

# ETHICAL STANDARDS OF JAPANESE LAWYERS: TRANSLATION OF THE ETHICS CODES FOR SIX CATEGORIES OF LEGAL SERVICE PROVIDERS

Kyoko Ishida<sup>†</sup>

## I. INTRODUCTION

Today, Japanese attorneys and so-called “quasi-lawyers” (*jun hōritsuka*) face significant regulatory reforms to the legal services they provide. The justice system reform (*shihō seido kaikaku*) significantly expanded the scope of practice for quasi-lawyers in order to meet the country’s growing need for legal assistance.<sup>1</sup> Also, in November 2004 attorneys established new ethical standards which also apply to registered foreign business attorneys for the preparation of upcoming increase of population of attorneys.

In contrast to the United States, where attorneys provide legal services almost exclusively, there are several licensed legal service providers other than attorneys (*bengoshi*) in Japan. The paper addresses the following

---

<sup>†</sup> Ph.D Candidate, University of Washington School of Law. The author would like to thank Professor Veronica Taylor and members of the editorial board of the *Pacific Rim Law & Policy Journal*, especially Valentin A. Povarchuk, Karen Takishita, and Robin Warren, for publication support. All mistakes are the author’s own.

<sup>1</sup> In 1999, the Japanese government established the Justice System Reform Council (*shihō seido kaikaku shingikai*) (“the Council”) under the cabinet. The purpose of the Council was to consider fundamental measures necessary for justice reform and legal infrastructure arrangement by defining the role of the Japanese administration of justice in the 21st century. By 2001, the Council had held over sixty meetings, and published “Recommendations of the Justice System Reform Council – For a Justice System to Support Japan in the 21st Century” (“the Recommendations”) in June 2001. Upon publication of the Recommendations, the government established the Headquarters for Promoting the Justice System Reform (*Shihō kaikaku suishin honbu*) in the cabinet, and necessary legislations and deliberations started. All minutes are available in Japanese at <http://www.kantei.go.jp/jp/sihouseido/> (last visited Apr. 15, 2005). See also JUSTICE SYSTEM REFORM COUNCIL, RECOMMENDATIONS OF THE JUSTICE SYSTEM REFORM COUNCIL – FOR A JUSTICE SYSTEM TO SUPPORT JAPAN IN THE 21ST CENTURY, June 12, 2001, available at [http://www.kantei.go.jp/foreign/policy/sihou/singikai/990612\\_e.html](http://www.kantei.go.jp/foreign/policy/sihou/singikai/990612_e.html) (last visited Apr. 15, 2005). For the background of the justice system reform, see Yoshiharu Kawabata, *The Reform of Legal Education and Training in Japan: Problems and Prospects*, 43 S. TEX L.REV. 419, 420-427 (2002).

Although the Recommendations suggests reform for various fields, one of its basic goals is to increase the number and quality of legal service providers to promote access to justice. The government decided to increase the number of legal professionals by introducing graduate level law schools (*hōka daigakuin*). In April 2004, sixty-eight new schools opened their doors. For general information on the reform of legal education under the Justice System Reform, see James R. Maxeiner & Keiichi Yamanaka, *The New Japanese Law Schools: Putting the Professional into Legal Education*, 13 PAC. RIM L. & POL’Y J. 303 (2004).

six categories: attorneys, judicial scriveners, administrative scriveners, patent attorneys, tax attorneys, and social insurance and labor consultants. First, judicial scriveners (*shihō shoshi*) register real property for clients, draft documents that are filed in court or legal proceedings, and assist clients in preparing documents that are necessary to complete various routine legal transactions.<sup>2</sup> Administrative scriveners (*gyōsei shoshi*) can also submit documents to government agencies for clients.<sup>3</sup> Patent attorneys handle the legal work related to registering various forms of intellectual property.<sup>4</sup> Tax attorneys (*zeirishi*) can advise, draft, and file documents, as well as represent clients throughout the complaint proceedings within the Tax Office.<sup>5</sup> Social insurance and labor consultants (*shakai hoken rōmushi*) deal with specific laws concerning employment and insurance.<sup>6</sup> Although the Japanese government plans to increase the number of attorneys to 50,000 by 2018, currently legal service providers must provide a significant amount of services to individuals and corporations because there are only about 20,000 attorneys in Japan—one attorney per 6,000 people—compared to about 941,000 attorneys in the United States—one attorney per 290 people.<sup>7</sup>

Recent reforms granted various legal service providers the right to practice in areas in which attorneys previously had exclusive rights to practice. For example, judicial scriveners are currently allowed to appear in

---

<sup>2</sup> Shihō shoshihō [The Judicial Scriveners Law], Law No. 197 of 1950, art. 3 [hereinafter Judicial Scriveners Law].

<sup>3</sup> Gyōsei shoshihō [The Administrative Scriveners Law], Law No. 4 of 1951, arts. 1(2) and 1(3) [hereinafter Administrative Scriveners Law].

<sup>4</sup> Benrishihō [The Patent Attorneys Law], Law No. 49 of 2000, arts. 4-6 [hereinafter Patent Attorneys Law].

<sup>5</sup> Zeirishihō [The Tax Attorneys Law], Law No. 237 of 1951, art. 2 [hereinafter Tax Attorneys Law].

<sup>6</sup> Shakai hoken rōmushihō [The Social Insurance and Labor Consultant Law], Law No. 89 of 1968, art. 2.

<sup>7</sup> The Recommendations, *supra* note 1, ch. III, pt. 1(1). See also JFBA, *Outline of the Japan Federation of Bar Associations*, at <http://www.nichibenren.or.jp/en/about/index.html> (last visited Apr. 15, 2005). As of September 2004, there were approximately 18,000 judicial scriveners, 37,000 administrative scriveners, 5,960 patent attorneys, 68,000 tax attorneys, and 28,640 social insurance and labor consultants. See THE JAPAN FEDERATION OF JUDICIAL SCRIVENERS ASSOCIATIONS, SHIHO-SHOSHI LAWYER PROFILE, at <http://www.shiho-shoshi.or.jp/welcome-e/english.htm> (last visited Apr. 15, 2005); THE JAPAN FEDERATION OF ADMINISTRATIVE SCRIVENERS ASSOCIATIONS, *SOSHIKI SHOKAI* [INTRODUCTION OF THE ORGANIZATION], at <http://www.gyosei.or.jp/> (last visited Apr. 15, 2005); Letter from Jin Nagashima, General Affairs and Membership Section, Japan Patent Attorneys Association (Aug. 25, 2004) (on file with author); The Japan Federation of Tax Attorneys Association, *Zeirishi tōrokusha & zeirishi hōjin todokedesuu* [The Number of Persons Who Registered as a Tax Attorney or Tax Attorney Corporation], Jan. 31, 2005, at <http://www.nichizeiren.or.jp/association/touroku.html> (last visited Apr. 15, 2005); The Japan Federation of Social Insurance and Labor Consultants, *Shakai hoken rōmushi toha* [Who Are Social Insurance and Labor Consultants?], at <http://www.shakaihokenroumushi.jp> (last visited Apr. 15, 2005).

summary court if they satisfy certain requirements,<sup>8</sup> and patent attorneys are allowed to represent clients in patent infringement actions if they pass an additional examination and the client retains another independent attorney.<sup>9</sup> Tax attorneys can now present statements in courts as assistants (*hosanin*) to attorneys.<sup>10</sup> The trend of utilizing so called “quasi-lawyers” is set to continue.<sup>11</sup>

There is, however, a big regulatory difference between attorneys and other lawyers. Although their scope of practice overlaps, legal service providers belong to different associations and have different ethics codes, depending on their license. Only attorneys enjoy the autonomy to discipline their professional peers. Quasi-lawyers, conversely, are disciplined by specific government agencies under applicable laws. Their ethics codes are merely aspirational, and they are disciplined by the appropriate government agency based on statutes.<sup>12</sup>

The Japan Federation of Bar Associations (“JFBA”), on the other hand, adopted the Basic Regulations for Attorneys Duties (*Bengoshi shokumu kihon kitei*) (“Basic Regulations”) on November 10, 2004, to govern attorney conduct.<sup>13</sup> The previous Ethics Code of Attorneys (*Bengoshi rinri*) of 1955 and the 1990 revision were merely aspirational because they were adopted as a “declaration” (*senmei*), not a legally binding regulation (*kaiki*).<sup>14</sup> Considering the rapid increase in the number of

<sup>8</sup> Judicial Scriveners Law, art. 3 (6). Summary court currently deals with the dispute whose amount of claim is under 1,400,000 yen (about US\$ 12,844). Saibanshohō [The Court Law], Law No.59 of 1947, art. 33(1)(i).

<sup>9</sup> Patent Attorneys Law, art. 6.

<sup>10</sup> Tax Attorneys Law, art. 2 (2).

<sup>11</sup> In 2003, revision of Article 72 of the Attorneys Law, which regulates unauthorized practice of law, includes the clear proviso, “unless otherwise provided by other laws.” *Bengoshihō* [The Attorneys Law], Law No. 205 of 1951, art. 72 [hereinafter The Attorneys Law]. Therefore, it is now possible for legislators to grant other legal service providers the right to practice in an area which previously has been exclusively handled by attorneys. One example is the law promoting alternative dispute resolution, which was enacted in the 161st session of the Diet on November 19, 2004. Saibangai funsō kaiketsu tetuzuki no riyō no sokushin ni kansuru hōritsu [the Law Concerning Promotion of Use of Alternative Dispute Resolution Proceedings], Law No. 151, 2004. This law authorizes a person who is not licensed as an attorney to provide alternative dispute resolution services such as mediation, if the person is certified by the Minister of Justice.

<sup>12</sup> This does not mean that the ethics codes do nothing with disciplinary proceedings of those legal service providers. The articles in laws of which violation can constitute disciplinary grounds often contain vague terms, such as “maintenance of dignity” or “fair and faithful performance of their duties.” The ethics code may function to construe those vague words when the authority disciplines them. See, e.g., Judicial Scriveners Law, art. 2.

<sup>13</sup> JFBA, *November/10/2004 JFBA Extraordinary General Meeting Adopts All Resolutions*, at <http://www.nichibenren.or.jp/en/activities/meetings/20041110.html> (last visited Apr. 15, 2005).

<sup>14</sup> Again, this does not mean that the former attorney ethics code did nothing with attorney discipline. Article 56 of the Attorneys Law provides: “Disciplinary action shall be taken against an attorney or attorney’s corporation that violates this Law or the articles of JFBA or the bar association to

attorneys projected for the near future, the Recommendations of the Justice System Reform Council point out that “to firmly establish and improve attorneys’ professional ethics while responding to changing social demands on attorneys, bar associations shall strictly exercise their self-regulating authority as well as make further efforts to develop proper attorney ethics.<sup>15</sup>” The JFBA thus moved to adopt the Basic Regulations as legally binding ethics regulations (*kaiki*).

Most articles of the new ethical standards for attorneys apply to registered foreign business attorneys (*gaikokuhō jimu bengoshi*). A person who has a license to practice law in a foreign country can practice in Japan after becoming a “registered foreign business attorney” by obtaining approval from the Minister of Justice and registering with the JFBA’s rolls.<sup>16</sup> There are currently about 230 registered foreign attorneys who are also “foreign special members” of the JFBA.<sup>17</sup> They are subject to the Basic Regulations Concerning Foreign Special Members adopted by JFBA.<sup>18</sup> This regulation was revised in November 2004 in order to apply the Basic Regulations to foreign attorneys. Almost all provisions except for those regulating conduct in court were applied.<sup>19</sup> As a result, the Basic Regulations have had enormous impact on foreign lawyers who practice in Japan.

In order to show the diversity of Japanese legal service providers, the following text gives a full translation of the ethics codes adopted by six different associations of legal service providers: attorneys, administrative scriveners, patent attorneys, tax attorneys, and social insurance and labor consultants. Although each of these codes has similar provisions, each shows characteristic aspects of the professional group that developed it, demonstrating the nature of legal services in Japan.

---

which he or she belongs, acts in a manner that is prejudicial to the good order or the trust of the bar association, or is guilty of misconduct of a disgraceful nature, whether in the course of or outside his or her duties.” The Attorneys Law, art. 56. The ethics code had been applied in deciding whether one’s conduct was prejudicial to the good order or the trust of a bar association, or has a “disgraceful nature.”

<sup>15</sup> The Recommendations, *supra* note 1, ch. III, sec. 6 (2).

<sup>16</sup> Gaikoku bengoshi niyoru hōritsu jimu no toriatsukaini kansuru tokubetsu sochihō [Special Measures Law Concerning Handling of Legal Affairs by Foreign Lawyers], Law No. 66 of 1986, arts. 7, 24 [hereinafter Special Measures Law Concerning Foreign Lawyers].

<sup>17</sup> This statistic was current as of Feb. 1, 2005. JFBA, *Nichibenren no kaiin* [Members of JFBA], at <http://www.nichibenren.or.jp/jp/nichibenren/kaiin/kaiin.html> (last visited Apr. 15, 2005).

<sup>18</sup> JFBA, Gaikoku tokubetsu kaiin kihon kitei [The Basic Regulations Concerning Foreign Special Members] (1987).

<sup>19</sup> Exclusion of court conducts is because registered foreign business attorneys are prohibited from representing clients in court. Special Measures Law Concerning Foreign Lawyers, art. 3(1)(i).

## II. TRANSLATION OF ETHICS CODES OF JAPANESE LEGAL PRACTITIONERS

### A. Attorneys (*Bengoshi*)

#### **Basic Regulations for Attorneys' Duties (*Bengoshi shokumu kihon kitei*)**

(Adopted on November 10, 2004, at the Extraordinary General Meeting of the Japan Federation of Bar Associations)

The mission of an attorney is to protect fundamental human rights and realize social justice.

To attain this mission, an attorney is granted freedom and independence in his or her duties, and is guaranteed a high degree of autonomy.

An attorney is socially responsible for being aware of such mission and disciplining his or her behavior.

Therefore, we hereby provide the basic provisions for attorneys' duties in order to clarify the ethics and the standard of conduct with respect to attorneys' duties.

#### **Chapter I. Basic Ethics**

##### **Article 1.** Awareness of mission.

An attorney shall be aware that his or her mission is to protect fundamental human rights, to realize social justice, and strive to attain this mission.

##### **Article 2.** Freedom and independence

An attorney shall respect freedom and independence in his or her duties.

##### **Article 3.** Autonomy of attorneys

An attorney shall be aware of the importance of attorney autonomy and strive to maintain and develop a self-governing system.

##### **Article 4.** Protection of the independence of the judiciary

An attorney shall protect the independence of the judiciary and strive to contribute to the sound development of the justice system.

##### **Article 5.** Loyalty and faithfulness

An attorney shall respect truth, be faithful, and perform his or her duties fairly and in good faith.

**Article 6. Honor and credibility**

An attorney shall value honor, maintain credibility, unsullied integrity, and strive to ennoble himself or herself at all times.

**Article 7. Study**

An attorney shall develop his or her culture and strive to study in order to be deeply versed in statutes and legal business.

**Article 8. Practice of public interest activities**

An attorney shall strive to participate in and practice public interest activities that are appropriate to his or her mission.

**Chapter II. General Discipline****Article 9. Advertisement and publicity**

1. An attorney shall not provide information that is false or misleading in advertising his or her services.
2. An attorney shall not advertise in a manner which would degrade his or her dignity.

**Article 10. Solicitation of prospective clients**

An attorney shall not solicit a prospective client or instigate a matter for an unwarranted purpose or in a manner which would degrade his or her dignity.

**Article 11. Cooperation with a person who is not an attorney**

An attorney shall not seek referral of a matter from a person who violates Articles 72-74 of the Attorneys Law, or who is reasonably believed to violate these provisions, or employ the services of such a person, or allow such a person to utilize his or her name.

**Article 12. Restriction on division of a fee**

Unless otherwise provided in statutes, in the rules of the JFBA or the bar association to which an attorney belongs, or any other justifiable ground, an attorney shall not divide a fee with respect to his or her services with a person who is not an attorney or an attorney's corporation.

**Article 13. Compensation for referral of client**

1. An attorney shall not pay any fee or any other compensation for the referral of a client.

2. An attorney shall not receive any fee or any other compensation for client referral.

**Article 14. Promotion of unlawful conduct**

An attorney shall not promote any fraudulent business transaction, violence, or any other illegal or unlawful conduct, or utilize such conduct.

**Article 15. Participation in degrading business**

An attorney shall not conduct or participate in any business which is against public order and morals or is degrading, participate in such business, or allow such business to utilize his or her name.

**Article 16. Maintenance of dignity in engaging in a commercial enterprise**

An attorney shall not, in pursuing a profit, perform in a way that would degrade his or her dignity, when he or she conducts a profit-seeking business, or becomes a director, executive director, or any other director who executes business, or is an employee of a person that conducts profit-seeking business.

**Article 17. Assignment of right to the subject matter**

An attorney shall not be assigned any right in the subject matter of a dispute.

**Article 18. Safekeeping of case records**

An attorney shall exercise caution not to reveal confidential and private information in safekeeping or disposing of case records.

**Article 19. Supervision of clerical staff**

An attorney shall direct and supervise clerical staff, judicial apprentices or any other person whom the attorney has allowed to participate in his or her duties to ensure that they do not act illegally or unlawfully with respect to the business they engage in, and do not reveal or utilize confidential information which they obtain in the course of the business in the law firm.

### **Chapter III. Discipline in Relation to Clients**

#### **Section 1. General Rules**

**Article 20. Freedom and independence in relation to clients**

An attorney shall strive to maintain his or her freedom and independence in undertaking and handling a matter.

**Article 21. Realization of a client's legitimate interest**

An attorney shall follow the dictates of his or her conscience and strive to realize his or her client's legitimate interest.

**Article 22. Respect of client's will**

1. An attorney shall perform his or her duties respecting the client's intent with relation to the purpose of the mandate.
2. An attorney shall take proper steps to confirm the client's will when the client cannot adequately express his or her will because of illness or any other reason.

**Article 23. Maintenance of confidential information**

An attorney shall not, without good reason, reveal or utilize a client's confidential information that he or she obtained in the course of his or her practice.

**Article 24. Attorney fees**

An attorney shall charge a proper and appropriate attorney fee in the context of economic interest, difficulty of the matter, time and labor consumed, and other circumstances.

**Article 25. Loan between an attorney and a client**

Unless special circumstances exist, an attorney shall not borrow money from, or lend money to, a client, guarantee a client's debt, or request a client to guarantee his or her debt.

**Article 26. Dispute with a client**

An attorney shall strive to maintain a relationship of mutual trust with a client and to avoid any dispute with the client. When a dispute arises, the attorney shall try to settle it through the dispute mediation of the bar association to which the attorney belongs.

**Section 2. Rules on Matters Which May Not Be Handled****Article 27. Matters which may not be handled**

An attorney shall not handle any of the following matters; however, an attorney may handle the matter described in (3) with the consent of his or her current client;

1. A matter in which the attorney supported the opposing party in a consultation, or accepted the opposing party as his or her client;



2. A matter in which the attorney was consulted by the opposing party and the extent and method of the consultation was such that it would be recognized as being based on a relationship of mutual trust;
3. A matter in which the attorney is requested to undertake by the opposing party in the matter the attorney currently handles;
4. A matter that the attorney has handled as a public servant in the course of his or her duties;
5. A matter the attorney handled as an enforcer of proceedings in arbitration, mediation, settlement reconciliation or other alternative dispute resolution.

**Article 28.** Matters which may not be handled

In addition to the matters provided in the preceding article, an attorney shall not handle the following matters except (1) and (4) with the client's consent, (2) with the consent of both the client and the opposing party, and (3) with the consent of the client and all other clients.

1. A matter in which the opposing party is the attorney's spouse, a person with a lineal relation, a brother or sister, or a person who has a kinship with the attorney and lives together;
2. A matter in which the opposing party is his or her client in another matter or a person with whom the attorney has a continuing contract to provide legal services;
3. A matter in which an interest of the client conflicts with an interest of other client; and
4. A matter in which an interest of the client conflicts with his or her own economic interest.

**Section 3. Rules in Undertaking a Matter**

**Article 29.** Explanation when undertaking a matter

1. Upon undertaking a matter, an attorney shall properly explain to the client the potential outcome of the matter, the means of the disposition, and the attorney's fee and expenses based on the information the attorney obtained from the client.
2. An attorney shall not promise or guarantee his or her client that the matter will result in favor of the client.
3. An attorney shall not undertake a matter by pretending that there is a chance of successfully achieving the result expected by his or her client regardless of the fact that such a result is unlikely.

**Article 30. Drafting a Mandate Contract**

1. Upon undertaking a matter, an attorney shall provide a retainer agreement, including provisions regarding the attorney's fee. If there is any reason that prevents an attorney from providing a retainer agreement, the attorney shall provide it when conditions permit.

2. Notwithstanding the preceding provision, an attorney may not provide a retainer agreement when the matter the attorney undertakes is the provision of legal counseling or drafting a simple document, or based on a counsel contract or any other continuous contractual relationship, or when there is any other reasonable ground for not drafting a retainer agreement.

**Article 31. Undertaking an unjust matter**

An attorney shall not undertake a matter which is obviously unjust in its objective or method of disposition.

**Article 32. Explanation of possible disadvantages in the future**

If an attorney has more than two clients who are parties to the same matter and there is a possibility of a conflict of interest between them, the attorney shall notify each of such clients of the possibility of the attorney's withdrawal and any other possible disadvantage for them upon undertaking the matter.

**Article 33. Explanation of legal aid system**

An attorney shall strive to protect a client's right to trial by informing the client about the Legal Aid System, the Litigation Aid System and any other system for protecting the rights of the poor, depending on the matter.

**Article 34. Notification of whether or not to undertake a matter**

When an attorney receives a request to undertake a matter, the attorney shall promptly notify a client whether or not the attorney agrees to undertake it.

**Section 4. Rules in Disposition of a Matter****Article 35. Proceeding with a matter**

Once an attorney has undertaken a matter, the attorney shall promptly commence and proceed with it without delay.

**Article 36.** Reporting progress of a matter

An attorney shall report the progress of a matter to the client including anything that may affect the outcome of the matter as the need arises, and handle the matter after consulting with his or her client.

**Article 37.** Investigation of statutes

1. An attorney shall not neglect to refer to the necessary statutes in his or her management of a matter.
2. An attorney shall strive to investigate the necessary and possible factual connections while managing a matter.

**Article 38.** Safekeeping of deposits

When an attorney receives a deposit from his or her client, the opposing party, or any other interested person in connection with a matter, the attorney shall keep it separate from his or her own money in a way which clearly shows that the money is a deposit and keep a record of its status.

**Article 39.** Safekeeping of properties

When an attorney receives property of his or her client, the opposing party or any other interested person in connection with a matter, the attorney shall safeguard it in keeping with the responsibilities of a good manager.

**Article 40.** Participation of another attorney

An attorney shall not, without good reason, prevent his or her client from retaining another attorney or attorneys' corporation with respect to the matter the attorney is undertaking.

**Article 41.** Conflict of opinion between attorneys undertaking a matter

When there is a conflict of opinion between attorneys or attorneys' corporations who are jointly undertaking a matter and such conflict may be prejudicial to the client, the attorney shall inform the client about such a conflict.

**Article 42.** Conflict of interest after undertaking a matter

When an attorney undertakes a matter in which the attorney has more than two clients and they have a possible conflict of interest, and a conflict actually appears between the clients, the attorney shall promptly inform each client of the situation and take proper steps, including withdrawal, if the occasion demands.

**Article 43. Loss of a relationship of mutual trust**

When an attorney loses a relationship of mutual trust with his or her client with respect to the matter the attorney is currently undertaking, and it is difficult to recover the trust, the attorney shall inform the client about such situation and take proper steps as necessary, including withdrawing from the matter.

**Section 5. Rules in Concluding a Matter****Article 44. Explanation of the result of the disposition**

Upon concluding a mandate contract, an attorney shall explain to his or her client the disposition of the matter or its result, adding legal advice as the need arises.

**Article 45. Returning deposit**

Upon concluding a mandate contract, an attorney shall account for money and return the deposit and properties in the custody of the attorney without delay according to the mandate contract.

**Chapter IV. Rules in Criminal Defense****Article 46. Attitude toward criminal defense**

An attorney shall strive to provide the best defense in order to protect the rights and interests of a suspect or a defendant, in consideration of their guaranteed right to defend themselves.

**Article 47. Securing an opportunity to interview and release from custody**

An attorney shall strive to secure an opportunity to interview and gain the release of a suspect or a defendant who is in custody.

**Article 48. Explanation of the right to defense**

An attorney shall properly explain and advise a suspect or a defendant about the right to remain silent and other defendants' rights, and strive to take necessary counter measures against illegal or unjust restriction of the right to defense and the right to advocacy.

**Article 49. Receipt of compensation by a public defender**

1. An attorney who serves as a public defender shall not accept any fee or compensation from a defendant or other interested party regardless of the name in which the money is offered.

2. With regard to a case in the preceding provision, an attorney shall not appeal to the defendant or other interested party to appoint him or her as a private defender in the same case, unless otherwise provided in the rules of this Federation or the bar association to which the attorney belongs.

## **Chapter V. Discipline of Attorneys in an Organization**

### **Article 50. Freedom and independence**

An attorney who is a staff member or an employee, or a director or any other member of the board of directors (hereinafter “an attorney in an organization”) in a public agency or a public or private group (except an attorney’s corporation, hereinafter “organization”) shall not lose sight of the mission of attorneys and the freedom and independence that are essential for attorneys and shall strive to perform his or her duties following the dictates of his or her conscience.

### **Article 51. Measures against illegal activities**

If an attorney in an organization learns in the course of the attorney’s duties that a person who belongs to the organization conducts or tries to conduct an illegal action in his or her business, the attorney shall take proper measures within the organization. Such measures include explaining to or advising the person that his or her action is illegal; reporting the violation to the chief of the department or the organization, the board of directors, the board of trustees or any other higher authority; or advising such higher authorities on these matters.

## **Chapter VI. Rules in Relation to Opposite Parties in a Matter**

### **Article 52. Direct negotiation with the opposing party**

An attorney shall not, without good reason, negotiate directly with the opposing party who is represented by an attorney who is qualified to represent the person by law, without consent of such legal representative.

### **Article 53. Provision of benefit from the opposing party**

An attorney shall not receive a benefit from, nor be entertained by, nor demand nor promise such treatment to the opposing party with respect to the matter the attorney undertakes.

**Article 54. Giving benefit to the opposing party**

An attorney shall not give benefit to, entertain, nor offer such treatment to the opposing party with respect to the matter the attorney undertakes.

**Chapter VII. Rules in a Corporate Firm****Article 55. Measures for compliance**

When more than two attorneys have a corporate law office (except offices of attorneys' corporations, hereinafter "corporate firm"), the attorney who has the authority to supervise an attorney who belongs to the office (hereinafter "affiliated attorney") shall strive to take necessary measures to make affiliated attorneys comply with these provisions.

**Article 56. Maintenance of confidential information**

An affiliated attorney shall not reveal nor utilize confidential information of a client of other affiliated attorneys that was obtained in the course of his or her business. The same applies after the attorney leaves the corporate firm.

**Article 57. Matters which may not be handled**

An affiliated attorney shall not handle a matter which other affiliated attorneys (including past affiliated attorneys) cannot handle according to Article 27 or 28, unless the attorney reasonably believes that he or she can maintain fairness in executing his or her duties.

**Article 58. Matters which may not be handled after they are undertaken**

If an affiliated attorney learns about a conflict of interest described in the preceding article after the attorney has undertaken a matter, the attorney shall promptly inform his or her client about the situation and take proper steps, including withdrawal as the occasion demands.

**Article 59. Records of case information**

An affiliated attorney shall, in cooperation with other affiliated attorneys, strive to keep a record of clients, opposing parties, and names of matters that the attorney handled, and take other steps in order to avoid undertaking a matter that cannot be handled under these rules.

**Article 60. Application**

The provisions in this chapter apply to the case where an attorney shares an office with a registered foreign business attorney (*gaikokuhō jimu bengoshi*). In such case, "more than two attorneys" in Article 55 replaces "attorney and

registered foreign business attorney;” “an attorney who belongs to the office” (hereinafter “affiliated attorney”) in Article 55 replaces “a registered foreign business attorney who belongs to the office” (hereinafter “affiliated registered foreign business attorney”); “affiliated attorney” in Article 55 replaces “affiliated registered foreign business attorney;” “other affiliated attorneys” in Articles 56-59 replaces “affiliated registered foreign business attorneys;” and “Article 27 or 28” in Article 57 replaces “Article 27 or Article 28 which is applied under Article 30 (2) of the basic provisions for registered foreign special members.”

## **Chapter VIII. Rules in an Attorneys’ Corporation**

### **Article 61. Measures for compliance**

An attorney who is a member of an attorneys’ corporation (*bengoshi hōjin*) shall strive to take necessary measures in order to ensure compliance with these provisions by an attorney who is a member or an employee of the attorney’s corporation (hereinafter “member”), and a registered foreign business attorney who is the employee of the attorney’s corporation.

### **Article 62. Maintenance of confidentiality**

A member shall not reveal or utilize confidential information obtained in the course of his or her business from a client of the attorney’s corporation, other member, or the registered foreign business attorney who is an employee. The same applies after the attorney leaves the attorney’s corporation.

### **Article 63. Matters which may not be handled**

A member (including a former member in case of section (1) and (2)) shall not handle the following matters; however an attorney may handle the matter described in (4) with the consent of the client the attorney’s corporation.

1. A matter in which the attorney’s corporation supported the opposing party in the consultation requested, or accepted the opposing party as its client while the attorney was a member of the corporation and the member personally participated in;
2. A matter in which the attorney’s corporation was consulted by the opposing party and the extent and method of the consultation was such that it would be recognized as being based on a relationship of mutual trust, and the attorney personally engaged in consultation while he or she was a member of the corporation;

3. A matter in which the attorney's corporation currently handles for the opposing party;
4. Any other matter the attorney's corporation is requested by the opposing party in the matter the corporation currently handles and the attorney personally participated in.

**Article 64.** Matters which may not be handled due to relation to other members

1. A member shall not handle a matter which another member cannot handle according to either Article 27 or 28, or Article 63 (1) or (2), unless the attorney is certain that he or she can remain independent in executing his or her duties.
2. A member shall not handle a matter which an employed foreign licensed attorney cannot handle according to either Article 27 or 28, or Article 63 (1) or (2), which are applied by Article 30 (2) of the Basic Provision for Foreign Special Members, unless the attorney is certain that he or she can remain independent in executing his or her duties.

**Article 65.** Matters which may not be practiced

An attorney's corporation shall not participate in the following matters, except for the matter in (3) if the attorney has the consent of the client, the matter in (5) if the number of members who cannot handle the matter is less than half of the total members of the attorney corporation, and with a good faith belief that the corporation can maintain the fairness of its practice.

1. A matter in which the attorney's corporation supported the opposing party in the consultation, or accepted the opposing party as its client;
2. A matter in which the attorney's corporation was consulted by the opposing party, and the extent and method of the consultation was such that it would be recognized as being based on a relationship of mutual trust;
3. A matter that the attorney's corporation has undertaken for the opposing party;
4. A matter that a member or an employed registered foreign business attorney has undertaken for the opposing party;
5. A matter that a member cannot handle according to Articles 27 or 28, or Article 63 (1) or (2).

**Article 66.** Matters which may not be practiced

In addition to matters provided for in the preceding article, an attorney's corporation shall not participate in the following matters, except the matter in (1) if the client and opposing party give consent, the matter in (2) if the



client and all other clients give consent, and the matter in (3) with the consent of its client.

1. A matter in which the opposing party is its client in another matter the corporation currently handles or a person with whom the corporation entered into a contract to provide continuous legal services;
2. A matter in which the client's interest conflicts with another client's interest;
3. A matter in which a client's interest conflicts with the corporation's economic interest.

**Article 67.** Matters which may not be practiced – after undertaken

1. If a member learns about a conflict of interest provided in Article 63 (3) after undertaking a matter, the member shall promptly inform his or her client about it and take proper steps, including withdrawal as occasion demands.
2. If an attorney's corporation knows that there is a conflict of interest as provided in Article 65 (4) or (5) after undertaking a matter, it shall promptly inform its client about the situation and take proper steps, including withdrawal as the occasion demands.

**Article 68.** Records of case information

An attorney's corporation shall strive to keep a record of clients, opposing parties, and names of matters that the corporation, members, and employed registered foreign business attorneys handled, and take other steps in order to avoid undertaking a matter that the corporation or its members or employed registered foreign business attorneys cannot handle.

**Article 69.** Application

Provisions in Chapters I-III (except Articles 16, 19, 23, and Section 2 of Chapter III), Chapter VI, and Chapters IX-XII apply to attorney's corporations.

**Chapter IX. Rules in Relation to Other Attorneys**

**Article 70.** Respect of honor

Attorneys shall value the honor and good faith in other attorneys, attorney's corporations and licensed foreign lawyers (hereinafter "attorneys").

**Article 71.** Entrapping other attorneys

An attorney shall not entrap other attorneys contrary to good faith.

**Article 72. Unjust intervention with another matter**

An attorney shall not unjustly intervene in a matter which other attorneys have already undertaken.

**Article 73. Dispute among attorneys**

An attorney shall strive to amicably settle any dispute with other attorneys through consultation or dispute mediation of the bar associations.

**Chapter X. Rules with Respect to Litigation****Article 74. Fair trial and proper procedure**

An attorney shall strive to ensure a fair trial and proper procedure.

**Article 75. Enticing perjury**

An attorney shall not entice a witness to commit perjury or to make a false statement, or offer evidence that the attorney knows to be false.

**Article 76. Delay in judicial proceedings**

An attorney shall not cause any delay in judicial proceedings by negligence or for unjust purposes.

**Article 77. Unjust use of personal relations with judge etc.**

An attorney shall not unjustly use his or her personal relations with a judge, prosecutor, or other public officer who engages in the judicial proceedings in the course of his or her duties.

**Chapter XI. Rules with Respect to Bar Associations****Article 78. Compliance with the Attorneys' Law etc.**

An attorney shall comply with the Attorneys' Law, the articles of the Japan Federation of Bar Associations, and the bar association to which the attorney belongs.

**Article 79. Unwarranted Refusal of the Entrusted Matter**

An attorney shall not, without good reason, refuse a matter which is entrusted to him or her by the Japan Federation of Bar Associations, the bar association to which the attorney belongs, or the federation of bar associations established by the bar association to which the attorney belongs according to Article 44 of the Attorneys Law.

## **Chapter XII. Discipline in Relation to Public Agencies**

### **Article 80. Unwarranted refusal of the entrusted matter**

An attorney shall not, without good reason, refuse to perform the matters that are entrusted to him or her by public agencies pursuant to laws.

### **Article 81. Limitation on accepting an entrusted matter**

An attorney shall not undertake a matter that has been referred by a public agency if the attorney cannot maintain impartiality with respect to his or her duties in performing the matter.

## **Chapter XIII. A Guideline for Construction and Application**

### **Article 82. A guideline for construction and application**

1. In consideration of the diversity and the case-by-case nature of the duties of attorneys, this provision shall be practically construed and applied in order not to unjustly infringe on the freedom and independence of attorneys. In criminal defense, Article 5 shall be construed and applied so as not to infringe the defensive rights of suspects or the accused or the attorney's right of defense.

2. The provisions in Chapter I, Articles 20-22, Article 26, Article 33, article 37 (2), Articles 46-48, Article 50, Article 55, Article 59, Article 61, Article 68, Article 70, Article 73 and Article 74 shall be construed and applied as the provisions that state the standard of conduct or provide an aspiration of the duties of attorneys.

### **Supplementary Provision**

This provision is effective on April 1, 2005.

### ***B. Judicial Scriveners (Shihō shoshi)***

### **Ethics of Judicial Scriveners (*Shihōshoshi rinri*)**

(Adopted on June 19, 2003 by the Japan Federation of Judicial Scriveners Associations)

## **Chapter I. Principles**

### **Article 1. Awareness of mission**

A judicial scrivener shall be aware that his or her mission is to protect the rights of citizens, to realize a just society, and to strive to attain this mission.

**Article 2. Faithfulness and reliability**

A judicial scrivener shall perform his or her duties fairly, loyally, and in good faith.

**Article 3. Maintenance of dignity**

A judicial scrivener shall strive to act in a disciplined way, raise his or her level of culture, and endeavor to maintain his or her dignity at all times.

**Article 4. Well versed in laws**

A judicial scrivener shall be deeply versed in statutes and practice.

**Article 5. Freedom and independence**

A judicial scrivener shall be aware of his or her responsibilities and maintain freedom and independence in his or her duties.

**Article 6. Contribution to the justice system**

A judicial scrivener shall be trusted by citizens and contribute to the development of a justice system that the citizenry can easily access.

**Article 7. Public interest activity**

A judicial scrivener shall strive to engage in public interest activities and contribute to the realization of public interest, maintenance of social order, and improvement of the legal system.

**Chapter II. General Rules****Article 8. Respect of the right of self decision**

A judicial scrivener shall perform his or her duties with respect of his or her client's right to make his or her own decision.

**Article 9. Explanation and advice**

A judicial scrivener shall give explanations and advice based on precise legal judgment in order to realize the purpose of his or her client.

**Article 10. Maintenance of confidentiality**

1. A judicial scrivener shall maintain confidential information which he or she obtained in the course of his or her duties, unless good reason exists to reveal the confidential information. The same duty applies after retirement.
2. A judicial scrivener shall ensure that members of his or her clerical staff maintain confidential information obtained in the course of their duties.

**Article 11. Usage of authority outside of purpose**

A judicial scrivener shall not exercise his or her authority outside the scope of his or her duties as a judicial scrivener.

**Article 12. Participation in undignified business**

A judicial scrivener shall not conduct or participate in any business which may degrade his or her dignity or impinge on his or her impartiality.

**Article 13. Unjust solicitation etc.**

A judicial scrivener shall not solicit a prospective client or instigate a matter in an unjust way.

**Article 14. Cooperation with a person who is not a judicial scrivener**

1. A judicial scrivener shall not obtain a referral of a matter from a person who is not a judicial scrivener.
2. A judicial scrivener shall not let a third person conduct judicial scrivener business in his or her name.

**Article 15. Promotion of unlawful conduct etc.**

A judicial scrivener shall not promote any illegal or unlawful conduct, or employ such conduct.

**Article 16. Advertisement and publicity**

A judicial scrivener shall not engage in advertising or publicity with an unjustified purpose or that would degrade his or her dignity.

**Article 17. Supervision of clerical staff**

1. A judicial scrivener shall direct and supervise clerical staff at all times.
2. A judicial scrivener shall not allow clerical staff to do the judicial scrivener's duties comprehensively.

**Article 18. Utilization of personal relations**

A judicial scrivener shall not negotiate with judges, prosecutors, judicial clerks, county clerks, or the like utilizing his or her personal relationship with them in the course of his or her duties.

### **Chapter III. Rules in Relation to Clients**

#### **Article 19. Clarification of the purpose of an undertaking**

A judicial scrivener shall undertake a matter only after clarifying the content and the scope of representation based on the purpose of his or her client.

#### **Article 20. Demonstration of fee**

Upon undertaking a matter, a judicial scrivener shall inform the client of the fee and the amount of expenses or the method of calculating the expenses and sufficiently explain them.

#### **Article 21. Disposition of a matter**

1. Once a judicial scrivener has undertaken a matter, the judicial scrivener shall promptly commence and dispose of it without delay.
2. A judicial scrivener shall report his or her progress on a matter and any important issues as necessary, and when concluding the matter, report its history and the result without delay to his or her client.

#### **Article 22. Relation with public duties**

A judicial scrivener shall not handle a matter in which he or she has engaged as a public officer, or as a person who engages in public duties according to laws.

#### **Article 23. Matters that cannot be executed impartially**

A judicial scrivener shall not handle a matter in which he or she has reason to believe that he or she cannot maintain the impartiality of his or her duties.

#### **Article 24. Matters that may not be executed impartially**

When the possibility exists that a judicial scrivener might not be able to maintain his or her impartiality in the future, the judicial scrivener shall inform his or her client about it in advance and strive to obtain the permission to withdraw from handling the matter should the potential issue actually occur.

#### **Article 25. Undertaking an unjust matter**

A judicial scrivener shall not undertake a matter when there is doubt that the purpose of the request is unjust in its objective, method, or means.

**Article 26. Notice of special relationship**

When a relationship of mutual trust with a client may possibly be affected by a special relationship with the client's opposing party, a judicial scrivener, upon undertaking a matter, shall inform the client about the situation.

**Article 27. Management after undertaking a matter**

If a judicial scrivener learns that there is a condition as described in one of the preceding four articles, the judicial scrivener shall promptly inform his or her client about the situation and take such proper steps as the occasion demands.

**Article 28. Conflict of interest**

When a judicial scrivener has more than two clients in a matter he or she undertakes and a conflict of interest appears among the clients, the judicial scrivener shall take proper steps, explaining the reasons for taking such steps, as occasion demands.

**Article 29. Conflict of opinion between judicial scriveners undertaking a matter**

When there is another judicial scrivener who jointly undertakes a matter and there is a possible conflict of opinion between the judicial scriveners which may prejudice the client, a judicial scrivener shall inform the client about it.

**Article 30. Loss of a relationship of mutual trust with clients**

When a judicial scrivener loses a relationship of mutual trust with his or her client with respect to a matter he or she currently undertakes, and it is difficult to recover the confidence, the judicial scrivener shall take proper steps as the occasion demands, including withdrawal.

**Article 31. Safekeeping of documents**

A judicial scrivener shall safeguard as a good manager documents related to the matter he or she undertakes.

**Article 32. Safekeeping of deposits**

1. When a judicial scrivener receives a deposit from his or her client or other person for the client, the judicial scrivener shall keep it separate from his or her own money.
2. When a judicial scrivener receives money for his or her client, the judicial scrivener shall promptly report that fact to the client.

**Article 33. Termination of a matter**

When a judicial scrivener becomes unable to continue handling a matter he or she has undertaken, the judicial scrivener shall take proper steps as occasion demands in order not to cause any damage to his or her client.

**Article 34. Record of matters**

A judicial scrivener shall make and keep a record of activities, transfers of money, and any other important issues with regard to matters he or she has handled.

**Article 35. Assignment of right to the subject matter**

A judicial scrivener shall not be assigned any right in the subject matter of a dispute.

**Article 36. Loan with clients**

A judicial scrivener shall not borrow money from or lend money to his or her client, guarantee his or her client's debt, or request his or her client to guarantee his or her debt without good reason.

**Article 37. Liability insurance**

A judicial scrivener shall strive to have liability insurance with regard to the responsibilities in executing his or her duties as a means of protecting the client.

**Article 38. Returning deposit etc.**

Upon closing a matter, the judicial scrivener shall dispose of the money and return the properties and documents in the custody of the judicial scrivener without delay.

**Chapter IV. Rules in Relation to Opposite Parties in a Matter****Article 39. Transfer of benefit with opposing party etc.**

1. A judicial scrivener shall not receive benefit from, or be entertained by the opposing party, or demand or promise such treatment with respect to a matter the judicial scrivener undertakes.
2. A judicial scrivener shall not give benefit to, entertain, or promise such treatment to an opposing party with respect to a matter the judicial scrivener undertakes.



**Article 40.** Direct negotiation with opposing party

1. When an opposing party is not represented by a lawyer with respect to a matter a judicial scrivener undertakes, the judicial scrivener shall not unjustly entrap an opposing party or take advantage of his or her ignorance or misunderstanding.
2. When an opposing party is represented by a lawyer with respect to a matter a judicial scrivener undertakes, the judicial scrivener shall not negotiate directly with the opposing party without the consent of the lawyer, unless special circumstances exist.

**Chapter V. Rules in Relation to Other Judicial Scriveners****Article 41.** Prohibition of slander etc.

A judicial scrivener shall not conduct an action which violates good faith, such as slandering another judicial scrivener.

**Article 42.** Respect of fiduciary relation

When a judicial scrivener cooperates in handling a matter that another judicial scrivener undertakes, the judicial scrivener shall respect the fiduciary relation between that judicial scrivener and the client.

**Article 43.** Participation of another judicial scrivener

When a client wants another judicial scrivener to participate in a matter that a judicial scrivener undertakes, the judicial scrivener shall not refuse the client's request without good reason.

**Article 44.** Intervention in another matter

A judicial scrivener shall not unjustly intervene in a matter that another judicial scrivener undertakes.

**Article 45.** Mutual cooperation

1. When a judicial scrivener conducts his or her duties jointly with another judicial scrivener, the judicial scriveners shall mutually cooperate for the realization of the client's purpose.
2. When a judicial scrivener assigns a substituted agent for the disposition of a matter, the judicial scrivener shall clarify the scope of the authority of the representation by the agent and sufficiently communicate with the agent.

## **Chapter VI. Rules with Respect to Judicial Scriveners Associations**

### **Article 46. Compliance with rules**

A judicial scrivener shall comply with rules that the Japan Federation of Judicial Scriveners Association and Judicial Scriveners Association to which the judicial scrivener belongs (hereinafter “Judicial Scriveners Association”) in a spirit of autonomy.

### **Article 47. Establishment of autonomy**

A judicial scrivener shall strive to establish autonomy and positively cooperate with the organization operations of Judicial Scriveners Association at all times.

### **Article 48. Participation in projects**

A judicial scrivener shall positively participate in projects conducted by Judicial Scriveners Association and faithfully accomplish a matter commissioned.

### **Article 49. Improvement of quality**

A judicial scrivener shall voluntarily study as well as participate in the training carried by Judicial Scriveners Association and strive to improve his or her quality as a judicial scrivener.

### **Article 50. Managing disputes**

1. If a dispute appears with regard to practice, a judicial scrivener shall strive to resolve it by voluntary and harmonious consultation.
2. If the consultation in the preceding section is not successful, the judicial scrivener shall strive to resolve the dispute through mediation in the Judicial Scriveners Association to which he or she belongs.

## **Chapter VII. Rules with Respect to Real Estate Registration Procedure**

### **Article 51. Contribution to the real estate registration system**

A judicial scrivener shall strive to promptly execute valid registrations and contribute to the development of the real estate registration system in order to protect the rights of citizens.

**Article 52. Prevention of occurrence of conflict**

When a judicial scrivener undertakes a registration procedure, the judicial scrivener shall respect his or her client's will, strive to protect his or her interests, and strive to prevent disputes from occurring.

**Article 53. Role as a caretaker**

1. When a judicial scrivener undertakes or is consulted about a registration procedure, the judicial scrivener shall strive to ensure fairness among parties.

2. In case of the preceding section, the judicial scrivener shall strive to take the role of caretaker, such as by disclosing necessary information and giving advice.

**Article 54. Comprehension of interest relations**

1. When a judicial scrivener undertakes a registration procedure, the judicial scrivener shall precisely determine substantive property rights by verifying the party, the party's will, and the object.

2. A judicial scrivener shall draft a document that verifies the preceding section.

**Chapter VIII. Rules with Respect to Procedure of Commercial and Corporate Registration****Article 55. Contribution to the commercial corporation registration system**

A judicial scrivener shall strive to realize valid registrations and contribute to the development of the commercial corporation registration system in order to maintain the security of transactions and the reliance on the corporate system.

**Article 56. Advice to comply with laws**

When a judicial scrivener undertakes or is consulted about a registration procedure, the judicial scrivener shall explain the importance of the social responsibility of a corporation and give advice for it to comply with applicable laws.

**Article 57. Comprehension of substantive relations**

1. When a judicial scrivener undertakes a registration procedure, the judicial scrivener shall strive to understand substantive relations by consulting related documents such as meeting minutes.

2. When a judicial scrivener undertakes drafting a document like minutes, the judicial scrivener shall strive to verify underlying facts.

### **Chapter IX. Rules with Respect to Deposit Procedure**

#### **Article 58. Deposit procedure**

When a judicial scrivener undertakes or is consulted about a deposit procedure, the judicial scrivener shall precisely comprehend correct substantive relations and strive to promptly ensure his or her client's interest with the consideration of registration procedure, litigation procedure, and any other relevant procedures.

### **Chapter X. Rules with Respect to Litigation**

#### **Article 59. Fairness of litigation and due process**

A judicial scrivener shall contribute to just litigation and the realization of due process.

#### **Article 60. Role in dispute resolution**

A judicial scrivener shall, as a legal practitioner who works closely with citizens, strive to protect and ensure the legitimate right of his or her client by performing his or her duties with accurate knowledge and the best means at all times in keeping with his or her duty to cooperate with citizens in investigating issues with respect to dispute citizens have.

#### **Article 61. Matters that may not be practised**

A judicial scrivener shall not practice the following matters with respect to the business relating to drafting court documents and the business relating to the representation in summary court, except subsection (2) and (3) with the consent of the client.

1. A matter in which the judicial scrivener was consulted by the opposing party and would be recognized as having formed a relationship of mutual trust with the opposing party;
2. Other matters the judicial scrivener is requested to undertake by the opposing party in the matter the judicial scrivener currently undertakes;
3. Other matters in which the opposing party is his or her client in the matter the judicial scrivener currently undertakes.
4. Any other matter in which the judicial scrivener has a conflict of interest with his or her client due to another matter the judicial scrivener currently undertakes or undertook in the past.

**Article 62. Business relating to drafting court documents**

When a judicial scrivener undertakes the business relating to the drafting court documents, the judicial scrivener shall sufficiently communicate with his or her client, strive to comprehend the entire picture of a matter, and explain to the client the available means of resolving the matter.

**Article 63. Business relating to representation in summary court**

When a judicial scrivener undertakes a matter requiring representation in summary court, the judicial scrivener shall, based on the responsibility as a representative, pay sufficient attention to managing the matter and conduct his or her duties with respect for his or her client's right of self-determination.

**Article 64. Notification of whether or not to undertake a matter**

A judicial scrivener shall promptly notify a person who requested representation in summary court whether or not the judicial scrivener will undertake a matter.

**Article 65. Discovery of truth**

A judicial scrivener shall not neglect the discovery of truth as a result of overly being concerned with the outcome of the matter.

**Article 66. Instruction of legal aid system etc.**

A judicial scrivener shall strive to protect his or her client's right to trial through means such as instructing the client about the Legal Aid System and the Litigation Aid System, depending on the matter.

**Article 67. Undertaking a hopeless matter**

A judicial scrivener shall not undertake a matter by pretending that there is a chance of successfully achieving the result expected by his or her client despite the fact that such a result is obviously unlikely.

**Article 68. Promise of favorable result**

A judicial scrivener shall not promise or guarantee his or her client that a matter will result in favor of the client.

**Article 69. Enticement of perjury**

A judicial scrivener shall not entice a witness to commit perjury or to make a false statement, or offer or entice an offer of false evidence.

**Article 70. Delay in judicial proceedings**

A judicial scrivener shall not cause any delay in judicial proceedings by neglect of his or her duties or for unjust purposes.

**Chapter XI. Rules with Respect to Adult Guardianship****Article 71. Contribution to the adult guardianship system**

A judicial scrivener shall contribute to the development of an adult guardianship system that is trusted by citizens and easily accessible to them.

**Article 72. Cooperation with related institutions**

A judicial scrivener shall cooperate with administrative agencies and persons providing welfare services, and strive to communicate with them in conducting the business relating to adult guardianship.

**Article 73. Consultation about adult guardianship**

When a judicial scrivener counsels about an adult guardianship, the judicial scrivener shall give appropriate advice after hearing from the person in question and the parties concerned, about their opinions, physical and mental condition, and the situation of life and property of the person in question.

**Article 74. Selecting procedure of adult guardian**

When a judicial scrivener undertakes the procedure concerning a petition for statutory guardianship or voluntary guardianship, the judicial scrivener shall confirm the wishes of the petitioner and the person in question, and select the appropriate procedure in consideration of the best means to protect the rights of the person being put into guardianship and his or her circumstances.

**Article 75. Accepting to be an adult guardian etc.**

When a judicial scrivener becomes an adult guardian or a similar person, the judicial scrivener shall respect the wishes of the person in question, and conduct the business with the consideration of the physical and mental condition, the life and property situation of the person in question.

**Chapter XII. Rules in Relation to Other Duties****Article 76. Drafting documents submitted to the public prosecutor's office**

When a judicial scrivener undertakes drafting a document that is submitted to the public prosecutor's office, the judicial scrivener shall strive to promote justice with consideration of the human rights of the parties concerned.

**Article 77.** Review request procedure

When a judicial scrivener undertakes a procedure to request review, the judicial scrivener shall strive to promptly ensure his or her client's rights.

**Article 78.** Property management

1. When a judicial scrivener engages in property management for a client, the judicial scrivener shall endeavor to be a good manager, keeping the client's property independent of his or her own in a way that clearly distinguishes it from his or her own property or any other property the judicial scrivener manages.

2. While a judicial scrivener performs the services described in the preceding section, the judicial scrivener shall not take an action that is in conflict with his or her client's interests, such as by transferring the client's property or the property right to the client from a third person.

3. A judicial scrivener shall keep records concerning the management of property under section 1 and report back to his or her client.

4. When a judicial scrivener ceases to manage a client's property, the judicial scrivener shall balance the accounts and return any property or documents in his or her custody without delay.

**Article 79.** Drafting documents concerning nationality

When a judicial scrivener undertakes drafting a document concerning nationality, the judicial scrivener shall respect his or her client's wishes and consider his or her human rights.

*C. Administrative Scriveners (Gyōsei shoshi)***Ethical Principles for Administrative Scriveners (Gyōseisyoshi rinri kōryō)**

(Adopted on September 23, 1998, by Japan Federation of Administrative Scriveners Associations)

The mission of an administrative scrivener is to be a bond between citizens and administrative branches, and contribute to the development of citizens' life, prosperity, and progress of society.

1. An administrative scrivener shall devote himself or herself to his or her mission, respect honor, and be worthy of the trust of citizens.

2. An administrative scrivener shall protect citizens' rights while performing his or her duties.
3. An administrative scrivener shall comply with statutes and the articles of associations, be deeply versed in his or her practice, and perform his or her duties fairly and faithfully.
4. An administrative scrivener shall cultivate his or her personality, and endeavor to develop his or her morality and culture.
5. An administrative scrivener shall strive to harmonize with each other, and shall not break the duty of good faith.

*D. Patent Attorneys (Benrishi)*

**Ethics of Patent Attorneys (*Benrishi rinri*)**

(Adopted on December 7, 2000 by Japan Patent Attorneys Association)

**Chapter I. General Provision**

**Article 1.** According to Article 44 of the Articles of the Japan Patent Attorneys Association, these rules provide standards of conduct with which members shall comply in addition to the Articles of the Japan Patent Attorneys Association.

**Chapter II. Ethics of Business**

**Article 2.** A member shall not perform, either directly or indirectly, an act that undermines his or her dignity as a patent attorney or a similar such act for the purpose of accepting a matter.

**Article 3.** In addition to matters provided under statutes, a member shall not undertake a matter from an enterprise without the parties' consent when the member has a preexisting interest relationship with the enterprise and such relationship throws a doubt on his or her impartiality.

**Article 4.** A member shall not reveal or appropriate confidential information the member obtained in the course of his or her business without good reason.



**Article 5.** A member shall not let another person utilize his or her name.

**Article 6.** A member shall properly supervise his or her employees in performance of their duties related to his or her business and ensure their compliance with the regulations, including the Ethics of Patent Attorneys.

**Article 7.** When a member of a patent business corporation (*tokkyo gyōmu hōjin*) withdraws from the corporation, due care shall be taken not to cause any impediment to the business of the corporation.

**Article 8.**

1. A member shall not engage in business that degrades the dignity of a patent attorney.

2. A member shall not aid a person who violates or may violate the Patent Attorney Law (Law No. 49, 2000, herein after “the Law”) or any order under the Law.

3. A member shall not accept a referral or a commission on a matter from a person who violates or may violate the Law or any order under the Law, or utilize such a person.

4. A member shall not unjustly institute proceedings or take similar action.

**Article 9.** A member shall explain his or her fees to the client and obtain an agreement when the member undertakes a matter.

### **Chapter III. Rules among Members**

**Article 10.** Members shall conduct themselves professionally with respect to each other, and shall not slander other members or hurt other members’ honor.

**Article 11.**

1. A member shall not, either directly or indirectly, infringe on the business of other members in an unjust way.

2. When a member undertakes a matter in which another member formerly engaged, both members shall sufficiently communicate and transfer the duties about the necessary matters.

Supplementary Provision -- This rule is effective on January 6, 2001.

*E. Tax Attorneys (Zeirishi)*

**The Mission and Ethics of Tax Attorneys (*Zeirishi no shimei to rinri*)**

(Adopted on January 25, 1989 by Japan Federation of Tax Attorneys Associations)

**The Mission of Tax Attorneys**

The mission of tax attorneys as professionals is to be worthy of the reliance of the people who have legal obligation to pay taxes, and be independent and fair in accordance with the spirit of self-assessment tax payment system, and to strive to aid clients to meet their legal obligation to pay their taxes as provided by statutes regarding taxation.

**Ethical Principles of Tax Attorneys**

1. A tax attorney shall be aware of the public nature of his or her duties, and perform his or her duties from an independent and fair position.
2. A tax attorney shall strive for the proper realization of the legal obligation of tax payment in accordance with statutes, and respond to the reliance of tax-payers.
3. A tax attorney shall value order, maintain trust, enhance his or her dignity at all times, and strive to improve the social status of tax attorneys.
4. A tax attorney shall study in order to be deeply versed in statutes and practice, and strive to improve his or her quality as a tax attorney.
5. A tax attorney shall comply with the articles of associations, and positively cooperate in the management of associations.

**Model Disciplinary Rules of Tax Attorneys Association (*Zeirishikai kōki kisoku (jyunsoku)*)**

(Last modified on March 25, 2002)

**Chapter 1. General Provision**

**Article 1. Performance of the mission and duties**

A member shall be aware of the importance of the mission of tax attorneys provided in Article 1 of Tax Attorney Law (hereinafter “Law”), strive to

develop a noble personality, to nourish complete common sense in order to perform his or her duties under the mission in accordance with professional ethics, and be deeply versed in statutes and practice relating to the business of tax attorneys.

**Article 2. Spirit of compliance**

A member shall faithfully comply with statutes relating to tax attorneys, the articles of the Japan Federation of Tax Attorneys Association (hereinafter "Federation") and this association, and the regulations and subsidiary rules (hereinafter "rules") of this association.

**Article 3. Maintenance of dignity**

A member shall maintain his or her dignity in compliance with his or her mission, and strive to promote social trust in tax attorneys at all times.

**Chapter 2. Standards of conduct**

**Article 4. Prohibition of unlawful representation in tax matters**

A member shall not deliberately provide tax services or draft tax documents in a manner inconsistent with the facts.

**Article 5. Prohibition of counseling tax evasion**

A member shall not instruct, counsel, or perform unlawful evasion of the imposition or collection of national or local taxes, or unlawful receipt of a refund of such tax.

**Article 6. Maintenance of confidentiality**

A member shall not reveal or appropriate confidential information which the member obtained in the course of tax attorney business without good reason.

**Article 7. Duty of giving advice**

If a member learns in the course of performing tax services for a client that the person who requested his or her services unlawfully evaded the imposition or collection of national or local tax, unlawfully received a refund of such tax, or concealed or disguised all or part of the fact that should be the basis for the calculation of such tax, the member shall promptly counsel the person to correct his or her actions.

**Article 8. Limitation of practice**

A member who was a public servant engaged in administrative business relating to the imposition or collection of national or local taxes shall not provide tax services in relation to a matter which was handled at the office where he or she served within one year before he or she left for one year after his or her leaving the job, unless he or she has obtained approval under Article 42 of the Law.

**Article 9. Deleted.****Article 10. Deleted.****Article 11. Duty to participate in trainings**

1. A tax attorney member shall participate in the trainings conducted by this association and the Federation, and strive to improve the level of his or her expertise.
2. A tax attorney or a tax attorney's corporation (*zeirishi hōjin*) shall understand the importance of the training in which a member tax attorney participates, and support his or her participation.

**Article 12. Duty to keep accounts**

A member shall make and keep accounts that conform to the standard form provided by the Federation in maintaining a business providing tax attorney services.

**Article 13. Demonstration of authority for representing a tax matter**

Upon engaging in a tax matter, a member shall demonstrate that he or she has the authority to engage in the matter to the relevant public office by submitting his or her certification for inspection.

**Article 14. Carrying a tax attorney certificate**

A tax attorney member shall carry his or her tax attorney certificate and wear the membership badge when providing tax services.

**Article 15. Mandate contract**

A member shall faithfully comply with a mandate contract he or she has with a person who has legal obligation to pay taxes, and strive to avoid disputes with his or her client.

**Article 16. Prohibition of requesting commission of business**

A member shall not solicit in a vain or unfair manner a business mandate from a person who has a legal obligation to pay taxes.

**Article 17. Deleted.****Article 18. Advertisement of business**

1. A member may advertise his or her services as long as such advertisement does not violate any provision of these rules.
2. The mandatory standards for advertising are provided by subsidiary rules.

**Article 19. Prohibition on lending name**

A member shall not, in any case, allow others to utilize his or her name, or assist them in utilizing his or her name.

**Article 20. Rejection of relationship with false tax attorneys**

A member shall not, either directly or indirectly, have the following relationship with a person who likely violates Article 52 of the Law regardless whether the relationship is for profit or is gratuitous.

1. Use or jointly rent office space for practicing a tax attorney's business;
2. Receive or provide a referral of business;
3. Become an employee of the person or employ the person;
4. Provide any assistance in conducting business.

**Article 21. Prohibition of intervention in business**

A member shall not, either directly or indirectly, act in a way that unjustly intervenes in another member's business.

**Article 22. Reasonableness of fee**

When a member requests a fee for providing tax services, the fee shall be based on reasonable calculations.

**Article 23. Making a standard fee calculation**

A member shall provide his or her standard fee calculation in advance and be prepared to answer a client's questions concerning the fee.

**Article 24. Supervision of employees**

A member shall supervise his or her employees and other members of his or her staff (hereinafter "employees") to ensure that their conduct does not violate any statute governing the provision of tax attorney services or the

regulations or rules of this Association; a member shall also give necessary instructions to employees to ensure the adequate performance of their duties.

**Article 25. Notification of punishment of employees**

When a member dismisses his or her employees for breach of discipline or for failure to follow his or her instructions under the preceding article, the member shall notify this Association of the action through the Association branch to which he or she belongs.

**Article 26. Prohibition on hiring another's employee**

A member shall not hire an employee of another tax attorney or tax attorney's corporation.

**Article 27. Prohibition on false or unjust certification**

A member shall not falsely or unjustly certify his or her employee's status.

**Article 28. Reporting violation of disciplinary rule**

If a member learns that another tax attorney or tax attorney's corporation, or its employee, acts in such a way that harms trust or dignity, or suspects such conduct, the member shall report such knowledge or suspicion to this Association through the branch to which he or she belongs.

**Article 29. General supervision**

When this Association, a branch, or the Federation, acknowledging a necessity, requests a report or gives advice or direction to a member in relation to his or her business, the member shall comply with such request, advice or direction.

**Article 30. Individual supervision**

When this Association, a branch, or the Federation, acknowledging a necessity, investigates or questions a member in relation to his or her business, the member shall respond to such inquiry.

**Article 31. Commission to subsidiary rules**

Particulars concerning the implementation of this rule shall be provided by subsidiary rules.

Supplementary Provision – Omitted

*F. Social Insurance and Labor Consultants (Shakai hoken rōmushi)*

**Ethical Principles for Social Insurance and Labor Consultant  
(Shakaihoken rōmushi rinri kōryō)**

A social insurance and labor consultant (“Consultant”) shall maintain his or her dignity, continuously endeavor to cultivate his or her personality, perform his or her duties faithfully with full responsibility, and accordingly strive to raise his or her honor and credibility.

**Duty and Responsibility of Social Insurance and Labor Consultants**

**1. Maintaining Dignity**

A Consultant shall maintain his or her dignity, be trustworthy, make it a principle to be neutral and fair, and perform his or her duties faithfully in accordance with his or her conscience and sense of responsibility.

**2. Nurturing Knowledge**

A Consultant shall be aware of the importance of the public mission and the responsibilities attending his or her duties, continuously advance his or her professional knowledge and be versed in theory and practice.

**3. Substantiating Trust**

A Consultant shall perform his or her services faithfully clarifying his or her duty and responsibility to his or her clients, and be worthy of the trust of his or her client.

**4. Loyalty to Each Other**

Social insurance and labor consultants shall respect each others’ points of view, and actively strive to exchange their knowledge, techniques, and information, and shall not act in a way that that would result in a betrayal of trust.

**5. Duty of Confidentiality**

Social insurance and labor consultants shall not reveal or appropriate confidential information which they obtained in the course of their duties. They are responsible for maintaining confidentiality even after they retire from their business.

**Model Rules of Ethical Regulations for Prefecture Associations of Social Insurance and Labor Consultants (*Todōfuken shakai hoken rōmushikai rinri kitei jyunsoku*)**

**Article 1. Purpose**

The purpose of this regulation is to provide the necessary standards members must meet in order to comply with the Ethical Principles for Social Insurance and Labor Consultants (hereinafter “the Ethical Principles”).

**Article 2. Compliance of regulations**

1. A member shall faithfully comply with the articles, regulations, and resolutions of this association, the National Federation of Social Insurance and Labor Consultant Association, and relevant laws.
2. A member shall handle matters, in accordance with his or her conscience as a member of Association based on the spirit of these Ethical Principles, even if a situation is not specifically provided for, recognizing that there exist professional ethics that he or she shall voluntarily follow.

**Article 3. Duty to cooperate with associations**

A member shall accept a request to cooperate with business from this Association or a branch association or the Federation, unless there is good reason not to do so.

**Article 4. Posting office name**

1. A Consultant with his or her own practice shall post the name of the consultant in the office.
2. A Consultant Corporation (*shakai hoken rōmushi hōjin*) shall post the name of the corporation in the office.

**Article 5. Carrying the certificate of social insurance labor consultant**

1. A member shall carry his or her social insurance labor consultant certificate and his or her certificate of membership when he or she conducts business as a Consultant.
2. A member shall strive to wear the membership badge when he or she conducts business as a Consultant.

**Article 6. Advertisement and publicity**

A member shall not advertise in a way which is false, extravagant, or inconsistent with good sense.



**Article 7. Discipline among members**

A member shall value sincerity and shall not slander other members or hurt other members' honor.

**Article 8. Accepting business**

In accepting a business matter, a member shall provide sufficient consideration to the maintenance of a relationship of mutual trust with his or her client, and shall strive to prevent disputes through measures such as providing a written contract that clearly states the fee.

**Article 9. Responsibility for business**

1. A member shall take responsibility for any business matter that he or she has accepted.
2. A member shall act in accordance with the conscience of a professional in the business relating to labor and social insurance and in labor control.

**Article 10. Study of business**

A member shall continuously seek ongoing professional education with regard to labor and social insurance as well as labor control.

**Article 11. Prohibition of cooperation with an intermediary and lending a name**

A member shall not accept business from a person who refers clients for a fee as his or her sole occupation or similar persons, nor shall the member allow them to utilize his or her name.

**Article 12. Supervision of staff**

A member shall supervise his or her staff as a good manager.

**Supplemental Provision**

This provision is effective on -----.

