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HOUSE BILL 1008

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Jeannette O. Wallace

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

Section 2. [NEW MATERIAL] 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"

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1 means a person who has either no hearing or who has significant  
2 hearing loss;

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

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

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

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

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

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

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

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

21 Section 3. [NEW MATERIAL] SCOPE OF PRACTICE.--For the  
22 purposes of the Signed Language Practices Act, a person is  
23 interpreting if the person advertises, offers to practice, is  
24 employed in a position described as interpreting or holds out  
25 to the public or represents in any manner that the person is an

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1 interpreter in this state.

2 Section 4. [NEW MATERIAL] LICENSE REQUIRED.--Unless  
3 licensed pursuant to the Signed Language Interpreting Practices  
4 Act, a person shall not:

5 A. practice as an interpreter or perform  
6 interpreting services:

7 (1) for compensation or where compensation  
8 could be reasonably expected; or

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

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

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

18 Section 5. [NEW MATERIAL] EXEMPTIONS.--The Signed  
19 Language Interpreting Practices Act does not apply to:

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

22 B. interpreting in religious or spiritual settings;

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

25 D. interpreting in emergency situations where the

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1 deaf, hard-of-hearing or deaf-blind person or that person's  
2 legal representative decides that the delay necessary to obtain  
3 a licensed interpreter is likely to cause injury or loss to the  
4 consumer;

5 E. the activities or services of a supervised  
6 interpreter intern or student in training who is enrolled in an  
7 interpreter education program, interpreter preparation program,  
8 or a program of study in signed language interpreting at an  
9 accredited institution of higher learning approved by the  
10 board; or

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

13 Section 6. [NEW MATERIAL] CONFIDENTIAL COMMUNICATION.--

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

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

21 Section 7. [NEW MATERIAL] BOARD CREATED.--

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

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

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1 department.

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

4 D. The board shall consist of seven members as  
5 follows:

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

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

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

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

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

24 G. Members shall be paid per diem and mileage as  
25 provided in the Per Diem and Mileage Act and shall receive no

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1 other compensation, perquisite or allowance.

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

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

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

14 Section 8. [NEW MATERIAL] BOARD POWERS AND DUTIES.--

15 A. The board shall:

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

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

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

24 (4) promulgate rules pursuant to the State  
25 Rules Act to effectively carry out and enforce the provisions

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1 of the Signed Language Interpreting Practices Act;

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

4 (6) maintain a record of all proceedings; and

5 (7) provide an annual report to the governor.

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

10 Section 9. [NEW MATERIAL] REQUIREMENTS FOR LICENSURE.--

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

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

15 (2) submits satisfactory evidence that the  
16 person:

17 (a) has reached the age of majority;

18 (b) is of good moral character;

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

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

25 B. The board shall issue a license as an

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1 educational signed language interpreter to a person who:

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

4 (2) submits satisfactory evidence that the  
5 person:

6 (a) has reached the age of majority;

7 (b) is of good moral character;

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

10 (d) provides evidence of passing a skill  
11 assessment exam as established by rule.

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

18 (1) has completed an interpreter education  
19 program or interpreter preparation program; or

20 (2) is employed as a community signed language  
21 interpreter or an educational signed language interpreter at  
22 the time that act becomes effective.

23 Section 10. [NEW MATERIAL] LICENSE RENEWAL.--

24 A. Notwithstanding Subsection B of Section 8 of the  
25 Signed Language Interpreting Practices Act, a licensee may

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1 renew a license every two years by submitting a completed  
2 renewal application provided by the board.

3 B. The board may require continuing education for  
4 license renewal as established by rule.

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

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

14 Section 11. [NEW MATERIAL] FEES.--The board may, by rule,  
15 establish a schedule of fees as follows:

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

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

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

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

25 Section 12. [NEW MATERIAL] UNIFORM LICENSING ACT.--The

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1 Signed Language Interpreting Practices Act is enforceable  
2 according to the procedures set forth in the Uniform Licensing  
3 Act.

4 Section 13. [NEW MATERIAL] FUND CREATED.--

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

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

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

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

25 Section 14. [NEW MATERIAL] LICENSE DENIAL, SUSPENSION OR

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1 REVOCATION.--

2 A. In accordance with procedures contained in the  
3 Uniform Licensing Act, the board may deny, revoke or suspend a  
4 license held or applied for under the Signed Language  
5 Interpreting Practices Act, upon grounds that the licensee or  
6 applicant:

7 (1) is guilty of fraud or deceit in procuring  
8 or attempting to procure a license;

9 (2) is guilty of gross incompetence;

10 (3) is guilty of unprofessional or unethical  
11 conduct as defined by rule of the board;

12 (4) uses untruthful or misleading advertising;

13 (5) is habitually or excessively using  
14 controlled substances or alcohol to such a degree the licensee  
15 or applicant is rendered unfit to practice as a signed language  
16 interpreter pursuant to the Signed Language Interpreting  
17 Practices Act;

18 (6) has violated the Signed Language  
19 Interpreting Practices Act;

20 (7) is guilty of aiding and abetting a person  
21 not licensed to practice signed language interpreting pursuant  
22 to the Signed Language Interpreting Practices Act; or

23 (8) as evidenced by a certified copy of the  
24 record of jurisdiction, has had a license, certificate or  
25 registration to practice signed language interpreting revoked,

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1 suspended or denied in any state or territory of the United  
2 States for actions pursuant to this section.

3 B. Disciplinary proceedings may be initiated by a  
4 complaint of a person, including members of the board, and  
5 shall conform with the provisions of the Uniform Licensing Act.

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

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

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

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

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

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1 "63-9F-12. TELECOMMUNICATIONS ACCESS FUND--ESTABLISHED.--

2 There is created in the state treasury the "telecommunications  
3 access fund". Money appropriated to the fund or accruing to it  
4 through gifts, grants, fees, surcharges, penalties or bequests  
5 shall be delivered to the state treasurer for deposit in the  
6 fund. The fund shall be invested as other state funds are  
7 invested. Disbursements from the fund shall be made upon  
8 warrants drawn by the secretary of finance and administration  
9 pursuant to vouchers signed by the executive director of the  
10 commission. The commission shall administer the fund. Money  
11 in the fund is appropriated to the commission for the purpose  
12 of carrying out the provisions of the Telecommunications Access  
13 Act. The commission may request the state budget division of  
14 the department of finance and administration to approve the  
15 expenditure of funds deposited in the telecommunications access  
16 fund for the purpose of defraying salary and other necessary  
17 expenses incurred by the commission in the administration of  
18 the provisions of the Telecommunications Access Act. The state  
19 budget division may approve the expenditure of not more than  
20 ten percent of the amount deposited in the telecommunications  
21 access fund during any fiscal year for expenses incurred by the  
22 commission in administering that act. In addition, money in  
23 the fund [~~shall be available for~~] is subject to appropriation  
24 by the legislature to the commission for the performance of its  
25 duties pursuant to Chapter 28, Article 11B NMSA 1978 and to the

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