

REPORT FOR THE BOARD OF DIRECTORS

UPDATE AND DRAFT LEGISLATION FOR
INTERPRETERS IN THE STATE OF
ARKANSAS

DRAFT

ARID LICENSURE AD HOC COMMITTEE REPORT TO THE BOARD OF
DIRECTORS AND STAKEHOLDERS

HISTORY

In the winter of 2003, the Arkansas Registry of Interpreters for the Deaf (ARID) re-established an ad-hoc committee to address drafting a licensure law pursuing legislative support for such. ARID invited various stakeholders to be involved in this development, including representatives from the Arkansas School for the Deaf (ASD), the Arkansas Association of the Deaf (AAD), the University of Arkansas at Little Rock (UALR) Interpreter Education Program (IEP), and the Arkansas Rehabilitation Services (ARS).

RESEARCH/BACKGROUND

The ad hoc committee researched the various states that hold licensure laws for interpreters to use as a basis for the development of the attached legislation draft. The committee analyzed and incorporated many of the standing recommendations from the national Registry of Interpreters for the Deaf (RID) and from the National Association of the Deaf (NAD).

The ad hoc committee feels strongly that the licensure board to be established by this legislation be housed by an entity that is fair and impartial and does not pose any conflicts of interest.

FURTHER ACTION

The ad hoc committee requests that all interested parties – specifically AAD, ARID, UALR-IEP, and ASD-review the draft and have their responses back to the committee no later than December 20th, 2005. This will allow the committee to make the recommended revisions and have them ready to search for a legislator to sponsor the bill during the next legislative session.

If there are major contentions to the draft that would call for a second round of reviews by all stakeholders, that will take place during the first 15 days of January.

ARKANSAS LICENSURE FOR INTERPRETERS/TRANSLITERATORS ACT

Be It Enacted by the General Assembly of The State of Arkansas:

Section 1

Declaration of policy and statement of purpose.

It is declared the policy of the state that the practice of interpreting affects, including, but not limited to, the public health, safety, welfare, civic, economic, social, academic and recreational aspects of life and shall be subject to licensure and regulation in the public's interest. It is further declared that:

- 1.1 Individuals who are deaf, hard of hearing or other individuals with disabilities who use special communication techniques in order to communicate and individuals whose primary language is sign language have a civil right to effective communication;
- 1.2 Consumers and those with whom they communicate require and are entitled to competent, reliable interpreting services, and that the availability of competent, reliable, credentialed interpreting services are necessary for consumers to realize their right to full and equal participation in society.
- 1.3 A purpose of this chapter is to provide minimum qualifications for interpreters and to ensure that members of the interpreting profession perform with a high degree of competency.
- 1.4 A further purpose is to regulate the practice and licensure of interpreters for persons who are deaf or hard of hearing, and to impose penalties for anyone violating the regulation.

Section 2:

Definitions:

- 2.1 Board** – Arkansas Board of Interpreters for the Deaf and Hard of Hearing
- 2.2 Consumer** – a person who is deaf, hard of hearing, hearing or who requires special communication techniques in order to communicate.
- 2.3 Qualified Licensed Interpreter/Transliterater:** an interpreter/transliterater certified/credentialed by the following:
 - 2.3.1** Registry of Interpreters for the Deaf Inc. (RID);
 - 2.3.2** National Association of the Deaf (NAD)
 - 2.3.3** NAD/RID National Interpreter Certification (NIC)
 - 2.3.4** Educational Interpreter Performance Assessment (EIPA)
 - 2.3.5** Arkansas Rehabilitation Services (ARS) Quality Assurance Screening Test (QAST)
 - 2.3.6** Texas Board of Evaluation of Interpreters (BEI)
 - 2.3.7** National Cued Speech Association
- 2.4 Interpreting** – interpreting or transliterating of English concepts to any necessary specialized vocabulary used by a consumer or the interpreting of a consumer's specialized vocabulary to English concepts. Necessary specialized vocabularies include, but are not limited to, American Sign Language, English-based sign language, cued speech, and oral interpreting.

- 2.5 Code of Professional Conduct** - The tenets established by the NAD/RID which set guidelines governing professional conduct for interpreters and transliterators, and any other Code of Professional Conduct approved by the board.
- 2.6 Continuing Education Unit (CEU)** - A program approved by the board to maintain and improve the skill level of license holders.
- 2.7 Sign Language** Includes all of the following communication systems:
American Sign Language (ASL). The language of the deaf community that is linguistically independent from English. The term refers to the visual/gestural language used in the United States, Canada and U.S. territories including all regional variations.
English Based Sign Systems. Includes, but is not limited to, all visual representations of the English language such as manually coded English, Pidgin Sign English, and Oral Interpreting.
Sign Language. A generic term used to describe a continuum of visual/gestural language and communication systems.
Cued Speech. A system of handshapes which represents groups of consonant sounds, combined with hand placements which represent groups of vowel sounds, used with natural speech to represent a visual model of spoken language.
- 2.8 Transliterator** - A person who is credentialed as a professional transliterator and who engages in the practice of transliteration between consumers utilizing two different modes of the same language. Fluency in both modes of language is required.
- 2.9 Interpreter trainee and interpreter student** - Enrolled and pursuing a degree in a program of study in interpreting at an accredited institution of higher learning;
- 2.10 Deaf person** - Individuals who have a documented hearing loss so severe that they are unable to process speech and language through hearing, with or without amplification
- 2.11 Hard-of-hearing person** - a person who has a hearing loss, who may or may not primarily use visual communication, and who may or may not use assistive devices.
- 2.12 Interpreting agency** - an agency whose function is to provide qualified interpreter services for a fee, usually including a fee for travel time, and who access interpreters licensed under this chapter.
- 2.13 Oral deaf** - person whose sense of hearing is nonfunctional for the purpose of communication and whose primary communication is by speech reading and spoken English.
- 2.14 Intermediary Interpreter:** a Deaf person who facilitates communication between another Deaf person and another licensed interpreter or between two or more Deaf persons.

Section 3

Governance:

Board of Licensing for Interpreters for the Deaf and Hard of Hearing; Administrative Attachment.

- 3.1 There shall be a board of licensing for interpreters for the deaf and hard of hearing, each member to be nominated by the Arkansas Association of the Deaf and the Arkansas Registry of Interpreters for the Deaf and appointed by the governor..
- 3.2 The board shall consist of 7 members as follows:
- 3.2.1 Four licensed interpreters, 2 of whom are state level licensees and 2 of whom are national level licensees, from a list of names submitted by the Arkansas Registry of Interpreters for the Deaf in conjunction with the Arkansas Association of the Deaf.
- 3.2.2 Three consumers, including 2 deaf persons and a non-deaf member of the public not licensed under this chapter from a list of names submitted by the Arkansas

Association of the Deaf in conjunction with the Arkansas Registry of Interpreters for the Deaf,.

- 3.3 No member of the board shall serve concurrently in an elected, appointed, or employed position in any other state-level organization representing interpreters for the deaf, if it would present a direct conflict of interest.
- 3.4 a. Appointments to the board shall be for 3 years, except that one of the initial interpreter members and one of the initial consumer members shall serve one-year terms, and one of the initial interpreter members and one of the initial consumer members shall serve 2-year terms. A member shall hold office until a successor has been appointed and qualified. No member may serve more than 2 consecutive terms. Initial interpreter member appointments to the board shall be required to be licensed under this chapter within ninety (90) days of its enactment.
 - b. The governor may remove any member of the board for malfeasance, misfeasance, or nonfeasance pertaining to the duties of the board.
 - c. The board shall review and take action on all applications for licensure, renewal, and reinstatement licenses for interpreters for the deaf and hard of hearing.
- 3.5 Members of the board shall receive mileage incurred while conducting the business of the board.
- 3.6 A quorum of the board shall be 4 members.
- 3.7 The powers of the board shall not involve establishing or recommending fee scales and shall not make rulings that conflict with established standards set by recognized other certification/licensing systems.

Section 4

Classification of offenses -- Investigation of wrongdoing -- Hearing -- Sanctions -- Hearing for denial of application.

The board is authorized to establish procedures for receiving and investigating complaints. This Act delineates the causes for which disciplinary action may be taken against a licensee. This administrative regulation establishes procedures for the filing, evaluation, and disposition of administrative complaints.

- 4.1 The board shall by administrative regulation classify types of offenses and the recommended administrative action. The type of action to be taken shall be based on the nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in this Act or under other provisions of law.
- 4.2 The board may investigate allegations of wrongdoing upon complaint or upon its own volition. The board shall establish procedures for receiving and investigating complaints by administrative regulation.
- 4.3 If the board's investigation reveals evidence supporting the complaint, the board shall set the matter for hearing in accordance with the provisions of this Act before suspending, revoking, imposing probationary or supervisory conditions or an administrative fine, issuing a written reprimand, or any combination of actions regarding any license under the provisions of this chapter.
- 4.4 If, after an investigation that includes opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the

admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing under the provisions of this Act

- 4.5 After denying an application under the provisions of this Act, the board may grant a hearing to the denied applicant in accordance with the provisions of this Act.

Section 5

Board's disciplinary powers -- Reasons for sanctions

- 5.1 The board may refuse to issue a license or suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee has:
- 5.1.1 Been convicted of a crime or an offense that otherwise directly relates to the occupation of interpreter. A plea of "no contest" may be treated as a conviction for purposes of disciplinary action;
 - 5.1.2 Knowingly misrepresented or concealed a material fact in obtaining a license or in reinstatement thereof;
 - 5.1.3 Committed any fraudulent act or practice;
 - 5.1.4 Been incompetent or negligent in the practice of interpreting;
 - 5.1.5 Violated any state statute or administrative regulation governing the practice of interpreting;
 - 5.1.6 Violated the Code of Professional Conduct of the national organization issuing the licensee's certification as incorporated in administrative regulation; or
 - 5.1.7 Violated any federal or state law considered by the board to be applicable to the practice of interpreting.
 - 5.1.8 When the board issues a written reprimand to the licensee, a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.
 - 5.1.9 At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee which effectively deals with the complaint.
 - 5.1.10 The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary action.
 - 5.1.11 Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in the practice of interpreting.
 - 5.1.12 Any party aggrieved by a disciplinary action of the board may bring an action in Circuit court
 - 5.1.13 The Board may seek action against any entity which willfully, repeatedly hires interpreters who are not licensed under this Act.

Penalty.

- 5.2 Any person making themselves available to the public as being engaged in the practice of interpreting and not possess a valid license to practice as an interpreter under the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than five hundred dollars.

- 5.3 Any company or entity knowingly hiring an individual who does not hold a valid license will be considered as aide and abetting one in violation of this act and shall be fined not less than five hundred dollars nor more than one thousand dollars.

Section 6

Provisions (Exemptions)

- 6.1 No person, except as noted in Section 2 (3) shall do any of the following with respect to providing interpreting services for individuals who are deaf or hard of hearing for a fee or other remuneration unless a person is a licensed/certified interpreter as defined in Section 2.
- 6.1.1 Engage in the practice of or offer to engage in the practice of Interpreting;
 - 6.1.2 Use the title Interpreter in connection with the person's name;
 - 6.1.3 Assume the identity of an Interpreter;
 - 6.1.4 Use the title Interpreter in advertisements or descriptions;
 - 6.1.5 Perform the function of or convey the impression that the person is an Interpreter;
- 6.2 Exceptions to Section 6 (1):
- 6.2.1 A person may engage in the practice of interpreting during the worship services of any religious organization without holding certification as defined in Section (2) above.
 - 6.2.2 Nonresident Interpreters holding credentials and/or certification working in the state less than twenty (20) days per year;
 - 6.2.3 Qualified interpreters working pro bono.
 - 6.2.4 Qualified interpreters working in an emergency. An emergency is a situation where the consumer decides that the delay necessary to obtain a licensed interpreter is likely to cause injury or loss to the consumer; or
 - 6.2.5 The activities and services of an interpreter intern or a student in training who is:
Enrolled in and pursuing a degree in interpreting at an accredited institution of higher learning;
Interpreting under the supervision of a licensed interpreter as part of a supervised program of study

Section 7

Additional Provisions

Privileged Communication - communication between deaf and hearing consumers is owned by those individuals and therefore must be legally protected. The professional interpreter is simply facilitating the communication and cannot be held accountable for that information. The confidential communications between an interpreter and the consumers served are on the same basis as those between an attorney and a client or a physician and patient. As such, all legislation regulating the profession of interpreting must recognize this right of privileged communication between an interpreter and consumer, deaf and hearing.

Section 8

License Renewal; Continuing Education.

A license issued by the board shall expire on the January 1 following 3 years from the date of issuance. Every person licensed under this chapter who wishes to renew a license shall, on or before the expiration date, pay a fee for renewal of license to the board. The board shall notify each person licensed under this chapter of the date of expiration of such person's license and the renewal fee required. The notice shall be mailed to such person's last known address as provided

to the board at least 60 day in advance of the expiration of such license. Renewals are contingent upon evidence of completing the number of continuing education units established by the board. The continuing education units may be earned by attending professional training or completing approved independent studies and regional in-service programs, as determined by the board.

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