

HOUSE BILL NO. 1304

Introduced by

Representatives Maragos, Brekke

Senator Traynor

- 1 A BILL for an Act relating to the licensure of interpreters for the deaf and hard of hearing; to
2 provide a penalty; to provide a continuing appropriation; and to provide an effective date.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. Definitions.** As used in this Act, unless the context otherwise requires:

- 5 1. "Board" means North Dakota board of interpreters for the deaf and hard-of-hearing.
6 2. "Consumer" means an individual who is deaf, deaf-blind, speech-impaired,
7 hard-of-hearing, or who requires special communication techniques in order to
8 communicate.
9 3. "Interpreter" means an individual who engages in the practice of interpreting.
10 4. "Interpreting" means the translating or transliterating of English concepts to any
11 necessary specialized vocabulary used by a consumer or translating of a
12 consumer's specialized vocabulary to English concepts. Necessary specialized
13 vocabularies include American sign language, English-based sign language, and
14 oral interpreting.
15 5. "Nationally recognized certification" means certification granted by a national
16 organization that is based on a skills assessment of the applicant. These
17 organizations include the registry of interpreters for the deaf and the national
18 association of the deaf.

19 **SECTION 2. License required - Exception.** An individual may not practice or
20 represent oneself as an interpreter for deaf, deaf-blind, speech-impaired, or hard-of-hearing
21 individuals in the state unless licensed annually in accordance with this Act. This Act does not
22 prevent or restrict:

- 23 1. A nonresident interpreter working in this state not more than nineteen days per
24 year.

2. An interpreter working at a religious activity.
3. An interpreter working as a volunteer without compensation.
4. An interpreter working in an emergency. An emergency is a situation in which the consumer decides that the length of time needed to obtain a licensed interpreter is likely to cause injury or loss to the consumer.
5. The activities and services of an interpreter intern or student-in-training enrolled in a program of study in interpreting at an accredited institution of higher learning; interpreting under the supervision of a licensed interpreter as part of a supervised program; and identified as an interpreter intern or student-in-training.
6. An individual using sign language or a manual communication system as a means of communication with or on behalf of a family member, a deaf individual, a deaf-blind individual, a speech-impaired individual, or hard-of-hearing individual who has specifically requested that use by that individual.
7. A communication made as a reasonable accommodation for the employment of a deaf, deaf-blind, speech-impaired, or hard-of-hearing individual.
8. A communication with a deaf, deaf-blind, speech-impaired, or hard-of-hearing individual who could not communicate using American sign language or English-based sign language.

SECTION 3. Eligibility for licensure.

1. To be eligible for licensure by the board as an interpreter, an applicant shall submit an application that includes:
 - a. An application fee; and
 - b. Current certification from a nationally recognized organization at the requisite level for sign language interpreters or translators and oral interpreters as determined by the board and according to rules adopted by the board.
2. The board shall issue an interpreter license to an applicant who fulfills these requirements. The front of the license must clearly list all certifications held by the licensee.
3. The board may issue a temporary license as an interpreter to an applicant who is certified at a level below that required for licensure in subsection 1. A temporary license may be issued for an individual who is training under the supervision of a

licensed interpreter under circumstances defined by rules adopted by the board. A temporary license is valid for only a certain period, as determined by the board, until the licensee achieves the minimum level of certification required for licensure under subsection 1. A temporary license is not renewable. An extension may be granted under circumstances defined by the board.

4. For a graduate of a baccalaureate interpreter training program, a temporary license is valid for up to one year.

5. For a graduate of an associate of arts interpreter training program, a temporary license is valid for up to two years.

6. For a nondegree applicant, a temporary license is valid for up to two years.

7. Upon payment of the application fee, the board shall grant licensure to an applicant holding the valid license, certificate, or equivalent issued by another state if it is based upon standards equivalent to or exceeding the standards required by this Act.

8. Each individual licensed as an interpreter shall annually submit to the board current proof of nationally recognized certification and pay a renewal fee in an amount determined by the board, for the renewal of the interpreter license.

9. The board shall allow a sixty-day grace period during which time an individual may continue to practice and may renew the license upon payment of the renewal fee plus a late renewal fee as determined by the board.

10. A license not renewed annually is terminated based on failure of the individual to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in this state.

11. After the sixty-day grace period, but before five years from the date of termination, individuals with a terminated license may have their licenses reinstated upon payment of the renewal fee plus reinstatement fee in an amount determined by the board.

12. A suspended license is subject to expiration and termination and may be renewed as provided in this Act. Renewal does not entitle the licensee to engage in the practice of interpreting until the suspension has ended or is otherwise removed by the board and the right to practice is restored by the board.

13. A revoked license is subject to expiration and termination but may not be renewed. If the license is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection 4 and the renewal fee as set forth in subsection 1.

14. The board may require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as prescribed by rules adopted by the board.

SECTION 4. North Dakota board of interpreters for the deaf and hard-of-hearing.

1. The state board of interpreters for the deaf and hard-of-hearing consists of five members appointed by the governor. The governor shall appoint two practicing interpreters who hold current nationally recognized certification with at least five years of experience in interpreting; one representative from the vocational rehabilitation division of the department of human services or from North Dakota school for the deaf; and two deaf consumers with knowledge about interpreter issues. Each appointee must have been a resident of this state for at least one year before appointment.

2. The initial members of the board must be appointed before October 1, 2001, as follows: one member to a two-year term; two members to a three-year term; and two members to a four-year term. After these initial terms, all members must be appointed for a term of four years. Any vacancy in the membership of the board must be filled for the unexpired term by appointment by the governor.

3. A board member may not be reappointed to the board until four years have passed without service on the board.

4. The members of the board may not receive compensation for their services on the board, but are entitled to be reimbursed for actual and necessary expenses incurred in the performance of their official duties at the same rate as state employees.

5. The board shall annually elect a chairman, a vice chairman, and secretary-treasurer from the members of the board.

6. The board shall hold at least one meeting annually and additional meetings as determined necessary. The additional meetings may be held upon call of the chairman or upon written request of a quorum of the board.

- 1 7. Upon recommendation of the board, the governor may remove any member of the
2 board for neglect of duty or malfeasance in office.

3 **SECTION 5. Powers and duties of the board.** The board:

- 4 1. Shall administer and enforce this chapter and shall evaluate the qualifications and
5 applicants for licensure and issuance of licenses.
6 2. May issue subpoenas, examine witnesses, pay appropriate witness fees,
7 administer oaths, and investigate allegations of practices violating this Act.
8 3. Shall adopt rules to effectively carry out and enforce this Act. Fees may not
9 exceed amounts necessary to generate sufficient funds to effectively carry out and
10 enforce this Act.
11 4. May conduct hearings and maintain minutes to carry out the function of this Act.
12 5. May renew licenses and require continuing education as a condition for renewal.
13 6. May suspend or revoke licenses, impose supervisory or probationary conditions
14 upon licensees, impose administrative disciplinary fines, and issue written
15 reprimands.
16 7. Shall maintain a permanent file on licensees and applicants.
17 8. May request the attorney general to seek injunctive relief to prohibit the unlawful
18 practice of interpreting by an unlicensed individual.
19 9. May employ persons deemed necessary to carry on the work of the board, and
20 define their duties and fix their compensation.

21 **SECTION 6. Moneys - Deposit in state treasury - Continuing appropriation.**

- 22 1. All moneys received by the board under this Act must be deposited in the state
23 treasury to the credit of a revolving fund for the use of the board.
24 2. The moneys in this fund are appropriated on a continuing basis to the board. No
25 moneys in this fund revert to the general fund.
26 3. The fund must be used to pay for the reimbursement of board members for actual
27 and necessary expenses incurred in the performance of their official duties, the
28 compensation of all the employees of the board, and those expenses incurred in
29 fulfilling the board's duties as prescribed by rule.

30 **SECTION 7. Investigation power - Hearings.**

1. The board shall classify types of offenses and the recommended administrative action. The type of action to be taken must be based on the nature, severity, and frequency of the offense. Administrative action authorized in this section is in addition to any criminal penalties provided in this Act or under other provisions of law.
2. The board may investigate allegations of wrongdoing upon complaint or upon its violation. The board shall establish procedures for receiving and investigating complaints.
3. If the board's investigation reveals evidence supporting the complaint, the board shall set the matter for hearing before suspending, revoking, imposing probationary or supervisory conditions or an administrative fine, issuing a written reprimand, or any combination of actions regarding any license under this Act.
4. If, after an investigation that includes opportunity for the licensee to respond, the board determines that a serious violation occurred, it may issue a written admonishment to the licensee. A copy of the admonishment must be placed in the permanent file of the licensee. The licensee may file a response to the admonishment within thirty days of its receipt and the response must be placed in the licensure file. The licensee may alternatively, within thirty days of the receipt, file a request for a hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing.
5. After denying an application, the board may grant a hearing to the denied applicant.

SECTION 8. Suspension and revocation of license.

1. The board may refuse to issue a license or suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon the proof that the licensee has:
 - a. Been convicted of an offense that has a direct bearing on the licensee's ability to serve the public as an interpreter, or the board determines the licensee has not been sufficiently rehabilitated after conviction of an offense. A plea of no contest may be treated as a conviction for purposes of disciplinary action;

- b. Knowingly misrepresented or concealed a material fact in obtaining a license or in reinstatement thereof;
- c. Committed any fraudulent act or practice;
- d. Been incompetent or negligent in the practice of interpreting;
- e. Violated any state statute or administrative rule governing the practice of interpreting;
- f. Violated the code of ethics of the national organization issuing the licensee's certification as incorporated in administrative regulation; or
- g. Violated any federal or state law considered by the board to be applicable to the practice of interpreting.

2. Upon the issuance of a written reprimand to a licensee by the board, a copy of the reprimand must be placed in the permanent file of the licensee. The licensee may submit a response within thirty days of its receipt and the response must be filed in the licensee's permanent file.
3. At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee which effectively deals with the complaint.
4. The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary action.
5. Any person whose license has been revoked, within five years from the date of revocation, may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the person has complied with any terms prescribed by the board and is again able to competently engage in the practice of interpreting.

SECTION 9. PENALTY. Any person who willfully violates this Act is guilty of a class A misdemeanor.

SECTION 10. EFFECTIVE DATE. Section 2 of this Act becomes effective on July 1, 2003.