

WE-VTR MS-RZCS 6002

Colorado Department of Regulatory Agencies
Office of Policy, Research and Regulatory Reform

Interpreters for the Deaf



October 12, 2006

STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES

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Bill Owens
Governor

October 12, 2006

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

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed its evaluation of the sunrise application for regulation of interpreters for the deaf and is pleased to submit this written report. The report is submitted pursuant to section 24-34-104.1, Colorado Revised Statutes, 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,

A handwritten signature in cursive script that reads "Tambor Williams".

Tambor Williams
Executive Director

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The Sunrise Process

Background

Colorado law, section 24-34-104.1, Colorado Revised Statutes, requires that individuals or groups proposing legislation to regulate any occupation or profession first submit information to the Department of Regulatory Agencies (DORA) for the purposes of a sunrise review. The intent of the law is to impose regulation on occupations and professions only when it is necessary to protect the public health, safety or welfare. DORA must prepare a report evaluating the justification for regulation based upon the criteria contained in the sunrise statute:

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

Any professional or occupational group or organization, any individual, or any other interested party may submit an application for the regulation of an unregulated occupation or profession. Applications must be accompanied by supporting signatures and must include a description of the proposed regulation and justification for such regulation. Applications received by December 1 must have a review completed by DORA by October 15 of the year following the year of submission.

Methodology

DORA has completed its evaluation of the proposal for regulation of interpreters for the deaf. During the sunrise review process, DORA performed a literature search, contacted and interviewed representatives of the Colorado Association for the Deaf, reviewed licensure laws in other states, conducted interviews of administrators of those programs, interviewed various members of the interpreting and deaf communities, and contacted the Colorado Medical Society. In order to determine the number and types of complaints filed against interpreters for the deaf in Colorado, DORA contacted representatives of the Registry of Interpreters for the Deaf, the National Association for the Deaf, the Colorado Commission for the Deaf and Hard of Hearing and the Denver/Boulder Better Business Bureau. To better understand the practice of interpreting for the deaf, the author of this report visited sign language employment agencies, attended a meeting of the Commission for the Deaf and Hard of Hearing and met with several scholars within Colorado's higher education system.

Proposal for Regulation

The Colorado Association for the Deaf (Applicant), through its Quality Standards Committee, has submitted a sunrise application to the Department of Regulatory Agencies (DORA) for review in accordance with the provisions of section 24-34-104.1, Colorado Revised Statutes. The application identifies state licensure of interpreters for the deaf as the appropriate level of regulation to protect the public.

The Applicant requested licensure, the most restrictive form of regulation, in order to provide a central resource for addressing grievances for consumers. The Applicant states, on page 12 within its sunrise application, that although the Registry of Interpreters for the Deaf (RID) and the National Association for the Deaf (NAD) have certification programs, membership in the organizations is voluntary and not all interpreters choose to obtain certification. As a result, the Applicant, according to the sunrise application on page 12, believes that consumers are not adequately protected from unqualified interpreters who do not possess certification from the national organizations.

In 1991, the Applicant submitted a sunrise application requesting regulation of interpreters for the deaf. In response, DORA conducted a sunrise review and recommended the establishment of a task force to study and determine whether regulation was warranted. The task force recommended that interpreters in Colorado graduate from an Interpreter Preparation Program, which is offered at Front Range Community College and Pikes Peak Community College, or pass an equivalent examination. The task force also recommended that appropriate, continuous training programs be offered throughout the state.

In 1996, following the work of the task force, a subsequent sunrise application was formally submitted to DORA by the Applicant and the Colorado Registry of Interpreters for the Deaf, requesting regulation of interpreters for the deaf. DORA completed the sunrise review and provided the following recommendations:

- Require the State of Colorado Board of Education to establish standards for interpreters used in public school settings;
- Establish a mandatory interpreter registration program for interpreters for the deaf modeled after the unlicensed psychotherapist program; and
- Require any individual providing interpreting services for a fee to disclose qualifications and fees in writing prior to accepting an assignment.

The Applicant elected to use draft legislation created by RID to serve as a model for the regulation of interpreters for the deaf in Colorado. While the Applicant is not legally bound to RID's draft legislation should the Applicant seek legislation in Colorado, it provides an excellent starting point for discussion.

Currently, RID provides two legislation models on its website to be used by states interested in pursuing regulation of interpreters for the deaf: legislation that recognizes existing national certification standards and legislation that assigns authority to a board, state agency or commission for the deaf. The Applicant indicated that the latter model would be its preference. The aforementioned model legislation is included in Appendix A on page 34.

Within the RID model legislation, there are a variety of community members who would be eligible to serve on the board, with the Governor appointing each member. The board composition would be as follows:

- A majority of members who are professional interpreters for the deaf, including deaf interpreters;
- Individuals representing deaf consumers;
- Individuals representing the general public;
- Governmental representatives serving as *ex-officio* members.

The power and duties of the board would be as follows:¹

- To establish requirements and procedures for licensure (which would include recognizing existing national interpreter certifications and other interpreter licensing systems), to ensure the conduct of examinations and to issue and renew licenses.
- To refuse, restrict, suspend or revoke licenses to conduct investigations, including the power to issue subpoenas, and to hold hearings upon charges or information indicating a violation of the provisions of the act and the regulations promulgated pursuant to the act.
- To establish and maintain a mechanism for certification/licensure maintenance.
- To set fees.

¹ State Regulation of Interpreters: Critical Issues and Model Legislation. Retrieved July 18, 2006, from www.rid.org/model.pdf

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- To maintain a record listing the name of every living interpreter licensed to practice in the state, the last known place of business, the last known place of residence and date and number of license of the licensee in accordance with the state code of confidentiality.
 - To annually submit a report to the state describing the types of complaints received, status of the cases, action that has been taken and length of time from the initial complaint to final resolution.
 - To submit annually a budget for the upcoming fiscal year.

Additionally, it is important to note that although the draft legislation mentions the implementation of a state examination and examination process, it does not outline specific characteristics regarding the test.

The draft legislation also fails to address specific qualifications for licensure and does not outline the grounds for discipline.

Finally, the draft legislation outlines the types of interpreters who would be exempt from state licensure. Exempt interpreters would be as follows:

- Nonresident interpreters who work in the state less than 20 days per year;
- Interpreters providing services in religious settings;
- Interpreters who interpret in emergency situations; and
- Interpreters who participate in internships or training programs and are enrolled in a program of study in interpreting at a higher education institution.

Profile of the Profession

Historical Perspective

An interpreter for the deaf and hard of hearing facilitates communication between those in the hearing and deaf communities. In other words, an interpreter acts as a communication link between a deaf person and a hearing person. The interpreter relays communication from a hearing person to the deaf person, and *vice versa*, thereby enabling communication between the two parties. Interpreters must have the ability to quickly translate the spoken word into the appropriate sign language on behalf of the deaf or hearing-impaired person(s) as well as translate sign language into the spoken word. This process is known as interpreting if American Sign Language (ASL) is used and transliteration if one of the English based languages is used.

Prior to the 1960s, interpretation for the deaf was considered a public service, offered to the deaf community through persons who had interpreting skills (at varying levels) in a variety of settings. Those performing interpreting services were not, for the most part, compensated in monetary payments. Services were often performed by persons who were capable of interpreting and did so at the behest of members of the community. For example, in cities where there existed a school for deaf children, agencies would call the school for help anytime they were confronted with a person with whom they could not communicate.² A person would typically provide the interpreting service and return to his or her position at the school.

Additionally, during the same time period, interpreters often learned proper interpreting techniques from interacting with a deaf family member. A person who possessed a general knowledge of interpreting was occasionally called upon to provide his or her service whenever someone in the community was in need of assistance; interpreting was viewed as a community service, not a profession.

In 1964, at a workshop for interpreters for the deaf at Ball State Teachers College in Muncie, Indiana, the first dialogue for recognizing interpreting as a profession emerged. A group of attendees formed the Registry of Interpreters for the Deaf (RID). The group's charge, in addition to the creation of a formal organization, was to legitimize the interpreting profession; that is, to promote interpreting for the deaf as a viable and recognized profession.

Membership and Modes of Communication

According to representatives of RID, its national membership exceeds 12,600, and there are more than 6,400 certified members. RID staff estimates Colorado membership at 284, and there are 218 active RID-certified interpreters providing interpreting services in a variety of settings, including: legal, education, medical, performing arts, social services, government and private businesses.

The deaf and hard of hearing community relies on a diverse range of styles and levels of communication; as a result, the level of sophistication among interpreters is diverse. The most widely used modes of communication in the deaf and hard of hearing community are:

- American Sign Language (ASL);
- Cued Speech;
- SEE (Signing Exact English); and
- Signed English or Pidgin Signed English.

² Fant, L. (1990). *Silver Threads: A Personal Look at the First Twenty-five Years of the Registry of Interpreters for the Deaf*. Registry of Interpreters for the Deaf, Inc., p.10.

ASL was derived from the French version of Sign Language (which was created by Abbe Sicard in the mid 1700s). ASL is a visual language with its own phonology, morphology, semantics, syntax and pragmatics similar to spoken languages. In fact, many states recognize ASL as a foreign language. Also, all public post-secondary institutions within Colorado accept ASL as an elective that fulfills the foreign languages requirement.³

Cued Speech is a sound-based visual communication system which uses eight hand shapes in four different locations (called “cues”) in combination with the natural mouth movements of speech in order to make all the sounds of spoken language appear unique and understandable to a speech reader.⁴ Additionally, Cued Speech is not considered a sign language, but rather, an oral-manual mode of spoken language.

SEE is a form of communication that acts as an exact representation of English vocabulary and grammar. SEE is based on signs drawn from ASL and expanded with words, prefixes, tenses, and endings to give a clear and complete visual presentation of English.⁵ Many deaf children are taught SEE because the language transmits the English language well. Children who use SEE have a greater understanding of the English language, thereby facilitating stronger reading skills.

Signed English or Pidgin Signed English uses the same vocabulary as ASL but uses the same syntax as the English language. The Signed or Pidgin Signed English language drops the word endings of English (i.e., “-ed” and “-ment”), which allows the signer to communicate more easily while signing. Generally, Signed English or Pidgin Signed English is easier for a deaf person and an interpreter to learn than ASL and SEE because word endings are not needed and neither the deaf person nor the interpreter needs to master the structure or idioms of ASL.

³ Colorado Commission on Higher Education. Policy and Procedures for Counting and Accepting American Sign Language Credits in Public Higher Education Institutions in Colorado. (2004, November 4). Retrieved March 30, 2006, from <http://www.state.co.us/cche/policy/newpolicies/l-partu.pdf>

⁴ Deafness: Choices of Communication. (2005, November 7). Retrieved March 15, 2006, from <http://www.answerpoint.org>

⁵ ASL, SEE Sign, and Signed English. Retrieved March 15, 2006, from <http://www.listen-up.org/sign2.htm>

Certifications

The National Association for the Deaf (NAD) and the Registry for Interpreters for the Deaf (RID) both offered a generalist test for interpreters. However, the generalist tests are no longer available for interpreters to obtain through RID and the NAD. Effective January 2004, interpreters pursuing a generalist certification are required take the National Interpreter Certification (NIC) test, which was developed by a joint task force (NADRID) comprised of RID and NAD members.

Although the RID generalist test is no longer available, candidates who wish to gain certification in a specific area (Oral Transliteration, Legal, or Certified Deaf Interpreter) can still obtain RID certification.

With the advent of the NIC generalist test, NAD no longer offers its own certifications. Interpreters who wish to obtain a generalist certification, must take the NIC test.

Although national certification for the generalist credential must be obtained through the NIC test, interpreters who possess RID certification(s) and/or NAD certification(s) may continue to renew their respective certification(s) by participating in the RID Certification Maintenance Program (CMP), while also being required to maintain current memberships within the organizations. The RID CMP program requires eight hours of continuing education credits every four years. An interpreter may participate in RID-approved workshops and classes to comply with the continuing education requirements.

Interpreters who maintain a current NAD certification must apply annually to RID for dual NAD and RID memberships and participate in the RID CMP. Certification maintenance is a way of ensuring that practitioners maintain their skill levels and stay abreast of developments in the interpreting field, thereby assuring consumers that a certified interpreter provides quality interpreting services.⁶

RID certifications include:

- Certificate of Interpretation (CI);
- Certificate of Transliteration (CT);
- Certificate of Interpretation and Certificate of Transliteration (CI and CT);
- Certified Deaf Interpreter (CDI);
- Specialist Certificate: Legal (SC:L); and

⁶ Registry of Interpreters for the Deaf. Certification Maintenance Program. Retrieved March 7, 2006, from <http://www.rid.org/cmp.html>

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- Oral Transliteration Certification (OTC).

CI interpreters demonstrate the ability to interpret between ASL and spoken English in both sign-to-voice and voice-to-sign through passing a written and a performance test. CT interpreters are required to transliterate between English-based sign language and spoken English in both sign-to-voice and voice-to-sign and must pass a written and performance test. Interpreters possessing both the CI and the CT are required to demonstrate competence in sign language interpreting and transliteration. CDI interpreters are required to complete a minimum of eight hours of training on the RID Code of Ethics and eight hours of training on general interpretation skills. A CDI interpreter must also pass a written and a performance test. To obtain a SC:L certificate, candidates must possess a minimum level of documented training and experience in the legal profession prior to taking the exam. To obtain an OTC, an interpreter must demonstrate skills using silent oral techniques and natural gestures through a written and a performance test. Additionally, an OTC interpreter must have the ability to transliterate a spoken message from a hearing person to a deaf person as well as the ability to comprehend and repeat the message and the intent of the speech and mouth movements of the person who is deaf.

The NAD certifications are as follows:

- NAD III (Generalist) – Average Performance;
- NAD IV (Advanced) – Above Average Performance; and
- NAD V (Master) – Superior Performance.

The NAD III certificate requires an above average performance on either voice-to-sign skills and good sign-to-voice skills, or *visé versa*. Interpreters possessing the NAD IV certificate must demonstrate excellent voice-to-sign skills and average sign-to-voice skills, or *vice versa*, while NAD V interpreters are required to demonstrate superior voice-to-sign skills and excellent sign-to-voice skills.

The three levels of NADRID National Interpreter Certification (NIC) include:

- NIC;
- NIC Advanced; and
- NIC Master.

All three levels for the NADRID certification signify that an individual has passed the minimum competency requirements, and is recognized as a professional level certified interpreter by the national interpreting organizations. In order to obtain the NIC credential, a candidate must pass the skills tests and demonstrate a proficiency in basic interpreting skills. To obtain NIC Advanced credential a candidate must score within the standard scoring range on the interview portion and high on the performance portion of the test. To receive a NIC Master credential, a candidate must score in the high range on both the interview and performance tests.

Education Requirements

Currently, there is no minimum education requirement to obtain RID certification; however, beginning June 30, 2008, prospective non-deaf candidates must possess a minimum of an associate's degree in order to be considered for certification. Candidates, however, may take the written portion of the test prior to completing the minimum education requirement. Also, effective June 30, 2012, RID will require deaf candidates to have a minimum of an associate's degree in order to obtain a RID certification. In 2006, the Certification Council within RID will establish equivalent alternative criteria, which may be substituted for the formal education degree. At the time of this writing, the aforementioned equivalent alternative criteria have not been established.

Since NAD no longer offers certifications, it has not implemented any education requirements.

Also, RID education requirements are applicable for interpreters who take the NIC generalist test because interpreters who pass the test and receive a NIC are granted RID-certified status.

Testing

Candidates may take the written (knowledge) portion of the NIC test through the pencil and paper version or through the computer-based version. The pencil and paper version costs \$175 for RID members and \$275 for non-members and is administered at more than 200 test sites throughout the U.S. Colorado, which is located in RID Region IV, has two available sites: Pikes Peak Community College (site 160) and Front Range Community College (site 112). The pencil and paper test is administered on the first Saturday in June and the first Saturday in December. Results are available ten business days after RID receives the test from the site. If a candidate fails the pencil and paper portion of the test, he or she must wait six months to re-take the test. The cost for re-taking the pencil and paper version is \$125 for RID members and \$225 for non-members.

The computer-based test costs \$240 for RID members and \$340 for non-members. Although more expensive, the computer-based test is much more flexible in terms of when the test can be taken. A candidate may choose to take the computer-based test, which is administered by Cable World Wide, at various sites in Colorado. RID contracts with a variety of companies, including Kinko's and CompUSA, to administer the NIC test. A candidate must provide proper identification, a copy of his or her receipt letter indicating he or she has submitted the appropriate application and paid the applicable fees, and a proctor must be on-site prior to administering the test. Additionally, results are available immediately for the computer-based version of the test. If a candidate fails the computer-based version, he or she may re-take the exam three months following the initial test. Finally, the cost for re-taking the test is \$190 for RID members and \$290 for non-members.

The second phase of the testing process is the combined interview and performance test. The purpose of the test is to assess the candidate's skill in performing interpreter functions. The interview and performance test is administered on Friday afternoons as well as Saturdays at the aforementioned test site locations. In order to schedule a time to take the test in Colorado, the applicant must contact site 160 or site 112 to schedule an exam. The cost for the interview and performance test is \$325.

Additionally, candidates interested in obtaining one of the remaining RID certifications (OTC, SC:L and CDI), are required to pass a written and performance section. The cost for the written portion of the OTC, SC:L and the CDI test is \$140 for RID members and \$195 for non-members. If a candidate does not pass the written portion of the test, he or she may retake the exam, which costs \$80 for members and \$105 for non-members.

The cost for the performance portion of the test is much higher than the written portion. The cost for a RID member is \$225, while non-members must pay \$310. Also, candidates who do not pass the performance test may schedule a retake that includes a \$195-fee for members and a \$280-fee for non-members.

A candidate who wishes to take the OTC, SC:L or the CDI test may contact either site 160 or site 112 to schedule the exam. These RID tests may be taken at any time throughout the year.

Because NAD no longer issues certifications, it does not administer a certification test.

RID Membership

RID encourages certified interpreters for the deaf to maintain an active membership and engage in activities that may potentially benefit the interpreter's knowledge and skills. Membership in RID offers interpreters a range of benefits including: networking with professional interpreters, access to training and workshops, access to national conferences, reduced testing fees, and discounts on publications. Currently, there are many different levels of RID membership.

Membership levels include:

- RID-Certified – Individuals who are RID-certified (\$115 per year);
- NAD-Certified – Individuals who are NAD-certified (\$155 per year, including NAD and RID membership);
- RID- and NAD-Certified – Individuals who are RID- and NAD-certified (\$170 per year);
- Certified Retired – Formerly certified individuals who have retired from interpreting (\$24 per year);
- Associate – Individuals engaged in interpreting, but do not possess a RID certification (\$85);
- Student – Membership for students who are currently enrolled at least part-time in an interpreter training program (\$25 per year);
- Supporting – Interpreters who are not currently engaged in interpreting but support RID (\$24 per year);
- Organizational – Organizations that support RID and its activities (\$150 per year); and
- Trial membership – A person receives a subscription to RID's newsletter.

Summary of Current Regulation

The Colorado Regulatory Environment

The federal Americans with Disabilities Act (ADA), which was enacted in 1990, ensures equal access to places of public accommodation for the disabled community. Specifically, Title III of the ADA mandates that places of public accommodation provide persons with disabilities equal opportunity to participate in and benefit from services.

A place of public accommodation means a facility, operated by a private entity, whose operations affect commerce and fall within at least one of the following categories:⁷

- An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor;
- A restaurant, bar or other establishment serving food or drink;
- A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
- An auditorium, convention center, lecture hall, or other place of public gathering;
- A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
- A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;
- A terminal, depot, or other station used for specified public transportation;
- A museum, library, gallery, or other place of public display or collection,
- A park, zoo, amusement park, or other place of recreation;

⁷ 28 C.F.R. § 36.104.

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- A nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;
 - A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and
 - A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

For the deaf and hearing-impaired community, all public accommodations are required to provide auxiliary aids and services to ensure effective communication for disabled persons.

A comprehensive list of auxiliary aids and service required by the ADA for deaf and hard of hearing people includes: qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons [TTYs], videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments.⁸

The ADA requires qualified interpreters in places of public accommodation for the deaf and hard of hearing population. A qualified interpreter is defined in Title 28 of the Code of Federal Regulations section 36.104 as an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.⁹ Additionally, the ADA Title III Technical Assistance Manual addresses the issue of qualified interpreters regarding places of public accommodation. Specifically, the Technical Assistance Manual states that signing and interpreting are not the same thing.

Being able to sign does not mean that a person can process spoken communication into the proper signs, nor does it mean that he or she possess the proper skills to observe someone signing and change their signed fingerspelling communication into spoken words. The interpreter must be able to interpret both receptively and expressively.¹⁰

⁸ National Association of the Deaf. Title III of the ADA . Provision of Auxiliary Aids. Retrieved June 9, 2006, from <http://www.nad.org/ADAtitleIII>

⁹ 28 C.F.R. § 36.104 (3)(a).

¹⁰ *Americans with Disabilities Act: ADA Title III Technical Assistance Manual*, Section III-4.3200. Retrieved June 21, 2006, from <http://www.usdoj.gov/crt/ada/taman3.html>

The ADA offers a level of protection for the deaf community in places of public accommodation. As a result, if a deaf person believes an establishment has not complied with Title III of the ADA, he or she can file a grievance with the Department of Justice (Department). The Department will conduct an evaluation of the complaint, followed by an investigation.

The Colorado Association for the Deaf (Applicant) has requested that interpreters for the deaf obtain state licensure prior to interpreting in Colorado. The Applicant requested licensure to protect the deaf community from unqualified interpreters; however, the ADA, specifically Title III, does provide additional protection to the deaf community by mandating the aforementioned qualifications for interpreters in places of public accommodation.

Additionally, Colorado regulates interpreters for the deaf in two settings: legal and education (kindergarten through 12th grade). In the legal setting, prior to July 2006, the Division of Vocational Rehabilitation (Division) maintained and distributed an interpreter referral resources list, which included a listing of private interpreters and agencies qualified to interpret in the legal field. During the 2006 legislative session, Senate Bill 06-061 transferred the authority of overseeing the provision of interpreters and auxiliary services from the Division to the Colorado Commission for the Deaf and Hard of Hearing (Commission). As of the date of this writing, the Commission has not modified or changed either the referral list or the requirements to be placed on the list.

There are five levels (Statuses) of interpreters in the legal setting in Colorado. The required certifications and levels of training are outlined below.¹¹

- Status I
Interpreters have a Special Certificate: Legal (SC:L) Registry of Interpreters for the Deaf (RID) certification.
- Status II
Interpreters have a Comprehensive Skills Certificate (CSC), a Master Comprehensive Skills Certificate (MCSC), a Reverse Skills Certificate (RSC), or both a Certificate of Interpretation (CI) and a Certificate of Transliteration (CT). Additionally, interpreters who have a certification in oral interpretation: Comprehensive (OIC:C), an Oral Transliteration Certification (OTC) or a certified Deaf Interpreter (CDI) certificate may qualify as a Status II interpreter.

¹¹ Colorado Department of Human Services Regulation 9.630.

The Status II interpreter must have 25 hours of documented supervised interpreting experience in the legal setting, including but not limited to the courtroom, a lawyer's office, a police station, etc. The aforementioned experience must have been completed within the last five years. Additionally, Status II interpreters must have 40 hours of documented training specific to legal interpreting.

- Status III

Interpreters have a CI and a CT, or a CI or a CT. Also, an interpreter may possess an RID Oral Interpreting Certificate: Visible-to-Spoken (OIC:V/S).

To achieve Status III, an interpreter must have 35 hours of documented supervised interpreting in a legal setting (e.g., courtroom, lawyer's office, police station, etc.) within the last five years. A Status III interpreter must have 40 hours of documented training specific to legal interpreting.

- Status IV

Interpreters have a RID certification or a certification from the National Association for the Deaf (NAD) or a certification from another state. Also, an interpreter who possesses an OIC:S/V and obtains 35 hours of documented supervised interpreting experience in the legal setting (courtroom, lawyer's office, police station, etc.) and 40 hours of documented training specific to legal interpreting, may interpret as a Status IV interpreter in Colorado.

- Status V

Interpreters who have a RSC, CDI or possess the necessary skills to provide intermediary interpreting assistance but do not possess a valid RID certification. An interpreter shall have demonstrated competencies, including effective receptive and expressive communication skills in order to interpret between the hearing-impaired individual and the qualified interpreter.

Education interpreters are required to obtain a license prior to working in Colorado's public education system, kindergarten through 12th grade. A two-tier system has been established for interpreters in the education setting: the Educational Interpreter and the Temporary Teacher Eligibility (TTE) educational interpreter. Licensed educational interpreters must pass the Colorado Education Interpreter Performance Assessment written test (EIPA) to be eligible to work as an interpreter. The EIPA and the EIPA Pre-Hire Screening are part of a family of products that were developed by Brenda Schick and Kevin Williams through the EIPA Diagnostic Center at Boys Town National Research Hospital in Nebraska.¹²

In Colorado, the EIPA is administered through the Assessment System for K-12 Educational Interpreters (ASK12). ASK12 provides assessments of educational interpreters' skills and knowledge levels in interpreting. Table 1 includes the test requirements for the education interpreter.¹³

**Table 1
Test Requirements for Education Interpreters**

Area	Skill Assessment	Overall Score	Knowledge Assessment
Sign Language Interpreter:	Educational Interpreter Performance Assessment (EIPA) Sign communication options (minimum of one): <ul style="list-style-type: none"> • American Sign Language (ASL) • Pidgin Signed English (PSE) • Manually Coded English (MSE) Level Options (minimum of one): <ul style="list-style-type: none"> • Elementary • Secondary 	3.5 or higher	EIPA – Written Test: Passing Score
Oral Interpreter:	State Panel of Experts	Determined by panel	EIPA – Written Test: Passing Score
Cued Speech Interpreter:	State Panel of Experts	Determined by panel	EIPA – Written Test: Passing Score

¹² Colorado Department of Education: *Exceptional Student Services 2nd Edition (2004)*. Education Handbook, p.7.

¹³ Colorado Department of Education: *Exceptional Student Services 2nd Edition (2004)*. Education Handbook, p.4.

Education interpreters must also complete an application packet and submit a fingerprint card to the Colorado Department of Education (CDE) prior to engaging in interpreting activities. Upon successful completion of the EIPA as well as submitting the required application and fingerprint card, education interpreters are eligible to work in Colorado. Education interpreters are required to renew their licenses with the CDE every five years.

There are several additional requirements an interpreter must fulfill in order to qualify as an education interpreter. The requirements are as follows:¹⁴

- An interpreter must have an associate's degree in education interpreting or a related field, effective July 1, 2006. An interpreter possessing a valid authorization prior to July 1, 2006, may continue employment without the aforementioned education requirement as long as his or her license remains current.
- An interpreter is required to obtain 60 contact hours of continuing education during a five-year period. Continuing education hours are subdivided into two categories: knowledge hours and skill hours. Knowledge hours are continuing education hours that can be directly applied to work in an education setting. For example, interpreters can attend district in-services or general knowledge workshops related to classroom content. Skills hours of continuing education are hours that can be directly applied to interpreting skills. For example, interpreters may choose to take courses on advanced American Sign Language, advanced English or advanced sign systems.

Interpreters who do not meet the requirements outlined above can apply for a TTE license. The TTE license is intended for interpreters who possess basic skills in interpreting, but have not met all criteria for the Educational Interpreter license. For example, interpreters who score a minimum of 2.5 on the EIPA and possess an RID or NAD III certification or higher are eligible to apply for a TTE license. The CDE has implemented a two-step process for the TTE license. First, the interpreter must apply for the Authorization: Temporary Teacher Eligibility and the Temporary Teacher Eligibility: Educational Interpreter, which are both licenses in Colorado. The application process is as follows:

¹⁴ Colorado Department of Education: *Exceptional Student Services 2nd Edition (2004)*. Educational Interpreter Handbook, p.5.

Step 1. Authorization: Temporary Teacher Eligibility (TTE) ¹⁵

- Application packets must be obtained through the local school district/Boards of Cooperative Education Services (BOCES) human resource offices.
- \$60 application and \$30 fingerprint fees apply.
- Completed forms and fees are submitted to Educator Licensing at CDE.
- The Authorization is issued for one school year and can be renewed for an additional two years providing the required documentation is submitted annually to Grants Fiscal Management at CDE for the interpreter annually, prior to the beginning of the second and third years.
- The Authorization fee of \$60 is an annual charge that must be paid each year that a temporary Authorization is requested.

Step 2. Temporary Teacher Eligibility: Educational Interpreter¹⁶

- Application forms must be obtained through the local school district/BOCES special education director.
- Completed forms and fees are submitted to Grants Fiscal Management at CDE.
- TTE approval is granted for a maximum of three school years providing evidence of a completed professional development plan is submitted annually by the interpreter prior to the beginning of the second and third years. The professional development plan indicating evidence toward meeting the knowledge and skill standards must be signed by BOTH the special education director and the educational interpreter.

In sum, the Colorado regulatory environment, as it applies to the deaf community, includes the ADA and interpreters in the legal setting and the education setting.

The ADA, specifically Title III, outlines the baseline competency that interpreters must obtain prior to interpreting in places of public accommodation. Title III provides the deaf community added protection against unqualified interpreters.

Additionally, in order to be placed on the referral list of eligible legal interpreters in Colorado, interpreters must obtain national certification, followed by satisfying a specific number of required hours of training, which is dependent on the interpreter's status level.

¹⁵ *Colorado Department of Education: Exceptional Student Services 2nd Edition (2004). Educational Interpreter Handbook, p.5.*

¹⁶ *Colorado Department of Education: Exceptional Student Services 2nd Edition (2004). Educational Interpreter Handbook, p.6.*

Public education interpreters in Colorado are required to obtain a license prior to interpreting in kindergarten through the 12th grade. A two-tier system has been established to allow interpreters who do not possess the required minimum competency to work to achieve licensure status. As a result, the deaf community benefits from added protection from unqualified interpreters.

Regulation in Other States

The states that are contiguous to Colorado were researched to illustrate which states regulate interpreters for the deaf. Of the seven states surveyed, six possess varying forms of regulation for interpreters.

Four of the seven states (Kansas, Oklahoma, Nebraska and Utah) regulate all interpreters. The aforementioned states require either state certification or national certification prior to providing interpreting services. State certification means that an interpreter must pass the Quality Assurance Screening Test (QAST) in his or her respective state. The QAST, which was developed at the Kansas School for the Deaf by Bernard (Bern) Jones, serves as a template for states that implement a statewide certification requirement. The QAST consists of two parts: written and performance. The written portion is a multiple-choice exam, which typically covers the code of ethics. The performance portion is interactive and tests an interpreter's skills at interpreting. Various states have adopted the QAST while incorporating their own changes to the test.

National certification, meanwhile, is limited to RID and NAD.

Arizona regulates interpreters in the legal setting, and requires a national RID certification to interpret for remuneration.

New Mexico requires education interpreters to possess a certification from either RID or NAD.

One state, Wyoming, does not require regulation of interpreters for the deaf.

Arizona

Arizona regulates interpreters for the deaf in the legal setting. Legal interpreters are required to possess a sign language interpreter certification or an oral interpreter certification prior to providing services.

An interpreter may obtain a sign language interpreter certification by filing an application with the Council of the Hearing Impaired and submit all of the following information:

- A certified copy of current RID certification;

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- A notarized affidavit that the applicant possesses a CI, CT, CSC, or a SC:L certificate and has a minimum of 2,000 hours of interpreting experience in the past five years; or
 - A CDI or RSC certificate and documentation that the interpreter has a minimum of 50 hours of interpreting experience in the past five years.

An interpreter may obtain an oral interpreter certification by filing an application with the Council for the Hearing Impaired and submit a copy of his or her current RID OTC certification or documentation indicating that he or she has completed a minimum of 360 hours of oral interpreter services within the past three years.

Kansas

All working interpreters are required to register with the Kansas Commission for the Deaf and Hard of Hearing (KCDHH). In Kansas, an interpreter must obtain certification prior to providing services for remuneration. Interpreters have a number of options available to achieve certification. First, an interpreter may take the Kansas QAST, also known as the state certification system, and pass the test at a level three or higher. The test contains two parts: the written portion, which includes 50 multiple-choice questions, and a performance test, which is video taped and sent to six different evaluators. The performance test has two portions: interpreting and transliterating, and a candidate may choose to take either or both the interpreting and transliterating sections. There are currently five levels an interpreter may attain through the Kansas QAST. The levels are outlined as follows:

- Level I are entry-level beginner interpreters possessing apprentice level skills and the KCDHH does not recommend use of interpreters at this level.
- Level II are classified as intermediate level interpreters. Level II interpreters may interpret in situations where communication can be interrupted occasionally for clarification purposes. The KCDHH, however, does not recommend use of interpreters at this level.
- Level III are advanced level beginner interpreters, and can be used in most situations, including group and workshop situations.
- Level IV are accomplished level interpreters that can be used in most situations; the KCDHH recommends the use of interpreters at this level.
- Level V are master level interpreters who have demonstrated a high level of ability to sign in a majority of situations. No restrictions are outlined by the KCDHH for Level V interpreters.

Additionally, interpreters may attain certification in Kansas by possessing a valid RID certification, a NAD certification, an EIPA level 4.0 or higher, or another state's certification or license.

Nebraska

Nebraska requires interpreters to secure a license prior to providing services. There are several options available to achieve certification. First, an interpreter may take the Mid-America QAST, which is a regional sign language exam, testing a candidate's interpreting and transliteration skills. Within the Mid-America QAST, there are five levels of competency:

- Level I interpreters are considered to have obtained the basic level of skills to provide services.
- Level II interpreters are classified as intermediate interpreters and can begin to work in limited situations, including group sessions and workshops.
- Level III interpreters have demonstrated an advanced level of interpretation skills, and are eligible to interpret in most one-on-one situations.
- Level IV interpreters have achieved the qualified level in Nebraska. Qualified interpreters are able to interpret in a variety of situations.
- Level V interpreters have achieved the accomplished level; Level V interpreters are able to interpret in any situation.

In addition to passing the QAST, an interpreter in Nebraska must satisfy at least one of the following requirements to be eligible to provide services for remuneration:

- Possess one of the National Interpreter Certification (NIC) certificates; NIC, NIC Advanced or the NIC Master;
- Have a valid RID certification; or
- Hold a valid NAD certification.

Additionally, education interpreters in Nebraska must obtain one of the aforementioned certifications in order to provide services in the kindergarten through 12th grade school system or pass the EIPA with a competency level of 3.5 or higher.

New Mexico

New Mexico requires education interpreters to obtain national certification (RID or NAD) or pass the EIPA test with a score of 3.5 or higher prior to working in the education system, kindergarten through 12th grade. In Albuquerque, education interpreters must have a four-year college degree in any discipline in order to be considered for employment in the education system.

No other interpreters are currently regulated in the state.

Oklahoma

In Oklahoma, all interpreters are required to obtain certification prior to providing services for remuneration. Oklahoma has additional requirements, however, for interpreters in the education system, kindergarten through 12th grade, and interpreters in the legal setting.

Excluding education and legal interpreters, interpreters must pass the QAST or possess a certification from one of the national organizations (RID or NAD) to interpret. The QAST is a two part test, consisting of two portions: written and performance. The written portion requires knowledge of the code of ethics for interpreters, while the performance portion tests the interpreter's ability actively interpret or transliterate. Additionally, interpreters who possess a QAST certification are required to complete one continuing education unit (CEU) annually; one CEU equals ten hours of study in a workshop setting. There are five levels of competency an interpreter may achieve when taking the QAST. The levels are as follows:

- Level I - A Level I interpreter is considered an entry level interpreter who is able to expressively and receptively interpret or transliterate who scored a minimum of 50 percent on the performance screening portion of the test.
- Level II – A Level II interpreter is considered an intermediate level interpreter who is able to expressively and receptively interpret or transliterate and who scored a minimum of 70 percent on the performance screening portion of the test.
- Level III – A Level III interpreter is an advanced interpreter who scored a minimum of 85 percent on the performance screening portion of the test.
- Level IV – A Level IV interpreter is classified as an accomplished interpreter who scored a minimum of 80 percent on the performance screening portion of the test.

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- Level V – A Level V interpreter is a master level interpreter who scored a minimum of 90 percent on the performance screening portion of the test.

Additionally, in order to be considered for employment as an education interpreter in Oklahoma, candidates are required to attain one of the following certifications:

- RID certification;
- NAD certification at a Level IV or higher; or
- QAST certification at a Level III or higher.

Interpreters in the legal setting in Oklahoma are required to possess one of the following certifications:

- RID certification (SC:L, CI and CT, CSC, CDI or OTC); or
- NAD (Level V).

Utah

In Utah, all interpreters for the deaf are required to obtain certification prior to providing interpreting services. There are a variety of options an interpreter may choose when attempting to become certified in Utah. First, an interpreter must take, and pass, the state examination, which is reviewed by the Utah Certification Advisory Board and approved by the Division of Services for the Deaf and Hard of Hearing. There are two phases included in the examination: written and performance. The written examination evaluates an interpreter's knowledge of the interpreter/transliterators code of ethics, history and role of an interpreter. The second phase, the performance examination, evaluates an interpreter's skill level and knowledge.

Utah established several levels of competency for interpreters for the deaf. The various levels include:

- Novice;
- Intermediate; and
- Master.

Novice certification is intended for interpreters who are entry-level practitioners. Novice interpreters are required to renew their respective certifications annually, and complete 20 hours of approved workshop maintenance during the same period. Also, novice certified interpreters may possess a valid novice certification for a maximum of three years.

Intermediate certification is intended for interpreters who have a greater level of skill in interpreting than a novice level interpreter. Interpreters possessing an intermediate certification function on a three-year certification maintenance program; that is, they must renew their certification every three years, and complete 60 hours of continuing education credits during the same three-year period.

The Master certification is intended for interpreters who have demonstrated a high skill level in interpreting. Master certified interpreters also function on the same three-year certification program as an intermediate certified interpreter.

The State of Utah also accepts interpreter certifications from other states and organizations. Approved certifications include:

- A valid RID certification;
- NAD certifications with a score of 4.0 or higher with 20 hours of state approved workshop continuing education; and
- The EIPA test with a score of 3.5 or higher.

Analysis and Recommendations

Public Harm

The first sunrise criterion asks:

Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument.

Before moving forward in the analysis of harm to the public, it is important to identify what constitutes harm to the deaf community concerning interpreters. Harm can occur when interpreters do not effectively and accurately convey information, both receptively and expressively to the deaf person. The absence of clear communication could potentially harm the deaf community in a variety of settings.

The Colorado Department of Regulatory Agencies (DORA) requested that the Colorado Association for the Deaf (Applicant) submit examples of harm to support its request to regulate interpreters for the deaf. The Applicant submitted a number of examples of harm; however, many of the examples submitted do not provide enough detail or substance to conduct a complete analysis. The examples provided by the Applicant are included in Appendix B on page 36.

In addition to the examples of harm submitted by the Applicant, DORA received several examples from other stakeholders and interested parties, which are included, verbatim, as they were relayed to DORA. Only identifying information has been altered. Please refer to Appendices C through F, beginning on page 40, for a listing of the examples. The following submissions were chosen from the examples DORA received from stakeholders and serve to best illustrate the types of harm members of the deaf community can suffer when there is miscommunication. The examples were summarized by DORA. Also, it is important to note that DORA was unable to verify the accuracy of the submissions.

Submission #1

A deaf student received inadequate interpreting services while attending a university in Colorado. The deaf student believes that the interpreters provided by the university may have compromised her test scores.

The frustration happened with several of the interpreters working at the university. The deaf student called several meetings with the disability coordinator to explain her frustration and inquire as to whether or not she could change interpreters, but at all of the meetings the deaf student was told to “try to work it out with the interpreter.” The disability coordinator believed that the deaf student’s difficulty was a result of a personal conflict rather than the quality of interpreting services provided by the interpreter. The deaf student articulated to the disability coordinator that one interpreter was actually affecting her grade based on the deaf student receiving a lower than expected test score. The deaf student believed that she received the lower test score because the interpreter was not interpreting accurate information, including signing all of the vocabulary words that the professor was using. After addressing her concerns with the disability coordinator, the disability coordinator told the deaf student to “work it out and maybe the interpreter just needs some improvement so let her learn from this lesson.” The interpreter admitted that she was not meeting the communication needs of the deaf student, yet the administrators did not do anything.

The situation continued throughout the deaf student’s academic career until she finally graduated. This situation caused enormous harm because it affected the deaf student’s grades at some point and her ability to acquire accurate and new information. As a result, she had to work harder to acquire all the information through notes, talking with the professor, etc. The deaf student sometimes found new information through notes and brought this up to the interpreter, yet the situation did not improve.

Submission #2

A deaf offender met with a probation officer along with an interpreter who was not qualified for the assignment. During their appointment, the probation officer informed the deaf offender that he was required to attend treatments. The information was inaccurately conveyed and the deaf offender thought it was an option to take the treatment and did not go to the treatment as ordered. Three months later, he was served with a violation of probation. The deaf offender indicated that the probation officer told him that he did not have to go to treatment and thought it was an option. There was a communication problem between the parties. Even so, the judge found the deaf offender had violated his probation and extended the term of his probation for three additional months.

Submission #3

A deaf person did not understand that a condition for which he was being treated was terminal. The doctor had an interpreter present during all of the appointments – someone who had recently completed an interpreter program but was not sufficiently skilled or certified. There were major gaps in the interpretation, but the deaf person understood that he was to take a series of medications and return for regular check-ups, and that things did not “look good” – which he interpreted to mean the illness was “serious.” He did not understand the treatment would not resolve the basic health issue; it would only help sustain him a bit longer. He would eventually die from the disease. He learned this in a subsequent appointment with a certified interpreter and the doctor. Both the deaf person and the doctor were unaware of the poor communication. The doctor felt that he had been clear in articulating the deaf person’s condition. The impact is that the deaf person has a much shorter time to prepare himself, and his family, for his death.

Submission #4

A deaf person was scheduled for blood work. When the doctor explained to the deaf person that she should not eat for 12 hours before the blood work, the interpreter stated nine days. In this case, the interpreter was a very newly certified interpreter. The deaf person challenged this with the doctor, asking, “Are you sure I can have nothing for such a long time?” The interpreter assured the deaf person that it was the normal procedure for the tests. After not eating for several days, only drinking water, the deaf person was feeling faint and went to see a deaf advocate asking if the deaf advocate would contact the doctor to see if the deaf person could eat something – she was naturally very hungry. The doctor was totally baffled and once again explained that the normal procedure was to not eat anything – and drink only water – for the 12-hour period prior to the blood test. The impact was that the deaf person was operating on erroneous information that could have resulted in health risks.

Submission #5

A deaf person was mentally ill and hallucinating. The interpreter that was called in did not have any prior experience with the disoriented thought patterns of someone who is seriously mentally ill. The interpreter told the doctor that the deaf person did not have adequate language skills – she was likely uneducated. It was not until some days later, when an experienced certified interpreter was called in that the disoriented thought patterns were interpreted for the doctor and an adequate diagnosis was made and appropriate medication provided. The impact was that the deaf person suffered a continuation of the hallucinations longer than she should have and the medical personnel were not able to help her in a timely manner.

The aforementioned submissions outlined harm to the deaf community; however, it is not clear whether the harm is attributable to negligence or wrongdoing on the part of the interpreter. In all of the situations, there were three parties involved in the communication process thereby making it impossible to adequately discern who was responsible for the miscommunication. Miscommunication sometimes occurs between hearing persons. When a third party is added to a communication circle, with respect to interpreting for the deaf community, there is an additional element to the conversation. As a result, the chances for miscommunication increase. However, because communication between the three parties is fluid, and typically there is not written documentation of the conversation, it is difficult to determine who is responsible for communication lapses. This calls into question the need for additional regulation of interpreters for the deaf in Colorado.

Additionally, the question is whether additional regulation in Colorado would benefit the public. To determine whether additional regulation is necessary, DORA researched complaints filed against interpreters from several sources. DORA contacted RID and requested a comprehensive list of formal complaints filed against interpreters in Colorado. RID representatives stated that only two formal complaints had been filed in the past five years. One of the cases was dismissed for not meeting the enforcement criteria established by RID, and one complaint concluded that no violation had been committed.

Also, DORA contacted the Denver/Boulder Better Business Bureau (BBB) and requested information regarding complaints filed against interpreters. Representatives from the BBB stated that they have not received any interpreter complaints during the past five years.

The minimal interpreter complaints filed against Colorado interpreters during the past five years calls into question the need for additional regulation for interpreters for the deaf beyond what already exists.

Need for Regulation

The second sunrise criterion asks:

Whether the public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional or occupational competence.

The deaf and hard of hearing communities in Colorado rely on effective and accurate information relayed by qualified interpreters in a variety of settings. The role of an interpreter is to facilitate communication between those in the hearing and those in the deaf communities. Therefore, it is critical that interpreters for the deaf relay information accurately.

Regulation of a profession or occupation implies that in its absence, harm is imposed upon the public and the public lacks the resources to determine whether certain professionals possess a minimum level of competency in their profession. Regulation is warranted if the profession continues to harm the public.

Clear harm to the deaf community by interpreters has not been established. It is difficult to determine who is responsible for miscommunication in communication circles that include three parties and an additional language (e.g., American Sign Language). This calls into question whether regulation would mitigate the problem. Regulation will not guarantee prevention of miscommunication; it will still be difficult to establish negligence or wrongdoing in the communication circle.

Several other factors must be addressed when determining whether regulation of a profession or occupation is warranted. First, regulation, specifically state licensure for interpreters for the deaf, as outlined by the Applicant, could potentially limit or reduce the number of interpreters in Colorado, thereby possibly increasing the cost for an interpreter. Since clear harm or potential harm has not been established, it is reasonable to conclude that the creation of an additional barrier to entry for the interpreting profession is not warranted or necessary.

The cases of harm provided in the previous section outlined several instances of alleged harm or potential harm to the deaf community. The majority of cases addressed issues of a communication breakdown between the deaf person and the interpreter. However, as stated in the analysis, it is difficult to determine where the communication or miscues occurred. Because regulation would not make miscommunication issues more easily identifiable, state regulation of interpreters for the deaf may not result in additional public protection.

Alternatives to Regulation

The third sunrise criterion asks:

Whether the public can be adequately protected by other means in a more cost-effective manner.

Public protection could potentially be realized and enhanced in a variety of ways. First, the state could require all interpreters in Colorado to obtain national certification in order to provide interpreting services for remuneration. The costs to the state would be minimal; however, requiring all interpreters to obtain certification prior to working in Colorado could limit the number of interpreters, while potentially increasing the fees, which they would charge.

Additionally, since RID already lists certified interpreters in all states on its website (Colorado has 218 certified interpreters) and the Colorado Commission for the Deaf and Hard of Hearing's website has created a link to the RID website, consumers can easily research and obtain a certified interpreter. This calls into question the need for requiring interpreters to obtain national certification. Some interpreters do not wish to obtain certification due to a variety of reasons, including cost. Currently, the entire (written and performance sections of the National Interpreter Certification test) certification process costs an estimated \$500.

Also, requiring certified interpreters for the deaf to carry their certification credentials, essentially proving their certification, may provide additional protection to the public. However, the aforementioned scenario would provide consumer protection for certified interpreters, while consumers would not enjoy the same level of protection from non-certified interpreters.

Another alternative to increase public protection would be to follow Colorado's unlicensed psychotherapist model, which requires unlicensed practitioners to register with a state database. The database includes the unlicensed practitioner's name, current address, educational qualifications and years of experience. Unlicensed psychotherapists are also required to update their respective information annually.

Interpreters for the deaf could be required to follow a similar model; however, there is a question whether the need for regulation exists. Following the unlicensed psychotherapist model interpreters for the deaf could provide protection to the public without limiting or creating a barrier to entry for new interpreters and existing interpreters who do not wish to pursue national certification. The database would simply inform consumers of the current qualifications regarding a particular interpreter prior to requesting their services. However, a deaf consumer could easily access the list of certified interpreters in Colorado; this calls into question the need to require non-certified interpreters to register on a state database. If deaf consumers want to know whether a specific interpreter is certified, they could simply contact RID or access its website.

The aforementioned options address the issue of whether the public could be adequately protected by other means in a more cost-effective manner. Although the approaches are all viable options, DORA did not find clear harm to the deaf community by interpreters for the deaf. As a result, since harm the deaf community cannot be directly attributed to interpreters, none of the alternative approaches for a more cost-effective means to protect the public is justified.

Conclusion

Interpreters for the deaf provide an invaluable service to the deaf community by facilitating communication between the hearing and deaf communities. Deaf persons must rely on interpreters to accurately convey and receive information in a variety of settings. Therefore, using an interpreter who can accommodate the deaf person's needs is essential.

The federal Americans with Disabilities Act (ADA), enacted in 1990, provides a level of protection within the deaf community in Title III, which outlines auxiliary services for the deaf regarding public accommodations. Specifically, the ADA requires that interpreters for the deaf must be able to sign both receptively and expressively. Title III serves to add additional consumer protection to the deaf consumer by requiring that interpreters possess minimum competency in their respective professions.

Interpreters for the deaf in Colorado are not regulated except in the education setting and the legal setting. The Applicant requested licensure, the most restrictive form of regulation, for interpreters in Colorado. On page 12 of the sunrise application, the Applicant claims that non-licensed interpreters do not adequately protect the deaf community from harm.

In addition to the Applicant, several stakeholders and interested parties submitted examples of harm to illustrate the potential danger posed to the deaf community. However, in the majority of cases submitted to DORA, it was difficult to determine where the lines of communication broke down. Without adequate resources to determine if the interpreter was inflicting harm on the public, it is reasonable to conclude that state regulation, specifically state licensure of interpreters for the deaf, would not provide any greater level of protection to the deaf and hard of hearing community.

Further, consumers of interpreting services have the option of reviewing the RID website and requesting a certified interpreter. Currently, there are 218 certified interpreters in Colorado, located throughout the state. The consumer has the option to search for a certified interpreter via the national certifying agencies (RID or NAD). Therefore, it is reasonable to conclude that the deaf consumer could choose whether to use a certified interpreter, which may potentially provide a greater level of consumer protection.

Based on a complete analysis of the examples of harm provided by the Applicant and interested stakeholders, increased regulation of interpreters for the deaf is not justified. Rather, the profession, and therefore the consumers, may potentially benefit more from increased awareness about and recognition of nationally certified interpreters by promoting and sustaining an environment that seeks to identify and increase access to nationally certified (credentialed) interpreters. In other words, creating a climate and perhaps a process whereby the consumer is more informed about avenues of securing a certified interpreter would diminish the instances of harm to the deaf community. And, equally important, increased usage of certified interpreters could potentially increase the level of protection to the deaf community.

Finally, there is no evidence of harm to the deaf community caused by interpreters for the deaf. The harm that has been identified through research as well as an analysis of the submissions of harm by interested stakeholders cannot be definitively attributed to interpreters, regardless of their competency levels. As a result, regulation is not justified.

Recommendation - Impose no additional regulation on interpreters for the deaf.

Appendix A – RID Model Legislation

Model Legislation For Commission/Licensing Boards Interpreter Regulation

Section 1: Purpose

The purpose of this act is to provide for the establishment of standards for the practice of interpreters for the deaf in this state through licensure and regulation and control of persons engaged in offering interpreting services to the general public, to regulate the practice and licensure of interpreter for persons who are deaf or hard of hearing, creating the *(insert here whatever title/language is appropriate (i.e. Commission for the Deaf, Interpreter Licensure Board or State Board of Sign Language and Oral Interpreters Licensure))*; providing for its powers and duties; imposing penalties; and making needing appropriation.

Section 2: Definitions (Provides a list of terminology that is used and its specific meaning.)

A. *Board* - *(Insert the title of the authority charged with the oversight responsibilities.)*

B. *Qualified Licensed Interpreter* - an individual certified by the national Registry of Interpreters for the Deaf or the National Association of the Deaf, and who has met the requirements for licensure as an interpreter for persons who are deaf or hard of hearing, as established by the Board.

C. *Interpreting* - the process of providing accessible communication between and among persons who are deaf or hard of hearing and hearing. This process includes, but is not limited to, communication between American Sign Language and Spoken English. It may also involve various other modalities that involve visual, gestural and tactile methods.

D. *Interpreter Education Program (IEP)/Interpreter Preparation Program (IPP)* - a post secondary degree program of at least two years' duration that is accredited by the state or Board of Education or similar requirement by another state, district or territory.

E. *Deaf, Hard of Hearing Person* - a person who has either no hearing or who has significant hearing loss. Often these individuals need the assistance of a Qualified Licensed Interpreter for communication purposes. (Note: Many states have existing definitions in legislation that may include a medical (audiological) definition as well as a sociological definition.

Section 3: Governance

A. *Creation* - There is hereby created a departmental administrative board *(or independent board)* known as *(insert title)*, which shall be housed under *(insert the name of the state agency or department, if applicable)*. It shall consist of *(insert the number)* voting members, all of whom shall be residents of this state.

The majority of the board shall consist of members who are professional interpreters, of which *(insert a number)* is/are deaf. There shall be *(insert the number)* individuals who represent consumers who are deaf, hard of hearing or deaf-blind. There shall be *(insert the number)* individuals representing the general public. There shall be *(insert the number)* who are interpreter trainers. There shall be *(insert the number)* governmental members as ex-officio members from *(insert the name of the state agency(s) or department(s))*.

B. *Appointment by Governor* - The Governor shall appoint the members to serve on the board. A list of qualified non-government persons for the Governor's consideration shall be jointly agreed to and submitted based upon agreement by the State Affiliate Chapters of the Registry of Interpreters for the Deaf and the National Association of the Deaf.

C. *Term of office* - Initial members of the board will serve various term lengths that would eventually allow for staggered new appointments.

D. *Reappointment* - Non-government members of the board shall be eligible for reappointment to a second consecutive term.

E. *Compensation* - Each non-government member of the board shall receive compensation in accordance with state regulation.

F. *Powers and duties* -

1. It shall be the duty of the board to establish requirements and procedures for licensure (which shall include recognizing existing national interpreter certifications and other interpreter licensing systems), to pass upon the qualification of applicants for licensure, to ensure the conduct of examinations, to issue and renew licenses to interpreters who qualify under this act and to suspend or revoke the license of an interpreter.
2. The board shall be authorized and empowered to refuse, restrict, suspend or revoke a license of interpreters under this act, to conduct investigations, including the power to issue subpoenas, and to hold hearings upon charges or information indicating a violation of the provisions of this act and the regulations promulgated pursuant to this act.
3. The board shall establish and maintain a mechanism for certification/ licensure maintenance.
4. The board shall have the authority to set fees.
5. The board shall maintain a record listing the name of every living interpreter licensed to practice in the state, the last known place of business, the last known place of residence and date and number of the license of the licensee in accordance with the state code of confidentiality.
6. The board shall annually submit a report to the state describing the types of complaints received, status of the cases, action that has been taken and length of time from the initial complaint to final resolution.
7. The board shall submit annually a budget for the upcoming fiscal year.

G. *Rules and regulations* - The board shall have the power to promulgate and adopt rules and regulations consistent with this act and administration of the state that it considers necessary for the performance of its duties and proper administration of this act.

H. *Restrictions* - 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: Licensure Provisions

A. *Scope of Regulation* - Effective (*insert date*) no person shall represent himself or herself as an interpreter or engage in the practice of interpreting as defined in Section 2 of this Act unless he or she is licensed in accordance with the provisions set forth by the (*insert the title of the authority charged with the oversight responsibilities, as noted in Section 2*).

B. *Standard(s) for Licensure* - The (*insert the title of the authority charged with the oversight responsibilities, as noted in Section 2*) shall determine the appropriate measurement for interpreter competence in the state.

C. *Exemptions* - The provisions set forth by (*insert the title of the authority charged with the oversight responsibilities, as noted in Section 2*) shall not apply to:

- Nonresident interpreters working in this state less than twenty (20) days per year.
- Interpreters working in religious settings
- Interpreters working in emergency situations where the parties decide that the delay necessary to obtain a licensed interpreter is likely to cause injury or loss to the consumer
- The activities/services of an interpreter intern or student in training enrolled in a program of study in interpreting at an accredited institution of higher learning.

D. *Grandfathering* - The (*insert the title of the authority charged with the oversight responsibilities, as noted in Section 2*) shall promulgate guidelines to (a) transition currently working interpreters who do not meet the requirement for licensure; (b) shall promulgate guidelines for individuals who do not satisfy the Standard for Licensure to allow graduates possessing Associates Degrees from an accredited Interpreter Education Program/Interpreter Preparation Program; (c) adjudicate quality complaints; (d) determine penalties for practicing without a valid license; (e) determine reciprocity with other states

Section 5: Additional Provisions

A. *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. As such, all legislation regulating the profession of interpreting must recognize this right of privileged communication between an interpreter and consumer, deaf and hearing. ■

Appendix B – Examples of Harm Submitted by the Applicant

Colorado Quality Standards for Interpreters (CQSI) Significant comments from the Survey

Hearing Consumers' Responses:

“Students are not trained to know their rights & responsibilities regarding sign interpreters, and there is no place to go with their complaints and issues. The interpreters often function as an authority figure over the student vs. a communication access support.” *Hearing mother of a Deaf student in mainstreamed setting*

“They just left us “hi and dry”. RID cert does not mean Qualified (qualified)” *Hearing consumer*

“I have seen, omit total thoughts communicated when they were unable to follow/understand, get the reference wrong (person being referred to) resulting in a miscommunication that was confusing to others, made the Deaf person look incompetent.” *Hearing consumer*

“Occasionally, the communication between the deaf person and myself seems to be so misunderstood, I feel like it was deficiency of the interpreter, but because I’m not fluent in ASL, I couldn’t be sure” *Hearing consumer*

“I am aware that there are already policies in place about minimal standards, although there are so many loopholes, a proficient interpreter is still lacking sometimes” *Hearing consumer*

“I had a situation where the interpreter was missing information in both sign-to-voice and voice-to-sign interpretation. As a customer in that situation and someone who is an interpreter by trade, I was allowed and able to bridge the communication gap. I later followed up with the interpreting agency and shared my concerns. However, that should never have happened we need to have more advocacy training as well as more training on using an interpreter” *Hearing consumer*

Deaf consumers' responses:

“For my opinion, it’s very important that all consumers have good communication with interpreters, in other words, interpreters MUST have 100 percent understanding what the deaf consumer is asking or saying!!!!!!” *Deaf consumer*

“She is certified court interpreter. But, I read the transcript which I requested to read about my car accident issue, I was completely shocked because she could not interpret my American Language into English Language. You can imagine how others who listened my speaking. It must be horrible experience for them. I felt upset and disgusted” *Deaf consumer*

“...She didn’t read my ASL signs mostly. She keeps me to explain and use spell fingers over again. She could not understand what I use sign.” *Deaf consumer*

“I suffered through the meeting [using sign language interpreter] and then told the coordinator not to send this person back” *Deaf consumer*

“Here in Colorado, I don’t feel protected and assurance I will have interpreter with current certification. Right now there is so much competition for interpreter, very little attention to providing info as to our rights, who is qualified to terp in Court and Hospital, how to negotiate program to be accountable. Program focus on making terp happy nothing or very little is being done on customer services” *Deaf consumer*

“Interpreters need to pay attention to client and take more classes” *Deaf-Developmentally Disabled consumers*

“Need to keep the communication open between the agency and client about informing who will be the interpreter for the meeting or unable to arrange an interpreter and so on” *Deaf Consumer*

“I just put up with what I have and usually email the presentor, group, etc after the event and explain that I had a lousy interpreter and try to get more information through emails. I just remember that interpreter’s name and be sure to not have that interpreter again—that’s all I am able to do because I don’t know where to file a complaint besides the agency itself where I have learned that is not an effective way” *Deaf consumer*

“Colorado does have a few good interpreters but there are too many interpreters who are not qualified enough to be able to interpret and yet they still do anyway because there is no regulation over this” *Deaf consumer*

“Once asked the interpreter to leave; another time I left; another time I suffered in silence” *Deaf consumer*

“Want some kind of oversight committee or dept formed to have a place to file complaints about interpreters and provide certifications for interpreters” *Deaf consumer*

“It was a waste of time and money. Situations were not productive at all. Interpreter(s) could not understand me one bit while I “listen” It was a one way communication, not a two-way communication. The interpreter(s) could sign, but they could not speak for me.” *Deaf consumer*

“Had to grin and bear it by using her [interpreter] for that day” *Deaf consumer*

“I ended up having to voice for myself which I don’t feel comfortable doing” *Deaf consumer*

“Been challenging finding interpreter to match communication level and I still don’t have an interpreter that matches my voice. My experience with interpreters is frustrating as they would voice for me even though they don’t know exact what I said..this has caused problems for me many time with my job. Have to remind interpreters to chin in with me if not sure what I said in ASL before voicing it for me” *Deaf consumer*

“Lots of misunderstanding...hearing people become confused” *Deaf Consumer*

“I am better off without an interpreter than with a bad interpreter” *Deaf consumer*

“The interpreter just kept signing and did not understand me when I signed to them that I did not understand what they were saying. This went on for a whole year in an academic setting. I didn’t really have many choices I made numerous complaints and nothing was ever accomplished. In addition, I was not the only person making complaints about said individual” *Deaf consumer*

“The interpreting services need to be regulated. I think that there are standards that need to be set and followed. In addition, interpreters should be monitored every once in awhile to make sure that they are capable of fulfilling the demands that their fields requires of them” *Deaf consumer*

“I had to ask the team interp what was said” It was very uncomfortable” *Deaf consumer*

“In fact there are not many interpreters who are able to read deaf’s signing fluently” *Deaf consumer*

Professional Interpreters’ responses:

“As a professional sign language interpreter, I support strengthening the requirements for working interpreters in Colorado. I’d like to see us ensure that qualified interpreters are distinguished from non-qualified and that all consumers would be able to know at the outset of contacting an interpreter if that individual is qualified or not-without as much trial and error as may currently be the state of affairs” *Professional Sign Language Interpreter*

“As an interpreter, I have experienced working with team members who were not qualified to do a particular job, that cannot, or do not, match the deaf client’s communication preference, that behave (and or dress) unprofessionally, that refuse to work as a team, and the list can, unfortunately, go on. I heartily agree with having a standard established and mentoring system in place” *Professional Sign Language interpreter*

The following comments were made of service providers using “signers” to interpret serious situations:

Medical setting:

“They [physician’s office] tried to use a young hard of hearing girl, a niece of somebody in the office, as an interpreter for me when I had an important appointment with a cardiologist to discuss the result of my heart condition. After exchanging a few words with the girl, I realized she couldn’t do it. So, I refused to go ahead and have her as my interpreter. I explained that she would not be able to interpret Dr’s medical terms clearly. They kept on insisting that she was very good and that I should accept her. How on earth could they know? Well, it was a nerve wrecking hassle that I became very upset. I had to walk out of the office. Later, they finally came to see that I really needed a professional interpreter and provided me one” *Deaf consumer*

Social Services setting(s):

“I hesitate to say I’m a professional. I’ve been studying ASL for several years, as a retired employee of Social Services I was called on to interpret quite often. I am anticipating maybe going to an IPP course next fall” *Hearing signer: non-certified*

Appendix C – Example of Harm Submitted Through Personnel at a Colorado Post-Secondary Public Education Institution.

June 21, 2005

Agency name and address

Dear Mr./Ms Z,

On June 1, 2005, "X" was assigned to interpret my consultation with "Dr. A" at 10:00 AM at XX Hospital.

Much to my dismay, I immediately identified "X" as an extremely inexperienced interpreter and it was very obvious she was not qualified as an interpreter in the medical field. She was not able to interpret my signed statements and questions accurately. She was not able to interpret "Dr. A's" statements to me efficiently.

The communication between "Dr. A"/his assistant and me in the first 10 or 15 minutes was chaotic. I was forced to stop and change my approach. I asked "X" to stop interpreting what I said and asked my sister to repeat what I said for "Dr. A". And I told "X" to interpret only when the doctor spoke. Needless to say, my sister and I were still very uncomfortable with this approach which we used for the remaining one hour of the consultation.

It was a medical consultation with a specific specialist, and I expected to have a fully qualified and experienced interpreter. Unfortunately, I got a very inexperienced interpreter. Since we were discussing treatment options that would determine my quality of life in the future, I had to work hard "interpreting" in my brain what "X" interpreted ... and I had to hope that I did understand her correctly. I paid \$1,000 out of my own pocket for this second-opinion consultation, and I was not able to benefit fully from this appointment.

I implore you to remove "X" from your agency's ASL interpreter list. In fact, her name should be removed for all situations. With her level of interpreting proficiency being very low, she is placing deaf patients in danger. She is not able to read deaf patients' signing and may easily give a voiced interpretation that is entirely different from what is actually signed. Without doubt, deaf patients will have a difficult time understanding her while she is interpreting what their doctors are saying.

"X" herself told me that she did not pass the Interpreter Preparation Program, (a 2-year training program) at Front Range Community College. It is especially dangerous if there is a lot of misinterpreting in a serious situation, like in an Emergency Room. She definitely did not have the right to accept the position as an interpreter in your agency with her current skill level.

By using this interpreter and other interpreters like her who are not qualified, your agency and XX Hospital are in violation of the American With Disabilities Act, a federal law, which mandates using qualified interpreters.

If you have any questions about this situation, please feel free to ask me via email. Let me know how you solve this issue. I want to be assured that I'll get qualified interpreting service at XX Hospital in the future.

Sincerely,

"Y"

CC:

Deleted all names (to agency, hospital, etc.)

Appendix D – Example of Harm Submitted by Personnel at a Colorado Post-Secondary Private Education Institution.

This happened few times throughout my academic at **XX** - I was there from 1999 to 2003. The frustration happened with SEVERAL of the interpreters, not just one. I've called several meetings with the Disability Coordinator to explain my frustration and if I could change interpreters, but from all of the meetings I have not gotten anything but just to "try to work it out with the interpreter!" They thought it was more personal conflict than the quality of the interpreters so that's why they didn't really do anything about it. After explaining to them that one interpreter was actually affecting my grade, after getting the result of my test score - I knew it had to do something with the interpreter not interpreting accurate information and signing all the vocabulary words that the professor was using. After addressing the concern to the Disability Center, they actually told me to "work it out and maybe the interpreter just needs some improvement so let her learn from this lesson." She did admit it herself that she wasn't meeting my means of communication, yet the administrators didn't do anything again! This whole thing just continued and continued throughout my academic at **XX** until I finally graduated.

This caused an enormous harm, because it affected my grades at some point and my ability to acquire accurate and new information that I could have if it wasn't for the interpreters. As a result, I had to "work harder" to acquire all the information through notes, talking with teacher, etc. I sometimes found new information through notes and brought this up to the interpreter, yet this didn't improve.

Appendix E – Examples of Harm Submitted by a Legal Center.

Incident #1:

A deaf offender met with a probation officer along with a sign language interpreter who wasn't qualified for the assignment. During their appointment, the probation officer informed the offender that he will need to attend treatments. The information was inaccurately conveyed and the offender thought it was an option to take the treatment and did not go to the treatment as ordered. Three months later, he was served as a violation of probation. The offender indicated that the probation officer told him that he did not have to go to treatment and thought it was an option. There was a communication glitch in between the parties. As the result, the judge still found him violating the probation and extended his probation period to 3 more months.

Incident #2:

A public defender representing a deaf offender who relies on ASL as his primary mode of communication. The interpreting agency sent four different interpreters each time the public defender met with his client. The public defender found it to be very difficult to represent a deaf client and felt the deaf client was twisting his story. After the advocate became involved, it turned out that the public defender and the client did not have an effective communication from the very beginning. The cost/expenses paid on an interpreting agency sending interpreters who were not qualified to fit the deaf offender's means of communication and causes further delay for the public defender to perform his duties in effective representation for the client.

Appendix F – Examples of Harm Submitted by Personnel at a Colorado Post-Secondary Public Education Institution.

There is currently a class action lawsuit going on with the deaf employees of the postal service arising from a lack of consistent and qualified interpreting services. The impact is that deaf employees have missed important information communicated during staff meetings, and yet are later held accountable for the information (like changes in policies and procedures) – sometimes even as part of the appraisal process, they are unable to participate in the position bidding and/or promotion process in the same manner as hearing colleagues because they are not part of the communication loop that exists within the workplace, and other related consequences.

The situation with deaf individuals being excluded from the communication loop in their place of work is a common issue. On more than one occasion, I have been the interpreter in a work-related situation that had escalated to the point of placing a deaf person on probation or firing of the deaf employee – all because of a hearing supervisor made assumptions that the deaf person understood information that was “common knowledge” to others in the workplace. When the deaf person would indicate that they were unaware of certain policies and procedures or expectations, they were accused of “using their deafness” as an excuse. When such situations unravel, it is clear that the information the deaf person was assumed to know had been communicated during a meeting where there was no interpreter or an unqualified interpreter. In many instances, the “interpreter” was someone who knew Sign Language in some limited way – perhaps someone who worked for the company – and was only able to communicate about 1/5th of what was communicated. This 1/5th was not even the most important information - but rather what the person knew the signs for. Or, the person hired was “the cheapest” the company could find – which equates with least education and least competent. Again, such an interpreter is unable to get out the information sufficiently to provide deaf employees with an equal degree of access to information as their hearing counterparts.

It would be like having you interpret an employment-related meeting into Spanish after having taken only a few Spanish classes. Clearly, to do so would be unthinkable – but it is not an uncommon phenomena in ASL-English interpreting. People confuse benevolence (the desire to “help” the handicapped) with competent language use. There are tremendous misconceptions and faulty assumptions held by the general public about interpreting and about deaf people, the nature of their disability, the language they use, their ability/inability to read lips, their other struggles associated with bilingualism and educational gaps that exist.

Part of this accumulative effect is informational – the deaf person has significant gaps in their knowledge of what is expected in the workplace. Imagine being excluded from all sorts of communication that is flowing around you at work – and yet being expected to “get it” about so much knowledge that is acquired “incidentally” through association and communication with peers and supervisors.

Other times this accumulative effect is emotional and/or psychological – deaf people are blamed by the employer for how expensive interpreting services are and what a drain it is on the company resources. This creates an air of hostility that deaf people must work within and discourages deaf people from insisting on equal degrees of access.

Another area where this accumulative effect is seen is in the medical setting. Recently, a deaf person in our community was shocked to learn that a condition for which they were being treated was terminal. The doctor had an interpreter present during all of the appointments – someone who had recently completed an interpreter program but was not sufficiently skilled or certified. There were major gaps in the interpretation, but the deaf person understood they were to taking a series of medications and return for regular check-ups, and that things did not “look good” – which he interpreted to mean the illness was “serious”. What he didn’t understand was that all of the treatment was not going to resolve the basic health issue, only help sustain him a bit longer – he would eventually die from the disease he is coping with. He learned this in a recent appointment with a certified interpreter and the doctor. Both the deaf gentleman and the doctor were devastated – the doctor felt that he had been clear in articulating the man’s condition. The impact is that the deaf man has a much shorter time to prepare himself, and his family, for his death.

Another incident is in the area of OB-GYN care. A deaf woman in our community did not understand from the interpretation of a non-certified interpreter used by the doctor’s office that she could transmit her case of herpes whether she was experiencing an outbreak or not. In other words, she needed to exercise the precautions discussed by the doctor at all times so that her spouse would not become infected. When he later did become infected, the woman was angry with the doctor (and her spouse was very angry with her) – believing she had followed all precautions. When a certified interpreter accompanied the patient to the doctors, it became apparent that the issue was with the uncertified interpreter and inaccuracies in the interpretation. The impact is that the deaf woman and her husband are both now infected, when it could have been avoided. The additional strain placed on their marriage could have been avoided.

Other examples are miscommunications related to pregnancy and what medications can be taken or not taken during certain trimesters. Deaf women in our community frequently discuss situations where they learn after the fact that the doctor had told them not to take certain medications. This information was not part of the interpretations. The impact is that deaf women unintentionally jeopardize the health of the unborn fetus.

Another recent occurrence in our community related to some blood work a deaf person was scheduled to have. When the doctor explained to the deaf person that they should not eat for 12 hours before the blood work, the interpreter stated 9 days. In this case, the interpreter was a very newly certified interpreter. The deaf person challenged this with the doctor, asking, "Are you sure I can have nothing for such a long time." The interpreter assured the deaf woman that it was a natural procedure when getting blood work done. After not eating for several days, only drinking water, the deaf person was feeling faint and went to see a deaf advocate asking if she would contact the doctor to see if she could eat something – she was naturally very hungry. The doctor was totally baffled and once again explained that the normal procedure was to not eat anything – and drink only water – for the 12 hour period prior to the blood test. The impact was that the deaf person was operating on erroneous information that could have resulted in health risks.

Another example relates to a mental health setting where a deaf person was severely ill and hallucinating. The interpreter called in did not have any prior experience with the disoriented thought patterns of someone who is seriously mentally ill, and instead told the doctor that she did not have adequate language skills – she was likely uneducated. It was not until some days later, when an experienced certified interpreter was called in that the disoriented thought patterns were interpreted for the doctor and an adequate diagnosis was made and appropriate medication provided. The impact was that the deaf woman suffered a continuation of the hallucinations longer than she should have and the medical personnel were not able to help her in a timely manner.

There are also a number of legal cases where ineffective interpretation during custodial police interrogation resulted in court decisions to suppress confessions of criminals in serious felony matters – at least 5 murder confessions have been suppressed nationwide in the past two decade due to inaccurate interpretations of the Miranda warning. In at least one of these cases, the suspect was released for time served and within a matter of months assaulted a woman and was rearrested. The impact is that society is put at risk when deaf suspects who confess to serious crimes do not receive competent interpreting services during custodial interrogations and are released back into society where they can commit additional crimes.