

AN ACT

RELATING TO LICENSURE; CREATING THE SIGNED LANGUAGE
INTERPRETING PRACTICES ACT; EXPANDING THE EXPENDITURES ALLOWED
IN THE TELECOMMUNICATIONS ACCESS FUND; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--Sections 1 through 17 of this
act may be cited as the "Signed Language Interpreting
Practices Act".

Section 2. DEFINITIONS.--As used in the Signed Language
Interpreting Practices Act:

A. "board" means the signed language interpreting
practices board;

B. "consumer" means a person using the services of
a signed language interpreter;

C. "deaf, hard-of-hearing or deaf-blind person"
means a person who has either no hearing or who has
significant hearing loss;

D. "department" means the regulation and licensing
department;

E. "interpreter" means a person who practices
interpreting;

F. "interpreter education program" or "interpreter
preparation program" means:

(1) a post-secondary degree program of at least two year's duration accredited by the state or similar accreditation by another state, district or territory; or

(2) a substantially equivalent education program approved by the board; and

G. "interpreting" means the process of providing accessible communication between deaf, hard-of-hearing or deaf-blind persons and hearing persons, including;

(1) communication between signed language and spoken language; or

(2) other modalities such as visual, gestural and tactile methods, not to include written communication.

Section 3. SCOPE OF PRACTICE.--For the purposes of the Signed Language Practices Act, a person is interpreting if the person advertises, offers to practice, is employed in a position described as interpreting or holds out to the public or represents in any manner that the person is an interpreter in this state.

Section 4. LICENSE REQUIRED.--Unless licensed pursuant to the Signed Language Interpreting Practices Act, a person shall not:

A. practice as an interpreter or perform interpreting services:

(1) for compensation or where compensation

could be reasonably expected; or

(2) where effective communication is mandated by state or federal law;

B. use the title of interpreter or make any representation as being an interpreter, or use any other title, abbreviation, letters, figures, signs or devices that indicate the person is licensed to practice interpreting; or

C. advertise or make any representation to the public or in any manner that the person is licensed to provide interpreting services.

Section 5. EXEMPTIONS.--The Signed Language Interpreting Practices Act does not apply to:

A. nonresident interpreters working in New Mexico less than thirty calendar days per year;

B. interpreting in religious or spiritual settings;

C. interpreting in informal settings for friends, families or guests;

D. interpreting in emergency situations where the deaf, hard-of-hearing or deaf-blind person or that person's legal representative decides that the delay necessary to obtain a licensed interpreter is likely to cause injury or loss to the consumer;

E. the activities or services of a supervised interpreter intern or student in training who is enrolled in

an interpreter education program, interpreter preparation program, or a program of study in signed language interpreting at an accredited institution of higher learning approved by the board; or

F. multilingual interpreting in order to accommodate the personal choice of the consumer.

Section 6. CONFIDENTIAL COMMUNICATION.--

A. A communication is confidential when it is not intended to be disclosed to third persons other than those present to further the interest of the person requiring the interpreting.

B. A licensed signed language interpreter shall not disclose confidential information obtained in the course of professional services.

Section 7. BOARD CREATED.--

A. The "signed language interpreting practices board" is created.

B. The board is administratively attached to the department with administrative staff provided by the department.

C. The governor shall appoint the members to serve on the board.

D. The board shall consist of seven members, at least two of whom are from each congressional district, as follows:

(1) two licensed community interpreters and two licensed educational interpreters, at least one of whom is a deaf or hard-of-hearing person;

(2) two deaf, hard-of-hearing, deaf-blind persons who are regular consumers of signed language interpreting services; and

(3) one person representing the general public who has never been a licensed signed language interpreter and has no financial interest in the profession of signed language interpreting.

E. Members shall serve for staggered terms of three years each, except that the initial board shall be appointed so that the terms of three members expire June 30, 2009 and the terms of four members expire June 30, 2010.

F. Vacancies shall be filled by appointment by the governor for the unexpired term within ninety days of the vacancy. Board members shall serve until their successors have been appointed and qualified.

G. Members shall be paid per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

H. No member shall serve more than two consecutive terms. A member failing to attend three meetings, after proper notice, shall be recommended for removal as a board member unless excused for reasons set forth in board rules.

I. The board shall elect a chair and other officers as it deems necessary to administer its duties.

J. The board shall hold at least two meetings annually and additional meetings as the board deems necessary. The additional meetings may be held upon call of the chair or upon written request of four members. Four members of the board, including the public member, constitutes a quorum to conduct business.

Section 8. BOARD POWERS AND DUTIES.--

A. The board shall:

(1) administer and enforce provisions of the Signed Language Interpreting Practices Act;

(2) promulgate rules setting forth the qualifications of applicants for licensure and the provisions for the administration of examinations and the issuance, renewal, suspension or revocation of licenses;

(3) evaluate the qualifications of applicants for licensure and issue licenses;

(4) promulgate rules pursuant to the State Rules Act to effectively carry out and enforce the provisions of the Signed Language Interpreting Practices Act;

(5) submit an annual budget for each fiscal year to the department;

(6) maintain a record of all proceedings;

and

(7) provide an annual report to the governor.

B. The board may refuse, suspend or revoke a license of an interpreter, conduct investigations, issue subpoenas and hold hearings as provided in the Uniform Licensing Act.

Section 9. REQUIREMENTS FOR LICENSURE.--

A. The board shall issue a license as a community signed language interpreter to a person who:

(1) files a completed application that is accompanied by the required fees; and

(2) submits satisfactory evidence that the person:

(a) has reached the age of majority;

(b) is of good moral character;

(c) has completed all educational requirements established by the board; and

(d) holds certification under a nationally recognized signed language interpreters organization or by an equivalent organization as defined by rule of the board.

B. The board shall issue a license as an educational signed language interpreter to a person who:

(1) files a completed application that is accompanied by the required fees; and

(2) submits satisfactory evidence that the person:

- (a) has reached the age of majority;
- (b) is of good moral character;
- (c) has completed all educational requirements established by the board; and
- (d) provides evidence of passing a skill assessment exam as established by rule.

C. The board shall issue a one-time, five-year provisional license to a person not meeting the community signed language interpreter or educational signed language interpreter requirements for licensure as a signed language interpreter pursuant to the Signed Language Interpreting Practices Act if the person:

- (1) has completed an interpreter education program or interpreter preparation program; or
- (2) is employed as a community signed language interpreter or an educational signed language interpreter at the time that act becomes effective.

Section 10. LICENSE RENEWAL.--

A. Notwithstanding Subsection B of Section 8 of the Signed Language Interpreting Practices Act, a licensee may renew a license every two years by submitting a completed renewal application provided by the board.

B. The board may require continuing education for

license renewal as established by rule.

C. If a license is not renewed by the expiration date, the license shall be considered expired, and the licensee shall refrain from practicing. The licensee may renew within a sixty-day grace period, which begins the first day the license expires, by submitting payment of the renewal fee and a late fee and complying with all renewal requirements. Upon renewal of the license, the licensee may resume practice.

D. The board may issue rules providing for the inactive status of licenses.

Section 11. FEES.--The board may, by rule, establish a schedule of fees as follows:

A. an initial nonrefundable biennial licensure fee not to exceed two hundred fifty dollars (\$250);

B. a nonrefundable biennial license renewal fee not to exceed two hundred dollars (\$200);

C. an initial nonrefundable annual provisional licensure fee not to exceed two hundred dollars (\$200); and

D. an annual nonrefundable provisional licensure renewal fee not to exceed one hundred dollars (\$100) limited to five years that the licensee may renew.

Section 12. UNIFORM LICENSING ACT.--The Signed Language Interpreting Practices Act is enforceable according to the procedures set forth in the Uniform Licensing Act.

Section 13. FUND CREATED.--

A. The "signed language interpreting practices fund" is created in the state treasury.

B. All money received by the board under the Signed Language Interpreting Practices Act shall be deposited with the state treasurer for credit to the signed language interpreting practices fund. The fund consists of fees as provided in the Signed Language Interpreting Practices Act and money received from the telecommunications access fund. The state treasurer shall invest the fund as other state funds are invested. Earnings from investment of the fund shall be credited to the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

C. Money in the fund is subject to appropriation by the legislature to be used only for purposes of carrying out the provisions of the Signed Language Interpreting Practices Act.

D. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the superintendent of regulation and licensing.

Section 14. LICENSE DENIAL, SUSPENSION OR REVOCATION.--

A. In accordance with procedures contained in the Uniform Licensing Act, the board may deny, revoke or suspend a license held or applied for under the Signed Language

Interpreting Practices Act, upon grounds that the licensee or applicant:

- (1) is guilty of fraud or deceit in procuring or attempting to procure a license;
- (2) is guilty of gross incompetence;
- (3) is guilty of unprofessional or unethical conduct as defined by rule of the board;
- (4) uses untruthful or misleading advertising;
- (5) is habitually or excessively using controlled substances or alcohol to such a degree the licensee or applicant is rendered unfit to practice as a signed language interpreter pursuant to the Signed Language Interpreting Practices Act;
- (6) has violated the Signed Language Interpreting Practices Act;
- (7) is guilty of aiding and abetting a person not licensed to practice signed language interpreting pursuant to the Signed Language Interpreting Practices Act; or
- (8) as evidenced by a certified copy of the record of jurisdiction, has had a license, certificate or registration to practice signed language interpreting revoked, suspended or denied in any state or territory of the United States for actions pursuant to this section.

B. Disciplinary proceedings may be initiated by a

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complaint of a person, including members of the board, and shall conform with the provisions of the Uniform Licensing Act.

C. A person filing a complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice.

Section 15. PENALTIES.--A person who violates a provision of the Signed Language Interpreting Practices Act is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

Section 16. CRIMINAL OFFENDER EMPLOYMENT ACT.--The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Signed Language Interpreting Practices Act.

Section 17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The signed language interpreting practices board is terminated on July 1, 2013 pursuant to the Sunset Act. The board shall continue to operate according to the Signed Language Interpreting Practices Act until July 1, 2014. Effective July 1, 2014, the Signed Language Interpreting Practices Act is repealed.

Section 18. Section 63-9F-12 NMSA 1978 (being Laws 1993, Chapter 54, Section 12, as amended) is amended to read:

"63-9F-12. TELECOMMUNICATIONS ACCESS FUND-- ESTABLISHED.--There is created in the state treasury the

"telecommunications access fund". Money appropriated to the fund or accruing to it through gifts, grants, fees, surcharges, penalties or bequests shall be delivered to the state treasurer for deposit in the fund. The fund shall be invested as other state funds are invested. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the executive director of the commission. The commission shall administer the fund. Money in the fund is appropriated to the commission for the purpose of carrying out the provisions of the Telecommunications Access Act. The commission may request the state budget division of the department of finance and administration to approve the expenditure of funds deposited in the telecommunications access fund for the purpose of defraying salary and other necessary expenses incurred by the commission in the administration of the provisions of the Telecommunications Access Act. The state budget division may approve the expenditure of not more than ten percent of the amount deposited in the telecommunications access fund during any fiscal year for expenses incurred by the commission in administering that act. In addition, money in the fund is subject to appropriation by the legislature to the commission for the performance of its duties pursuant to Chapter 28, Article 11B NMSA 1978 and to the signed language interpreting

practices fund for the purpose of defraying salary and other necessary expenses incurred by the signed language interpreting practices board. Any unexpended or unencumbered balance remaining in the fund at the end of any fiscal year shall not revert."
