

HOUSE BILL 2433

By Towns

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 63; Title 68, Chapter 1, Part 1 and Title 71,
Chapter 4, Part 21, relative to interpreters for the
deaf and hard of hearing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-237(a), is amended by adding the following language as a new, appropriately designated subdivision:

() Board of licensing of interpreters for the deaf and hard of hearing;

SECTION 2. Tennessee Code Annotated, Title 63, is amended by adding the following language as a new chapter thereto:

63-32-101. This chapter shall be known as the "Interpreters for the Deaf and Hard of Hearing Licensure Act."

63-32-102. As used in this chapter:

(1) "Board" means the board of licensing of interpreters for the deaf and hard of hearing;

(2) "Client" means a deaf or hard-of-hearing person who agrees to receive any professional service from a licensee;

(3) "Deaf person" means a person whose sense of hearing is nonfunctional for the purpose of communication and whose primary communication is visual;

(4) "Hard-of-hearing person" means a person who has a hearing loss, who may or may not primarily use visual communication, and who may or may not use assistive devices;

(5) "Interpreter" means a person who provides any of the following services:

(A) English-based transliterating, which includes but is not limited to conveying a message via visible representations of the English language such as manually coded English and oral transliteration. This process conveys information from one mode of English to another mode of English;

(B) American Sign Language-based interpreting, which is the process of conveying information between American Sign Language and English; and

(C) Intermediary interpreting, which means interpreting services rendered by a deaf person to facilitate communication between another deaf person and another licensed interpreter or between two (2) or more deaf persons;

(6) "Interpreting" means the process of providing accessible communication between and among persons who are deaf, oral deaf, hard-of-hearing, and who can hear, who do not share a common means of communication. This process includes, without limitation, interpreting and transliterating and visual, gestural, auditory, and tactile communication;

(7) "Licensee" means any person to whom a license has been issued pursuant to this chapter; and

(8) "Oral deaf" means a person whose sense of hearing is nonfunctional for the purpose of communication and whose primary communication is by speech reading and spoken English.

63-32-103. Nothing in this chapter shall be interpreted to limit or restrict a health care practitioner licensed under this title from engaging in the full scope of practice of the person's profession.

63-32-104.

(a) There shall be a board of licensing of interpreters for the deaf and hard of hearing, to consist of nine (9) members and to be appointed as follows:

(1) The governor shall appoint one (1) member from each grand division of the state;

(2) The speaker of the house of representatives shall appoint one (1) member from each grand division of the state; and

(3) The speaker of the senate shall appoint one (1) member from each grand division of the state;

(b) The board shall consist of:

(1)

(A) Four (4) licensed interpreters, at least two (2) of whom are national level licensees, who may be appointed from lists of qualified persons submitted by the Tennessee council for the deaf, deaf-blind and hard of hearing, created in § 71-4-2102; and

(B) Five (5) consumer members, including three (3) deaf persons, who may be appointed from lists of qualified persons submitted by interested deaf groups including, but not limited to, the Tennessee Association of the Deaf, one (1) consumer of oral interpreting services, and a non-deaf member of the public not licensed in accordance with this chapter.

(2) In appointing members to the board, the appointing authorities shall consult with the interested deaf, deaf-blind and hard of hearing groups to determine qualified persons to fill the positions.

(c) Each licensee member appointed to serve on the board shall:

(1) Be a resident of this state for at least one (1) year immediately preceding appointment;

(2) Be licensed in accordance with this chapter and in good standing with an unencumbered license;

(3) Be currently engaged in the practice of interpreting for the deaf and hard of hearing; and

(4) Have no less than five (5) years of experience as an interpreter for the deaf and hard of hearing.

(d) The consumer members appointed to the board shall be residents of this state for at least one (1) year immediately preceding their appointment;

(e) No member of the board shall serve concurrently in an elected, appointed, or employed position in any other state-level organization representing interpreters for the deaf, if it would present a direct conflict of interest.

(f) A vacancy on the board shall be filled for the unexpired term by appointment by the appointing authorities in such a manner to ensure the requirements of this chapter are met.

(g) In making appointments to the board, the appointing authorities shall strive to ensure that at least one (1) person serving on the board is sixty (60) years of age or older and that at least one (1) person serving on the board is a member of a racial minority.

(h)

(1)

(A) Appointments to the board shall be for a term of three

(3) years, except that one (1) of the initial interpreter members and

one (1) of the initial consumer members shall serve one-year terms, and one (1) of the initial interpreter members and one (1) of the initial consumer members shall serve two-year terms.

(B) A member shall hold office until a successor has been appointed and qualified.

(C) No member may serve more than two (2) consecutive terms. At least three (3) years shall lapse before a member may be reappointed to the board or may serve in any capacity associated with the board.

(D) Initial interpreter member appointments to the board shall be required to be licensed under this chapter, as of January 1, 2015.

(2) Members of the board shall be removed by their respective appointing authority for malfeasance, misfeasance, or nonfeasance pertaining to the duties of the board.

(3) The board shall review and take action on all applications for licensure, renewal, and reinstatement licenses for interpreters for the deaf and hard of hearing.

(i) Each member of the board is entitled to reimbursement for per diem and travel expenses incurred in the performance of official duties in accordance with the state comprehensive travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(j)

(1) Five (5) members of the board shall constitute a quorum for a meeting.

(2) No action of the board shall be valid unless authorized by the affirmative vote of a majority of members present.

(3) The board shall meet quarterly for the purpose of examining and certifying applicants for licenses and at any time when requested by a majority of the board.

(k) The board shall be administratively attached to the division of health related boards.

63-102-105. The powers and duties of the board include:

(1) Accepting applications for licensure under this chapter, and approving or denying such applications;

(2) Approving and enforcing performance requirements, including education and examination standards, for interpreters for the deaf and hard of hearing;

(3) Suspending or revoking licenses and conducting investigations and hearings regarding the denial, suspension, revocation, and renewal of licenses;

(4) Adopting a code of professional conduct for licensees;

(5) Renewing licenses for interpreters for the deaf and hard of hearing;

(6) Maintaining a directory of all licensed interpreters for the deaf and hard of hearing. The directory shall be updated, published, and shall be offered for sale to the public at a fee to be equal to the cost of reproduction;

(7) Accepting written complaints from the public against licensees, conducting necessary investigations of such complaints, and publicizing the complaint procedure;

(8) Accepting funds from federal and other non-state sources to be used for the purposes of this chapter;

(9) Cooperating with the Tennessee Registry of Interpreters for the Deaf, the Tennessee Association of the Deaf, Self Help for Hard of Hearing, Inc., the League for the Deaf and Hard of Hearing & Ear Foundation in Tennessee, the department of education, division of vocational rehabilitation, and interpreting agencies to provide access to the services of interpreters to persons communicating with deaf and hard of hearing persons; and

(10) Reporting to the governor and council annually on the activities conducted in accordance with this chapter.

63-32-106. The commissioner or the commissioner's designee shall promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to administer the provisions of this chapter, including, but not limited to:

(1) License and application fees, renewal fees, and any other fees required under this chapter which shall be determined by the division of health related boards but shall not exceed the costs of investigations, disciplinary actions and administering the registration process for licensed interpreters for the deaf;

(2) The conditions under which an applicant from another jurisdiction may be issued a license;

(3) Requirements for continuing professional education and competency of interpreters for the deaf and hard of hearing;

(4) The contents of the code of professional conduct, and the application of the code to the provision of services by interpreters;

(5) Expiration of licenses; and

(6) The conduct of investigations and hearings under this chapter, consistent with due process requirements.

63-32-107. An application for licensure under this chapter shall be filed with the board in the form and detail as required in accordance with rules adopted pursuant to § 63-32-106, shall be signed and verified, and shall be available for public inspection.

63-32-108.

(a) Nothing in this chapter shall be construed to prohibit a student enrolled in a school or courses in interpreting for the deaf and hard of hearing from interpreting for the deaf which is incidental to a course of study of supervised field work.

(b) Nothing in this chapter shall prohibit persons registered or otherwise licensed in this state under any other law from engaging in the practice for which they are registered or licensed.

63-32-109.

(a)

(1) On and after July 1, 2015, any person who engages in the practice of interpreting for the deaf and hard of hearing shall be licensed as provided in this chapter. It shall be unlawful for any person to engage in the practice of interpreting for the deaf and hard of hearing after July 1, 2015, unless the person has been duly licensed as an interpreter for the deaf and hard of hearing in accordance with this chapter.

(2) Prior to July 1, 2015, any person who is engaged in the practice of interpreting for the deaf and hard of hearing without being licensed under this chapter shall not be deemed to be in violation of this chapter.

(b) A person seeking licensure as an interpreter for the deaf and hard of hearing shall be of good moral character, shall be at least eighteen (18) years of age, shall pay the fees established by the board for licensure, and shall present proof that the person meets all of the following requirements:

(1) Possess the minimum standards of performance and training pursuant § 63-31-106;

(2) Demonstrate sufficient evidence of good professional character and reliability to satisfy the board that the applicant shall faithfully and conscientiously avoid professional misconduct and otherwise adhere to the requirements of this chapter; and

(3) If applicable, submit proof of licensure in another state in which the licensure requirements are equivalent to or greater than those in this chapter.

(c)

(1) A license shall be restored after a period of nonrenewal of less than two (2) years, if the person pays to the board a restoration fee consisting of the current renewal fee plus any late fee established by rules promulgated by the board, and submits such evidence of continued professional competence and eligibility for licensure as the board may require.

(2) Any person who fails to renew a license within three (3) years after its expiration date may apply for and obtain a new license upon meeting the requirements of this chapter and paying to the board the appropriate fee.

63-32-110. The board may waive licensure requirements for an applicant who is licensed by another jurisdiction where the requirements for licensure are greater than or equal to those required in this state.

63-32-111. No person shall:

- (1) Fail to comply with an order of the board pursuant to this chapter; or
- (2) Fail to comply with a rule promulgated pursuant to this chapter.

63-32-112. An interpreter for the deaf and hard of hearing seeking reinstatement of a suspended license shall submit the following to the board:

- (1) A written request to the board explaining the appropriateness of reinstatement of the license;
- (2) The required license or application fee; and
- (3) Evidence of competency to practice as established by the board, which shall include continuing education or training, passage of an examination, and practice under the supervision of another licensed interpreter for a period of time set by the board.

63-32-113. Every person licensed in accordance with this chapter who wishes to renew a license shall, on or before the expiration date of the license, pay a fee for renewal of the license to the board. The board shall notify each person licensed under this chapter of the date of expiration of such person's license and the renewal fee required. The notice shall be mailed to such person's last known address as provided to the board at least sixty (60) days in advance of the expiration date of the license. Renewals are contingent upon evidence of completing the number of continuing education units established by the board. The continuing education units may be earned by attending professional training or completing approved independent studies and regional in-service programs, as determined by the board.

63-32-114.

(a) Licenses shall be issued and renewed by the board pursuant to the biennial issuance and renewal system of the division of health related boards.

(b) Any person who has been issued a license to practice under this chapter who wishes to retire that license shall file with the committee an affidavit on a form to be furnished by the committee stating the date on which the person retired from practice and other facts that verify the retirement as the board deems necessary. Any such person who thereafter wishes to reenter practice shall request reinstatement of licensure.

(c) Any license issued by the board shall contain the name of the person to whom it is issued, the address of the person, the date and number of the license and other information that the board deems necessary. The address contained on the license shall be the address where all correspondence and renewal forms from the board shall be sent. Any person whose address changes shall, within thirty (30) days after the change in address, notify the board of the address change. The most recent address contained in the board's records for each license holder shall be the address deemed sufficient for purposes of service of process.

(d) Every person issued a license pursuant to this chapter shall either keep the license prominently displayed in the office or place in which the person practices or have it stored in a place from which it can be immediately produced upon request of a patient or representative of the department of health.

(e) Any person whose license has been lost may make application to the board for a replacement. The application shall be accompanied by an affidavit setting out the facts concerning the loss of the original license.

(f) Any person whose name is changed by marriage or court order may surrender the person's license and apply to the board for a replacement license.
63-32-115.

(a) The board has the power to impose any sanctions on a licensee, up to and including license revocation, if the licensee is found guilty of violating any of the provisions of this chapter or of committing any of the following acts or offenses:

(1) Making false or misleading statements or committing fraud in procuring a license;

(2) Moral turpitude;

(3) Habitual intoxication or personal misuse of narcotics, controlled substances, controlled substance analogues or any other drugs or the use of alcoholic beverages or stimulants in a manner that adversely affects the person's ability to engage in the practice of interpreting for the deaf and hard of hearing;

(4) Conviction of a felony or of any offense involving moral turpitude or any violation of the drug laws of this or any other state or of the United States;

(5) Violation or attempted violation, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate, this chapter or any lawful order of the board or any criminal statute of this state;

(6) Gross health care liability, ignorance, negligence or incompetence in the course of professional practice;

(7) Making or signing in one's professional capacity any document that is known to be false at the time it is made or signed;

(8) Engaging in the practice of interpreting for the deaf and hard of hearing when mentally or physically unable to safely do so;

(9) Making false statements or representations or being guilty of fraud or deceit in the practice of interpreting for the deaf and hard of hearing when mentally or physically unable to safely do so;

(10) Having disciplinary action imposed by another state or territory of the United States for any acts or omissions that would constitute grounds for discipline of a person licensed to practice as an interpreter for the deaf and hard of hearing in this state; provided, that a certified copy of the order or other document memorializing the disciplinary action by the other state or territory constitutes prima facie evidence of a violation of this section;

(11) Undertaking any duties that are outside the authorized scope of practice of a licensed interpreter for the deaf and hard of hearing, as set forth in this chapter;

(12) Violating the code of ethics adopted by the board for interpreters for the deaf and hard of hearing;

(13) Use or attempted use of any procedure or equipment for which the licensee has not received sufficient education or training in the proper use of the procedure or equipment;

(14) Promoting the sale of services, drugs, devices, appliances, or goods to a client to exploit the patient for financial gain;

(15) Willfully failing to file, or willfully impeding the filing of, any report or record that is required by law;

(16) Knowingly engaging in the practice of interpreting for the deaf and hard of hearing with an unlicensed person, knowingly aiding an unlicensed person in the practice of interpreting for the deaf and hard of hearing, or knowingly delegating a task involved in the practice of interpreting for the deaf and hard of hearing to an unlicensed person;

(17) Knowingly failing to meet appropriate standards for the delivery of services as an interpreter for the deaf and hard of hearing;

(18) Breaching client confidentiality;

(19) Paying or agreeing to pay any sum or providing any form of remuneration or material benefit to any person for bringing or referring a patient, or accepting or agreeing to accept any form of remuneration or material benefit from a person for bringing or referring a client; or

(20) Any other unprofessional or unethical conduct specified in the rules of the board.

(b) Whenever a final order is issued after a disciplinary contested case hearing that contains findings that a licensee or other person has violated any provision of this chapter, the board may assess the costs directly related to the prosecution of the case against the licensee or person pursuant to duly promulgated rules.

(c) Any contested case hearing held pursuant to this section shall be conducted in compliance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) No person licensed under this chapter shall continue to practice as an interpreter for the deaf and hard of hearing while the person's license is suspended or revoked.

(e) At any time, the parties in a complaint, with the cooperation of the board, may refer a matter to conflict resolution or mediation services, provided that any proposed resolution of a complaint shall be subject to the approval of the board.

63-32-116. Any person who engages in the practice of interpreting for the deaf and hard of hearing in violation of this chapter is guilty of a Class B misdemeanor.

63-32-117.

(a) The board shall have the authority to petition any circuit or chancery court having jurisdiction over any person who is practicing without a license, or to whom a license has been denied, or whose license has been suspended or revoked by action of the board, to enjoin the person from continuing to practice within this state.

(b) Jurisdiction is conferred upon the circuit and chancery courts of this state to hear and determine all causes brought under subsection (a) and to exercise full and complete jurisdiction in the injunctive proceedings.

63-32-118. Any person who is licensed to engage in the practice of interpreting for the deaf and hard of hearing in this state shall have the right to use the title "interpreter for the deaf and hard of hearing". No other person may use the title or any other words indicating that the person is an interpreter for the deaf and hard of hearing.

63-32-119. The board shall take no disciplinary action without a hearing. At least fourteen (14) days prior to a hearing, both parties to a disciplinary proceeding shall be served, either personally or by registered mail, with a written copy of the complaint filed and notice of the time and place for hearing. All complaints shall be objectively received and fairly heard by the board, but no complaint shall be acted upon unless in writing or formally presented to the board. A hearing shall be held on all formal

complaints received by the board within three (3) months of the date notice of a complaint was received by the accused, unless otherwise agreed to by the parties. Official notice of all disciplinary decisions made by the board shall be given to both parties to the proceeding upon their issuance.

63-32-120. The board shall maintain a record of its proceedings under this chapter and a directory of all persons licensed under this chapter. The directory shall list the name and last known business address for each licensee, and may include such other information as the board deems necessary.

SECTION 3. Tennessee Code Annotated, Section 68-1-101(a)(8), is amended by adding the following language as a new subdivision:

(EE) Board of licensing of interpreters for the deaf and hard of hearing;

SECTION 4. For the purpose of promulgating rules and regulations, this act shall take effect July 1, 2014, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2015, the public welfare requiring it.