**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 67, TITLE 40 SO AS TO ENACT THE “SIGN LANGUAGE INTERPRETERS ACT”; TO PROVIDE A CITATION; TO PROVIDE FOR THE APPLICABILITY AND PURPOSE OF THE CHAPTER; TO DEFINE NECESSARY TERMS; TO CREATE THE SIGN LANGUAGE INTERPRETER BOARD, AND TO PROVIDE FOR THE COMPOSITION, TERMS, DUTIES, AND POWERS OF THE BOARD; TO PROVIDE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION MUST ADMINISTER THE BOARD; TO REQUIRE THAT A PERSON WHO PROVIDES INTERPRETING SERVICES IN A COMMUNITY SETTING OR CERTAIN EDUCATIONAL SETTINGS FOR REMUNERATION MUST BE LICENSED BY THE BOARD, SUBJECT TO EXCEPTIONS; TO PROVIDE FOR RECIPROCITY WITH OTHER STATES; TO PROVIDE FOR THE DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE; TO PROVIDE REQUIREMENTS FOR INITIAL LICENSURE AND RENEWAL; TO PROVIDE FOR THE INITIATION AND DISPENSATION OF CERTAIN MISCONDUCT CHARGES AGAINST A LICENSEE; TO PROVIDE FOR CRIMINAL AND CIVIL PENALTIES FOR CERTAIN VIOLATIONS OF THE ACT; TO REQUIRE A LICENSEE WHO RECEIVES A FELONY CONVICTION OR IS SUBJECT TO A CIVIL ACTION MUST PROVIDE NOTICE TO THE BOARD; TO PROVIDE A MEMBER OF THE BOARD IS COVERED BY THE TORT CLAIMS ACT; TO PROVIDE THAT NOMINATIONS FOR INITIAL APPOINTMENTS TO THE BOARD MUST BE MADE AND THE BOARD MUST MEET WITHIN A SPECIFIC TIME FRAME; AND TO REDESIGNATE THE EXISTING SECTIONS OF CHAPTER 67, TITLE 40 AS ARTICLE 1 ENTITLED “SPEECH PATHOLOGISTS AND AUDIOLOGISTS”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 67, Title 40 of the 1976 Code is amended by adding:

“Article 3

Sign Language Interpreters Act

Section 40‑67‑500. This article must be known and may be cited as the ‘Sign Language Interpreters Act’ and must be liberally construed and implemented to promote the purposes set forth in this article.

Section 40‑67‑510. The General Assembly declares that it is in the best interest of the public health, safety, and welfare to regulate the practice of interpreting on behalf of consumers who are hearing, deaf, hard‑of‑hearing, deaf‑blind, or speech disabled by licensing and provisionally licensing the providers of sign language interpreting services and establishing and monitoring sign language interpreting standards in this State.

Section 40‑67‑520. As used in this article:

(1) ‘Board’ means the Board for Sign Language Interpreters as established in this article.

(2) ‘CEUs’ or ‘continuing education units’ means a nationally recognized unit of measurement for educational activities that meet established criteria for increasing knowledge and competency. CEUs are approved by a sponsor that is approved by RID.

(3) ‘Code of Professional Conduct for Educational Interpreters’ means the tenets for interpreters working in K‑12 settings established by the Educational Interpreter Performance Assessment Diagnostic Center at Boys Town National Research Hospital.

(4) ‘Community setting’ means medical, legal, mental health, post‑secondary education settings and other settings not to include K‑12 educational settings or religious settings.

(5) ‘Consumer’ means a hearing, deaf, hard‑of‑hearing, deaf‑blind, or speech disabled person, or other person or an agency that requires the services of an interpreter to effectively communicate and comprehend signed or spoken discourse.

(6) ‘Deaf interpreter’ means an individual who is deaf who works as part of a team with an interpreter who can hear. The deaf interpreter may be needed when the communication mode of a deaf consumer is so unique that it cannot be adequately accessed by interpreters who can hear.

(7) ‘Educational Interpreter Performance Assessment’ or ‘EIPA’ means a proficiency assessment for K‑12 educational interpreting based on a five point Likert scale. This includes several distinct language variations as offered by the Boys Town National Research Hospital. For purposes of this article, an EIPA level 3.5 using the ASL/PSE language version provides sufficient evidence of professional competency.

(8) ‘Interpreting’ means the process of taking a message from one language and expressing the same message in another language, conveying all essential elements of meaning and intent. It is a highly sophisticated and demanding mental task involving complex thinking and analytical strategies.

(9) ‘Interpreter’ means a professional who is credentialed as such; he takes a source language message and, after working through a complex mental process, expresses that same message into the target language, maintaining essential elements of meaning and intent.

(10) ‘NAD‑RID Code of Professional Conduct’ means the tenets established by the National Association of the Deaf and the Registry of Interpreters for the Deaf, which sets guidelines governing professional conduct for interpreters.

(11) ‘Nationally recognized certification’ means certification awarded to individuals who successfully complete an evaluation of interpreting skills at a professional level. The term includes a certification issued, recognized, or both by the Registry of Interpreters for the Deaf.

(12) ‘K‑12 educational setting’ means a school setting, public or private, within South Carolina, not to include post‑secondary education.

(13) ‘RID’ means Registry of Interpreters for the Deaf.

(14) ‘Sign Language’ or ‘American Sign Language’ or ‘ASL’ means a visual‑gestural language which incorporates facial grammatical markers, physical affect markers, spatial linguistic information, and fingerspelling, as well as signs made with the hands. ASL is a distinct language with its own grammar and syntax, which is not based on, nor derived from, a spoken language.

(15) ‘South Carolina Association of the Deaf, Inc.’ or ‘association’ means the state chapter of the National Association of the Deaf acting as a consumer advocacy organization serving the deaf and hard‑of‑hearing population of South Carolina and as incorporated at the time of enactment.

(16) ‘South Carolina Registry of Interpreters for the Deaf’ means the state affiliate chapter of the Registry of Interpreters for the Deaf, Inc., serving as an interpreter advocacy and professional organization and as incorporated at the time of enactment.

Section 40‑67‑530. (A) There is created the Board for Sign Language Interpreters.

(B) The board shall consist of five members appointed by the Governor, of whom two must be deaf or hard‑of‑hearing individuals and three must be licensed interpreters.

(1) The South Carolina Registry of Interpreters for the Deaf, Inc. will submit a total of three nominations to the Governor. One nominee must be a licensed interpreter who works primarily in community settings and one nominee must be a licensed interpreter who works primarily in a K‑12 educational setting. One nominee must be a deaf or hard‑of‑hearing individual who is knowledgeable in the field of professional interpreting.

(2) The South Carolina Association of the Deaf, Inc. will submit a total of two nominations. One nominee must be a licensed interpreter, community or K‑12. One nominee must be a deaf or hard‑of‑hearing individual who is knowledgeable in the field of professional interpreting.

(C) Members shall serve terms of four years or until their successors are appointed and qualified. No member may serve more than two terms consecutively.

(D) The board shall meet not less than twice annually, and as frequently as it considers necessary, in such ways and at such times and places as it designates. Three members constitute a quorum for the transaction of business.

(E) Members of the board are entitled to per diem, subsistence, and mileage as is provided by law for members of state boards, committees, and commissions.

(F) The board annually shall elect from its total membership a chairman, vice chairman, and other officers the board determines necessary. The board may adopt an official seal and shall adopt rules and procedures reasonably necessary for the performance of its duties and the governance of its operations and proceedings.

(G) A board member is required to attend meetings or to provide proper notice and justification of his or her inability to do so. The Governor may remove a member of the board pursuant to Section 1‑3‑240.

(H) Vacancies on the board must be filled for the unexpired portion of the term in the manner of the original appointment.

Section 40‑67‑540. The board shall:

(1) act on matters concerning licensure and provisional licensure and the process of granting, suspending, reinstating, and revoking a license or provisional license;

(2) set a fee schedule in regulation for granting and renewing licenses and provisional licenses. The fees must be sufficient to cover the cost of the continued operation and administration of the board;

(3) establish a procedure to enable the investigation of complaints concerning the violation of ethical practices for licensed or provisionally licensed interpreters;

(4) maintain a current register of licensed interpreters and a current register of provisionally licensed interpreters; these registers are matters of public record; and

(5) maintain a complete record of all board proceedings.

Section 40‑67‑550. (A) The South Carolina Department of Labor, Licensing and Regulation shall administer the board pursuant to Chapter 1, Title 40. The department shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities.

(B) Fees must be assessed, collected, and adjusted on behalf of the board by the department in accordance with this chapter and Section 40‑1‑50(D).

Section 40‑67‑560. Effective July 1, 2014:

(1) A person who provides interpreting services in a community setting for remuneration must be licensed by the board unless that person is exempt pursuant to Section 40‑67‑610.

(2) An initial license will be issued upon submission of:

(a) an application;

(b) documentation of current validation of a nationally recognized certification as approved by the board;

(c) a sworn statement that the applicant has read, understands, and agrees to abide by the NAD‑RID Code of Professional Conduct for sign language interpreters; and

(d) payment of the required nonrefundable fee.

(3) A license must be renewed biennially upon submission of:

(a) documentation of current validation of a nationally recognized certification as approved by the board;

(b) documentation of at least two RID Continuing Education Units; and

(c) payment of the nonrefundable renewal fee.

Section 40‑67‑570. Effective July 1, 2014:

(1) A person who provides interpreting services in a K‑12 educational setting for remuneration must be licensed by the board unless that person is exempt pursuant to Section 40‑67‑610.

(2) An initial license must be issued upon submission of:

(a) an application;

(b) documentation of current validation of an EIPA ASL/PSE rating at or above 3.5;

(c) documentation of valid successful completion of the EIPA written test;

(d) a sworn statement that the applicant has read, understands, and agrees to abide by the EIPA Code of Professional Conduct for Educational Interpreters; and

(e) payment of the required nonrefundable fee.

(3) A license must be renewed biennially upon submission of:

(a) documentation of current validation of an EIPA ASL/PSE rating at or above 3.5;

(b) documentation of at least twenty hours of continuing education and/or CEUs as meets guidelines to be established by the board; and

(c) payment of the nonrefundable renewal fee.

Section 40‑67‑580. (A) A licensee has sixty days after the expiration of the license to renew. During this sixty day period, the licensee may continue to practice and may renew the license by submitting the necessary documentation, payment of the nonrefundable fee, plus a late renewal fee as the board shall provide for in regulation.

(B) A license not renewed within sixty days is automatically terminated based on the failure of an individual to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in South Carolina.

(C) A licensee whose license has lapsed for more than sixty days but not more than two years due to nonpayment of fees can be granted reinstatement by submission of the necessary documentation and repayment of the past due fees plus a late renewal fee. License reinstatement will not be retroactive to the original license date.

(D) A license that was not renewed in two years is invalid and only may be reinstated upon receipt of an application for licensure submitted under the license requirements in effect at the time the renewal request is submitted and accompanied by the biennial license fee and reinstatement fee.

Section 40‑67‑590. (A) The board shall issue a provisional license to a person who is practicing as an interpreter for remuneration as of July 1, 2014 if the person does not otherwise meet the requirements for licensure in either the community or K‑12 educational setting, and the person submits:

(1) an application detailing relevant training and experience to justify the granting of a provisional license;

(2) payment of the nonrefundable provisional license fee; and

(3) for a community provisional license, a sworn statement that the applicant has read, understands, and agrees to abide by the NAD‑RID Code of Professional Conduct; or

(4) for a K‑12 provisional license, a sworn statement that the applicant has read, understands, and agrees to abide by the EIPA Code of Professional Conduct for Educational Interpreters.

(B) A provisional license may be issued for a period of twelve months. If within that time the interpreter still does not meet the requirements for licensure, the interpreter may apply for an additional twelve month provisional license. An individual may hold a provisional license for a maximum period of forty‑eight months.

(C) To obtain a renewal provisional license, an applicant must submit:

(1) an application;

(2) payment of the nonrefundable provisional license renewal fee;

(3) evidence of at least ten hours of continuing education, CEUs, or both during the previous twelve months; and

(4) for a community provisional license, a sworn statement that the applicant has read, understands, and agrees to abide by the NAD‑RID Code of Professional Conduct; or

(5) for a K‑12 provisional license, a sworn statement that the applicant has read, understands, and agrees to abide by the EIPA Code of Professional Conduct for Educational Interpreters.

Section 40‑67‑600. (A) In addition to the provisions of Section 40‑1‑110, the board may deny, revoke, or suspend an interpreter’s license or provisional license or impose another reasonable limitation on an interpreter’s license or provisional license if the interpreter engages in any of the following conduct and this conduct is likely to endanger the health, welfare, or safety of the public:

(1) using a false, fraudulent, or forged statement or engaging in a fraudulent, deceitful, or dishonest act in connection with a licensure requirement;

(2) having an addiction to alcohol or drugs to such an extent as to render the licensee unfit to practice as an interpreter;

(3) having a physical or mental disability that renders further practice by the licensee dangerous to the public;

(4) violating the applicable Code of Professional Conduct for the profession of interpreters in that setting;

(5) engaging in dishonorable, unethical, or unprofessional conduct that is likely to deceive or harm the public;

(6) using a false or fraudulent statement in a document connected with the practice of interpreter services;

(7) intentionally violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate a provision of this article;

(8) committing an act, during the course of practice conducted pursuant to a license issued under this article, that constitutes fraud, dishonest dealing, illegality, incompetence, or gross negligence; or

(9) engaging in a activity that is beyond the scope of practice as set forth in this article.

(B) The suspension or revocation of an interpreter’s license or the imposition of probationary conditions upon an interpreter may be recommended by the board after a hearing is conducted.

Section 40‑67‑610. (A) The following are exempt from licensure or provisional licensure under this article:

(1) a student who is enrolled in an interpreter training, internship program, or both is allowed to interpret as part of his or her training for a maximum of sixteen weeks, provided all hours must be supervised by a licensed interpreter, not holding a provisional license;

(2) an individual participating in a board‑approved mentoring program, under the direct supervision of a licensed interpreter;

(3) a person who interprets solely in a church, synagogue, temple, mosque or other religious setting;

(4) a person holding current nationally recognized certification and who resides outside of the State may provide interpreting services for up to twenty working days for each calendar year without a license;

(5) a person holding a current K‑12 license, unless the license is provisional, may petition the board for a temporary exemption to interpret in a community setting for up to ninety calendar days;

(6) a person holding a current community license, unless the license is provisional, may petition the board for a temporary exemption to interpret in a K‑12 setting for up to ninety calendar days; and

(7) a person who is deaf or hard‑of‑hearing who is performing the role of deaf interpreter alongside a licensed interpreter when culturally and linguistically appropriate.

Section 40‑67‑620. (A) The board may enter into a reciprocal agreement with a state that licenses, certifies, or registers professional interpreters, if the board finds that the state has substantially the same or more stringent requirements. The reciprocity agreement must provide that the board shall license a person who is currently licensed, certified, or registered by the state if that state agrees to license, certify, or register a practitioner who is currently licensed pursuant to this article.

(B) The board shall establish in regulation the fees appropriate in processing reciprocity licenses. The licensing and provisional licensing fees may be increased or decreased by the Department of Labor, Licensing and Regulation; however, the board shall not set a fee at an amount which would not provide sufficient revenues to pay all the costs and expenses incurred by the board in enforcing this article.

Section 40‑67‑630. (A) A person may bring charges of fraud, deceit, negligence, incompetence, or misconduct against a licensee or provisional licensee. The person making the charges should be a party to the actual incident resulting in charges being brought. All charges must be made in writing and sworn to by the person making the charges. All charges must be submitted to the chair of the board within one year of the alleged occurrence. After a review of the charges, the board may conduct a hearing at which it may:

(1) dismiss the charges;

(2) impose a fine not to exceed five thousand dollars;

(3) suspend or revoke the license or provisional license of the person charged; or

(4) any combination of these.

(B) The licensee or provisional licensee may appeal a decision of the board in accordance with the Administrative Procedures Act.

(C) The board will retain all fines issued pursuant to this section. The fines revenue will be used to offset costs associated with operating the licensure program.

Section 40‑67‑640. (A) A person is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars if he:

(1) undertakes or attempts to undertake the practice of interpreting among consumers without first having procured a valid license or provisional license;

(2) knowingly presents or files false information with the board for the purpose of obtaining a license or provisional license; or

(3) violates a provision of this article.

(B) A hiring entity retaining services of an unlicensed interpreter must be subject to fines or penalties to be determined by the board.

(C) If it appears to the board that an interpreter or hiring entity has violated or is about to violate a provision of this article, the board may petition an administrative law judge for a temporary restraining order enjoining the violation.

(D) A person who is not licensed or provisionally licensed may not bring or maintain an action to enforce a contract for interpreting services which he entered into in violation of this chapter.

(E) The board will retain all fines issued pursuant to this section. The fines revenue will be used to offset costs associated with operating the licensure program.

Section 40‑67‑650. (A) A licensee or provisional licensee shall notify the board within ten days of a felony conviction and within ten days of a civil action being brought against the licensee or provisional licensee if the civil action arose from an interpreting transaction or involves the goodwill of a licensee or provisional licensee or an existing interpreting business or agency. The notification must be in writing and sent by certified mail and must include a copy of the judgment.

(B) Allegations of a breach of professional ethics or conduct incompatible with the regulations promulgated by the board may be brought against a licensee or provisional licensee by an individual, business, or agency.

Section 40‑67‑660. A member of the board is covered by the South Carolina Tort Claims Act.”

SECTION 2. (A) Nominations for initial appointments to the South Carolina Board for Sign Language Interpreters, created in Section 40‑67‑530 of the 1976 Code, as added by SECTION 1 of this act, must be submitted to the Governor before September 1, 2013.

(B) The Governor shall make the initial appointments to the South Carolina Board for Sign Language Interpreters before November 1, 2013.

(C) The board shall meet before January 1, 2014 for the purpose of selecting a chair of the board and for organizing and transacting business as may come before the board.

SECTION 3. Sections 40‑67‑5 through 40‑67‑350 of the 1976 Code are redesignated as Article 1, Chapter 67, entitled “Speech Pathologists and Audiologists”. The Code Commissioner is directed to change references from “chapter” to “article” as appropriate to reflect the redesignated provisions.

SECTION 4. This act takes place upon approval of the Governor.

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