

Temple University China Health Law Project

Title:

Law on Licensed Doctors of the People's Republic of China

Type of Document:

Statute

Effective Date:

6/26/98

Category of Document:

Public Health

Source:

Sino-American Health Law Seminar, Kunming, China, 11-12 December 2004, Reference Materials

Date Downloaded:

1/25/06

Text:

Contents

Chapter I	General Provisions
Chapter II	Examination and Registration
Chapter III	Regulations Regarding the Practices of Medicine
Chapter IV	Assessment and Training
Chapter V	Legal Responsibility
Chapter VI	Supplementary Provisions

Chapter I General Provisions

Article 1 This Law is enacted for the purpose of raising the level of doctors in general, improving their professional ethics and caliber, safeguarding their lawful rights and interests and protecting the people's health.

Article 2 This Law shall apply to medical workers who have, in accordance with the law, obtained the licenses of qualified doctors or qualified assistant doctors and registered and are employed in medical treatment, disease-prevention or healthcare institutions.

“The Doctors” referred to in this Law include licensed doctors and licensed assistant doctors.

Article 3 Doctors shall observe good professional ethics and possess proficiency in medical work, display the spirit of humanitarians and perform the sacred duties of preventing and curing diseases, healing the wounded and rescuing the dying and protecting the people's health.

Everybody in the community shall show respect for doctors. Every doctor shall fulfill his duties according to law and be protected by law.

Article 4 The administrative department for public health under the State Council shall be in charge of the affairs of doctors throughout the country.

The administrative departments for public health of the local people's governments at or above the county level shall be in charge of the affairs of doctors within their own administrative regions.

Article 5 The State shall reward the doctors who have made contributions to medical treatment, disease-prevention or health care.

Article 6 technical titles for doctors in the field of medicine shall be assessed and conferred in accordance with the relevant State regulations and so shall doctors be appointed to positions commensurate with their technical titles.

Article 7 Doctors may form or join doctors' associations.

Chapter II Examination and Registration

Article 8 The State applies the system of examination to determine the qualifications of doctors. The system consist of examination to determine the qualifications of licensed doctors and examinations to determine the qualifications of licensed assistant doctors.

Measures for the uniform examinations determine the qualifications of doctors shall be formulated by the administrative department for public health under the State Council. Such examinations shall be arranged by the administrative department for public health of the people's governments at or above the provincial level.

Article 9 Whoever meets one of the following requirements may take the examinations for the qualifications of a licensed doctor:

(1) having, at least, graduated from the faculty of medicine of a university and, under the guidance of licensed doctor, worked on probation for at least one year in a medical treatment, disease prevention or healthcare institution; or

(2) after obtaining the license for an assistant doctor, having reached the level of a graduate from the faculty of medicine of a university and worked for at least two

years in a medical treatment, disease-prevention or healthcare institution; or having reached the level of a graduate from the specialty of medicine of a polytechnic school and worked for at least five years in a medical treatment, disease-prevention or healthcare institution.

Article 10 Anyone who has reached the level of graduate from the faculty of medicine of a university or a polytechnic school and, under the guidance of a licensed doctor, worked on probation for at least one year in a medical treatment, disease-prevention or healthcare institution, may take the examinations for the qualifications of an assistant doctor.

Article 11 Anyone who in the way of apprenticeship, has studied traditional Chinese medicine for three years or, through years of practice in this field, proves to have mastered specialized knowledge of this field, has passed the examinations conducted by an organization specialized in traditional Chinese medicine or by a medical treatment, disease-prevention or healthcare institutions that is recognized as such by the administrative department for public health of a local government at or above the county level, and is recommended by such an organization or institution, may take the examinations for the qualifications of a licensed doctor or a licensed assistant doctor. The contents of and measures for such examinations shall be specified by the administrative department for public health under the State Council separately.

Article 12 Anyone who has passed the examinations for the qualifications of a licensed doctor or a licensed assistant doctor shall be certified as such.

Article 13 The State applies the system of registration for licensed doctors.

A certified doctor may apply for registration to the administrative department for public health of the local people's government at or above the county level.

With the exception of the cases as provided for Article 15 of this Law, the administrative department for public health that is in charge of dealing with such application shall, within 30 days from the date of receiving the application, allow the applicant to register and grant the applicant a doctor's license which is exclusively printed by the administrative department for public health under the State Council.

The medical treatment, disease-prevention and healthcare institutions may go through the registration procedure for all the doctors working for them.

Article 14 Doctors, upon registration, may work for medical treatment, disease-prevention or healthcare institutions at the places, for types of job and within the scopes of business as registered and engage in medical treatment, disease-prevention or healthcare in such institutions.

No one may work as a doctor without a doctor's license obtained through registration.

Article 15 No one who is found in one of the following cases shall be registered:

- (1) having limited capacity for civil conduct;
- (2) having applied for registration before the expiration of two years beginning from the date when his punishment has been executed to the date when application for registration is made;
- (3) having been imposed on administrative penalty with his doctor's license revoked and less than two years beginning from the date when the penalty decide on to the date when application for registration is made; or
- (4) Any other cases which, according to the regulations of the administrative department for public health under the State Council, considered unsuited for conducting medical treatment, disease-prevention or healthcare.

Where the administrative department for public health that deals with application for registration finds that an application does not meet the requirements and thus refuses to allow the applicant to register, it shall, within 30 days from the date of receiving the application, the applicant of the matter in writing and state the reasons why. If the applicant has any objections, he may, within 15 days from the date receiving the notification, apply for a review or bring a suit to a People's Court according to law.

Article 16 Where a registered doctor is found in any of the following cases, the medical treatment, disease-prevention or Healthcare institutions where he is working shall, within 30 days, report the matter to the administrative department for public health that allowed him to register, and the said department shall revoke the registration and withdraw the doctor's license:

- (1) being dead or being announced missing;
- (2) being imposed on a criminal penalty;
- (3) being imposed on administrative penalty which calls for the revocation of the doctor's license;
- (4) having failed in the reexamination taken at the expiration of suspension of the practice of medicine which is imposed according to the provisions in Article 31 of this Law;
- (5) having stopped working as a doctor for at least two years; or
- (6) Any other case which, according to the regulations of the administrative department for public health under the State Council, is considered unsuited for conducting medical treatment, disease-prevention or healthcare.

Any party who has objections to the revocation of his registration may, within 15 days from the date receiving the notification of the revocation, apply for a review or bring a suit to a People's Court according to law.

Article 17 Where a doctor wishes to change to the registered items such as the place, the type of job and the scope of business, he shall, according to the provisions in Article 13 of this Law, go to the administrative department for public health that allowed him to register to complete the formalities for the change.

Article 18 When a doctor who has stopped doing medical work for at least two years or who is no longer in any of the cases as prescribed in Article 15 of this Law applies to take up the job again, he shall take the examinations conducted by the institutions specified in Article 31 of this Law and, after passing the examinations, reregister according to the provisions in Article 13 of this Law.

Article 19 Any licensed doctor who wishes to apply for self-employment need to have register and have worked for at least five years in a medical treatment, disease-prevention or healthcare institution and to go through the formalities of examination and approval according to relevant State regulations; he may not practice medicine on his own without such approval.

The administrative departments for public health of the local people's governments at or above the county level shall, according to the regulations of the administrative department for public health under the State Council, constantly supervise and inspect the doctors who practise medicine on their own and, when such doctors are found to be in any cases as prescribed in Article 16 of this Law, the said department shall immediately revoke their registration and withdraw their license.

Article 20 The administrative departments for public health of the local people's governments at or above the county level shall publicize the name lists of the doctors who are allowed to register and those who registration is revoked and submit the name lists to the administrative departments for public health of the people's governments at the provincial level, which shall report to the administrative department for public health under the State Council for the record.

Chapter III Regulations Regarding the Practice of Medicine

Article 21 Doctors shall enjoy the following rights in their practice of medicine:

- (1) within the registered scope of business, to examine and diagnose diseases, conduct disease investigation, give medical treatment and provide relevant medical document verification, and adopt medical treatment, disease-prevention and healthcare;
- (2) according to the standards set by the administrative department for public health under the State Council, to be provided with the basic medical facilities needed to do their specific medical work;
- (3) to engage in medical research and academic exchange and join specialized academic organizations;
- (4) to receive professional training and follow-up education in medicine;
- (5) to be protected from offences against dignity and safety of the person in the course of their work;
- (6) to receive their pay and other allowances and enjoy the welfare benefits according to State regulations; and
- (7) to give comments and suggestions about medical treatment, disease-prevention or healthcare in the institutions they work and about the work of the administrative departments for public health and, in accordance with law, participate in

the democratic management of the said institution.

Article 22 Doctors shall perform the following obligations in their practice of medicine;

- (1) abiding by laws and regulations and observing rules for technical operations;
- (2) devoting themselves to the profession, following professional ethics, fulfilling their duties as doctors and serving the patients conscientiously;
- (3) caring for, loving and respecting the patients and preserving their privacy.
- (4) endeavoring to gain professional proficiency, update their knowledge and improve their technical standards; and
- (5) disseminating the knowledge of public health and healthcare and educating the patients in ways of keeping fit.

Article 23 When taking medical, preventive or healthcare measures and when signing relevant medical document verification, doctors shall conduct diagnosis and investigation themselves and fill out the medical files without delay as required by regulations; no doctor may conceal, forge or destroy and medical files or the relevant data.

Article 24 Doctors shall take immediate measures to treat emergency patients; no doctor may refuse to give emergency treatment to such patients.

Article 25 Doctors shall administer such medicines and use such disinfectants and medical apparatus as are approved by the State departments concerned.

Article 26 Doctors shall tell the patients or their relatives the truth about the patients' condition while avoiding any bad effect on the patients:

Doctor who wish to conduct any experimental clinical treatment shall obtain approval of the hospital authorities and consent of the patient himself or his relatives.

Article 27 No doctor may, by taking advantage of his position, demand or illegally take money or things of value from the patients or seek any other illegitimate benefits.

Article 28 In case of natural calamities, epidemics, sudden accidents resulting in heavy casualties or other emergencies that seriously endanger people's lives or health, doctors shall accept the assignments of the administrative departments for public health of the people's governments at or above the county level.

Article 29 Where a doctor causes a medical accident or discovers an epidemic, he shall, without delay, report to the institution where he works or to an administrative department for public health, as required by relevant regulations.

Where a doctor discovers that a patient is involved in an incident of injury or dies unnaturally, he shall report to the department concerned, as required by relevant regulations.

Article 30 Licensed assistant doctors shall, under the direction of licensed doctors, do the types of job, as registered in the medical treatment, disease-prevention or healthcare institutions.

Licensed assistant doctors who work in the medical treatment, disease-prevention or healthcare institutions of townships, nationality townships or towns may, in light of the specific medical conditions and needs, independently conduct ordinary practice of medicine.

Chapter IV Assessment and Training

Article 31 Institutions or organizations that are entrusted by administrative departments for public health of the people's government at or above the county level shall, in conformity with standards for the practice of doctors, assess the professional levels, achievements and professional ethics of the doctors at regular intervals.

The said institution or organization shall submit the results of the assessment to the administrative departments for public health that are in charge of registration for the record.

Any doctor who is considered unqualified, shall be ordered by the administrative department for, public health of the people's government at above the county level to suspend the practice of medicine for three months to six months and receive training and follow up medical education. At the expiration of the suspension, he shall be reassessed, and if he is considered qualified, he shall be permitted to resume the practice otherwise, his registration shall be revoked and the doctor's license withdrawn by the said department.

Article 32 The administrative department for public health of the people's government at or above the county level shall be responsible for guiding, inspecting and supervising, the assessment of doctor.

Article 33 Doctors who have one of the following achievements to their credit shall be commended or rewarded by the administrative department for public health of the people's government at or above the county level:

- (1) observing good professional ethics and having performed outstanding deeds in the practice of medicine;
- (2) having made major breakthroughs in and outstanding contributions to medical techniques
- (3) being distinguished in healing the wounded, rescuing the dying, and giving emergency treatment to patients during natural calamities, epidemics; sudden accidents resulting in heavy casualties or other emergencies which seriously endanger people's

lives or health;

(4) having worked hard for a long time in grass-roots units in outlying or poverty stricken areas or minority nationality regions where conditions are tough; or

(5) other achievements for which, according to the regulations of the administrative department for public health under the State Council they should be commended or rewarded.

Article 34 The administrative departments for public health of the people's governments at or above the county level shall formulate training programs for doctors to train them in various forms and to provide them with the conditions for follow up education in medicine.

The administrative departments for public health of the people's governments at or above the county level shall take vigorous measures to train the medical workers who are engaged in medical treatment, disease prevention or healthcare in rural areas or minority nationality regions.

Article 35 Medical treatment, disease-prevention or healthcare institutions shall, in accordance with regulations and plans, ensure the doctors of their own institutions to receive training and follow-up education in medicine.

Medical or public health institutions which are entrusted by the administrative departments for public health of the people's governments at or above the county level to assess doctors shall provide or create the conditions for doctors to receive training or follow-up education in medicine.

Chapter V Legal Responsibility

Article 36 Where a person obtains the doctor's license by illegitimate means, the administrative department for health that granted the license shall revoke it; and the persons who are directly in charge and the other persons who are directly responsible shall be given administrative sanctions according to law.

Article 37 Any doctor who, in violation of the provisions in this Law, commit one of the following acts in the, practice of medicine, shall be given a disciplinary warning or ordered to suspend the practice for not less than six months but not more than one year by the administrative department for public health of the people's government at or above the county level; if the circumstances are serious, his license for medical practice shall be revoked; if such act constitutes a crime, he shall be investigated for criminal responsibility:

(1) causing serious consequences by violating the administrative rules and regulations for public health or the rules for technical operation;

- (2) causing serious consequences by neglecting his duties and delaying the rescue, diagnosis and treatment of an emergency case;
- (3) causing a medical accident by neglecting his duties;
- (4) signing any document verification concerning diagnosis, treatment, epidemiology, birth or death without personally conducting the diagnosis, examination or investigation;
- (5) concealing, forging or destroying without authorization any medical files or the relevant data;
- (6) administering such medicines or using such disinfectants or medical apparatus as have not been approved;
- (7) using anaesthetics, medical toxicants, or psychiatric or radioactive medicines in violation of regulations;
- (8) carrying out experimental clinical treatment without the consent of the patient or his relatives;
- (9) causing serious consequences by divulging the patients' privacy;
- (10) by taking advantage of his position, demanding or illegally taking money or things of value from the patients or seeking other illegitimate benefits.
- (11) failing, to accept the assignment of the administrative department for public health under the circumstances of natural calamities, epidemics, sudden accidents resulting in heavy casualties or other emergencies which seriously endanger people's lives or health; or
- (12) failing to report, as required by regulations, when causing a medical accident or discovering an epidemic, a patient who is involved in an incident of injury or an unnatural death.

Article 38 Where a doctor causes an accident in medical treatment, disease prevention or healthcare, the case shall be handled in accordance with law or relevant State regulations.

Article 39 Where persons set up medical institutions for the practice of medicine without permission or non-doctors practise medicine, the administrative department for public health of the people's government at or above the county level shall have such acts banned and their unlawful gains and their medicines and apparatus confiscated, and shall also fine them not more than 100,000 yuan; it shall revoke the doctor's license; if harm is done to patients, they shall bear the liability according to law; and if the act constitutes a crime, the perpetrator shall be investigated for criminal responsibility according to law.

Article 40 Where a person hinders a doctor from conducting practice according to law,

humiliates, slanders, intimidates or beats up a doctor, infringes on a doctor's personal freedom or interferes with a doctor's normal work of life, he shall be penalized in accordance with the provisions prescribed in the Regulations on Administrative Penalties for Public Security; if the act constitutes a crime shall be investigated for criminal responsibility in accordance with law.

Article 41 Where a medical treatment, disease-prevention or healthcare institution fails to fulfill its duty of reporting the cases according to the provisions prescribed in Article 16 of this Law, thus causing serious consequences, it shall be given a disciplinary warning by the administrative department for public health of the people's government at or above the county level; and the persons who are in charge of the administrative affairs of the institution shall be given administrative sanctions by the said department according to law.

Article 42 Any member of the administrative department for public health or of a medical treatment, disease-prevention or healthcare institution who, in violation of the relevant provisions of this law, practises fraud, neglects his duty, abuses his power or engages in malpractice for personal gain which is not serious enough to constitute a crime, shall be given administrative sanctions according to law; if the act constitutes a crime, he shall be investigated for criminal responsibility.

Chapter VI Supplementary Provisions

Article 43 Where a person, prior to the date of promulgation of this Law, obtained a technical title in accordance with relevant State regulations, in the profession of medicine and a position in the profession, the matter shall be submitted by the institution where he works to the administrative department for public health of the people's government at or above the county level for confirmation before the person is granted the doctor's certificate. All the medical workers who are engaged in medical treatment, disease-prevention or healthcare in a medical treatment, disease-prevention or healthcare institution shall, in conformity with the requirements prescribed in this Law, together be examined and reported by the institution where they work to the administrative department for public health of the people's government at or above the county level for registration and the issue of doctor's licenses. Specific measures shall be formulated by the administrative department for public health together with the personnel administrative department under the State Council.

Article 44 This Law shall apply to doctors who work in family-planning service institutions.

Article 45 Any rural doctor who provides villagers with disease-prevention, healthcare or ordinary medical service in a rural medical and health institution and meets the relevant provisions prescribed in this Law may obtain the doctor's certificate or the assistant doctor's certificate in accordance with law. With regard to rural doctors have not obtained the doctor's certificates or the assistant doctor's certificates as prescribed in this

Law, the State Council shall formulate administrative measures separately.

Article 46 Measures for the application of this Law among doctors in the military shall be formulated by the State Council and the Central Military Commission in accordance with the principles of this Law.

Article 47 Persons from abroad who wish to take the examinations for the doctor's certificates, get registered, engage in the practice of medicine or impart clinical instruction or conduct clinical research in the territory of China shall apply in accordance with relevant State regulations.

Article 48 This Law shall go into effect as of May 1, 1999.