arbitrators, or other relevant staff in violation of regulations;

(5) giving gifts to, paying bribes to, or instigating or inducing a party to pay bribes to judges, prosecutors, arbitrators, or other relevant staff;

(6) intentionally providing false evidence or concealing facts, or threatening or inducing another person to provide false evidence;

(7) inciting or instigating a party to disrupt court order or public order by means of gathering crowds to create disturbances or by other means;

(8) disrupting the order of courts or arbitration tribunals or interfering with the normal conduct of litigation or arbitration activities.

Article 41 — Lawyers shall fulfill their obligation to provide legal aid in accordance with state regulations and provide legal services to recipients of legal aid.

Article 42 — A lawyer shall join a lawyers association at the place where the law firm is located.

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Chapter V — Lawyers Associations

Article 43 — Lawyers associations are public organizations with the status of legal persons and are self-disciplinary organizations of lawyers and law firms.

Article 44 — The All-China Lawyers Association is established at the national level. Local lawyers associations are established at the level of provinces, autonomous regions, and municipalities directly under the Central Government. Local lawyers associations may be established at the level of cities divided into districts as needed.

Article 45 — A lawyers association shall perform the following duties:

(1) ensuring that lawyers practice in accordance with the law and safeguarding the lawful rights and interests of lawyers;

(2) summarizing and exchanging the experience of lawyers' work;

(3) formulating professional standards and practice discipline and supervising their implementation;

(4) organizing professional training for lawyers and conducting professional ethics and practice discipline education;

(5) mediating disputes arising from the practice of lawyers;

(6) imposing disciplinary sanctions on lawyers and law firms in accordance with the articles of association;

(7) organizing and administering internship activities for applicants for lawyer practice;

(8) evaluating lawyers and law firms;

(9) other duties prescribed by law.

Article 46 — The articles of association of lawyers associations shall be formulated by the national congress of members. The articles of association shall not contravene the law and shall be filed with the judicial administration department for the record.

Chapter VI — Legal Liability

Article 47 — Where a lawyer commits any of the following acts, the judicial administration department of the people's government at the districted-city level or the municipality directly under the Central Government shall give a warning and may impose a fine of not more than RMB 5,000; where there are illegal gains, the illegal gains shall be confiscated; where the circumstances are serious, the lawyer shall be suspended from practice for not more than three months:

(1) practicing in two or more law firms simultaneously;

(2) representing both parties in the same case;

(3) privately accepting engagement or privately charging fees;

(4) meeting with judges, prosecutors, or other relevant staff in violation of regulations.

Article 48 — Where a lawyer commits any of the following acts, the judicial administration department of the people's government at the districted-city level or the municipality directly under the Central Government shall give a warning and impose a fine of not more than RMB 10,000; where there are illegal gains, the illegal gains shall be confiscated; where the circumstances are serious, the lawyer shall be suspended from practice for three to six months:

(1) inciting or inducing a party to disrupt court order;

(2) accepting money or property from the opposing party;

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(3) giving property to or paying bribes to judges, prosecutors, or other relevant staff;

(4) refusing to fulfill the legal aid obligation.

Article 49 — Where a lawyer commits any of the following acts, the judicial administration department of the people's government at the provincial level shall impose a penalty of suspension from practice for six months to one year and a fine of not more than RMB 50,000; where there are illegal gains, the illegal gains shall be confiscated; where the circumstances are serious, the judicial administration department of the people's government at the provincial level shall revoke the lawyer's practicing certificate:

(1) providing false evidence, concealing important facts, or threatening or inducing another person to provide false evidence;

(2) intentionally providing false evidence or concealing facts;

(3) accepting money or property from the opposing party or from a third party with whom the lawyer has an interest relationship;

(4) disclosing state secrets.

Article 50 — Where a law firm commits any of the following acts, the judicial administration department shall give a warning, order it to make corrections, and impose a fine of not more than RMB 100,000; where there are illegal gains, the illegal gains shall be confiscated; where the circumstances are particularly serious, the practice permit of the law firm shall be revoked:

(1) accepting entrustment or charging fees in violation of regulations;

(2) violating legal procedures for changing major matters;

(3) engaging in unfair competition;

(4) refusing to fulfill the legal aid obligation.

Article 51 — Where a lawyer is subject to an administrative penalty, the lawyers association shall impose an industry disciplinary sanction in accordance with the articles of association.

Article 52 — Where a lawyer practices without a lawyer's practicing certificate, the judicial administration department shall order the cessation of the illegal practice, confiscate the illegal gains, and impose a fine.

Article 53 — Where a lawyer causes losses to a client through illegal practice or through fault, the law firm where the lawyer practices shall bear liability for compensation. After making compensation, the law firm may seek recourse from the lawyer who acted intentionally or with gross negligence.

Article 54 — Where a person who has not obtained a lawyer's practicing certificate engages in legal services for profit, the judicial administration department shall order the cessation of such illegal practice, confiscate the illegal gains, and impose a fine.

Article 55 — Where a lawyer or law firm refuses to accept an administrative penalty decision, it may apply for administrative reconsideration or bring an administrative lawsuit in accordance with the law.

Article 56 — Where an administrative penalty is imposed by the judicial administration department, the information shall be made public in accordance with the law.

Chapter VII — Supplementary Provisions

Article 57 — Military lawyers who provide legal services to the armed forces shall have the status of lawyers, the protection of their rights, and the management of their practice to be formulated by the State Council and the Central Military Commission separately.

Article 58 — The provisions of this Law shall apply to legal service institutions and legal service workers providing legal services as prescribed by law.

Article 59 — Specific measures for lawyer fee standards shall be formulated by the price administrative department of the State Council in conjunction with the judicial administration department of the State Council.

Article 60 — This Law shall enter into force on June 1, 2008.

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