



Dora

Department of Regulatory Agencies

Office of Policy, Research and Regulatory Reform

2009 Sunrise Review: Sign Language Interpreters

February 25, 2009





Dora
Department of Regulatory Agencies

Executive Director's Office
D. Rico Munn
Executive Director

Bill Ritter, Jr.
Governor

February 25, 2009

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 mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunrise reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed its evaluation of the sunrise application for regulation of sign language interpreters 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 DORA 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 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,

D. Rico Munn
Executive Director



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Background

Regulation, when appropriate, can serve as a bulwark of consumer protection. Regulatory programs can be designed to impact individual professionals, businesses or both.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection – only those individuals who are properly licensed may use a particular title(s) – and practice exclusivity – only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements – typically non-practice related items, such as insurance or the use of a disclosure form – and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency – depending upon the prescribed preconditions for use of the protected title(s) – and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

Regulation of Businesses

As regulatory programs relate to businesses, they can enhance public protection, promote stability and preserve profitability. But they can also reduce competition and place administrative burdens on the regulated businesses.

Regulatory programs that address businesses can involve certain capital, bookkeeping and other recordkeeping requirements that are meant to ensure financial solvency and responsibility, as well as accountability. Initially, these requirements may serve as barriers to entry, thereby limiting competition. On an ongoing basis, the cost of complying with these requirements may lead to greater administrative costs for the regulated entity, which costs are ultimately passed on to consumers.

Many programs that regulate businesses involve examinations and audits of finances and other records, which are intended to ensure that the relevant businesses continue to comply with these initial requirements. Although intended to enhance public protection, these measures, too, involve costs of compliance.

Similarly, many regulated businesses may be subject to physical inspections to ensure compliance with health and safety standards.

Regulation, then, has many positive and potentially negative consequences.

Sunrise Process

Colorado law, section 24-34-104.1, Colorado Revised Statutes (C.R.S.), 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:¹

(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.

¹ § 24-34-104.1(4)(b), C.R.S.

Methodology

DORA has completed its evaluation of the proposal for regulation of sign language interpreters. During the sunrise review process, DORA performed a literature search, contacted and interviewed representatives of the applicant, reviewed licensure laws in other states, and conducted interviews of administrators of those programs.

Profile of the Profession

Historical Perspective

A sign language interpreter facilitates communication between those in the hearing and deaf communities. In other words, a sign language interpreter acts as a communication link between a deaf person and a hearing person. The sign language interpreter relays communication from a hearing person to the deaf person, and *vice versa*, thereby enabling communication between the two parties. Sign language 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, sign language 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 sign language interpreters 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.

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.

Membership and Modes of Communication

According to representatives of RID, its national membership exceeds 13,100, and there are more than 7,600 certified members. At the time of this writing, the RID website indicates that there are currently 203 active RID-certified sign language interpreters providing interpreting services throughout the state of Colorado 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 sign language interpreters is diverse. The most widely used modes of communication in the deaf and hard of hearing community are:

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

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 for graduation.³

Cued Speech is a system that uses specific hand signals representing sounds of the English language.⁴ The cues, when used along with lip movements, help the deaf person to more clearly understand the numerous words that look alike on the lips.⁵ Additionally, Cued Speech is not considered a sign language, but rather, an oral-manual mode of spoken language.

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 Harvard University Accessible Education Office. *About our Services: Glossary of Terms*. Retrieved February 22, 2009, from <http://aeo.fas.harvard.edu/glossary.html>

⁵ Harvard University Accessible Education Office. *About our Services: Glossary of Terms*. Retrieved February 22, 2009, from <http://aeo.fas.harvard.edu/glossary.html>

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.⁶ 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 a sign language interpreter to learn than ASL and SEE because word endings are not needed and neither the deaf person nor the sign language interpreter needs to master the structure or idioms of ASL.

Certifications

The National Association for the Deaf (NAD) and RID both offered a generalist test for sign language interpreters. However, the generalist tests are no longer available for sign language interpreters to obtain through NAD and the RID. Effective January 2004, sign language 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, etc.) can still obtain RID certification.

With the advent of the NIC generalist test, NAD no longer offers its own certifications. Sign language 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, sign language 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 requires eight hours of continuing education credits every four years. A sign language interpreter may participate in RID-approved workshops and classes to comply with the continuing education requirements.

⁶ ASL, SEE Sign, and Signed English. Retrieved March 15, 2006, from <http://www.listen-up.org/sign2.htm>

Sign language 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 sign language interpreter provides quality interpreting services.⁷

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);
- Oral Transliteration Certification (OTC);
- Comprehensive Skills Certificate (CSC); and
- Master Comprehensive Skills Certificate (MCSC).

CI sign language 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 sign language 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 sign language 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 sign language interpreter must also pass a written and a performance test.

In order 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 examination.

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

To obtain an OTC, a sign language interpreter must demonstrate skills using silent oral techniques and natural gestures through a written and a performance test. Additionally, an OTC sign language 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.

A sign language interpreter who possesses a CSC must have demonstrated the ability to interpret between ASL and spoken English, and to transliterate between spoken English and an English-based sign language.⁸ This certification is no longer available; however, sign language interpreters who already possess a CSC may continue to renew the certification.

The MCSC tests for a higher standard of performance than the CSC.⁹ In order to obtain a MCSC, a sign language interpreter were required to hold a CSC.¹⁰ This test is no longer available; however, current certificate holders may continue to renew their certificates through RID.

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*. Sign language 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 sign language interpreters are required to demonstrate superior voice-to-sign skills and excellent sign-to-voice skills.

The three levels of NADRID certification include:

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

⁸ Registry of Interpreters for the Deaf. *Generalist*. Retrieved February 2, 2009, from http://www.rid.org/education/edu_certification/index.cfm

⁹ Registry of Interpreters for the Deaf. *Generalist*. Retrieved February 2, 2009, from http://www.rid.org/education/edu_certification/index.cfm

¹⁰ Registry of Interpreters for the Deaf. *Generalist*. Retrieved February 2, 2009, from http://www.rid.org/education/edu_certification/index.cfm

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 sign language 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.

In order to receive a NIC Master credential, a candidate must score in the high range on both the interview and performance tests.

Education Requirements

Beginning June 30, 2009, prospective non-deaf candidates for RID certification 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 2012, hearing candidates for certification will be required to possess a minimum of a bachelor's degree.

In 2016, deaf candidates for certification will be required to obtain a bachelor's degree prior to certification.

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

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

Testing

The written portion of the NIC test is a computer-based test and costs \$240 for RID members and \$340 for non-members.¹¹ A candidate may choose to take the test, which is administered by CASTLE Worldwide, Inc.,¹² 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.

Results are available immediately. If a candidate fails the test, he or she may re-take the examination three months following the initial test. Finally, the cost for re-taking the test is \$190 for RID members and \$290 for non-members.¹³

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 sign language interpreter functions. In Colorado, the interview and performance test is administered on Friday afternoons as well as Saturdays at Front Range Community College. In order to schedule a time to take the test, the applicant must contact Front Range Community College staff to schedule an examination. The cost for the interview and performance test is \$325 for RID members and \$425 for non-members.¹⁴

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.¹⁵ If a candidate does not pass the written portion of the test, he or she may retake the examination, which costs \$80 for members and \$105 for non-members.¹⁶

¹¹ Registry of Interpreters for the Deaf. *Testing Process*. Retrieved February 2, 2009, from <http://www.rid.org/education/testing/index.cfm/AID/83>

¹² Registry of Interpreters for the Deaf. *Testing Process*. Retrieved February 2, 2009, from <http://www.rid.org/education/testing/index.cfm/AID/83>

¹³ Registry of Interpreters for the Deaf. *Testing Process*. Retrieved February 2, 2009, from <http://www.rid.org/education/testing/index.cfm/AID/83>

¹⁴ Registry of Interpreters for the Deaf. *Testing Process*. Retrieved February 2, 2009, from <http://www.rid.org/education/testing/index.cfm/AID/83>

¹⁵ Registry of Interpreters for the Deaf. *Testing Process*. Retrieved February 2, 2009, from <http://www.rid.org/education/testing/index.cfm/AID/83>

¹⁶ Registry of Interpreters for the Deaf. *Testing Process*. Retrieved February 2, 2009, from <http://www.rid.org/education/testing/index.cfm/AID/83>

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 Front Range Community College to schedule an examination. These RID tests may be taken at any time throughout the year.

RID Membership

RID encourages certified sign language interpreters to maintain an active membership and engage in activities that may potentially benefit the sign language interpreter's knowledge and skills. Membership in RID offers sign language interpreters a range of benefits including: networking with professional sign language 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, but are not limited to¹⁷:

- Certified – Individuals holding current valid certification recognized by RID (\$125 per year);
- Certified Retired – Formerly certified individuals who have retired from interpreting (\$30 per year);
- Associate – Individuals engaged in interpreting, but who do not possess a RID certification (\$93 per year);
- Student – Students who are currently enrolled at least part-time in a sign language interpreter training program (\$30 per year);
- Supporting – Sign language interpreters who are not currently engaged in interpreting but support RID (\$30 per year); and
- Trial membership – Individuals who receive a subscription to RID's newsletter (\$15 per year).

¹⁷ Registry of Interpreters for the Deaf, Inc. Individual Membership Application. Retrieved February 4, 2009, from http://www.rid.org/UserFiles/File/pdfs/Member_Services/MembApp2008-09.pdf

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 title protection for sign language interpreters as the appropriate level of regulation to protect the public.

According to the sunrise application, title protection may help to set a state-wide standard for sign language interpreter qualifications. The sunrise application also states 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 sign language interpreters choose to obtain certification. As a result, the sunrise application asserts that harm has occurred to Colorado consumers, and regulation offers the best approach for ensuring that all sign language interpreters working for hire in Colorado meet the appropriate minimum qualification standards for specific types of interpreting situations.

However, the sunrise application does not delineate which level of certification would be required in order to utilize title protection. Instead, the application states that title protection may help ensure that the provision of interpreting services is reserved for those sign language interpreters who have proven their minimum skills qualification and ethical fitness under the national standard set forth by RID and NAD.

In 1991, the Applicant submitted a sunrise application requesting regulation of sign language interpreters. 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 sign language 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 sign language interpreters. DORA completed the sunrise review and provided the following recommendations:

- Require the State of Colorado Board of Education to establish standards for sign language interpreters used in public school settings;
- Establish a mandatory sign language interpreter registration program for sign language interpreters 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.

In 2006, the Applicant also submitted a sunrise application for sign language interpreters requesting licensure as the appropriate level of regulation to offer protection to consumers. The sunrise review recommended no regulation of sign language interpreters.

Summary of Current Regulation

The Federal 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.

The ADA has a three-part definition of disability, including an individual who:¹⁸

- Has a physical or mental impairment that substantially limits one or more major life activities (e.g., hearing, eating, sleeping, etc.);
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

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:¹⁹

- 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;

¹⁸ Wisconsin Department of Health Services. *The Americans with Disabilities Act (ADA) and People with Physical Disabilities*. Retrieved February 23, 2009, from <http://dhs.wisconsin.gov/disabilities/physical/definition.htm>

¹⁹ 28 C.F.R. § 36.104.

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- A museum, library, gallery, or other place of public display or collection,
 - A park, zoo, amusement park, or other place of recreation;
 - 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 sign language 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.²⁰

The ADA requires qualified sign language interpreters in places of public accommodation for the deaf and hard of hearing population. A qualified sign language interpreter is defined in Title 28 of the Code of Federal Regulations section 36.104 as a sign language interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.²¹ Additionally, the ADA Title III Technical Assistance Manual addresses the issue of qualified sign language 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 sign language interpreter must be able to interpret both receptively and expressively.²²

²⁰ National Association of the Deaf. Title III of the ADA . Provision of Auxiliary Aids. Retrieved June 9, 2006, from <http://www.nad.org/ADAtitleIII>

²¹ 28 C.F.R. § 36.104 (3)(a).

²² *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 identified title protection for sign language interpreters as the appropriate level of regulation in Colorado. The Applicant requested licensure to protect the deaf community from unqualified sign language interpreters; however, the ADA, specifically Title III, does provide additional protection to the deaf community by mandating the aforementioned qualifications for sign language interpreters in places of public accommodation.

The Colorado Regulatory Environment

Additionally, Colorado regulates sign language interpreters in two settings: legal and education (kindergarten through 12th grade). In the legal setting, the Colorado Commission for the Deaf and Hard of Hearing (Commission) has the authority of overseeing the provision of sign language interpreters and auxiliary services.

Legal Sign Language Interpreter Requirements

There are three levels (Statuses) of sign language interpreters in the legal setting in Colorado. The required certifications and levels of training are outlined below.²³

Status I sign language interpreters are preferred providers for all legal and court assignments; therefore, every effort shall be made to assign these sign language interpreters before contacting sign language interpreters in other status categories.

1. Status I

a. Registry of Interpreters for the Deaf (RID) Specialist Certificate: Legal (SC:L)

1) Initial Legal Credential Authorization: Holders of a current SC:L not required to complete additional training and supervision to attain a Legal Credential Authorization.

2) Maintenance of Legal Credential Authorization: Each SC:L holder must attain 20 hours Continuing Education (2.0 CEUs) specific to legal settings during each four year period, and maintain current certification.

²³ Colorado Commission for the Deaf and Hard of Hearing Regulation 12 CCR 2516-1.

b. RID Certified Deaf Interpreter (CDI)

Holders of this certificate are recommended for a broad range of assignments where a sign language interpreter who is Deaf or Hard of Hearing would be beneficial.

1) Initial Legal Credential Authorization: Holders of a CDI are required to have 65 hours of training specific to legal interpreting, and 25 hours of Supervised Experience to attain a Legal Credential Authorization.

2) Maintenance Legal Credential Authorization: Each CDI holder must attain 20 hours Continuing Education (2.0 CEUs) specific to legal settings during each four year period, and maintain current certification.

2. Status II

a. Interpreters with Other Certificates

Individuals having a RID Certificate of Interpretation and Certificate of Transliteration (CI/CT), RID Comprehensive Skills Certificate (CSC), Master Comprehensive Skills Certificate (MCSC), National Association for the Deaf (NAD)-RID National Interpreter Certificate Master (NIC Master), NAD V, RID Oral Transliterating Certificate (OTC), RID Oral Interpreter Certification: Comprehensive (OIC:C) are eligible to receive a Certificate of Competency if they comply with the following:

1) Initial Legal Credential Authorization: Status II sign language interpreters are required to have 65 hours of training specific to legal interpreting, and 35 hours of Supervised Experience to attain a Legal Credential Authorization.

2) Maintenance of Legal Credential Authorization: Each Status II sign language interpreter must attain 40 hours Continuing Education (4.0 CEU's) specific to legal settings during each four year period, half of which must be skills training, and maintain current certification.

b. Deaf Interpreter (DI)

Deaf Interpreters, who do not hold a CDI, may be used where a sign language interpreter who is Deaf or Hard of Hearing would be beneficial and a CDI is not available.

1) Initial Legal Credential Authorization: Deaf interpreters are required to have a minimum of eight hours of training related to the RID Code of Professional Conduct, a minimum of eight hours of general interpreting 65 hours of training specific to legal interpreting, and 35 hours of Supervised Experience to attain a Legal Credential Authorization.

2) Maintenance of Legal Credential Authorization: Each Deaf interpreter must attain 40 hours Continuing Education (4.0 CEUs) specific to legal settings during each four year period.

3. Status III: Intermediary

Intermediary sign language interpreters can only be appointed on a case-by-case basis dependant on the unique communication needs of the Deaf or Hard of Hearing individual.

Education Sign Language Interpreter Requirements

Education sign language 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 sign language interpreters in the education setting: the Educational Interpreter and the Temporary Authorization Status educational sign language interpreter.

Licensed educational sign language interpreters must pass the Colorado Education Interpreter Performance Assessment (EIPA) written test to be eligible to work as a sign language 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.²⁴

²⁴ Colorado Department of Education: *Exceptional Student Services 3rd Edition (2007)*. Education Handbook, p.8.

Table 1 includes the test requirements for the Education Interpreter.²⁵

**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:	RID Deaf-Oral Transliteration	Pass	EIPA – Written Test: Passing Score
Cued Speech Interpreter:	Cued American English Competency Screening-Expressive	3.4 or higher	EIPA – Written Test: Passing Score

Education sign language 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 sign language interpreters are eligible to work in Colorado. Education sign language interpreters are required to renew their licenses with the CDE every five years.

There are several additional requirements a sign language interpreter must fulfill in order to qualify as an education sign language interpreter. The requirements are as follows:²⁶

- A sign language 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.

²⁵ Colorado Department of Education: *Exceptional Student Services 3rd Edition (2007)*. Education Handbook, p.4.

²⁶ Colorado Department of Education: *Exceptional Student Services 2nd Edition (2004)*. Educational Interpreter Handbook, p.5.

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- A sign language 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, sign language 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, sign language 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 Temporary Authorization Status. Temporary Authorization Status is intended for sign language interpreters who possess basic skills in interpreting, but have not met all criteria for the Educational Interpreter license. For example, sign language 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 Temporary Authorization Status. In order to be considered for Temporary Authorization Status, the CDE requires the completion of two separate applications. First, the sign language interpreter must apply for the Authorization: Temporary Educator Eligibility and the Temporary Teacher Eligibility: Educational Interpreter, which are both licenses in Colorado.

The application process is as follows:

Step 1. Submit fingerprint card to the Colorado Bureau of Investigation along with the applicable fee.²⁷

Step 2. Authorization: Temporary Educator Eligibility Application²⁸

- Application packets can be obtained through the local school district/Boards of Cooperative Education Services (BOCES) human resource offices or through the CED Educator Licensing Unit.
- \$60 application and \$30 fingerprint fees apply.
- Completed forms and fees are submitted to Educator Licensing at CDE.

²⁷ Colorado Department of Education: *Exceptional Student Services 3rd Edition (2007)*. Educational Interpreter Handbook, p.5.

²⁸ Colorado Department of Education: *Exceptional Student Services 3rd Edition (2007)*. Educational Interpreter Handbook, p.6.

Step 3. Temporary Teacher Eligibility: Educational Interpreter Application²⁹

- Application forms must be obtained through the local school district/BOCES special education director or by downloading it from the internet.
- Completed forms and fees are submitted to Exceptional Student Leadership Unit at CDE.
- Initial form for submission must include Temporary Teacher Eligibility: Educational Interpreter application, professional development plan and documentation of minimum skills.
- This Temporary Teacher Eligibility: Educational Interpreter application is issued for one school year and can be renewed annually for up to two years. Renewal requires the same application form (and fees) to be submitted for the sign language interpreter prior to the beginning of the second and third school years.

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

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

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

Public education sign language interpreters in Colorado are required to obtain a license prior to interpreting in kindergarten through the 12th grade. A system has been established to allow sign language 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 sign language interpreters.

²⁹ *Colorado Department of Education: Exceptional Student Services 3rd Edition (2007)*. Educational Interpreter Handbook, p.6.

Regulation in Other States

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

Four of the seven states (Kansas, Oklahoma, Nebraska and Utah) regulate all sign language interpreters. These states require either state certification or national certification prior to providing interpreting services. State certification means that a sign language 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 a code of ethics. The performance portion is interactive and tests a sign language 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 all sign language interpreters in the legal setting, and requires a national RID certification to interpret for remuneration.

The New Mexico legislature passed a law requiring sign language interpreters to obtain a license prior to providing services. However, the law has not been implemented, and the Sign Language Interpreting Practices Board is in the process of promulgating licensure rules. The Sign Language Interpreting Practices Board expects to begin issuing sign language interpreters licenses in the Fall of 2009.

One state, Wyoming, does not require regulation of sign language interpreters.

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.

In terms of harm to the deaf community, harm can occur when sign language interpreters do not effectively and accurately convey information both receptively and expressively to the deaf person. The absence of clear communication could potentially harm members of the deaf community in a variety of settings.

The sunrise application submitted to the Department of Regulatory Agencies (DORA) by the Colorado Association for the Deaf (Applicant) asserts that title protection is the appropriate level of regulation needed in Colorado. Title protection represents one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity is not applicable. In other words, anyone may engage in the particular practice, but only those possessing status by prescribed requirements may use the protected title(s). This serves to indirectly ensure a minimum level of competency while informing the public regarding the qualifications of those who may use the protected title(s).

Despite this rather innocuous definition of title protection, title protection is, in fact, regulation and carries some of the economic consequences of occupational regulation. As an example, title protection creates a perception of government approval that creates an unbalanced playing field tilted against those who do not hold the credentials or titles that are protected by law.

Regardless of the intention of title protection, the market sees as inferior the skills of those who do not possess the protected credentials; thus, the regulation impacts competition. This must be the case since title protection almost always protects a set of credentials and titles that are created by, and used by, private entities. The advantage of legal codification of the private credential is ambiguous.

Therefore, in order to recommend that a sign language interpreter title protection statute be established in Colorado, a rather particular pattern of harmful behavior by sign language interpreters must be proven. Specifically, the proposition requires proof that sign language interpreters mislead the deaf community by misrepresenting that the sign language interpreter holds private credentials that he or she does not hold. Even though the Applicant's proposal only seeks to make illegal the act of stating that one holds the specific enumerated credentials, two secondary questions surface once that threshold is satisfied. First, was the consumer harmed by the interpretive service? Second, even though the sign language interpreter misrepresented his or her credentials, could the deaf consumer reasonably have protected him or her self by the practice of due diligence in the selection of a sign language interpreter.

In order to complete an analysis of the proposal for regulation by the Applicant, DORA requested that the Applicant submit examples of harm to support its request to require title protection for sign language interpreters. The Applicant's examples are included, verbatim, in Appendix A on page 30, as they were relayed to DORA via the sunrise application.

One example of harm provided in the sunrise application highlights an instance in which a sign language interpreter allegedly misrepresented his or her credentials. A brief summary of the example is detailed below. The entire example can be found in Appendix A on page 30 (example seven within the Applicant's sunrise application).

A deaf couple scheduled an appointment with a Social Security Administration (SSA) office. The couple informed a SSA representative that they were both deaf and would require a sign language interpreter for the meeting.

During the meeting, the husband experienced difficulty communicating with the sign language interpreter, due to what the husband perceived as subpar receptive skills on the part of the sign language interpreter. The husband asked the sign language interpreter if he should sign at a slower pace so that the sign language interpreter could better comprehend what the husband was saying.

The couple was concerned that the sign language interpreter would transmit incorrect information to the SSA representative.

During the meeting with the SSA representative, the wife inquired as to whether the sign language interpreter was certified. Although initially evasive when questioned, the sign language interpreter ultimately responded to the question stating she was, in fact, certified.

After this questioning, the sign language interpreter became uncomfortable and requested that the couple communicate with the SSA representative by exchanging written notes.

Upon arriving home, the couple did some research and found that the sign language interpreter was not certified.

The proposed regulation (title protection) of sign language interpreters would address the example highlighted above due to the fact that the sign language interpreter misrepresented the title of “Certified Sign Language Interpreter,” which under the current proposal, would subject the sign language interpreter to legal action under the “Colorado Consumer Protection Act.”

The remaining examples of harm submitted in the sunrise application detailed instances in which members of the deaf community expressed concerns regarding inadequate services performed by sign language interpreters.

It is important to note that many of the examples of harm were previously submitted in the 2006 Interpreters for the Deaf sunrise review. An analysis has already been completed by DORA staff on these examples of harm, and the analysis remains the same. That is, the 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 sign language interpreter. In all of the situations, (including the new submissions of harm for this sunrise review) 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 three parties is fluid, and typically there is no 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 sign language interpreters in Colorado.

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 Applicant proposes title protection for sign language interpreters in Colorado. Under this proposal, the public may benefit from an assurance of initial and continuing professional competence due to the fact that sign language interpreters who misrepresent the sign language interpreter title would be subject to legal action under the “Consumer Protection Act.” However, title protection has limitations regarding consumer protection. This proposal would not limit anyone from practicing as a sign language interpreter in Colorado. Rather, title protection would limit the use of a specific title. Because anyone can still practice as a sign language interpreter in Colorado under this current regulatory proposal, the public could be just as susceptible to incompetence related to sign language interpreters.

As a result, it is unclear the extent to which the creation of a title protection statute would enhance consumer protection for the deaf and hard of hearing community. Given the fact that title protection may have little impact on ensuring that qualified, and ultimately certified sign language interpreters are providing services in Colorado, the need to create a title protection statute for sign language interpreters is questionable.

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 in a more cost-effective manner by utilizing the current certification system established by the Registry of Interpreters for the Deaf (RID). The state could require all sign language 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 sign language interpreters to obtain certification prior to working in Colorado could limit the number of sign language interpreters, while potentially increasing the fees that they would charge.

Additionally, since RID already lists certified sign language interpreters in all states on its website (Colorado has 203 certified sign language 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 sign language interpreter. This calls into question the need for requiring sign language interpreters to obtain national certification. Some sign language 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.

Clearly, one cost-effective avenue already exists. However, the harm to the deaf and hard of hearing community, as evidenced by the examples of harm identified during this sunrise review (many of which were the same examples submitted for the 2006 sunrise review) does not warrant the creation of a mandatory RID certification for all sign language interpreters in Colorado.

Finally, it is important to mention that during the initial interview with the Applicant, the Applicant stated that implementation of a title protection regulatory framework for sign language interpreters would have no costs associated with it. This assertion by the Applicant is true; however, if complaints occur against sign language interpreters who are allegedly misrepresenting their title, and thus their credentials, it would be a violation of the "Colorado Title Protection Act." If a potential violation occurs, staff within the Attorney General's Office would presumably investigate the complaint. If staff determined a violation has occurred, the appropriate legal action may be pursued. On the other hand, staff could determine that a violation did not occur. In both instances staff time and therefore state resources have been utilized.

Although the proposal of title protection for sign language interpreters may appear to have no impact on state expenditures, investigations as to whether a violation can be substantiated or not will have an impact on state resources.

Conclusion

In addition to the examples of harm submitted by the Applicant, this sunrise review considered public testimony provided before the House Judiciary Committee in support of House Bill 09-1090, a bill to impose the same regulatory scheme sought by the sunrise Applicant.

No testimony provided at that committee hearing established a convincing case that members of the Colorado deaf community are victimized by sign language interpreters who have misrepresented his or her credentials.

Although convincing evidence of harm is lacking, there is a potential for harm that should be considered in this analysis of the need for title protection. As detailed in this sunrise review, the deaf and hard of hearing community are protected by the federal Americans with Disabilities Act (ADA). The specificity of the ADA in requiring qualified sign language interpreters and defining qualified sign language interpreters speaks to a societal value that government intervene on behalf of the deaf and hard of hearing population, among others, to ensure equal opportunity of the defined group to participate in, and benefit from, services provided by places of public accommodation.

The very existence of the federal law seems to allow for the possibility of harm by unqualified sign language interpreters and that potential is not remote or based on tenuous argument since the federal law presumably was enacted in response to a real social need.

Federal law, though, leaves to the individual broad discretion in choosing a sign language interpreter in compliance with the ADA and defining a qualified sign language interpreter as one who interprets effectively, accurately and impartially both receptively and expressively, while using any necessary vocabulary.

While this sunset review discovered only one instance of misrepresentation of title or certification by sign language interpreters, the research makes it clear that members of the deaf and hard of hearing community sometimes find themselves in situations in which the quality of interpretation, in the deaf or hard of hearing consumer's perception, does not comply with the ADA definition of a qualified sign language interpreter.

To this last point, the Applicant frequently offers examples of health care delivery to illustrate the problem. During DORA staff's research, health care professionals were interviewed to determine how acquisition of qualified sign language interpreters is achieved in compliance with ADA requirements. Most providers contacted responded that they have no patients or clients who are deaf or hard of hearing. It is telling, though, that providers also stated that they would not know how to secure a qualified sign language interpreter should the need arise.

Thus, it is the conclusion of this sunrise review that clear harm or endangerment to the health, safety, or welfare of the public or the deaf community cannot be reasonably drawn from the available evidence. It follows, then, that government intervention is not appropriate based upon analysis under the first sunrise criterion.

Colorado's sunrise process, however, is rigorous in its analysis of the need for regulation. This may be, in part, because licensing is most often sought and licensing is the most restrictive type of regulation. Licensing carries with it the most potential for negative economic consequences so the sunrise process, to be effective, must be thorough and carefully executed before recommending new regulation. In the instant case, though, some mitigating factors may inform decision makers in shaping public policy.

First, it is apparent that any type of regulation of interpretive services directly benefits a small number of Coloradans. Information on the Colorado Commission for the Deaf and Hard of Hearing website indicates that there are an estimated 42,000 deaf and more than 350,000 hard of hearing individuals in Colorado.³⁰ The Applicant stated in an interview on January 16, 2009, that there are approximately 500 non-certified sign language interpreters in Colorado. A review of the RID website revealed that there are approximately 200 certified sign language interpreters located throughout Colorado. Further, it appears that many sign language interpreters provide services in a limited, part-time capacity.

Second, the deaf and hard of hearing community strongly believes that many sign language interpreters in Colorado are not competent and that sign language interpreter incompetence adversely impacts the quality of life of those who use sign language interpreters. The Applicant's proposal for title protection is a measured approach that may offer some sense of protection to the deaf and hard of hearing and may benefit those who secure the services of sign language interpreters in compliance with the ADA. Therefore, the Applicant's proposal is not an unreasonable public policy option for the General Assembly.

Recommendation – Title protection may be warranted in a limited fashion.

³⁰ Colorado Commission for the Deaf and Hard of Hearing. *Statistics on Deafness and Hearing Loss*. Retrieved February 13, 2009, from <http://www.coloradodeafcommission.com/PDF/Infosheets/demog2005.pdf>

Appendix A – Examples of Harm Submitted by the Applicant

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APPENDIX B: Stories of Harm
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1.

January, 2008

How amazing it is to me that Colorado still has no regulations for sign language interpreters. I have worked in this state as a nationally certified interpreter since 1993 and have several situations of being the interpreter called into an assignment after an unqualified interpreter had served. What a mess.

One such situation was interpreting for a Deaf couple and their financial planner. When I arrived at the financial planner's office, the Deaf woman began asking me several questions. She asked if I was certified, if I had experience in matters of finance and if I would keep this appointment in strictest confidence. She explained that the previous interpreter had confused them so much they were panicked about what had happened to their investments. They were afraid they may lose their home and everything in it. They were also afraid that they would lose their financial planner. They were so confused they had to make appointment after appointment to try to clarify their confusion which of course required an interpreter, which, of course, the financial planner was responsible for payment. The deaf couple was desperate to understand their investment situation, but didn't want the financial planner to drop them as clients because of the interpreter expense so they finally convinced the financial planner to get a certified interpreter.

That's when I was called in. Everything turned out fine, and this couple was not in dire straights and their investments were doing well, and they finally were able to understand the financial planner and equally important, the financial planner was able to understand the questions from the Deaf couple. (Obviously the previous interpreter could not understand ASL well enough to interpret the questions clearly to the financial planner). But to make matters worse, the previous interpreter had already talked about this couple to others, recommending them to other deaf people. Saying, "Oh you should contact Mr. and Mrs. So and So, I've been interpreting for them at Such & Such Financial Planning and they can tell you which investments to avoid because they may have to sell their house because they lost so much money!"

With licensure, this couple could have been assured of a qualified interpreter in the first place and at a very minimum a grievance process if they had not. Instead, they were subjected to the trauma of thinking they had lost all of their hard earned money and perhaps were going to lose their home and worse the humiliation of friends and acquaintances and God knows who all else knowing everything about their personal finances. Because Colorado has no State Licensure, and there is no formal grievance process, the interpreter could not be held accountable for her egregious interpreting errors that had this poor couple unnecessarily traumatized and humiliated. They nearly lost their house for God's sake!

I have also had to clean up the work of an unqualified interpreter in the courts. One recent situation is a case I was called on eight years ago. Part of the reason this case was open for years was because the deaf defendant would be sent to the State Hospital for evaluation where an interpreter would NOT be able to understand the defendant due to his unique communication needs. This defendant was not a clear cut user of ASL nor clear cut user of signed English and had developmental delays. The interpreter at the State Hospital made him sound as though he had much more intellectual capacity than he did, causing much confusion about his ability to assist in his own defense. This man, while definitely needing to be off the streets, spent way too much time behind bars (EIGHT YEARS!!) and NOT getting the psychological help he needed because an interpreter could not understand him and he could not understand the interpreter. I also need to mention that the interpreters he had when he was first arrested, and for his first PSI, could not understand him and so they GUESSED! And he could not understand them. Because of his developmental delays, HE guessed! The results of his PSI were SO wrong based on the interpreters total and complete MISINTERPRETATION...it has taken EIGHT long years with a team of QUALIFIED interpreters until FINALLY he was released from the Department of Corrections and into programs where he can get the help he needs. Although, I question whether or not he will get the qualified interpreters he needs to succeed...not only do I think he will not succeed, I think more damage will be done....This man spent eight years behind bars for a crime that any hearing person would have been out in a matter of weeks and into programs and probation all because of interpreters that were not qualified to do the work.

Where is the regulation? Where is the accountability? We have to have a license for our dogs to walk the street and yet

people can earn a living on someone else's disability with no oversight, no accountability and they give those of us who are qualified and ethical a bad name. And what about the Deaf citizens of our state? What are we telling them? That they aren't worth the cost of a hair cut for which we must license our barbers and hair dressers? Why would we not license the very people for whom they depend on for access to COMMUNICATION? And in many cases, their very lives?

Respectfully,
XX
CI, CT
RID Nationally Certified Interpreter

2.

I was called to a Denver area hospital to interpret for medical personnel and a Deaf patient who was being treated for a severe case of pneumonia. Prior to my arrival, the medical personnel had drawn blood in an attempt to understand why the patient's immune system was not fighting off the infection.

When the test results returned, the doctor began dialogue with a comment about often seeing opportunistic infections take hold in patients who are HIV+ and not taking medications. He also noted that the patient's viral load was rather high and expressed dismay that he had not been prescribed a protease inhibitor. The patient responded with shock at the mention of HIV and asked if the doctor had the correct patient's chart, because he was not HIV+. The doctor showed the patient the chart and pointed out the date, more than a year earlier, when his primary care doctor had informed the patient of his HIV+ status. Understandably, the patient was devastated that he had not known this fact for over a year—his concern was not only for himself but for others that he had inadvertently put at risk in his ignorance.

Upon inquiry by the doctor, the patient explained that his primary care doctor had refused to provide a professional, qualified sign language interpreter for his appointments. Instead, the doctor had paid for one of his nurses to take a few sign language courses and was using her to interpret for all of his deaf patients. Despite this patient's numerous protests, this nurse was providing the "interpreting" when the patient was supposedly told of his HIV+ status.

The emergency room physician was able to contact the primary care doctor while the patient was in the emergency room.

The primary care doctor explained that he had indeed prescribed a handful of medications intended to diminish the HIV viral load. Through the nurse's "interpretation" he had explained that the prescriptions had been ordered electronically and could be filled at the patient's convenience. The patient, in turn, explained that besides not realizing he was HIV+, he never even understood that they had discussed medication whatsoever.

The harm resulting from this situation clearly shows the potential danger of having novice signers employed as professional interpreters. The harm in this particular situation goes beyond a personal level in that this individual had unintentionally and innocently put others at risk. In the current unregulated environment, however, the doctor was under no obligation to procure a credentialed/certified interpreter because, in his estimation, the nurse's signing skills rendered her "qualified" which satisfied his obligation to provide reasonable accommodation according to the Americans with Disabilities Act (currently the only regulation regarding interpreters in medical settings).

3.

I would like to share my story about interpreters from my college, Univ. of Northern Colorado. I have two interpreters that are unqualified that I have putted up with for Math, English and "First Year Experience" (FYE class that teaches freshman college life, where to get info, about the campus etc). I will discuss 2 interpreters.

Interp 1: She interprets for my math class. The math class is designed for elementary teachers. It involves a lot of lecture and group work. My frustration is the interpreter does not match the teacher's tone of voice (teacher shows enthusiasm and interp shows 'boring' expression), and she does not interpret the math concepts correctly although she readily accepts suggestions from me. I got so frustrated that I decided to just ignore the interpreter and watch the teacher on the board and have my group help me out. Group discussions are difficult for me since the interpreter misses a lot of what is being

said and is not explaining clearly how to solve the problems. I have to have my group mates show me how to do problems, that's how I survive math class, by watching how it's done and figuring out the patterns and why it works the way it does. The interpreter is useless in that class. Whether or not she's certified, I don't know. My biggest problem with her is her receptive skill. She does not seem to understand my signs, and always seem to get lost when I interrupt her to repeat or clarify information. I have discussed with the coordinator about this and my math professor, the professor and I agree to work together and I work with her a lot one on one so I didn't feel the need to watch the interpreter. Funny, I started out the semester with a D by watching the interpreter... now I have a B in the class because I'm more focused on the teacher and the group works and ignored her, only glancing at her when I am confuse and try to guess what's going on in the lecture/group discussion.

Interp 2: By far the worse interpreter I've ever had! She interprets for 2 of my classes, English and FYE. Her vocabulary and finger-spelling skills NEED major improvement! Her receptive skill is good, but could use some work. I can clearly tell by her body language that she is uncomfortable being in front of the classroom and is even more uncomfortable when I ask her to stand up and to stand by the speaker. She has the tendency to drop a lot of information and will keep interpreting as if she didn't miss any information. She has told me she is NOT certified. She is in her late 30s who changed her career to interpreting 2 years ago. She admits that she failed certification test once or twice (don't remember how many times) and recently took another one. I'm amazed that if she failed her certification that she's still interpreting for a University! The only reason I let her stay in the classroom is because I have the same professor in both class, and the professor is very, very flexible and doesn't lecture a lot. It's really a light class, so I wasn't too concerned about missing information and I was always an active student in the classroom by raising hand, ask for clarification or repeat information if the interpreter missed it.

I have mixture of GREAT and terrible interpreters in college. Some of them have only been interpreting for a few years, but seem so natural at it and does their job well. The two ladies I mentioned need a lot of deaf exposure and a lot of improvement with receptive skills and vocabulary. It's not fair that I'm given an unqualified interpreter and have to put up with them or if made a formal complain, that I would have to try to work it out first before replacing that interpreter. Why can't the deaf college students already have a qualify interpreter in the class room? We have to deal with the professors and the assignments which is enough stress!

4.

Hi, My name is Luke Adams. I am not sure if we have met before, I am an intern for Colorado Committee for the Deaf and Hard of Hearing. I heard some things about how CSQI is trying to have a law passed which that requires every interpreter in the state of Colorado to have a license to show that they are qualified. I thought it was really good idea so that's way, deaf clients don't have to worry and wonder if an interpreter is qualified or not. I felt obligated to let you know about my situation that occurred yesterday with one interpreter which I was not satisfied with due to her poor expressive and receptive skill. Due to respect, I would like to keep that woman's identity confidential - I do not want to cause any harm to that woman's reputation. Here is of what happened yesterday (Jan. 31st 2008)

I made a phone call via relay service earlier this week with Denver Health Clinic to make an appointment for a check-up. I did not requested for an interpreter at all and I was planning on to show up with a notebook and pen to communicate with doctor since it doesn't take that too long. I showed up at Denver Health Clinic yesterday at the noon -an interpreter showed up unexpectedly at the clinic, but it was nice though. Just that there one thing that is bothering me - soon as she introduced herself to me, immediately she apologized in advance for her "poor and choppy" interpreting skill because she did not interp for past two months. At first, I was really hesitated of having her as my interpreter for an appt. because I felt that she probably isn't certificated interpreter indicated that she haven't used her "interpreting skill" for past two months! I prefer an interpreter that is certificated or licensed But, I decided to go ahead and have her as my interpreter to make communication much smoother between me and doctor.

During the appointment, the interpreter did an okay job. Her signing skill is perfectly fine. But, not with her expressive and receptive skill. Often, she would stop doctor to give herself some time to sort it out as of how to say in sign. It was really annoying that she does that for several times. Also, she asked me few times to clarify my signs for her to make sure that she got a right word for her to translate. It showed a sign that she wasn't certificated interpreter. She mentioned of how she learned sign since she was a kid, but she said something about never went to school to be an interpreter. Soon as the appt. was over, she told me that she is working for A & A agency.

Honestly, I had NO idea of how hospital managed to find this agency. The agency is called, "A & A agency" I never heard of this agency before. However; Cliff Moers, a director of CCDHH, told me it is a spoken language agency - it is just weird to find it out that sign language interpreters are working for 'spoken language' agency instead of sign language agency, you know? I have looked up for that agency on the Internet and I cannot find the information of that agency AT ALL. It is just unusual that there's no website of that agency.

I hope this case might help something that you have been trying to get the law to be passed for interpreter license.

Luke Adams, Intern
Colorado Commission for the Deaf and Hard of Hearing
1575 Sherman Street, 2nd Floor
Denver, CO 80203

5.

hello i am scott and i would like to share info about happen interpeter that i disagree,
happen few month ago i do not happy about interpeter there one lady that i do not like her not because of her personal no the way her signs and it seen not fit me so i ask her to please leave also not accept her as interpeter in POLICE STATION that i had interview with det. that det is not well know ADA also interpeter law tooo because she screw up my story and find that det. think my fault i catch interpter that was not match my convertation SAMPLE- I SIMPLE SIGN NUMBERS ALIKE 600. I READ THE INTERPETER'S LIP AND FIND THAT SHE KEEP TALKING ALIKE WHOLE SENTENCE WHAT ABOUT MY WORD NOT INTERPETER'S WORD MY IS SIMPLE 600 DOLLAR THAT IT WHY CAN SHE SAY THAT TOO?? I WAS DISSAPPOINTMENT VERY BIG TIME.. BECAUSE END UP I PAID MORE THEN 600.. WHAT HAPPEN THA INTERPETER SHE HAD LIC AND CERT FOR COLORADO LAWS TO ME SHE NOT FIT BEC NOT PERFECT SIGN ALSO NOT ASL TOO ME .. I ASK INTERPETER THAT WHAT IS CODE OF ETHIC&n! bsp; SHE WONT LISTEN TO ME AND STAY WITH POLICE AND I REFUSE TO TALK TO HER, BECAUSE SHE SLOPPY SIGN, I TOLD JUDGE ABOUT IT AND I HAD AGAIN REVIEW INTERVIEW WITH DET, AGAIN WITH DIFFERNCE INTERPETER THAT I PICK AND GUESS WHAT WENT SO SMOOTH AND PERFECT CONVERNATION AND NOW DET TOLD JUDGCE TO REMOVE THE FINE THAT I HAD WAS NOW ALL THE CHARGE AGIAN ME IT REMOVE,,, OOOH BOY THAT ONE INTERPETER DID RUDE MY LIFE I HAD TO FIGHT BACK TO GET MY RIGHTS ALIKE DEAF'S RIGHTS.. ALSO A.D.A TOO I DO NOT WANT SEE OTHER DEAF WENT THRU THAT FOR NO REASON.

now i learn a lot about interpeter because there i 'kinda' no law for deaf's right in colorado.. because they do not know what is interpeter's policy that code of ethic mean that any one was ask by deaf person that not accept it.. that interpeter had to inform and leave not standing there to keeep going no no no that why i disagree with that. one thing is my concern is where is my rights...??

6.

I am submitting this letter for a deaf man who was arrested in April 2006, and he immediately had a police interrogation at the

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Jefferson County Police Station. XX was the interpreter. The police interrogation was recorded on DVD and a 38-page transcript of the interrogation was produced.

On September 1, 2006, the deaf man had a meeting with his lawyer in preparation for his court hearings and his lawyer asked him if he understood what happened during his interrogation. The lawyer shared with him the 38-page transcript from the police interrogation as recorded on the DVD and it caught him by surprise. He was confused and realized that Ms. XX misinterpreted what he has said during the interrogation. As a followup, both the lawyer and the Jefferson County District Attorney called for different interpreters (both hearing and deaf interpreters) to relay the DVD record of the police interrogation and compare their interpretations with those given by Ms. XX. The interpreters all gave information very different from what Ms. XX had interpreted. Therefore, the District Attorney asked Anna Witter-Merithew to analyze for the accuracy and reliability of Ms. XX's sign language interpretation during the police interrogation. Ms. Witter-Merithew was retained by the District Attorney as an expert witness related to sign language legal interpreting. After reviewing the DVD video and transcript from the interrogation, Ms. Witter-Merithew identified a number of procedural and interpretation flaws during the interrogation, including:

1. There was no confirmation from the deaf man that he understood the various rights that he was asked to waive when the police recited the Miranda warning to him. Ms. XX did not incorporate any elicitation techniques to confirm the deaf man's comprehension of the right to remain silent, to have counsel present, and to have counsel appointed if he could not afford to pay for counsel. In addition, a small portion of Ms. XX's signing of the Miranda warning was visible on the DVD. It showed her using gross motor movement when she used the sign for "silence or quiet" during the Miranda warning, which does not carry the intended meaning of the waiver in ASL. Although it was only a small piece of the overall Miranda because much of the interpreter's signing was not visible on the tape, it does raise potential concern that there may be more errors during the interpretation of the Miranda warning.
2. The video taping did not follow the standard practice of having both the deaf man's and the interpreter's communication captured on tape. Because of the angle of the camera, only the deaf man's communication was captured. Interpreters training to become legal interpreters are all taught to follow the standard practice of videotaping the communication of both the deaf person and the interpreter. Advising the police department and/or investigators of this standard practice is part of the role and responsibility of the legal interpreter, in this case, Ms. XX.
3. The interpreter, Ms. XX, did not use consecutive interpretation during the interrogation. She also did not offer this option to the investigators. Instead, she used simultaneous interpreting during the nearly two hours of interaction between the deaf man and the police investigators. Consecutive interpreting is standard practice for experienced legal interpreters, is strongly advocated by most nationally recognized teachers of legal interpreting, and is especially well suited to the basic question and answer format used during the interrogation. In the analysis of the ASL-to-English translation of the interrogation, Ms. Witter-Merithew identified over 80+ miscues/errors, a great deal of hesitancy, false starts and tag repairs. These flaws could have been reduced or eliminated altogether if Ms. XX has used consecutive interpreting.
4. Team interpreting was not used during the interrogation. Due to the length of the assignment, the level of complexity, number of participants involved, and the seriousness of the situation, team interpreting should have been used. In Denver, it is standard practice to use a team of interpreters on legal matters exceeding one hour in length. At no point during the interrogation, was this acknowledged nor mitigated by Ms. XX. This illustrated a lack of self-monitoring on the part of the interpreter.
5. A deaf interpreter was not used as a relay interpreter during the interrogation. If a deaf interpreter had been used, it would have resulted in consecutive interpretation and the overall accuracy and reliability of the interpretation would have been enhanced. All legal interpreters are aware of deaf interpreters and should advocate the use of deaf interpreters. Ms. XX did not do this.

In July 2007, the deaf man filed a complaint with the National Registry of Interpreters for the Deaf (RID). However, RID turned down the request to investigate the performance of Ms. XX during the police interrogation because the complaint was filed more than 90 days past the date of the incident. This was unfortunate, because information from the interrogation was not shared with the deaf man and his lawyer until 5 months after the interrogation and Ms. Witter-Merithew's analysis of Ms. XX's performance did not become available until 7 months after the incident. This illustrates the difficulties that deaf people have in utilizing resources such as RID's Ethical Practices System procedures in addressing grievances against one of their interpreters. There is a need to improve the performance, awareness, and accountability among legal interpreters in the State of Colorado. A significant issue that came up during this situation is that some legal interpreters, including Ms. XX, are not attending the annual legal interpreting workshop as required. Information in this field are continuously changing and updated. Legal interpreters would be derelict in their professional responsibility if they do not keep themselves apprised of changes in the legal interpreting field.

The deaf man is currently incarcerated in Canon City. His sentence is 8 years with the possibility of parole. However, Ms. XX continues to work as a free lance interpreter in the State of Colorado.

7.

***** The following story was originally an oral presentation in American Sign Language, the presentation was then interpreted and transcribed by a nationally certified interpreter. *****

I'd like to share with you an experience I had at the Social Security Administration office.

When I first moved to the area, my husband and I made an appointment to transfer our case to the local SSA office. Prior to our appointment, we advised the person handling our case that we were Deaf and would require interpreting services.

The day of the appointment, we sat down with the SSA representative as well as the interpreter. Immediately my husband experienced difficulty communicating with the interpreter. It seemed as though the interpreter didn't have the receptive skills necessary to interpret for this appointment. My husband sensed this and asked the interpreter if he should sign slower so she might be better able to comprehend what he was saying. The interpreter was visibly shaken by this request. At this point I asked the interpreter if she was certified, to which she became defensive and danced around the question. It was clear to my husband and me that she wasn't able to comprehend what was being signed, and the communication process as a whole was not effective. My concern was that the SSA representative would receive incorrect information because the interpreter misunderstood what was being signed. The interpreter finally answered our previous question, indicating that she was certified. Her defensive attitude clued me into the fact that she might not have truly held a certification.

Next the interpreter started to speak with the SSA representative without signing. I asked her to interpret what was being said and she told me the conversation was just between her and the SSA rep. I expressed to her how unprofessional this behavior was, to which the interpreter responded, "I can't interpret for the two of you because it has become uncomfortable. Do your best to write back and forth with the representative for the rest of your appointment." With that, the interpreter left. All of this because we inquired as to whether or not the interpreter was certified.

After the interpreter left, we went ahead and finished the meeting using pen and paper to communicate. This was especially frustrating since we initially had an interpreter there who simply became too agitated to finish the appointment. When we arrived home, we did some research and found the interpreter was NOT certified. A government agency, of all places, should be able to provide a certified interpreter.

I felt it important to share this experience with you for your efforts. Thank you.

8.

***** The following story was originally an oral presentation in American Sign Language, the presentation was then interpreted and transcribed by a nationally certified interpreter.*****

Hello! I would like to share with you two of my encounters with interpreters that I feel would be important to take into consideration when reviewing the proposal from CQSI. These incidents illustrate how the rights of Deaf individuals, specifically in a college setting, are not being protected.

The college I attended had a great group of people on staff; however, there were 2 specific interpreters that didn't have the skills necessary to interpret in that setting. The first of these two interpreters was an individual who interpreted in my anthropology class, which was a difficult class. The interpreter was unable to interpret the teacher's lecture accurately and clearly". It was obvious to me that the interpreter was deleting concepts during the interpretation process and unable to match the pace of the instructor. The interpreter also used an English based sign system rather than ASL. Since I am an ASL user, this made it even harder for me to grasp the course content and it ultimately put the task of interpreting the teacher's lecture from English to ASL on me, this was a task in addition to trying to grasp the course content. It was an extremely frustrating experience. I approached the interpreter coordinator and requested a change of interpreter for the class and the coordinator agreed to this, so I assumed for the next class another interpreter would be providing communication access. When I attended the next class, much to my chagrin, the same interpreter was there. I again spoke with the interpreter coordinator and was told I needed to give the interpreter another chance. Clearly there was no regard for my right to effective communication! Essentially being told to "put up" with the current interpreter not only made it difficult to succeed in the class, but wasn't conducive to my success in the future.

The second interpreter with which I had difficulties was a nice person, but much like the previously mentioned interpreter, he used the same interpreting approach.. He presented the information to me, using an English based sign system, which was less than effective for me, being a strong ASL user. This was another challenging class, Humanities. I again contacted the interpreter coordinator whose response remained the same, "Give the interpreter another chance." I am very supportive of interpreters who are new to the profession, and I am willing to work with them as they gain experience. This specific interpreter however was seasoned enough that he should have been able to handle the content. There was no excuse for his sub-par performance, specifically in regards to his receptive skills. He was clearly NOT qualified!

So again, I feel examples like these indicate why CQSI should continue its work, and the legislature should proceed with the implementation of a law to prevent these situations in the future. So the Deaf community as a whole has access to effective communication not only to succeed in the classroom, but also to have opportunities in the world of employment.

Thank you for your time and attention.

9.

June 21, 2005

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.

10.

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.

11.

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.

12.

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.

13.

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.

14.

It was brought to my attention about this particular "translation" agency is hiring "signers" to provide interpreting services. "The recruiter indicated that the state law does not require medical interpreters to be certified". This particular individual who brought this to my attention is not an interpreter but knows sign language and was asked by the One World to provide interpreting services for the company!

<http://www.oneworldtranslation.com/languages.html>

With permission, I am forwarding it to your attention:

FYI, these turkeys are recruiting one of my home health aides (who is a family member of a deaf individual who doesn't use ASL, but more SEE combined with home signs -- the family member is not fluent in ASL at all) to be a medical interpreter. These people told my aide that state law does not require medical interpreters to be certified, so I guess it doesn't matter that this person has no interpreting training, let alone language fluency. - Carrie

15. Additional submissions:

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 one-fifth of what was communicated. This one-fifth 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 phenomenon 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 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.