

1996 SUNRISE REVIEW

Interpreters for the Deaf



Submitted by the
Colorado Department of
Regulatory Agencies
Office of Policy & Research

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Roy Romer
Governor

October 15, 1996

Members of the General Assembly
c/o Doug Brown, Director
Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the Colorado General Assembly:

We have completed our evaluation of the sunrise application for licensure of interpreters for the deaf and are pleased to submit this written report. The report is submitted pursuant to section 24-34-104.1, Colorado Revised Statutes, 1988 Repl. Vol., (the "Sunrise Act") which provides that the Department of Regulatory Agencies shall conduct an analysis and evaluation of proposed regulation to determine whether the public needs, and would benefit from, the regulation.

The report discusses the question of whether there is a need for the regulation in order to protect the public from potential harm, whether regulation would serve to mitigate the potential harm and, whether the public can be adequately protected by other means in a more cost-effective manner.

Sincerely,

Joseph A. Garcia
Executive Director

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INTRODUCTION

Background

The Colorado Sunrise Act, §24-34-104.1, C.R.S., requires any occupation or profession requesting regulation to submit an application to the Department of Regulatory Agencies (DORA) to prepare an objective evaluation of the proposal. Pursuant to the Colorado Sunrise Act, the applicant must prove the benefit to the public of their proposal for regulation according to the following criteria:

1. Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument;
2. Whether the public needs, and can be reasonably expected to benefit from, an assurance of initial and continuing professional or occupation competence;
3. Whether the public can be adequately protected by other means in a more cost-effective manner.

The Colorado Association of the Deaf (CAD) and Colorado Registry of Interpreters for the Deaf (CRID) have submitted an application for licensure, the most restrictive form of professional regulation. CAD has approximately 250 Colorado members. CRID is associated with the National Registry of Interpreters for the Deaf, Inc. (RID). CRID has approximately 150 Colorado members.

Methodology

During the research and interview phase of the report, it became clear that within the Deaf and hearing impaired community there is disagreement as to how to identify the people who are Deaf or hearing impaired. Some people who have very little residual hearing prefer to be known as hearing impaired, others prefer hard of hearing, while some insist on being called Deaf, with a capital "D". Throughout this report, the word Deaf is used to be inclusive of all individuals who are Deaf, hard of hearing, or hearing impaired.

In preparing this report, DORA reviewed relevant literature, conducted in-person and telephone interviews of interpreters and other providers of services to the Deaf. Written and telephone contacts were made with both the National Association for the Deaf, and National Registry of Interpreters for the Deaf. A survey of surrounding states was conducted to compare regulatory programs.

Input was solicited from advocates for the Deaf, both in Colorado and Nationally. Contacts were made by mail, telephone and the Internet. The administrators for interpreter training programs at both Pikes Peak Community College and Front Range Community College were consulted. Contacts were made and input solicited from the Colorado School for the Deaf and Blind, the Colorado Department of Education, and the Rehabilitation Services Division of the Colorado Department of Health and Human Services.

A previous application for regulation of interpreters for the Deaf was submitted in 1990. The 1991 sunrise report did not recommend regulation as requested by the applicant. However, the report did recommend the creation of a Task Force on Interpreter Issues to create a statewide evaluation system for interpreters that could be incorporated into a bill during the 1992 legislative session.

The task force was convened by the DORA. Represented on the task force were Deaf individuals from various organizations Deaf; the Colorado Department of Education; the Department of Social Services (now the Department of Health and Human Services); school districts; the community college interpreter training program; the Colorado School for the Deaf and Blind; and US West. The task force prepared a report for the Joint Legislative Sunrise and Sunset Committee recommending licensure as the form of regulation. The report was released in August of 1992. The recommendation of the report was not implemented by the General Assembly.

What Is Deafness?

According to Webster's Collegiate Dictionary, deaf is defined as "lacking or deficient in the sense of hearing." Sources with the Department of Health and Human Services and the Center on Deafness estimate the Deaf population in Colorado at approximately 13,500. The majority of this population resides in the Front Range. There are various degrees of deafness and a variety of causes. However, people who become Deaf late in life, through age or accident are not truly part of the Deaf community, according to the applicant.

The applicants' position is that the audiological condition of "lacking in the sense of hearing" is only part of the condition of being Deaf. The Deaf community considers Deafness a cultural identification more than a disability or audiological condition. Generally speaking, the Deaf culture consists of individuals whose primary means of communication since birth or early childhood has been some form of sign language. Other forms of communication, such as written English, would be considered a second language for these individuals. The regulation of interpreters for the Deaf would primarily benefit this subsection of the Deaf population.

Historically, deafness has been viewed as a debilitating handicap. Deaf individuals were viewed as being mentally as well as physically deficient and were not often visible or active in mainstream society. Deaf children were frequently institutionalized in state schools, or sequestered in family homes. Interaction with the general public was limited, and formal interpreting services virtually non-existent.

As deafness became more accepted in society, interaction between Deaf and hearing populations became more common. Interpreting services were usually provided by family members. Interpreting by family members is still common today. Many interpreters became interested in the profession because of a relationship with a Deaf person.

Interpreting for a Deaf family member may be acceptable in informal social situations. However, in more formal situations, it may be not only unacceptable, but embarrassing or uncomfortable. Deaf individuals have submitted documentation of situations where their hearing children have been asked to interpret during medical examinations and other situations. A hearing person typically would not allow other family members to be present in these types of situations.

Profile Of The Occupation

Sign language and interpreting for Deaf persons has probably been performed for as long as there have been Deaf people. In the United States, the development of the first formalized Deaf language, American Sign Language (ASL), is credited to Thomas Gallaudet. Gallaudet and Laurent Clerc established the first school for the Deaf in Connecticut. The school used a modified form of French Sign Language incorporating signs used by the American Deaf population. The only university in the United States devoted to Deaf students is Gallaudet University in the Washington DC area, named in his honor.

ASL is a distinct language with its own syntax, grammar, and use. In fact, 16 states recognize ASL as a foreign language. Other forms of communication with Deaf individuals verbally include Seeing Exact English (SEE) Signing Exact English (SEE2), Cued Speech, and lip reading. Non-verbal communication can be achieved by written English, Telephone Device for the Deaf (TDD) and Television Closed Captioning, among others. One of the challenges for interpreters is determining the primary communication method of the Deaf individual and using that method effectively.

Interpreters must be able to quickly and accurately translate the spoken word into the appropriate sign language and the appropriate sign language back to the spoken word in order to facilitate communication between Deaf and hearing persons. This process is known as interpretation if ASL is being used or transliteration if using one of the English based sign languages. When done properly, this is a very effective form of communication.

Professional interpreters are proficient in both spoken English and one or more other forms of communication with Deaf individuals. Interpreters certified by National Association for the Deaf (NAD) or RID have demonstrated this ability through a nationally recognized examination process. In addition, as part of the certification process, RID interpreters agree to a strict code of ethics which includes a provision for complete confidentiality of all translated conversations.

Interpreters can work in a variety of settings. There are currently 150 interpreters employed by various school districts around the state providing services to K - 12 school children. Unlike teachers, interpreters in educational settings are not required to have specific education or experience before being hired.

The Center on Deafness (COD) is a nonprofit organization providing services to the Deaf community in the Denver metro area. There are several similar agencies throughout Colorado. Each agency employs some full-time interpreters and uses the services of independent, or freelance, interpreters as needed. COD uses only RID certified or qualified interpreters.

Freelance interpreters are generally individuals working as a home-based business on an independent contractor basis. These individuals primarily use "word of mouth" advertising to obtain clients. While many freelance interpreters are highly qualified, others are a major concern of the applicants. Because no standardized criteria exists to evaluate interpreters, anyone can become a freelance interpreter, with little or no training or qualifications. The position of many in the Deaf community is that it is better to have no interpreter than one who is not competent.

OTHER REGULATION

Federal Regulation

There is no national licensing or certification requirement at the federal level. However, several federal statutes and programs contain requirements or programs for the Deaf. The Vocational Rehabilitation Act, The Education of All Handicapped Children's Act, and the Americans with Disabilities Act (ADA) all contain references to interpreters for the Deaf. None of these federal acts specifically regulate interpreters. For example, ADA, the most recent of the laws, requires only that businesses and places of public accommodation make a reasonable effort to accommodate Deaf persons with a qualified interpreter. However, the definition of qualified is not codified in the statute.

The U.S. Department of Education has funded interpreter training programs since the early 1970's. There are currently over 60 interpreter training programs at two-and four-year colleges around the country. Colorado has one program in operation at Front Range Community College. Another program is scheduled to begin in the fall of 1996 at Pikes Peak Community College.

State Regulation

Legislation to regulate interpreters for the Deaf has been introduced in ten states, including Colorado, with varying degrees of success. Some states have established licensing programs with minimum competency standards for any person providing interpreting services for a fee. Others have established programs where consumers can verify interpreter credentials through a state agency. Some states only require certification for interpreters working in a public school setting. See Table 1 for an overview of state regulatory programs.

Several states, including Colorado, have statutes that refer to interpreters for the Deaf without defining qualifications. HB 95-1041 established certain criteria for school districts in developing educational programs for Deaf students. However, the bill fell short of requiring minimum standards for interpreters in those educational programs.

Most states have specific requirements for interpreters in certain legal settings. The only legal recognition of minimum standards for interpreters for the Deaf in Colorado is contained in §13-90-201, C.R.S., et seq. (See Appendix I). This section requires the Department of Human Services to promulgate regulations establishing qualifications for interpreters in certain legal settings. The Department is to maintain a referral list of qualified interpreters to be distributed to any appointing authority requesting assistance in obtaining an interpreter. The regulations promulgated by the Department require RID certified interpreters for legal and administrative hearings.

**TABLE 1
REGULATION IN OTHER STATES**

STATE	REGULATION	QUALIFICATIONS	REGULATING AGENCY OR STATE CONTACT
Arizona	Court, Administrative Agency proceedings, law enforcement activities only	RID Certification Certified Real Time Translation (Court Reporter certification)	Council for the Hearing Impaired (602) 542-3323
Colorado	Court or Administrative Agency proceedings only	RID certification	Department of Human Services (303) 894-2515
Idaho	None, Voluntary certification program		Council for the Deaf and Hard of Hearing (208) 334-0879
Kansas	1.) Court or Administrative Agency proceedings 2.) State Registration for all interpreters	1.) RID or pass state administered Quality Assurance evaluation 2.) No minimum qualification for registration	Commission for the Deaf and Hard of Hearing (913) 296-2864
Maine	Court or Administrative Agency proceedings only	Must use "qualified" interpreters, no statutory definition	Division of Deafness (207) 624-5318
Minnesota	Educational settings	RID or NAD level III or above, by year 2000	Commission Serving Deaf and Hard of Hearing (612) 297-7305
Nebraska	No reply		Commission for the Hearing Impaired (402) 471-3593
New Mexico	1) State agencies must use certified interpreters and a mandatory fee schedule based on level of certification. Fee schedule is published and recommended for the private sector. 2) Public schools must use qualified interpreters.	1) RID certification state administered Quality Assurance certification levels 1-5 2) RID or NAD level III.	Commission for the Deaf and Hard of Hearing (505) 827-7584
Ohio	Court or Administrative Agency proceedings only (licensing legislation in senate)	Must use "qualified" interpreters; no statutory definition	Rehabilitation Services Commission (614) 438-1325
Pennsylvania	Criminal proceedings (licensing legislation in senate)	Must use "qualified" interpreters, no statutory definition	Office for the Deaf and Hearing Impaired (717) 783-4312
Texas	Court or Administrative Agency proceedings, Any proceeding using state funds and public education settings	RID certification or state administered examination	Commission for the Deaf and Hard of Hearing (512) 451-8494
Utah	All settings except religious ceremonies	State administered licensing program	Utah State office of Rehabilitation (801) 263-4860
Wisconsin	Educational K-12	State administered certification	Office for the Deaf and Hard of Hearing (608) 243-5625
Wyoming	None, voluntary certification program		Division of Vocational Rehabilitation (307) 777-5634

Private Credentialing

The applicant has requested that certification by the RID be used as the minimum standard for licensure in Colorado. RID is a national organization, founded in 1964, dedicated to providing quality interpreting services to the Deaf community. RID has been evaluating and certifying interpreters since 1972.

RID issues several types of certification. Each certification indicates the ability of the individual obtaining the certificate to interpret in a specific type of assignment or setting. A complete list and explanation of the certifications issued by RID are included in Appendix II. The evaluation methods used by RID have been developed by qualified psychometricians and are subjected to regular independent audits to insure their validity.

In order to obtain RID certification, an individual must satisfactorily pass a two part examination. The examination consists of both written and practical components. Candidates must receive a passing score on the written examination before being eligible for the Performance Examination.

Once a candidate has obtained a satisfactory score on the written examination, he or she is eligible to be evaluated by an independent panel in a practical examination. The practical, or performance examination, is a four-part demonstration of the interpreter's ability to translate in a variety of practical situations. The practical evaluation is a pass/fail examination leading to either a Certificate of Interpretation or Transliteration. Interpreters can and do obtain both certificates.

Once an interpreter has passed the performance examination, he or she must agree to abide by the RID Code of Ethics and the RID grievance procedure. The Code of Ethics consists of eight points considered to be essential by the Deaf community:

- Keep all assignment related information strictly confidential;
- Render messages faithfully, always conveying the content and spirit of the speaker, using language most readily understood by the person(s) whom they serve;
- Do not counsel, advise, or interject personal opinions;
- Request compensation for services in a professional and judicious manner;
- Function in a manner appropriate to the situation;
- Strive to further knowledge and skills through participation in workshops, professional meetings, interaction with professional colleagues, and reading of current literature in the field; and
- Strive to maintain high professional standards in compliance with the Code of Ethics.

The grievance procedure is a process for consumers of interpreting services to resolve formal complaints against the interpreter. If an interpreter is found to have engaged in unethical behavior, action against the certification can be taken. Once certified, an interpreter must obtain continuing education in order to maintain certification.

Other objective evaluations of interpreter skills exist. The National Association of the Deaf (NAD) also has a national certification program. Unlike the RID certification, NAD evaluates the interpreter's ability and ranks he or she in one of five levels of certification, Level I through Level V. Literature reviewed for this report found that NAD provides adequate information about the types of situations the various skill levels should be able to interpret for. There is an expectation in the Deaf community that NAD and RID will develop a jointly operated certification program.

This will merge the two major national certifications into one standardized program. However, this merger is still in the discussion phase. It will be years before a standardized certification is in place. Even when implemented, a combined certification will be entirely voluntary.

In Colorado, graduates of the Front Range Interpreter Preparation Program must successfully pass a practical assessment. This assessment is similar to the one used by the Department of Education to voluntarily evaluate interpreters in the K - 12 setting. In the opinion of Deaf advocates interviewed for this report, individuals passing this assessment are qualified to interpret only in limited settings.

PUBLIC HARM

Current Availability Of Interpreting Services

Communication between the Deaf and hearing communities can take on many forms. Closed captioned television, Telephone Device for the Deaf (TDD), and written communication can and are used frequently in Colorado. Internet access and e-mail is becoming a more popular form of communication for many members of the Deaf community.

However, none of these methods is as flexible, or as personal, as the use of a professional interpreter for the Deaf. Interpreting is used in a variety of settings: in legislative hearings; trials; job interviews; health care situations; and educational settings. Interpreters can be essential in communicating terms of a real estate transaction or divorce settlement, establishing conditions for a will, and in explaining a medical condition and treatment. It is essential in these situations that not only is information communicated accurately, but that the information is kept confidential to protect the parties involved.

Since Colorado does not currently regulate interpreters, it is difficult if not impossible to quantify the number of individuals engaged in this profession. The number of RID Certified interpreters is approximately 60, with the majority being in the Front Range. The 1992 task force report estimated the number of freelance interpreters at approximately 155. It is reasonable to assume that this estimate has increased slightly in the three years since it was made. The applicant estimates the current number of interpreters to be 250.

A review of advertisement and telephone listings revealed only five providers of interpreting services in the Denver Metro Area. The Center on Deafness, a nonprofit organization providing services to the Deaf, is the largest of these service providers. COD estimates it provides 1,000 hours of interpreting services each month. To provide this service, COD employs five full-time interpreters and contracts with 12 to 20 RID Certified freelance interpreters as needed.

According to the Colorado Department of Education, public school systems employ over 150 individuals as interpreters in the K - 12 setting for mainstream Deaf students. However, as previously noted, interpreters are not teachers and therefore do not have to achieve or maintain any specific credentials to be hired as an interpreter. One study of three large school districts in Colorado, Adams 12, Greeley, and Grand Junction, indicated that 60% of the interpreters were unable to perform satisfactorily on a Educational Interpreting Performance Evaluation (EIPE). The EIPE is a voluntary skills evaluation given to interpreters in educational settings. It is designed to identify deficiencies to assist educational interpreters in improving skills.

Alternatives To Interpreting Services

As mentioned previously, in addition to the three main sign languages, or language codes, (ASL, SEE, SEE2), there are other methods for communicating with the Deaf. Colorado Relay is a telephone communication system whereby a hearing or Deaf person telephones the relay operator who calls the other individual using a TDD (telephone device for the Deaf) to facilitate communication. The operator does not need to have any knowledge of sign language, just the ability to hear and type. Colorado Relay is available statewide and is funded by a surcharge on all telephone lines. This method is very useful in telephone situations. However, it does not work for direct communication.

Written communication, even in person, is still frequently used. This could be the traditional pencil and paper being passed back and forth, or more technologically based computer terminals. While this can be an effective method for communicating with a Deaf individual in a one on one situation, it is cumbersome at best, and definitely not efficient in a group setting, such as a speech or lecture. There could also be an insurmountable barrier if the Deaf person is monolingual in ASL, since ASL has no written form.

Consumers Of Interpreting Services

It would be easy, yet incorrect, to assume that the primary consumer of interpreting services is the Deaf community. While the Deaf individual may be the beneficiary of the service, frequently the consumer is the hearing public. Interpreters are used in legal setting for Deaf jurors or witnesses. In this situation the court, or the people, are the consumer. When an interpreter is hired to provide services for a college lecture, the university is the consumer. If an employer is conducting job interviews and has a Deaf applicant, the employer is required to obtain an interpreter and is considered the consumer.

In each of the previously mentioned examples, the person or entity hiring the interpreter is least likely to be able to evaluate the quality of the interpreter's skill. Most members of the hearing public do not know what the qualifications of interpreters are, let alone how to select one for a particular assignment. The Deaf beneficiary of the service usually does not meet or see the interpreter until the activity being interpreted begins. If the Deaf person's primary language is ASL, and the interpreter is proficient only in SEE, the effectiveness of communication will be compromised.

There are potential liability questions in the above scenario. If a medical facility employs an unqualified interpreter who misinterprets symptoms to health care professionals, resulting in inadequate medical care, who is liable? If an employer passes over a Deaf individual for hiring or promotion based on an interview with an unqualified interpreter, is there grounds for a discrimination claim under ADA?

In situations such as contract negotiations, medical examinations, or real estate transactions, the interpreter is in a position to obtain confidential information. Neither the hearing or Deaf person involved in the discussion has much recourse if the interpreter reveals that information or uses it for personal gain.

RECOMMENDATIONS

Recommendation 1: Require the Board of Education to establish standards for interpreters used in public school settings.

Summary: A study by the Gallaudet University Center for Demographic Studies showed that the average Deaf high school senior reads at the fourth grade level. Deaf advocates argue that a major factor for this dismal statistic is the low quality of interpreting services available to mainstreamed Deaf students. Some educators argue the low reading scores are related to the language being used. If ASL is being used by the student, it is unlikely the student will become proficient in English.

Discussion: In the past, the education of Deaf students was generally restricted to state schools for the Deaf. In this situation, monitoring the sign language skills of instructors was a relatively simple task and fell to the school administrator. The administrator was knowledgeable in sign language, or at least could be expected to be.

Mainstreaming, the placement of students with special needs in a standard classroom setting, is now the first choice of many educators and parents. When a Deaf child is mainstreamed, most schools use the services of a teacher's aid to provide interpreting services for the child. These teacher's aids are not required to have any formal training, education, or experience in interpreting. Most school administrators have little experience in evaluating the skill level of interpreters.

The absence of a state standard for evaluating interpreters allows for inconsistencies in the delivery of information to students. The argument is, that although most teacher's aids are well intentioned and try hard, they simply do not have the necessary skills. Some educators contacted for this report indicated the RID certification would not be appropriate in an educational setting. Their position is that merely translating the spoken word is not effective in the K - 12 setting. Interpreters in this setting must convey concepts and facilitate understanding in addition to translating.

School districts are reluctant or unable to hire more qualified interpreters. RID certified interpreters receive fees of \$35/hr. and up. The typical teacher's aid makes less than \$10/hr. In addition to the fiscal impact to school districts is the issue of availability of highly skilled interpreters in rural areas of the state. A school district with one Deaf student in high school may have difficulty recruiting a certified interpreter. Not many interpreters would be willing to relocate to a new community for a short-term employment opportunity.

Inadequate interpreting may be only one factor in the overall poor performance in basic reading skills by Deaf students. However, it is identifiable and correctable. It is unconscionable that highly skilled, certified teachers present materials in a classroom only to have it be misinterpreted by a well meaning but unqualified interpreter.

Standards for educational interpreters should be developed with input from the Deaf community. Standards should be based on performance, not necessarily the completion of an educational degree. A model such as the one in Minnesota should be considered. The Minnesota statute allows school districts to comply with the interpreter standards by the year 2000.

Recommendation 2: Establish a mandatory interpreter registration program for interpreters for the Deaf based on the unlicensed psychotherapist program.

Summary: Providing a central point of contact for consumers to obtain information about interpreters would provide some measure of consumer protection. Registration is the least intrusive form of government regulation of a profession. Registration does not require that specific skills be demonstrated prior to entering a profession. However, it can be used to require documentation of education or training for members of the profession.

Discussion: The evidence of harm from unqualified or under-qualified, interpreters is demonstrable in the educational setting. Harm in the other sectors is just as severe, but not as clearly documented. Employers, and those operating public accommodations, are required under the ADA to provide qualified interpreters. The services of qualified interpreters are necessary to allow Deaf individuals equal access to information and services provided to the general public.

Harm to the public can assume many guises such as, emotional harm, from excluding a Deaf person from information, or financial harm, as a tort claim for failure to provide required services. In a situation involving medical treatment, there is the potential for physical harm to the patient and liability exposure to the medical facility and practitioner.

Individuals contracting for interpreting services are usually not knowledgeable about deafness or how to best accommodate a Deaf person. A traditional role of government is protecting the public from harm. In this situation, protecting the public may be as simple as informing the public. Requiring interpreters to disclose information about their qualifications allows consumers to make an informed hiring decision.

As part of the registration process, information about the qualifications of the interpreter is obtained. Individuals using the services of these practitioners have a single point of contact to determine qualifications. It is up to the consumer to determine if the qualifications of the practitioner are sufficient, rather than a state agency. However, the state agency does consolidate and distribute information related to the qualifications of practitioners.

While a system such as this falls short of requiring minimum standards for interpreters in the private setting, it does create a mechanism for consumers to evaluate the qualifications of interpreters. The Department of Human Services, Rehabilitation Services Division, has the statutory responsibility for maintaining a list of qualified interpreters. The most cost efficient placement of the registration program would be to expand this responsibility. The fiscal impact would be minimal.

A major concern in the Deaf community, in addition to the quality of interpreting services, is confidentiality of information being interpreted. Any code of conduct adopted by the state should include provisions for confidentiality. A registration process can be used to enforce a code of conduct. If specific prohibitions are included in a registration program, violators can have their registration denied, revoked, or face criminal prosecution.

Recommendation 3: Require any individual providing interpreting services for a fee to disclose qualifications and fees in writing prior to accepting an assignment.

Summary: Hearing consumers of interpreting services generally have little knowledge of the scope of interpreting services available or of the education or certifications that can be obtained by interpreters.

Discussion: Disclosure statements are common in many professions. Real estate agents, and psychotherapists, for example, are required to provide clients with written information about fees, qualifications, or standard practices prior to entering into any agreement for service.

The New Mexico Commission for the Deaf and Hard of Hearing publishes a suggested fee schedule, based on the credentials of an interpreter. It also provides information to consumers about the expected skill level necessary for an interpreter to effectively communicate in various settings or assignments. A model such as this would increase consumer knowledge and provide the Deaf person receiving interpreting services with some measure of assurance as to the skill level of the interpreter.

APPENDICES

APPENDIX I

Interpreter Statute

13-90-201. Legislative declaration. The general assembly hereby finds and declares that it is the policy of this state to secure the rights of persons who, because of impaired hearing, cannot readily understand or communicate in spoken language and who consequently cannot equally participate in or benefit from proceedings of the courts or any board, commission, agency, or licensing or law enforcement authority of the state or any of its political subdivisions unless qualified interpreters are available to assist them.

13-90-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Appointing authority" means the presiding officer or similar official of any court, board, commission, agency, or licensing or law enforcement authority of the state or any of its political subdivisions.

(2) "Hearing-impaired person" means a person who has a functional hearing loss of sufficient severity to prevent aural comprehension even with the assistance of hearing aids.

(3) "Intermediary interpreter" means any qualified Interpreter, including any hearing-impaired person, who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language by acting as an intermediary between a hearing-impaired person and a qualified interpreter.

(4) "Qualified interpreter" means a sign language interpreter or oral interpreter whose name is found on the interpreter referral resources list maintained pursuant to section 13-90-205 by the division of rehabilitation which was administratively created by the department of human services.

13-90-203. Powers and duties of the department of human services. The department of human services shall promulgate rules and regulations pursuant to article 4 of title 24, C.R.S., which have been proposed by the division of rehabilitation as necessary for the implementation of this part 2.

13-90-204. Appointment of interpreter - when. (1) A qualified interpreter shall be appointed by an appointing authority to interpret the proceedings to the hearing-impaired person and to interpret the hearing-impaired person's testimony in the following instances:

(a) When a hearing-impaired person is involved in any criminal court proceeding and such proceeding may result in the confinement of such person or the imposition of a penal sanction against such person;

(b) When a hearing-impaired person is the principal party in interest or witness at any stage of the following judicial proceedings in this state or in its political subdivisions: Grand jury proceedings, juvenile delinquency proceedings, child neglect or dependency proceedings, mental health commitment proceedings, and any other proceeding ordered by a court in connection with these enumerated proceedings;

(c) When a juvenile whose parent or parents are hearing-impaired is brought before a court for any reason;

(d) When a hearing-impaired person is arrested and taken into custody for an alleged violation of a criminal law of the state or any of its political subdivisions. Such appointment shall be made prior to any attempt to notify the arrestee of his constitutional rights and prior to any attempt to interrogate or to take a statement from such person; except that no hearing-impaired person who is otherwise eligible for release shall be held pending the arrival of a qualified interpreter.

(e) When a hearing-impaired person is the principal party in interest in any proceeding before any board, commission, agency, or licensing authority of the state or any of its political subdivisions.

(2) Nothing contained in this section shall be construed to preclude the use of services of an interpreter in civil proceedings.

13-90-205. Coordination of interpreter requests. (1) The division of rehabilitation which has been administratively created by the department of human services shall establish, maintain, update, and distribute an interpreter referral resources list for use by any appointing authority who requires the assistance of an interpreter pursuant to section 13-90-204 (1) (a), (1) (b), (1) (c), and (1) (d). In addition, the division of rehabilitation shall make such list available to any appointing authority who requires the assistance of an interpreter pursuant to section 13-90-204 (1) (e). Such list shall contain, but not be limited to, the names of private community programs and agencies that secure qualified interpreters for assignment.

(2) Whenever a qualified interpreter is required pursuant to section 13-90-204, the appointing authority shall secure such interpreter through the interpreter referral resources list distributed or made available by the division of rehabilitation.

13-90-206. Use of an intermediary interpreter. If the qualified interpreter makes a determination that he is unable to render a satisfactory interpretation without the aid of an intermediary interpreter, the appointing authority may appoint an intermediary interpreter to assist the qualified interpreter.

13-90-207. Requirements to be met prior to commencing proceedings. (1) Prior to commencing any judicial proceedings or any proceedings pursuant to section 13-90-204 (1) (e) requiring the assistance of a qualified interpreter, the following conditions shall be met:

(a) The interpreter shall take an oath that he shall make a true interpretation in an understandable manner to the best of his skills, but such oath shall only be required if the entity presiding over the proceeding has been given, by statute, the authority to administer such an oath.

(b) The interpreter shall be in full view and spatially situated to assure effective communication with the hearing-impaired person or persons.

(c) The appointing authority shall make a reasonable attempt to provide an interpreter that is acceptable to the hearing-impaired person.

13-90-208. Waiver. The right of a hearing-impaired person to a qualified interpreter may not be waived except by a hearing-impaired person in writing. Such waiver shall be subject to the approval of counsel, if any, to the hearing-impaired person and is also subject to the approval of the appointing authority. In no event is the failure of the hearing-impaired person to request an interpreter deemed a waiver of this right.

13-90-209. Privileged communications. If a qualified interpreter is called upon to interpret privileged communications pursuant to section 13-90-107, the interpreter shall not testify without the written consent of the person who holds the privilege.

13-90-210. Compensation. Subject to the appropriations available to the division of rehabilitation, a qualified interpreter appointed pursuant to section 13-90-204 (1) (a), (1) (b), (1) (c), and (1) (d) shall be entitled to compensation for his services, including waiting time and necessary travel and subsistence expenses. The amount of compensation shall be based on a fee schedule for interpreters established by the division of rehabilitation. In the event that available appropriations are not sufficient to cover the compensation required by the fee schedule, such schedule shall be prorated accordingly.

APPENDIX II

Explanation Of Certificates

National Registry of Certified Interpreters and Transliterators

The Registry of Interpreters for the Deaf, Inc.
8630 Fenton Street, Suite 324
Silver Spring, MD 20910
301/608-0050 (v/tty)
301/608-0508(fax)

The certificates described below are an indication that the interpreter or transliterator was assessed by a group of professional peers according to a nationally recognized standard of minimum competence. The individual's performance was deemed to meet or exceed this national standard.

RID Certificates are recognized as valid certificates provided the interpreter/transliterator meets all requirements of membership. All interpreters and transliterators are required to adhere to the RID Code of Ethics governing ethical behavior within the profession. Violations of the Code of Ethics could result in a complaint filed against the interpreter/transliterator through the RID Ethical Practices System.

The RID National Testing System (NTS) strives to maintain adherence to nationally recognized testing industry standards of validity, reliability and equity. As a result, an independent psychometrician (test development expert) is retained by RID and oversees test development and revision processes. RID maintains affiliation with the National Organization for Competency Assurance (NOCA), the entity that sets national criteria for validity, reliability and fairness in testing and credentialing.

CI (Certificate of Interpretation)

Holders of this certificate are recognized as fully certified in Interpretation and have demonstrated the ability to interpret between American Sign Language (ASL) and spoken English in both sign-to-voice and voice-to-sign. The interpreter's ability to transliterate is not considered in this certification. Holders of the CI are recommended for a broad range of interpretation assignments.

CT (Certificate of Transliteration)

Holders of this certificate are recognized as fully certified in Transliteration and have demonstrated the ability to transliterate between English-based sign language and spoken English in both sign-to-voice and voice-to-sign. The transliterator's ability to interpret is not considered in this certification. Holders of the CT are recommended for a broad range of transliteration assignments.

CI and CT

(Certificate of Interpretation and Certificate of Transliteration)

Holders of both full certificates (as listed above) have demonstrated competence in both interpretation and transliteration and have the same flexibility of job acceptance as holders of the CSC listed on the following page. Holders of the CI and CT are recommended for a broad range of interpretation and transliteration assignments.

CLIP (Conditional Legal Interpreting Permit)

Holders of this conditional permit have completed an RID recognized training program designed for interpreters and transliterators who work in legal settings. Generalist certification (CI and CT, or CSC) is required prior to enrollment in the training program. This permit is valid until August 30, 1996. CLIP holders must take and pass the new legal certification examination in order to maintain certification in the specialty area of interpreting in legal settings. Holders of this conditional permit are recommended for a broad range of assignments in the legal setting.

CLIP-R (Conditional Legal Interpreting Permit-Relay)

Holders of this conditional permit have completed an RID recognized training program designed for interpreters and transliterators who work in legal settings and who are also deaf or hard-of-hearing. Generalist certification for interpreters/translitterators who are deaf or hard-of-hearing (RSC or CDI-P) is required prior to enrollment in the training program. This permit is valid until August 30, 1996. CLIP-R holders must take and pass the new legal certification examination in order to maintain certification in the specialized area of interpreting in legal settings. Holders of this conditional permit are recommended for a broad range of assignments in the legal setting.

CDI-P (Certified Deaf Interpreter-Provisional)

Holders of this provisional certification are interpreters who are deaf or hard-of-hearing and who have demonstrated a minimum of one year experience working as an interpreter, completion of at least 8 hours of training on the RID Code of Ethics, and 8 hours of training in general interpretation as it relates to the interpreter who is deaf or hard-of-hearing. Provisional certification is valid until one year after the Certified Deaf Interpreter (CDI) examination is made available. Provisional certificate holders must take and pass the CDI examination in order to remain certified as a Deaf Interpreter. Holders of this provisional certificate are recommended for a broad range of assignments where an interpreter who is deaf or hard-of hearing would be beneficial.

CDI (Certified Deaf Interpreter)

Holders of this certification are interpreters who are deaf or hard-of-hearing and who have demonstrated a minimum of one year experience working as an interpreter, completion of at least 8 hours of training on the RID Code of Ethics, and 8 hours of training in general interpretation as it relates to the interpreter who is deaf or hard-of-hearing. Holders of this certificate are recommended for a broad range of assignments where an interpreter who is deaf or hard-of-hearing would be beneficial.

CSC (Comprehensive Skills Certificate)

Holders of this full certificate have demonstrated the ability to interpret between American Sign Language and spoken English and to transliterate between spoken English and a English-based sign language. The CSC examination was offered until 1985. Holders of this certificate are recommended for a broad range of interpreting and transliterating assignments.

MCSC (Master Comprehensive Skills Certificate)

The MCSC examination was designed with the intent of testing for a higher standard of performance than the CSC. Holders of this certificate were required to hold the CSC prior to taking this exam. Holders of this certificate are recommended for a broad range of interpreting and transliterating assignments.

RSC (Reverse Skills Certificate)

Holders of this full certificate demonstrated the ability to interpret between American Sign Language and English-based sign language or transliterate between spoken English and a signed code for English. Holders of this certificate are deaf or hard-of-hearing and interpretation/transliteration is rendered in American Sign Language, spoken English, a signed code for English or written English. Holders of the RSC are recommended for a broad range of interpreting assignments where the use of an interpreter who is deaf or hard-of-hearing would be beneficial.

SC:L (Specialist Certificate: Legal)

Holders of this specialist certificate have demonstrated specialized knowledge of legal settings and greater familiarity with language used in the legal system. Generalist certification and documented training and experience is required prior to sitting for this exam. Holders of the SC:L are recommended for a broad range of assignments in the legal setting.

Prov. SC:L (Provisional Specialist Certificate: Legal) Holders of this provisional certificate hold generalist certification and have completed RID approved training required prior to sitting for the SC:L exam. This provisional certification is valid until August 30, 1996. Prov. SC:L holders must take and pass the new SC:L exam prior to August 30, 1996 in order to obtain certification in the specialty area of interpreting in legal settings. Holders of this certificate are recommended for assignments in the legal setting.

SC:PA (Specialist Certificate: Performing Arts)

Holders of this certificate were required to hold RID generalist certification (CSC) prior to sitting for this examination and have demonstrated specialized knowledge in performing arts interpretation. Holders of this certificate are recommended for a broad range of assignments in the performing arts. The SC:PA is no longer offered.

OIC (Oral Interpreting Certificate)

Holders of this generalist certificate demonstrated ability to transliterate a spoken message from a person who hears to a person who is deaf or hard-of-hearing and the ability to understand and repeat the message and intent of the speech and mouth movements of the person who is deaf or hard-of-hearing .

OIC:C (Oral Interpreting Certificate: Comprehensive)

Holders of this generalist certificate demonstrated the ability to transliterate a spoken message from a person who hears to a person who is deaf or hard-of-hearing and the ability to understand and repeat the message and intent of the speech and mouth movements of the person who is deaf or hard-of-hearing. This certification is no longer offered. Individuals wishing oral certification will take OIC exam noted above.

OIC:S/V (Oral Interpreting Certificate: Spoken to Visible)

Holders of this partial certificate demonstrated the ability to transliterate a spoken message from a person who hears to a person who is deaf or hard-of-hearing. This individual received scores on the OIC:C examination which prevented the awarding of full OIC:C certification. The OIC:S/V is no longer offered.

OIC:V/S (Oral Interpreting Certificate: Visible to Spoken)

Holders of this partial certificate demonstrated ability to understand the speech and silent mouth movements of a person who is deaf or hard-of-hearing and to repeat the message for a hearing person. This individual received scores on the OIC:C examination which prevented the awarding of full OIC:C certification. The OIC:V/S is no longer offered.

IC/TC (Interpretation/Transliteration Certificate)

Holders of this partial certificate demonstrated ability to transliterate between English and a signed code for English and the ability to interpret between American Sign Language and spoken English. This individual received scores on the CSC examination which prevented the awarding of full CSC certification. The IC/TC is no longer offered.

IC (Interpretation Certificate)

Holder of this partial certificate demonstrated ability to interpret between American Sign Language and spoken English. This individual received scores on the CSC examination which prevented the awarding of full CSC certification or partial IC/TC certification. The IC is no longer offered.

TC (Transliteration Certificate)

Holders of this partial certificate demonstrated the ability to transliterate between spoken English and a signed code for English. This individual received scores on the CSC examination which prevented the awarding of full CSC certification or IC/TC certification. The TC is no longer offered.