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LC01040

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - INTERPRETERS FOR THE DEAF

Introduced By: Representatives Handy, Hearn, Messier, and McNamara

Date Introduced: March 03, 2011

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-71-3, 5-71-4, 5-71-5, 5-71-8, 5-71-9, 5-71-10, 5-71-13 and 5-71-
2 15 of the General Laws in Chapter 5-71 entitled "Interpreters for the Deaf" are hereby amended to
3 read as follows:

4 **5-71-3. Definitions.** -- (1) "Board" means the state board of examiners for interpreters for
5 the deaf.

6 (2) "Certified" means any person who is a certified member of the Registry of
7 Interpreters for the Deaf, Inc., (RID), its successor agency or other agencies as approved by the
8 department in consultation with the board.

9 (3) "Consumer" is an individual who is deaf, hard of hearing or other individual with
10 disabilities whose primary language is sign language (e.g., American Sign Language, manually
11 coded sign systems).

12 (4) "Department" means the Rhode Island department of health.

13 (5) "Director" means the director of the department of health.

14 (6) "Emergency" means an urgent circumstance that demands immediate action in order
15 for a consumer to avoid imminent harm or loss.

16 In the event of an emergency, the consumer may elect to use the services of a
17 nonlicensed interpreter or transliterator as set forth in regulations promulgated by the department.

18 (7) "Interpreter for the deaf" means any person who engages in the practice of
19 interpreting for the deaf as defined in subsection (9) below.

1 (8) "Interpreter trainee" and "interpreter student" means any person, meeting the
2 minimum requirements established by the board with the assistance of the department ~~in~~
3 ~~consultation with the board~~ who is currently enrolled in a nationally accredited interpreter
4 training program and participating in the practicum portion of their studies.

5 (9) "Interpreting for the deaf" means conveying spoken English into American Sign
6 Language (ASL) (voice-to-sign) or conveying American Sign Language into English (sign-to-
7 voice), or interpreting English to and/or from a visual gestural system. Such practice shall not
8 include transliterating for the deaf.

9 (10) "Screened interpreter or transliterator for the deaf" means any person who presents
10 proof of an active state screening or its equivalent and presents proof of successful completion of
11 an examination as approved by the board with the assistance of the department ~~in consultation~~
12 ~~with the board.~~

13 (11) "Transliterator for the deaf" means any person who engages in the practice of
14 transliterating for the deaf as defined in subsection (12) below.

15 (12) "Transliterating for the deaf" means conveying spoken English into Manually coded
16 English (voice-to-sign), or conveying manually coded English into spoken English (sign-to-
17 voice), or conveying English on the lips so that it is accessible to speech reading (i.e. oral
18 transliterating). Such practice shall not include interpreting for the deaf.

19 (13) "Educational Interpreter for the Deaf" means any person who presents proof of
20 successful completion of the Educational Interpreter Performance Assessment (EIPA), written
21 and performance tests, at the level of 4.0 or higher.

22 **5-71-4. Board of examiners -- Creation -- Compensation -- Appointment, terms and**
23 **qualifications of members.** -- (a) There shall exist within the state department of health a board

24 of examiners of interpreters for the deaf. The board shall consist of ~~nine (9)~~ five (5) persons who
25 shall be residents of the state of Rhode Island for at least two (2) years prior to their
26 appointments: ~~two (2)~~ three (3) nationally certified interpreters, ~~one screened interpreter, one~~
27 ~~interpreter eligible under section 5-71-12, three (3)~~ and two (2) consumers, ~~one special license~~
28 ~~holder and one consumer of specialized communication modalities as defined in section 5-71-3.~~

29 The certified members shall hold certification from the National Registry of Interpreters for the
30 Deaf, and hold an active and valid license in this state, ~~except for the first appointed members~~
31 ~~who shall be persons engaged in rendering interpreting services for a period of at least five (5)~~
32 ~~years, and are qualified for license under the provisions of this chapter. The screened member~~
33 ~~shall hold valid screening from a recognized state screening, and shall hold an active and valid~~
34 ~~license in this state, except for the first appointed member who shall be a person who has been~~

1 ~~engaged in rendering interpreting services for a period of at least five (5) years, and is qualified~~
2 ~~for license under the provisions of this chapter. The special licensed member shall have expertise~~
3 ~~in one of the communication modalities defined in section 5-71-3(7), or another specialized~~
4 ~~communication modality.~~

5 (b) All appointments made under this section after the effective date of this act [March
6 29, 2006] shall be made by the governor with the advice and consent of the senate. All members
7 shall serve terms of three (3) years. Members shall serve until the expiration of the term for which
8 they have been appointed or until their successor is appointed. No person shall be appointed to
9 serve more than two (2) consecutive terms. When a vacancy upon the board occurs, a
10 replacement shall be appointed for the remainder of that term as prescribed in this section.

11 (c) The board shall reorganize annually during the month of December and shall elect a
12 chairperson and vice chairperson for the subsequent calendar year. The board may elect from
13 among its members such other officers as it deems necessary.

14 (d) ~~Five (5)~~ Three (3) members of the board shall constitute a quorum to do business. A
15 majority vote of those present shall be required for action.

16 (e) Members of the board shall be removable by the governor pursuant to the provisions
17 of section 36-1-7 of the general laws and for cause only, and removal solely for partisan or
18 personal reasons unrelated to capacity or fitness for the office shall be unlawful.

19 **5-71-5. Board of examiners -- Duties and powers -- Meetings -- Compensation of**
20 **members.** -- (a) The ~~department with the assistance of the~~ board with the assistance of the
21 department shall administer, coordinate and enforce the provisions of this chapter, evaluate the
22 qualifications of applicants, and may issue subpoenas, examine witnesses, and administer oaths,
23 and investigate persons engaging in practices which violate the provisions of this chapter.

24 (b) The board with the assistance of the department shall conduct hearings and shall keep
25 records and minutes that are necessary for the orderly dispatch of business.

26 (c) The board with the assistance of the department shall hold public hearings regarding
27 rules and regulations.

28 (d) The board with the assistance of the department ~~in consultation with the board~~, in
29 accordance with the rule-making provisions of the Administrative Procedures Act, chapter 35 of
30 title 42, shall adopt responsible rules and regulations, and may amend or repeal those rules and
31 regulations. Following their adoption, the rules and regulations shall govern and control the
32 professional conduct of every person who holds a license to practice interpreting or transliterating
33 for the deaf in the state of Rhode Island.

34 (e) Regular meetings of the board shall be held, and special meetings may be held upon

1 the call of the chairperson as necessary to deal with such issues as violations of this chapter;
2 provided, that at least one regular meeting is held each calendar year.

3 (f) The conferral or enumeration of specific powers in this chapter shall not be construed
4 as a limitation of the general powers conferred by the section. No member of the board shall be
5 liable to civil action for any act performed in good faith in the performance of his or her duties as
6 prescribed by this chapter.

7 (g) Board members shall serve on an honorable basis without compensation.

8 (h) The board may request legal advice and assistance from the appropriate legal officer.

9 (i) The board shall conduct a training course for newly appointed and qualified members
10 within six (6) months of their appointment. The course shall be developed and conducted by the
11 chair of the commission, approved by the commission, and shall include instruction in the subject
12 areas of this chapter, and chapters 42-46, 36-14, and 38-2, and the commission's rules and
13 regulations. The director of the department of administration shall, within ninety (90) days of
14 March 29, 2006, prepare and disseminate training materials relating to the provisions of chapters
15 42-46, 36-14, and 38-2.

16 (j) Within ninety (90) days after the end of each fiscal year, the board shall approve and
17 submit an annual report to the governor, the speaker of the house of representatives, the president
18 of the senate, and the secretary of state of its activities during that fiscal year. The report shall
19 provide: an operating statement summarizing meetings or hearings held, including meeting
20 minutes, subjects addressed, decisions rendered, licenses considered and their dispositions, rules
21 or regulations promulgated, studies conducted, policies and plans developed, approved or
22 modified, and programs administered or initiated; a consolidated financial statement of all funds
23 received and expended including the source of the funds, a listing of any staff supported by these
24 funds, and a summary of any clerical, administrative or technical support received; a summary of
25 performance during the previous fiscal year including accomplishments, shortcomings and
26 remedies; a synopsis of hearings, complaints, suspensions or other legal matters related to the
27 authority of the board; a summary of any training courses held pursuant to the provisions of
28 paragraph 5-71-5(i); a briefing on anticipated activities in the upcoming fiscal year; and findings
29 and recommendations for improvements. The report shall be posted electronically on the general
30 assembly and the secretary of state's websites as prescribed in section 42-20-8.2. The director of
31 the department of administration shall be responsible for the enforcement of this provision.

32 **5-71-8. Qualifications of applicants for licenses.** -- To be eligible for licensure by the
33 board as an interpreter ~~or~~ [for the deaf](#), transliterator for the deaf, [or educational interpreter for the](#)
34 [deaf](#), the applicant must submit written evidence on forms furnished by the department, verified

1 by oath, that the applicant meets all of the following requirements:

2 (1) Is of good moral character;

3 (2) Meets the certification or screened requirements as defined in regulations
4 promulgated by the department; and

5 (3) Pays the department a license fee, that does not exceed fifty dollars (\$50.00).

6 **5-71-9. Licensure and regulations of interpreters for the deaf.** -- (a) Licensure shall be
7 granted in either transliterating or interpreting independently. A person may be licensed in both
8 areas if he or she is qualified as defined in section 5-71-8.

9 (b) No person shall practice or holds him or herself out as being able to practice
10 interpreting ~~or for the deaf,~~ transliterating for the deaf, or educational interpreting for the deaf as
11 defined in section 5-71-3 unless he or she shall be licensed in accordance with the provisions of
12 the laws of this chapter.

13 (c) Each licensed interpreter for the deaf upon commencing to practice, and upon any
14 change in address shall promptly notify the department of said change in home or office address,
15 and shall furnish any other information to the department that it may require. Every licensed
16 interpreter for the deaf shall annually, before July 1st pay the department a license renewal fee,
17 that does not exceed ~~thirty seven dollars and fifty cents (\$37.50)~~ fifty dollars (\$50.00) for each
18 license, corresponding to the area under which the person is practicing. The board with the
19 assistance of the department may suspend the authority of any licensed interpreter for the deaf to
20 practice for failure to comply with any of the requirements of this chapter or the regulations
21 promulgated thereunder. The board shall have the power to deny renewal of any license or
22 provisional license for an interpreter for the deaf, transliterator for the deaf, or educational
23 interpreter for the deaf who has a bona fide formal complaint filed against him/her, until the
24 board has completely determined the facts in each matter. The department makes available for
25 public inspection, a complete list of the names of all interpreters for the deaf licensed and
26 practicing in the state.

27 (d) Three (3) types of licensure may be issued to interpreters and or transliterators for the
28 deaf:

29 (1) A certified license shall be granted to interpreters or transliterators who have met the
30 certification requirements as set forth in regulations promulgated by the department.

31 (2) A screened license shall be granted to interpreters who have met the educational
32 requirements as set forth in regulations promulgated by the department, and who have
33 successfully completed a recognized state screening or state equivalent as determined by the
34 board with the assistance of the department ~~in consultation with the board.~~

1 (3) ~~A temporary (student) license shall be granted to persons who are currently enrolled~~
2 ~~in an accredited interpreter training program to practice interpreting and transliterating. Persons~~
3 ~~who receive the temporary license shall be supervised by the interpreter training program. The~~
4 ~~license is only valid while the person is enrolled as a student in the program and supervised by~~
5 ~~a nationally certified interpreter.~~ An educational interpreter license shall be granted to interpreters
6 or transliterators who have passed the Education Interpreter Performance Assessment (EIPA)
7 with a score of 4.0 or higher. A person may be licensed as an educational interpreter for the deaf
8 if he or she is qualified as defined in section 5-71-8.

9 (e) All licensed interpreters shall be required to complete continuing education, as set
10 forth in regulations promulgated by the department.

11 **5-71-10. Endorsement.** -- The board with the assistance of the department ~~in~~
12 ~~consultation with the board~~ shall promulgate regulations providing for a procedure for waiver of
13 the requirements of section 5-71-9 for applicants who hold a valid license, certificate, or
14 equivalent issued within another state; provided, that the requirements under which that license,
15 certificate, or equivalent was issued, meet or exceed the standards required by this chapter.

16 **5-71-13. Grounds for suspension or revocation of licenses.** -- The ~~board may~~
17 ~~recommend to the~~ director of the department of health shall respond to all recommendations from
18 the board within ten (10) business days regarding the issuance, renewal, or revocation of a
19 license, or suspension, placement on probation, censure or reprimand a licensee, or any other
20 disciplinary action that the board may deem appropriate, for conduct that may result from, but not
21 necessarily be limited to:

22 (1) Obtaining his or her license by means of fraud, misrepresentation, or concealment of
23 material facts;

24 (2) Being guilty of fraud, misrepresentation, concealment or material misstatement of
25 facts or deceit in connection with his or her services rendered as an interpreter ~~or~~ for the deaf,
26 transliterator for the deaf, or educational interpreter for the deaf;

27 (3) Being guilty of unprofessional conduct as defined by the rules established by the
28 board with the assistance of the department ~~in consultation with the board~~, and/or has violated
29 any standard of professional or ethical conduct adopted by the National ~~registry~~ Registry of
30 Interpreters for the ~~deaf~~ Deaf;

31 (4) Violating the continuing education requirements of this chapter as defined in ~~section~~
32 subsection 5-71-9(d), and rules and regulations promulgated by the department;

33 (5) Violating any lawful order, or any provision of this chapter or of the rules or
34 regulations promulgated in this chapter;

1 (6) Aiding or assisting another person in violating any provision of this chapter or any
2 rule or regulation adopted under this chapter;

3 (7) Departure from or failure to conform to the current standards of acceptable and
4 prevailing practice of interpreting for the deaf.

5 (8) Working under a license that is expired or on inactive status, working under a license
6 when certification is expired or on inactive status, and practicing interpreting without being
7 exempt under chapter 5-71 shall be considered to be practicing without a license.

8 **5-71-15. Persons and practices exempted.** -- The provisions of this chapter do not apply
9 to:

10 (1) Any ~~person~~ certified interpreter working as an interpreter or a transliterator in court.

11 (2) Certified Interpreters interpreters or transliterators performing as volunteers without
12 compensation.

13 (3) Certified Interpreters interpreters or transliterators performing in an emergency as
14 defined in subsection 5-71-3(6) and as set forth in regulations promulgated by the department.

15 (4) Nonlicensed individuals who are certified members of the Registry of Interpreters for
16 the Deaf, Inc., (RID) its successor agency or other agency as approved by the department in
17 consultation with the board, who may provide services for a maximum of twenty-five (25) hours
18 per calendar year.

19 SECTION 2. Chapter 5-71 of the General Laws entitled "Interpreters for the Deaf" is
20 hereby amended by adding thereto the following sections:

21 **5-71-19. Hearsay.** -- In the trial of every cause, both civil and criminal, statements of the
22 interpreters are regarded as the speaker's for hearsay purposes.

23 **5-71-20. Revocation and suspension procedure - Appeals from initial and**
24 **reinstatement decisions.** -- (a) Notice, in writing, of a contemplated revocation or suspension of
25 a license, of the particular cause, and of the date of a hearing, are sent by registered or certified
26 mail to the licensee at his or her last known address at least fifteen (15) days before the date of the
27 hearing. The individual against whom a charge is filed has the right to appear before the board in
28 person or by counsel, or both, may produce witnesses and evidence on his behalf or her behalf,
29 and may question witnesses. No license may be revoked or suspended without a hearing, but the
30 non-appearance of the licensee, after notice, does not prevent a hearing. All matters upon which
31 the decision is based are introduced in evidence at the hearing. The licensee is notified in writing
32 of the board's decision within sixty (60) days after the hearing. The board, on a case-by-case basis
33 for good cause shown, in writing, may extend the time for issuing its decision an additional sixty
34 (60) days. The board may make any rules and regulations that it deems proper for the filing of

1 charges and the conduct of hearings.

2 (b) After issuing an order of revocation or suspension, the board may also file a petition
3 in equity in the superior court in a county in which the respondent resides or transacts business, to
4 ensure appropriate injunctive relief to expedite and secure the enforcement of its order, pending
5 the final determination.

6 (c) An application for reinstatement may be made to the board, which may, upon the
7 affirmative vote of at least the majority of its members, grant a reinstatement.

8 (d) An applicant for an initial license, which was denied, has the right to request a
9 hearing. The board's decision is in writing within sixty (60) days after the hearing and is based on
10 evidence in the record.

11 (e) The director may suspend a license temporarily without a hearing for a period not to
12 exceed thirty (30) days upon notice to the licensee, following a finding by the board, adopted by
13 the director that there exists a significant threat to public safety.

14 (f) An applicant for reinstatement who has been denied reinstatement, has the right to
15 request a hearing. The board's decision is in writing within sixty (60) days after the hearing and is
16 based on evidence in the record.

17 (g) Any appeal from the action of the board is in accordance with the provisions of
18 chapter 42-35, "The Administrative Procedures Act."

19 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS - INTERPRETERS FOR THE DEAF

1 This act would empower the "state of board of examiners for interpreters for the deaf to
2 administer, coordinate, and enjoy the provisions of the general laws pertaining to interpreters for
3 the deaf with the assistance of the department of health and would make several amendments
4 regarding the licensing and disciplinary procedures for interpreters under this chapter.

5 This act would take effect upon passage.

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