

LATE

Marcella Alohalani Boido, M. A.

Hawaii State Judiciary Certified Spanish Court Interpreter

Telephone: 808/946-2558

E-mail: boido@hawaii.edu

TO: Sen. Rosalyn H. Baker, Chair; Sen. Clarence K. Nishihara, Vice-chair
Members, Senate Committee on Commerce, Consumer Protection, and Health
Sen. Gilbert S. C. Keith-Agaran, Chair; Sen. Karl Rhoads, Vice-chair
Members, Senate Committee on Judiciary and Labor

FROM: M. Alohalani Boido, M. A.
Hawaii Judiciary Certified Spanish Court Interpreter, Tier 4

HEARING: February 10, 2017, 8:30 a.m., Rm. 016

RE: **OPPOSE, SB 973**, Relating to licensing of ASL interpreter referral agencies

Good morning. I am Marcella Alohalani Boido, a certified Spanish/English court interpreter. I am a founding member of Hawaii Interpreter Action Network (HIAN) and Hawaii Interpreters and Translators Association (HITA). Starting in 1989, I have been serving as a court interpreter.

Although I am both the president of HIAN and its Legislative Action Committee chair, I am submitting this as an individual. My ASL colleagues have their own professional associations.

Testimony from the Disability and Communication Access Board (“DCAB”) on HB 1107, the companion bill, is that DCAB wants these bills deferred so that SCR 32 can lead to a sunrise study, as required by law.

If it is only ASL agencies that are the targets of licensure, then the first steps are those outlined by Isle Interpret in the section titled “Alternative solutions to licensure” in their testimony.

Those are good steps to take, no matter what.

If there is to be licensure of agencies, then license them all, or license none. Do not pick on ASL specialized agencies. There are only two (2) such agencies in Hawaii.

Shamefully, government offices do not always pay timely, nor hire and pay in accordance with credentials—and the Legislature has some responsibility for this. If the Legislature would be pleased to ensure timely payment to interpreters, then I would like you to know that the Hawaii Judiciary has a lengthy record of late payment. That may be partially due to staff

shortages. I don't work much in court, but in 2016 they paid me late twenty-three (23) times. Thanks to the Legislature keeping the State Public Defenders constantly short on money, the PDs do not hire consistently in accordance with the tier system of credentials. The PDs always pay late, by three (3) to six (6) months.

The Honolulu City & County Prosecutor contracts interpreters through Bilingual Access Line ("BAL"), which neither hires nor pays in accordance with test-based credentials. Some interpreters, including some of the most highly credentialed, will not work for BAL or the PDs because of this. The Prosecutors hired me directly, and then paid me late, and only after I went to the Ombudsman's Office for help. Another colleague asked the Ombuds for help. Without doing any meaningful research, they told her she had been paid. It took her eighteen (18) months to collect. These problems are chronic and go back many years.

SB 973 was not written nor intended to pass this year. Please defer this bill. Thank you.

Discussion

Missing data. Is DCAB tracking complaints? DCAB should provide data, as follows:

- number and type of complaints received, by year,
- names of agencies mentioned,
- whether the agency or agencies specialize in ASL services or not,
- whether or not the agencies are physically located in Hawaii.

There is no clear-cut division between referral agencies or Language Service Provider (LSP) agencies that provide only ASL services, those specializing in ASL but providing some spoken language services, or agencies largely providing spoken language interpreters and/or translators and some ASL services. Obviously DCAB would only deal with bills relating to ASL.

No special funds. Locally, there are only two (2) agencies specializing in ASL, and four (4) large agencies specializing in spoken languages. There are around forty (40) smaller spoken language agencies. Some of the smaller ones are probably one-person shops. This is too small a

group to sustain a special fund. Even if the larger agencies could afford the fees, the smaller ones probably cannot.

Six (6) major local agencies. Major differences.

- The two (2) local specialized ASL agencies are owned and run by highly credentialed ASL interpreters.ⁱ
- None of the people managing or owning the other big four (4) spoken language agencies holds a nationally recognized interpreter or translator credential.ⁱⁱ
- None of the “Big Four” spoken language agencies hire from highest level credential to lowest, nor do they necessarily pay more to interpreters with a higher level credential.

Hawaii or non-Hawaii agencies. The Legislature should investigate what can be done to license agencies physically located outside of Hawaii, but employing, contracting, or sub-contracting interpreters in Hawaii. *Some* of these agencies are among the worst offenders in terms of paying late.ⁱⁱⁱ *Some* also have severe ethics problems, such as conditioning payment to interpreters on revealing confidential medical information.

Interpreters providing services from outside Hawaii. The bill fails to address the situation of ASL and other interpreting services provided to Hawaii residents by interpreters living outside of Hawaii, but providing services via Video Relay Interpreting (VRI), telephone, or other means. The Legislature and the Executive should carefully inquire about how, or even if, Hawaii can go about controlling this group for adherence to standards of credentialing and ethics.

Complexities. Consider the type of services provided, and to whom or what. Some agencies outside Hawaii specialize in providing interpreters for conferences. Some agencies outside Hawaii are on the General Services Administration (“GSA”) list. Some hold specialized federal contracts, such as providing in-person or telephonic interpretation for Executive Office for Immigration Review (“EOIR”) hearings, sometimes called “immigration court.”^{iv} Some hold other specialized contracts.

Standards for remedies. Licensing should be funded from Hawaii State general funds. Remedies other than and potentially additional to licensing should be explored and considered for implementation. **Remedies:**

- **should be tailored to the size and nature of the perceived problem, based on data,**
- **should not necessarily replicate already existing remedies, and**
- **should not make matters worse.**

Funding remedies. A special fund would be too costly. Hawaii’s population of ASL and other types of agencies serving the needs of our complex local community cannot sustain the costs of funding any licensure program. The additional hassle may not be well received, either. For interpreters to pay for such a program, they will have to raise their rates. The government sector is a major user of these services. **It is already very difficult and costly to attract, train, credential, and retain interpreters in any language combination in Hawaii.**

Multiple avenues and remedies are already available.

- **Complaints.** There are already multiple avenues for people to express their complaints. I have compiled a partial list.^v DCAB, the ASL referral agencies, Language Service Provider (LSP) agencies, the Hawaii State Office on Language Access (“OLA”), other government offices, and individual interpreters with a web site could refine and publish similar lists.
- **Codes of ethics, performance, and procedure.** They can also publish the applicable federal, state or nationally recognized codes of ethics, procedures, and performance. Careful distinctions need to be made between legal, healthcare, and community interpreting—their codes and standards are different. ASL and spoken language codes may also differ.

Consumer education, preventing unfounded complaints, appropriately channeling reasonable complaints, and next steps. Sometimes there are people who want to complain about an interpreter or agency because they feel it is not safe to complain about someone else. Many do not understand our role and our role boundaries. Some complaints have a solid basis in fact. (I limit myself here to what I know about spoken language “interpreters.”) One way to deal with this is to provide the people who work with interpreters, regardless of the reason for needing an interpreter, or the communication method or language used, with good information about:

- appropriate expectations about interpreter services, including a copy of the relevant Code of Ethics, Standards of Procedure or Performance, or whatever it is called;
- how to work with interpreters,^{vi} and
- the various avenues available for complaints. (See relevant end note.)

This is something that DCAB, other relevant government offices, referral agencies, LSP agencies, and others can do right now. It can be done in leaflets, in multiple languages, in Braille, and in videos with captions and ASL interpretation on web sites.

Conclusions. Interpreting is a profession. There are very few local agencies working in this area. Their services can be of great value to our community. We need to look for ways to make things *pono* without becoming unnecessarily adversarial, complicated, or expensive. In short, we need some reflection, discussion, and creativity.

In 2007, under pressure from the Legislature, the Hawaii Judiciary began to offer us the opportunity to take our oral certification exams. I passed my exam. That makes me one of ten (10) certified spoken language court interpreters in Hawaii. I would like to extend my heartfelt gratitude to all the legislators and others who made this possible.

Suggestions: Deferring this bill for now could make possible another step forward. Hear SCR 32 so that DCAB can speak their say, and in order for the Legislature to hear further from the community. Then defer SCR 32, too, so more thinking can be done.

Background Information and End Notes

Note: Public airing of dirty linen ahead

ⁱ The two major ASL agencies are Hawaii Interpreting Services and Isle Interpret. Respectively: <http://interpretinghawaii.com/> and <http://www.isleinterpret.com/>. Language Services Hawaii, LLC, also offers ASL. <http://www.languageserviceshawaii.com/>.

ⁱⁱ **None of the following agencies which specialize in spoken languages necessarily hire in accordance from highest level credential to lowest, nor do they pay more to interpreters with**

a higher level credential. The two major agencies which are legally non-profit compete with at least one of the for-profit agencies, Language Services Hawaii, LLC, for certain contracts, such as those from hospitals. Since the two legal non-profits have brick-and-mortar expenses, their expenses are higher. Consequently, they have lost some contracts, or lost their first-place status in the order by which organizations such as hospitals may call upon them for services. They may also pay interpreters less than the two for-profit agencies. So, they have trouble attracting and retaining the more credentialed interpreters.

- Non-profits. There are two local non-profits providing spoken language services, Pacific Gateway Center and Helping Hands Hawaii's Bilingual Access Line ("BAL"). Both are running their interpreter services as a profit center to pay for other services.
- For-profit. There are two major local for-profit agencies. East-West Concepts, Inc. is owned by Kriztina Samu, who inherited the business from her father a few years ago. (<http://www.eastwestconcepts.com/>). Language Services Hawaii, LLC, is owned by Dr. Suzanne Richardson Zeng, Ph.D. Her web page says she provides ASL services. (<http://www.languageserviceshawaii.com/>).

ⁱⁱⁱ **Late payment and ethics can be extremely problematic.** In 2010, I wrote an article about preventing late payment, because of severe problems with mainland LSPs. I gave the article to the Association of Translators and Interpreters of Florida, Inc., a professional association, because the worst agencies I knew about were in Florida. They published it in their newsletter, *Speaking Out*, Vol. 3/1, Winter 2010/2011. My experience is that the ethics problems, such as conditioning pay on interpreters revealing confidential medical information such as diagnosis, date(s) of next appointment(s), and even medications prescribed, are most severe with Florida agencies. The article has been republished widely since then. Here is one of the URLs.

http://www.imiaweb.org/uploads/docs/Self_defense_Marcella_Alohalani_Boido_MA_2.08.2010.pdf

^{iv} Currently SOSi holds the contract for in-person interpreting at EOIR hearings, and LionBridge holds at least some of the contracts for telephonic interpreting. SOSi's failure to fulfill its contracts and pay interpreters on time has been a national scandal in the media. LionBridge

has subcontracted ISPA, Inc. to provide telephonic interpreting in some languages for EOIR hearings in Hawaii. SOSi: <http://www.sosi.com/>. LionBridge: <http://www.lionbridge.com/>. ISPA, Inc.: <http://ispainc.com/linguisticservices.html>. ISPA, Inc. contact person for Hawaii: Nina L. Pozvonkova, ninap@ispainc.com.

^v Possible avenues for complaints. Each of these organizations has its own *kuleana*. Some of these *kuleana* overlap. A person with a complaint can go through just one avenue to start, or multiple avenues, as they choose.

Consumers and interpreters might begin by simply letting the agency know about their unhappiness with the agency. All of these agencies should make it simple and easy for people to complain. There should be no retaliation. However, it is a risk, because some agencies will not give work to an interpreter who has complained.

Hawaii State Office on Language Access ("OLA") <http://health.hawaii.gov/ola/>.

Unfortunately, OLA does not always use the most highly credentialed or most appropriate interpreters, either. Witness their Annual Conference in 2016, where Mandarin interpreters without any nationally recognized credentials were used to interpret for two people for whom Cantonese is their first language. If Mandarin was going to be imposed on these two people, OLA should have hired one of Hawaii's certified Mandarin interpreters.

Hawaii State Office of Consumer Protection <http://cca.hawaii.gov/blog/office-of-consumer-protection/>

Hawaii Civil Rights Commission If a person thinks they are being discriminated against by either the denial of services, or the provision of inadequate services or inappropriate services, the Commission may be able to help. <http://labor.hawaii.gov/hcrc/>

Hawaii State Office of the Ombudsman The Ombudsman *might* help if a consumer feels that a covered government office failed to contract a competent, ethical agency, or

provided a category of interpreter that does not fit the needs of the person.

<http://ombudsman.hawaii.gov/>

Hawaii State Judiciary Office on Equality and Access to the Courts (“OEAC”). The OEAC might help if the complaint is about an interpreter provided by an agency to work in Hawaii State courts. A long-standing problem is that some circuits do not always hire in accordance with the tier system of credentials, either. Although the Hawaii Judiciary does not have an interpreter disciplinary procedure yet, much less one for agencies, it is better to inform the OEAC than not to inform them. Oddly, no TTY is provided.

(http://www.courts.state.hi.us/services/court_interpreting/court_interpreting)

Hawaii Better Business Bureau <https://www.bbb.org/hawaii/>

Healthcare interpreting When an interpreter was provided in a medical setting such as an office, clinic, or hospital, the complaint can be made to the office, clinic, or hospital. Many hospitals have an office specifically for dealing with patient complaints.

When the agency was contracted by an insurance company, the patient or interpreter can complain to the insurance company.

The U. S. Department of Justice has a Civil Rights Division (<https://www.justice.gov/crt>) and a Disability Rights Section (<https://www.justice.gov/crt/disability-rights-section>).

In extreme cases, a person can sue.

^{vi} A good example of a leaflet in multiple languages on how to work with an interpreter is the Hawaii State Judiciary’s *“How to use a court interpreter.”* I would prefer “work with” to “use.” Communicating through an interpreter is an informed, cooperative effort by all participants.
http://www.courts.state.hi.us/services/language_assistance_services

JAN L. FRIED • American Sign Language/English Interpreter

• RID Certified-IC, CI, CT • Educator • Consultant •

09 February 17

LATE

Twenty-ninth Legislature of the State of Hawai'i, 2017

To: Senator Rosalyn Baker, Chair
Senator Clarence Nishihara, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair
Senate Committee on Judiciary and Labor

Fr.: Jan Fried

Re: Testimony *Opposing SB 973, Relating to American Sign Language Interpreter Referral Agencies* (Hearing on **SB 973**, 10 February 2017; 8:30am, Conference Room 016)

Aloha. I am opposed to **SB 973** for several reasons: it is confusing, unnecessary, not the most effective way to address the concerns mentioned in the Bill's introduction, and in some cases may delay or prevent Deaf consumers from having interpreters for communication needs. My response to **SB 973** comes from my perspective as a professional American Sign Language/English interpreter who has worked with numerous interpreter referral agencies, a member and past president of the Hawai'i Registry of Interpreters for the Deaf, an interpreter educator who prepares college students to become American Sign Language/English interpreters, and longtime ally of the Deaf Community.

In the 30 years I have worked with interpreter referral agencies in Hawai'i and on the continent, I have yet to see the need for formal regulation in the manner outlined in **SB 973**. An agency that holds the State Division of Vocational Rehabilitation contract to provide American Sign Language/English interpreter referral in Hawai'i is thoroughly vetted before receiving the contract and continues to be closely monitored in terms of compliance, provision of services, consumer protection and oversight, and ethical and effective business practices. Also, DVR and the current contract holder have mechanisms to address community, consumer and practitioners' concerns. The same can be said for the other locally run ASL/English interpreter referral agency. Appropriately, complaints and concerns can also be raised to the Disability and Communication Board's Communication Access Committee. In my considerable experience as a nationally certified American Sign Language/English interpreter, I know it to be true that the local referral agencies offer assignments first to the most qualified interpreter or the interpreter who the Deaf consumer prefers. Assignment information given to the referred interpreter is confidential, thorough and a point of contact is always provided so the interpreter can seek additional information if needed.

American Sign Language/English interpreters in Hawai'i are independent contractors. When referred for an assignment, it is our responsibility to negotiate the terms of our assignment and payment for services. Should we disagree with the terms or the assignment, as independent contractors, we can choose not to accept that assignment. If a requestor does not pay for services in a timely fashion, it is our responsibility to pursue payment unless the requestor has a contract for services that has been negotiated with the interpreter referral agency. In such situations, the referral agency pays us for services within 30 days even while they await payment.

The language in the proposed **SB 973** may make it more difficult for consumers to receive interpreting services. In one instance it actually contradicts HRS Title 11, Chapter 218-9 that allows Deaf and Deaf-Blind consumers to request an interpreter who does not hold an interpreting credential. There are certain situations when an un-credentialed interpreter is actually the most qualified. Occasionally American Sign Language/English interpreters in Hawai'i are referred assignments from mainland interpreter referral agencies. These agencies typically hold contracts with national insurance companies or other organizations or corporations to provide interpreting services for an insurance-related medical appointment or conference/training. Often these are one-time or short-term assignments that these mainland agencies refer. The process, time involved with and cost of becoming registered to provide a one-time referral may deter some mainland companies from providing interpreters for local Deaf and Deaf-blind people. In such situations, communication needs go unmet.

It is true that some mainland interpreter referral agencies that primarily refer spoken language interpreters may be unaware of Deaf consumers' needs and preferences in Hawai'i. However, the intent of **SB 973** will not rectify this situation and may end up penalizing local referral agencies that do the bulk of referrals and refer interpreters effectively. The end result will make doing business more difficult for them. No one, then, benefits from this legislation.

Is a sunrise study truly necessary? Is this a good use of state dollars? Will licensing interpreter referral agencies benefit the community? The answer to all these questions is "no". In addition to the misunderstanding/mischaracterization of what interpreter referral agencies do and how they operate as a business in the Bill, there are several grammatical errors and capitalization inconsistencies that need to be corrected.

I strongly urge your committees to vote against this bill. *Mahalo.*

CPH Testimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 1:09 PM
To: CPH Testimony
Cc: janfried@gmail.com
Subject: Submitted testimony for SB973 on Feb 10, 2017 08:30AM
Attachments: JanFriedTestimonyAgainstSB973.doc

LATE

SB973

Submitted on: 2/9/2017

Testimony for CPH/JDL on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jan Fried	Individual	Oppose	No

Comments: Mahalo for the opportunity to submit testimony opposing this measure.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 3:47 PM
To: CPH Testimony
Cc: divedeep5444@gmail.com
Subject: Submitted testimony for SB973 on Feb 10, 2017 08:30AM

LATE

SB973

Submitted on: 2/9/2017

Testimony for CPH/JDL on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Bowe Lani	Individual	Oppose	No

Comments: My name is Bowe Lani. I am deaf and a consumer of interpreting services. As a member of Hawaii's deaf community, I respectfully oppose SB 973 RELATING TO AMERICAN SIGN LANGUAGE INTERPRETER REFERRAL AGENCIES for the following reasons: - There are only 2 sign language interpreter agencies in the state of Hawaii - One of these agencies already has a robust grievance system for addressing consumer issues and concerns with interpreters as a part of their contract with the state (Isle Interpret) - Licensure will limit who the agencies can offer work to resulting in consumers NOT receiving qualified deaf interpreters, Hawaii sign language interpreters, and tactile interpreters. It is not okay to take this right away from deaf and deaf-blind consumers. That is not protecting them. I am concerned that these negatives effects will have the most impact on the neighbor islands where we already do not have enough qualified interpreters. The drafters of this bill have not put sufficient thought into how this bill and licensure could harm our unique island state. The bill is written with the intent of protecting ASL consumers, but no one asked the larger deaf community how we feel about this piece of legislation. No input was gathered on how it would affect neighbor islands. The bill is poorly written and unreasonable in content. I respectfully ask that the Legislature consider a changing the wording of DCAB's mandate to expand its interpreter HQAS credentialing system to include a formal grievance procedure that addresses concerns with HQAS interpreters in a similar manner to how RID addresses grievances filed against nationally certified ASL interpreters. These are the reasons I oppose SB 973 and I ask the committee to vote in opposition to this bill and to not support the Senate Concurrent Resolution 32 for a sunrise study to be conducted. Pursuing a sunrise study would be a waste of public time and funds for a licensure measure that the community does not support. Respectfully submitted, Bowe Lani Kaneohe, HI

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 5:20 PM
To: CPH Testimony
Cc: shandon81@gmail.com
Subject: *Submitted testimony for SB973 on Feb 10, 2017 08:30AM*

LATE

SB973

Submitted on: 2/9/2017

Testimony for CPH/JDL on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
SHANDON K SEE	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 10:50 PM
To: CPH Testimony
Cc: lisa2tom@gmail.com
Subject: Submitted testimony for SB973 on Feb 10, 2017 08:30AM

LATE

SB973

Submitted on: 2/9/2017

Testimony for CPH/JDL on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Tom	Individual	Support	No

Comments: My name is Lisa Tom and I am a Deaf resident of Honolulu and consumer of interpreting services. I support the intent of Senate Bill 973, which would regulate interpreter referral services by requiring registration of agencies providing such services to consumers in the State of Hawaii, but there is some content in Senate Bill 973 that needs to be changed. I request that the subject matter of the sunrise review be combined with the previously heard Senate Bill 972. Senate Concurrent Resolution 32 was introduced related to these measures in the Senate version of these bill. Please defer Senate Bill 973 and support Senate Concurrent Resolution 32 requesting a sunrise study to be conducted by the Auditor. Thank you for the opportunity to submit my testimony. Sincerely, Lisa Tom

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 11:24 PM
To: CPH Testimony
Cc: sabina@interpretinghawaii.com
Subject: Submitted testimony for SB973 on Feb 10, 2017 08:30AM
Attachments: SB 973 Testimony

LATE

SB973

Submitted on: 2/9/2017

Testimony for CPH/JDL on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Sabina Wilford	Hawaii Interpreting Services	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE

Marcella Alohalani Boido, M. A.

Hawaii State Judiciary Certified Spanish Court Interpreter

Telephone: 808/946-2558

E-mail: boido@hawaii.edu

TO: Sen. Rosalyn H. Baker, Chair; Sen. Clarence K. Nishihara, Vice-chair
Members, Senate Committee on Commerce, Consumer Protection, and Health
Sen. Gilbert S. C. Keith-Agaran, Chair; Sen. Karl Rhoads, Vice-chair
Members, Senate Committee on Judiciary and Labor

FROM: M. Alohalani Boido, M. A.
Hawaii Judiciary Certified Spanish Court Interpreter, Tier 4

HEARING: February 10, 2017, 8:30 a.m., Rm. 016

RE: **OPPOSE, SB 973**, Relating to licensing of ASL interpreter referral agencies

Good morning. I am Marcella Alohalani Boido, a certified Spanish/English court interpreter. I am a founding member of Hawaii Interpreter Action Network (HIAN) and Hawaii Interpreters and Translators Association (HITA). Starting in 1989, I have been serving as a court interpreter.

Although I am both the president of HIAN and its Legislative Action Committee chair, I am submitting this as an individual. My ASL colleagues have their own professional associations.

Testimony from the Disability and Communication Access Board (“DCAB”) on HB 1107, the companion bill, is that DCAB wants these bills deferred so that SCR 32 can lead to a sunrise study, as required by law.

If it is only ASL agencies that are the targets of licensure, then the first steps are those outlined by Isle Interpret in the section titled “Alternative solutions to licensure” in their testimony.

Those are good steps to take, no matter what.

If there is to be licensure of agencies, then license them all, or license none. Do not pick on ASL specialized agencies. There are only two (2) such agencies in Hawaii.

Shamefully, government offices do not always pay timely, nor hire and pay in accordance with credentials—and the Legislature has some responsibility for this. If the Legislature would be pleased to ensure timely payment to interpreters, then I would like you to know that the Hawaii Judiciary has a lengthy record of late payment. That may be partially due to staff

shortages. I don't work much in court, but in 2016 they paid me late twenty-three (23) times. Thanks to the Legislature keeping the State Public Defenders constantly short on money, the PDs do not hire consistently in accordance with the tier system of credentials. The PDs always pay late, by three (3) to six (6) months.

The Honolulu City & County Prosecutor contracts interpreters through Bilingual Access Line ("BAL"), which neither hires nor pays in accordance with test-based credentials. Some interpreters, including some of the most highly credentialed, will not work for BAL or the PDs because of this. The Prosecutors hired me directly, and then paid me late, and only after I went to the Ombudsman's Office for help. Another colleague asked the Ombuds for help. Without doing any meaningful research, they told her she had been paid. It took her eighteen (18) months to collect. These problems are chronic and go back many years.

SB 973 was not written nor intended to pass this year. Please defer this bill. Thank you.

Discussion

Missing data. Is DCAB tracking complaints? DCAB should provide data, as follows:

- number and type of complaints received, by year,
- names of agencies mentioned,
- whether the agency or agencies specialize in ASL services or not,
- whether or not the agencies are physically located in Hawaii.

There is no clear-cut division between referral agencies or Language Service Provider (LSP) agencies that provide only ASL services, those specializing in ASL but providing some spoken language services, or agencies largely providing spoken language interpreters and/or translators and some ASL services. Obviously DCAB would only deal with bills relating to ASL.

No special funds. Locally, there are only two (2) agencies specializing in ASL, and four (4) large agencies specializing in spoken languages. There are around forty (40) smaller spoken language agencies. Some of the smaller ones are probably one-person shops. This is too small a

group to sustain a special fund. Even if the larger agencies could afford the fees, the smaller ones probably cannot.

Six (6) major local agencies. Major differences.

- The two (2) local specialized ASL agencies are owned and run by highly credentialed ASL interpreters.ⁱ
- None of the people managing or owning the other big four (4) spoken language agencies holds a nationally recognized interpreter or translator credential.ⁱⁱ
- None of the “Big Four” spoken language agencies hire from highest level credential to lowest, nor do they necessarily pay more to interpreters with a higher level credential.

Hawaii or non-Hawaii agencies. The Legislature should investigate what can be done to license agencies physically located outside of Hawaii, but employing, contracting, or sub-contracting interpreters in Hawaii. *Some* of these agencies are among the worst offenders in terms of paying late.ⁱⁱⁱ *Some* also have severe ethics problems, such as conditioning payment to interpreters on revealing confidential medical information.

Interpreters providing services from outside Hawaii. The bill fails to address the situation of ASL and other interpreting services provided to Hawaii residents by interpreters living outside of Hawaii, but providing services via Video Relay Interpreting (VRI), telephone, or other means. The Legislature and the Executive should carefully inquire about how, or even if, Hawaii can go about controlling this group for adherence to standards of credentialing and ethics.

Complexities. Consider the type of services provided, and to whom or what. Some agencies outside Hawaii specialize in providing interpreters for conferences. Some agencies outside Hawaii are on the General Services Administration (“GSA”) list. Some hold specialized federal contracts, such as providing in-person or telephonic interpretation for Executive Office for Immigration Review (“EOIR”) hearings, sometimes called “immigration court.”^{iv} Some hold other specialized contracts.

Standards for remedies. Licensing should be funded from Hawaii State general funds. Remedies other than and potentially additional to licensing should be explored and considered for implementation. **Remedies:**

- **should be tailored to the size and nature of the perceived problem, based on data,**
- **should not necessarily replicate already existing remedies, and**
- **should not make matters worse.**

Funding remedies. A special fund would be too costly. Hawaii's population of ASL and other types of agencies serving the needs of our complex local community cannot sustain the costs of funding any licensure program. The additional hassle may not be well received, either. For interpreters to pay for such a program, they will have to raise their rates. The government sector is a major user of these services. **It is already very difficult and costly to attract, train, credential, and retain interpreters in any language combination in Hawaii.**

Multiple avenues and remedies are already available.

- **Complaints.** There are already multiple avenues for people to express their complaints. I have compiled a partial list.^v DCAB, the ASL referral agencies, Language Service Provider (LSP) agencies, the Hawaii State Office on Language Access ("OLA"), other government offices, and individual interpreters with a web site could refine and publish similar lists.
- **Codes of ethics, performance, and procedure.** They can also publish the applicable federal, state or nationally recognized codes of ethics, procedures, and performance. Careful distinctions need to be made between legal, healthcare, and community interpreting—their codes and standards are different. ASL and spoken language codes may also differ.

Consumer education, preventing unfounded complaints, appropriately channeling reasonable complaints, and next steps. Sometimes there are people who want to complain about an interpreter or agency because they feel it is not safe to complain about someone else. Many do not understand our role and our role boundaries. Some complaints have a solid basis in fact. (I limit myself here to what I know about spoken language "interpreters.") One way to deal with this is to provide the people who work with interpreters, regardless of the reason for needing an interpreter, or the communication method or language used, with good information about:

- appropriate expectations about interpreter services, including a copy of the relevant Code of Ethics, Standards of Procedure or Performance, or whatever it is called;
- how to work with interpreters,^{vi} and
- the various avenues available for complaints. (See relevant end note.)

This is something that DCAB, other relevant government offices, referral agencies, LSP agencies, and others can do right now. It can be done in leaflets, in multiple languages, in Braille, and in videos with captions and ASL interpretation on web sites.

Conclusions. Interpreting is a profession. There are very few local agencies working in this area. Their services can be of great value to our community. We need to look for ways to make things *pono* without becoming unnecessarily adversarial, complicated, or expensive. In short, we need some reflection, discussion, and creativity.

In 2007, under pressure from the Legislature, the Hawaii Judiciary began to offer us the opportunity to take our oral certification exams. I passed my exam. That makes me one of ten (10) certified spoken language court interpreters in Hawaii. I would like to extend my heartfelt gratitude to all the legislators and others who made this possible.

Suggestions: Deferring this bill for now could make possible another step forward. Hear SCR 32 so that DCAB can speak their say, and in order for the Legislature to hear further from the community. Then defer SCR 32, too, so more thinking can be done.

Background Information and End Notes

Note: Public airing of dirty linen ahead

ⁱ The two major ASL agencies are Hawaii Interpreting Services and Isle Interpret. Respectively: <http://interpretinghawaii.com/> and <http://www.isleinterpret.com/>. Language Services Hawaii, LLC, also offers ASL. <http://www.languageserviceshawaii.com/>.

ⁱⁱ **None of the following agencies which specialize in spoken languages necessarily hire in accordance from highest level credential to lowest, nor do they pay more to interpreters with**

a higher level credential. The two major agencies which are legally non-profit compete with at least one of the for-profit agencies, Language Services Hawaii, LLC, for certain contracts, such as those from hospitals. Since the two legal non-profits have brick-and-mortar expenses, their expenses are higher. Consequently, they have lost some contracts, or lost their first-place status in the order by which organizations such as hospitals may call upon them for services. They may also pay interpreters less than the two for-profit agencies. So, they have trouble attracting and retaining the more credentialed interpreters.

- Non-profits. There are two local non-profits providing spoken language services, Pacific Gateway Center and Helping Hands Hawaii's Bilingual Access Line ("BAL"). Both are running their interpreter services as a profit center to pay for other services.
- For-profit. There are two major local for-profit agencies. East-West Concepts, Inc. is owned by Kriztina Samu, who inherited the business from her father a few years ago. (<http://www.eastwestconcepts.com/>). Language Services Hawaii, LLC, is owned by Dr. Suzanne Richardson Zeng, Ph.D. Her web page says she provides ASL services. (<http://www.languageserviceshawaii.com/>).

ⁱⁱⁱ **Late payment and ethics can be extremely problematic.** In 2010, I wrote an article about preventing late payment, because of severe problems with mainland LSPs. I gave the article to the Association of Translators and Interpreters of Florida, Inc., a professional association, because the worst agencies I knew about were in Florida. They published it in their newsletter, *Speaking Out*, Vol. 3/1, Winter 2010/2011. My experience is that the ethics problems, such as conditioning pay on interpreters revealing confidential medical information such as diagnosis, date(s) of next appointment(s), and even medications prescribed, are most severe with Florida agencies. The article has been republished widely since then. Here is one of the URLs. http://www.imiaweb.org/uploads/docs/Self_defense_Marcella_Alohalan_Boido_MA_2.08.2010.pdf

^{iv} Currently SOSi holds the contract for in-person interpreting at EOIR hearings, and LionBridge holds at least some of the contracts for telephonic interpreting. SOSi's failure to fulfill its contracts and pay interpreters on time has been a national scandal in the media. LionBridge

has subcontracted ISPA, Inc. to provide telephonic interpreting in some languages for EOIR hearings in Hawaii. SOSi: <http://www.sosi.com/>. LionBridge: <http://www.lionbridge.com/>. ISPA, Inc.: <http://ispainc.com/linguisticservices.html>. ISPA, Inc. contact person for Hawaii: Nina L. Pozvonkova, ninap@ispainc.com.

^v Possible avenues for complaints. Each of these organizations has its own *kuleana*. Some of these *kuleana* overlap. A person with a complaint can go through just one avenue to start, or multiple avenues, as they choose.

Consumers and interpreters might begin by simply letting the agency know about their unhappiness with the agency. All of these agencies should make it simple and easy for people to complain. There should be no retaliation. However, it is a risk, because some agencies will not give work to an interpreter who has complained.

Hawaii State Office on Language Access (“OLA”) <http://health.hawaii.gov/ola/>.

Unfortunately, OLA does not always use the most highly credentialed or most appropriate interpreters, either. Witness their Annual Conference in 2016, where Mandarin interpreters without any nationally recognized credentials were used to interpret for two people for whom Cantonese is their first language. If Mandarin was going to be imposed on these two people, OLA should have hired one of Hawaii’s certified Mandarin interpreters.

Hawaii State Office of Consumer Protection <http://cca.hawaii.gov/blog/office-of-consumer-protection/>

Hawaii Civil Rights Commission If a person thinks they are being discriminated against by either the denial of services, or the provision of inadequate services or inappropriate services, the Commission may be able to help. <http://labor.hawaii.gov/hcrc/>

Hawaii State Office of the Ombudsman The Ombudsman *might* help if a consumer feels that a covered government office failed to contract a competent, ethical agency, or

provided a category of interpreter that does not fit the needs of the person.

<http://ombudsman.hawaii.gov/>

Hawaii State Judiciary Office on Equality and Access to the Courts (“OEAC”). The OEAC might help if the complaint is about an interpreter provided by an agency to work in Hawaii State courts. A long-standing problem is that some circuits do not always hire in accordance with the tier system of credentials, either. Although the Hawaii Judiciary does not have an interpreter disciplinary procedure yet, much less one for agencies, it is better to inform the OEAC than not to inform them. Oddly, no TTY is provided.

(http://www.courts.state.hi.us/services/court_interpreting/court_interpreting)

Hawaii Better Business Bureau <https://www.bbb.org/hawaii/>

Healthcare interpreting When an interpreter was provided in a medical setting such as an office, clinic, or hospital, the complaint can be made to the office, clinic, or hospital. Many hospitals have an office specifically for dealing with patient complaints.

When the agency was contracted by an insurance company, the patient or interpreter can complain to the insurance company.

The U. S. Department of Justice has a Civil Rights Division (<https://www.justice.gov/crt>) and a Disability Rights Section (<https://www.justice.gov/crt/disability-rights-section>).

In extreme cases, a person can sue.

^{vi} A good example of a leaflet in multiple languages on how to work with an interpreter is the Hawaii State Judiciary’s *“How to use a court interpreter.”* I would prefer “work with” to “use.” Communicating through an interpreter is an informed, cooperative effort by all participants. http://www.courts.state.hi.us/services/language_assistance_services

JAN L. FRIED • American Sign Language/English Interpreter

• RID Certified-IC, CI, CT • Educator • Consultant •

09 February 17

Twenty-ninth Legislature of the State of Hawai'i, 2017

To: Senator Rosalyn Baker, Chair
Senator Clarence Nishihara, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair
Senate Committee on Judiciary and Labor

Fr.: Jan Fried

Re: Testimony *Opposing SB 973, Relating to American Sign Language Interpreter Referral Agencies* (Hearing on **SB 973**, 10 February 2017; 8:30am, Conference Room 016)

LATE

Aloha. I am opposed to **SB 973** for several reasons: it is confusing, unnecessary, not the most effective way to address the concerns mentioned in the Bill's introduction, and in some cases may delay or prevent Deaf consumers from having interpreters for communication needs. My response to **SB 973** comes from my perspective as a professional American Sign Language/English interpreter who has worked with numerous interpreter referral agencies, a member and past president of the Hawai'i Registry of Interpreters for the Deaf, an interpreter educator who prepares college students to become American Sign Language/English interpreters, and longtime ally of the Deaf Community.

In the 30 years I have worked with interpreter referral agencies in Hawai'i and on the continent, I have yet to see the need for formal regulation in the manner outlined in **SB 973**. An agency that holds the State Division of Vocational Rehabilitation contract to provide American Sign Language/English interpreter referral in Hawai'i is thoroughly vetted before receiving the contract and continues to be closely monitored in terms of compliance, provision of services, consumer protection and oversight, and ethical and effective business practices. Also, DVR and the current contract holder have mechanisms to address community, consumer and practitioners' concerns. The same can be said for the other locally run ASL/English interpreter referral agency. Appropriately, complaints and concerns can also be raised to the Disability and Communication Board's Communication Access Committee. In my considerable experience as a nationally certified American Sign Language/English interpreter, I know it to be true that the local referral agencies offer assignments first to the most qualified interpreter or the interpreter who the Deaf consumer prefers. Assignment information given to the referred interpreter is confidential, thorough and a point of contact is always provided so the interpreter can seek additional information if needed.

American Sign Language/English interpreters in Hawai'i are independent contractors. When referred for an assignment, it is our responsibility to negotiate the terms of our assignment and payment for services. Should we disagree with the terms or the assignment, as independent contractors, we can choose not to accept that assignment. If a requestor does not pay for services in a timely fashion, it is our responsibility to pursue payment unless the requestor has a contract for services that has been negotiated with the interpreter referral agency. In such situations, the referral agency pays us for services within 30 days even while they await payment.

The language in the proposed **SB 973** may make it more difficult for consumers to receive interpreting services. In one instance it actually contradicts HRS Title 11, Chapter 218-9 that allows Deaf and Deaf-Blind consumers to request an interpreter who does not hold an interpreting credential. There are certain situations when an un-credentialed interpreter is actually the most qualified. Occasionally American Sign Language/English interpreters in Hawai'i are referred assignments from mainland interpreter referral agencies. These agencies typically hold contracts with national insurance companies or other organizations or corporations to provide interpreting services for an insurance-related medical appointment or conference/training. Often these are one-time or short-term assignments that these mainland agencies refer. The process, time involved with and cost of becoming registered to provide a one-time referral may deter some mainland companies from providing interpreters for local Deaf and Deaf-blind people. In such situations, communication needs go unmet.

It is true that some mainland interpreter referral agencies that primarily refer spoken language interpreters may be unaware of Deaf consumers' needs and preferences in Hawai'i. However, the intent of **SB 973** will not rectify this situation and may end up penalizing local referral agencies that do the bulk of referrals and refer interpreters effectively. The end result will make doing business more difficult for them. No one, then, benefits from this legislation.

Is a sunrise study truly necessary? Is this a good use of state dollars? Will licensing interpreter referral agencies benefit the community? The answer to all these questions is "no". In addition to the misunderstanding/mischaracterization of what interpreter referral agencies do and how they operate as a business in the Bill, there are several grammatical errors and capitalization inconsistencies that need to be corrected.

I strongly urge your committees to vote against this bill. *Mahalo.*

CPH Testimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 1:09 PM
To: CPH Testimony
Cc: janfried@gmail.com
Subject: Submitted testimony for SB973 on Feb 10, 2017 08:30AM
Attachments: JanFriedTestimonyAgainstSB973.doc

LATE

SB973

Submitted on: 2/9/2017

Testimony for CPH/JDL on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jan Fried	Individual	Oppose	No

Comments: Mahalo for the opportunity to submit testimony opposing this measure.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 3:47 PM
To: CPH Testimony
Cc: divedeep5444@gmail.com
Subject: Submitted testimony for SB973 on Feb 10, 2017 08:30AM

LATE

SB973

Submitted on: 2/9/2017

Testimony for CPH/JDL on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Bowe Lani	Individual	Oppose	No

Comments: My name is Bowe Lani. I am deaf and a consumer of interpreting services. As a member of Hawaii's deaf community, I respectfully oppose SB 973 RELATING TO AMERICAN SIGN LANGUAGE INTERPRETER REFERRAL AGENCIES for the following reasons: - There are only 2 sign language interpreter agencies in the state of Hawaii - One of these agencies already has a robust grievance system for addressing consumer issues and concerns with interpreters as a part of their contract with the state (Isle Interpret) - Licensure will limit who the agencies can offer work to resulting in consumers NOT receiving qualified deaf interpreters, Hawaii sign language interpreters, and tactile interpreters. It is not okay to take this right away from deaf and deaf-blind consumers. That is not protecting them. I am concerned that these negatives effects will have the most impact on the neighbor islands where we already do not have enough qualified interpreters. The drafters of this bill have not put sufficient thought into how this bill and licensure could harm our unique island state. The bill is written with the intent of protecting ASL consumers, but no one asked the larger deaf community how we feel about this piece of legislation. No input was gathered on how it would affect neighbor islands. The bill is poorly written and unreasonable in content. I respectfully ask that the Legislature consider a changing the wording of DCAB's mandate to expand its interpreter HQAS credentialing system to include a formal grievance procedure that addresses concerns with HQAS interpreters in a similar manner to how RID addresses grievances filed against nationally certified ASL interpreters. These are the reasons I oppose SB 973 and I ask the committee to vote in opposition to this bill and to not support the Senate Concurrent Resolution 32 for a sunrise study to be conducted. Pursuing a sunrise study would be a waste of public time and funds for a licensure measure that the community does not support. Respectfully submitted, Bowe Lani Kaneohe, HI

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 5:20 PM
To: CPH Testimony
Cc: shandon81@gmail.com
Subject: *Submitted testimony for SB973 on Feb 10, 2017 08:30AM*

LATE

SB973

Submitted on: 2/9/2017

Testimony for CPH/JDL on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
SHANDON K SEE	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 10:50 PM
To: CPH Testimony
Cc: lisa2tom@gmail.com
Subject: Submitted testimony for SB973 on Feb 10, 2017 08:30AM

LATE

SB973

Submitted on: 2/9/2017

Testimony for CPH/JDL on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Tom	Individual	Support	No

Comments: My name is Lisa Tom and I am a Deaf resident of Honolulu and consumer of interpreting services. I support the intent of Senate Bill 973, which would regulate interpreter referral services by requiring registration of agencies providing such services to consumers in the State of Hawaii, but there is some content in Senate Bill 973 that needs to be changed. I request that the subject matter of the sunrise review be combined with the previously heard Senate Bill 972. Senate Concurrent Resolution 32 was introduced related to these measures in the Senate version of these bill. Please defer Senate Bill 973 and support Senate Concurrent Resolution 32 requesting a sunrise study to be conducted by the Auditor. Thank you for the opportunity to submit my testimony. Sincerely, Lisa Tom

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 11:24 PM
To: CPH Testimony
Cc: sabina@interpretinghawaii.com
Subject: Submitted testimony for SB973 on Feb 10, 2017 08:30AM
Attachments: SB 973 Testimony

LATE

SB973

Submitted on: 2/9/2017

Testimony for CPH/JDL on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Sabina Wilford	Hawaii Interpreting Services	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov