

SCR 32

Measure Title: REQUESTING THE AUDITOR TO CONDUCT A STUDY REGARDING PROFESSIONAL LICENSURE OF AMERICAN SIGN LANGUAGE INTERPRETERS AND REGULATION OF INTERPRETER REFERRAL AGENCIES.

Report Title: Sunrise Review; Auditor; American Sign Language Interpreters; Interpreting Agencies; Licensure

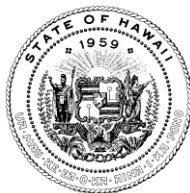
Description:

Companion:

Package: None

Current Referral: CPH

Introducer(s): K. RHOADS, KEITH-AGARAN, Kouchi



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**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Wednesday, March 15, 2017
9:00 a.m.

**TESTIMONY ON SENATE CONCURRENT RESOLUTION NO. 32, REQUESTING
THE AUDITOR TO CONDUCT A STUDY REGARDING PROFESSIONAL
LICENSURE OF AMERICAN SIGN LANGUAGE INTERPRETERS AND
REGULATION OF INTERPRETER REFERRAL AGENCIES.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Licensing Administrator for the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to provide testimony on S.C.R. No. 32.

The concurrent resolution requests that the Auditor perform a sunrise analysis of unspecified Senate bills, which the Department believes should be Senate Bill No. 972, Relating to Licensing of American Sign Language Interpreters and Senate Bill No. 973, Relating to American Sign Language Interpreter Referral Agencies, introduced during

the Regular Session of 2017. The sunrise review would be conducted pursuant to section 26H-6, Hawaii Revised Statutes (“HRS”). For the purpose of evaluating whether licensing of the sign language interpreter and sign language interpreter referral industry would be necessary and appropriate, the Auditor’s analysis would set forth the probable effects of the proposed regulatory measure, assess whether its enactment is consistent with the purposes of section 26H-2, HRS, and assess alternate forms of regulation. Should the Legislature wish to potentially pursue licensure of these areas, the Department agrees that a sunrise study should be completed by the Auditor before sign language interpreters and sign language referral agencies are regulated.

In the event the Legislature wishes to instead study possible ways of improving the service and standards of quality and ability of those serving as sign language interpreters, a full sunrise review under section 26H-6, HRS, may not be necessary or appropriate. Rather an alternative study or review of issues of increasing quality standards or other service improvements may be more well-suited to address any issues raised in this area, and the Department would appreciate the opportunity to continue to discuss with this Committee and interested stakeholders these kinds of improvements as alternatives to increased regulation.

Thank you for the opportunity to provide testimony on S.C.R. No. 32.



DISABILITY AND COMMUNICATION ACCESS BOARD

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March 15, 2017

TESTIMONY TO THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senate Concurrent Resolution 32 – Requesting the Auditor to Conduct a Study Regarding Licensure of American Sign Language Interpreters and Regulation of Interpreter Referral Agencies

The Disability and Communication Access Board (DCAB) supports Senate Concurrent Resolution 32 that asks the Auditor to conduct a study regarding licensing of American Sign Language (ASL) interpreters and regulating ASL interpreter referral agencies who conduct business in Hawaii.

Currently, DCAB administers a state credentialing test to determine skill levels of local interpreters. As the agency administering the local test, we have no formal grievance process to determine whether or not a locally credentialed interpreter has violated a professional code of conduct or abided by acceptable business practices. A consumer of a nationally certified interpreter may submit complaints to the national Registry of Interpreters for the Deaf (RID), if there are similar concerns about a violation of the RID's professional code of conduct.

As a neutral third party, the Auditor would provide an objective perspective on current practices and service provision by both the independent contractor/ASL interpreter and the interpreter referral agencies. Such a study would also provide a means of where and how interpreter services and interpreter referral services can be improved for the interpreter, interpreter referral agency, the agency paying for services, as well as for the general public.

DCAB is willing to participate in such a study, and collaborate with the Department of Commerce and Consumer Affairs, and stakeholders to determine how to improve services to the community both by ASL interpreters and ASL interpreter referral agencies.

Thank you for the opportunity to testify.

Respectfully submitted,

BARBARA FISCHLOWITZ-LEONG
Chairperson
Legislative Committee

FRANCINE WAI
Executive Director



HAWAII REGISTRY OF INTERPRETERS FOR THE DEAF

Date: March 13, 2017

To: Senator Rosalyn H. Baker, Chair; Senator Clarence K. Nishihara, Vice Chair
Committee on Commerce, Consumer Protection, and Health

From: Hawaii Registry of Interpreters for the Deaf (HRID),

Executive Board:

Heather Benjamin, President

Kim Duncan, Vice President

DeWayne Berg, Treasurer

Devina Branch, Secretary

Re: HRID Testimony, SCR32, Comments Only

Aloha,

The Hawaii Registry of Interpreters for the Deaf (HRID) is a non-profit organization consisting of locally credentialed and nationally certified sign language interpreters, K-12 Educational Interpreters, Deaf interpreters, students who are studying ASL and the profession of interpreting, and other supporting members.

We recently conducted two surveys to assess the HRID memberships' position on two bills that have been deferred: HB1106, Licensing of ASL Interpreters, and HB1107, Regulating ASL Interpreter Referral Agencies. We broke the survey up into two parts. Part 1: Licensing of ASL Interpreters, and Part 2: Regulating of ASL Interpreter Agencies.

The respondents to the survey are only HRID Members, those who have paid dues to HRID. We do not represent all ASL interpreters across the state.

Population Surveyed: HRID Active Members (39)

Survey sent on February 16, 2017

Survey closed on February 21, 2017

Total respondents: Part 1= 24 respondents (62%), Part 2= 18 Respondents (46%)



HAWAII REGISTRY OF INTERPRETERS FOR THE DEAF

Part 1: Licensing of ASL Interpreters, Survey Results:

Demographics:

Nationally Certified: 70%
State Credentialed: 35%
Educational Interpreter: 17%
Deaf Interpreter: 4%
Student: 9%

Length of time working as an interpreter:

0-5 years: 9%
5-10 years: 17%
10-20 years: 31%
20 or more years: 35%

With a total of 24 respondents, the survey results showed 66% are in support of some kind of regulation for ASL interpreters and 33% are opposed to regulation.

The type of regulation preferred, however, was less conclusive. When asked which type of regulation would be the most appropriate for ASL interpreters (choose all that apply), the responses were:

Licensure at 43%
Registration at 39%
State Certification at 34%
None at 8%
Other at 39%

For HRID Members in support of regulation, they feel regulation of ASL interpreters will:

- Provide more consumer protection
- Ensure interpreters are qualified
- Create a higher standard of accountability
- Incorporate a grievance procedure

For those that support regulation, they have the following concerns:

- An effective and neutral, grievance procedure must be in place.
- A thorough examination of what the true issues are in the Deaf community and interpreting community to determine the best type of regulation for our unique community.
- A system that is more growth-oriented than punitive.



HAWAII REGISTRY OF INTERPRETERS FOR THE DEAF

For HRID Members who oppose regulation of ASL interpreters, their reasons include the following:

- National and state certifications are already in place and regulation would be redundant.
- Regulation would create an excessive financial burden to interpreters
- It may cause more harm than good if the regulation is poorly designed.
- It may create an additional barrier to those entering the field of interpreting and for those who are not credentialed yet (for example, Deaf interpreters).

Part 2: Regulating of ASL Interpreter Agencies, Results:

Demographics:

Nationally Certified: 76%
State Credentialed: 29%
Educational Interpreter: 24%
Deaf Interpreter: 0%
Student: 6%

Length of time working as an interpreter:

0-5 years: 6%
5-10 years: 18%
10-20 years: 29%
20 or more years: 35%

With a total of 18 respondents, the survey results showed 61% are in support of some kind of regulation for ASL Interpreter Agencies and 39% are opposed to regulation.

When asked which type of regulation would be the most appropriate for ASL Interpreter Agencies (choose all that apply), the responses were:

Licensure at 47%
Registration at 41%
State Certification at 17%
None at 23%
Other at 17%



HAWAII REGISTRY OF INTERPRETERS FOR THE DEAF

For HRID Members in support of regulation for agencies, they feel regulation will:

- Encourage transparency from the agencies to ensure consumers' concerns/complaints are addressed
- Provide more consumer protection
- Ensure agencies are referring qualified interpreters for each assignment
- Prevent a monopoly
- Ensure agency accountability

For HRID Members who oppose regulation of agencies, their reasons include the following:

- Agencies are already subject to small-business regulations
- Some agencies already follow federal/state compliance requirements in order to maintain their contracts
- The bills are poorly conceived, include misinformation and an inherent lack of understanding of how referral agencies operate
- Existing laws, rules, contracts, and systems already in place ought to be reviewed to ensure consumer protection.

For HRID Members who are undecided about both regulation of ASL Interpreters and regulation of ASL Interpreter Agencies, they gave the following reasons:

- It would be more valuable to see the results from the audit and then make a decision as to how to move forward
- Need more information as to how this will actually look and how the regulation of agencies can and will affect the work of interpreters

In addition, HRID Members would like to add to the list of stakeholders listed in the Resolution:

- Hiring entities such as, the Division of Vocational Rehabilitation, major medical facilities (Queen's Medical Center, Hawaii Pacific Health, Hawaii Health Systems Corporation, Kaiser Permanente Hawaii), Department of Education,
- Kapiolani Community College, Interpreter Education Program
- Deaf interpreters
- Grassroots Deaf individuals
- Other spoken language interpreter referral agencies
- All individual interpreters who provide their email address since not all interpreters are HRID members
- Office on Equality and Access to the Courts (OEAC)



HAWAII REGISTRY OF INTERPRETERS FOR THE DEAF

In conclusion, based on the results of these two surveys, it appears that a majority of HRID members support the idea of some kind of regulation for both ASL Interpreters and Agencies if their concerns are addressed.

Mahalo for your time,

Hawaii Registry of Interpreters for the Deaf
HRID Executive Board,
Heather Benjamin, President
Kim Duncan, Vice President
DeWayne Berg, Treasurer
Devina Branch, Secretary

CPH Testimony

From: Rod Macdonald <rjmacdonald@hawaiiintel.net>
Sent: Monday, March 13, 2017 6:18 PM
To: CPH Testimony
Cc: rjmacdonald@hawaiiintel.net
Subject: SCR 32: Testimony of Roderick J. Macdonald

SCR 32
Testimony of Roderick J. Macdonald

THE SENATE
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair

HEARING: Wednesday, March 15, 2017, 9:00 a.m.
Conference Room 229
State Capitol
415 South Beretania Street

SCR 32 - REQUESTING THE AUDITOR TO CONDUCT A STUDY REGARDING PROFESSIONAL LICENSURE OF AMERICAN SIGN LANGUAGE INTERPRETERS AND REGULATION OF INTERPRETER REFERRAL AGENCIES.

Madam Chair, Members:

My name is Rod Macdonald. I am deaf and also blind. At this time it is doubtful I will be able to attend this hearing, so I am submitting written testimony to OPPOSE SCR 32.

While I do not use American Sign Language, I frequently do use interpreter services.

I believe the Concurrent Resolution you are now considering seeks to ask the Auditor to conduct a study, but with a strong bias toward recommending legislation that would carry out the intent to develop licensure requirements, including possible draft legislation. I respectfully submit my opposition to this intent.

A little clarification: The draft resolution I have seen uses "Interpreter", "Sign Language Interpreter" and "American Sign Language Interpreter" interchangeably, but the three terms are not synonymous:

(a) An interpreter, in the intended context, is a professional who facilitates communication between one or more hearing people and one or more non-hearing or partially-hearing individuals. The language, methodology and modality are not stated in the term and can refer, for example, to a Computer Assisted Notetaker (CAN) or Computer Assisted

Real-Time Captioner (CART, akin to a court reporter) interpreter. There are also "Oral" or "Cued Speech" Interpreters. All of these, as well as the types mentioned below, are types of "Interpreter".

(b) "Sign Language Interpreter" refers to an Interpreter who employs some type of sign language, without specifying the system to be used. For example, in graduate school I utilized interpreters using "Conceptually Accurate Signed English" (CASE), which is an English-to-English sign language.

(c) "American Sign Language Interpreter" is one specifically employing communication between ASL and spoken English. It involves both a language transfer and a modality transfer - ASL as a language does not have an oral or written component, so the communication is (usually) visual use of signs, facial expressions and body language.

ISSUE 1: Is the intent here to regulate the practice of INTERPRETING, SIGN LANGUAGE INTERPRETING and/or AMERICAN SIGN LANGUAGE INTERPRETING?

It should be noted that "Interpreter Referral Agencies" provide consumers utilizing communication access using all three of these categories.

It should also be noted that the ultimate community being served is actually made up of four distinct communities, each with its own unique communication needs, but the proposed resolution makes no mention of this:

(a) (D)eaf consumers are (generally) those who have little or no usable hearing; consider ASL as their first language; communicate visually without the consumer using speech; and find affinity with the Deaf Culture. The Deaf person strongly prefers that "Deaf" be capitalized because it is seen in the same context with English or Hawaii - it is their language and their culture. Many Deaf people believe that they do not have a disability - just a language/cultural difference from hearing people. Deaf people would like to bring their language and their culture into the mainstream, rather than be assimilated into the mainstream 's language and culture.

(b) (d)eaf consumers are those non-hearing consumers who (usually) may or may not consider ASL as their first language; do not define their identity in the Deaf Culture; and rely on a variety of English-based methodologies for their receptive and expressive communication, including various forms of captioning, lip reading and so on. (d)eaf consumers generally try to "fit in" with the mainstream.

(c) Hard-of-hearing individuals generally have some degree of useful hearing, and while they may also utilize other communication methods (including sign language), they usually use residual hearing to the maximum, frequently with hearing aids or assistive listening devices. Like the (d)eaf consumer they generally try to assimilate into hearing society as much as possible, and also like the (d)eaf consumer, frequently avoid public expressions of their disability - the total number of (d)eaf and Hard-of-Hearing consumers greatly outnumber the number of (D)eaf consumers, but they do not congregate or advocate as exuberantly as Deaf people do.

(d) Deaf-Blind consumers are those who have a vision disability AND a hearing disability, where the combination of the two makes for a unique, separate disability as recognized by Federal law. Deaf-Blind people may or may not utilize ASL, but when they do it almost always requires adjustments on the part of the Interpreter - the consumer may need wider signs to accommodate their vision, or narrower signs if they have "tunnel vision", or may place their hands over the Interpreter's hands to follow the communication. Deaf-Blind consumers may also utilize a wide range of technological or other devices to enhance communication, such as typing-to-braille or other forms of captioning. Deaf-Blind people rarely have the opportunity to congregate, and thus unity and advocacy are difficult.

ISSUE 2: Is the intent here to regulate the professional communication providers for (D)eaf consumers or all consumers who use interpreting services?

Historically and currently there has been a persistent shortage of interpreters - all types - in Hawaii. Requiring licensure will only exacerbate this problem. I believe that an opportunity for an increased level of compensation (using

CERTIFICATION as a criterion in determining an Interpreter's rate of pay) is a fine incentive; a requirement of licensure may well be an effective dis-incentive. A rehabilitation counselor for the deaf, a teacher of deaf children or a similar professional has already passed qualification testing; why would they want to go to the expense of time, effort and cost when their job requirements have already been met, just so they can possibly do part-time or occasional interpreting work for which they are nonetheless fully qualified?

Additionally, how are aspiring interpreters to improve their skills if they cannot get work to acquire needed experience?

ISSUE 3: Requiring licensure will likely restrict the number of Interpreters available in Hawaii, at a time when there is already a severe shortage of Interpreters. Why isn't the focus in capacity-building, incentives to working in this profession and availability of training opportunities?

I am a deaf person who does not utilize American Sign Language. I need interpreting services, but not ASL interpreting services. My type of interpreting service - I am blind as well as deaf and utilize either tactile fingerspelling or braille interpreting - is not regarded with equal respect (or remuneration) by the interpreting profession, but my type of services are frequently covered under the blanket of "interpreting for the deaf". Entities with an obligation to provide interpreting support for their constituents turn to the Interpreter Referral Agency to fill these needs, and the Interpreter Referral Agency simply tries to find qualified Interpreters available to fill the need. The agency seeking such services needs to specify exactly what skills the Interpreter must have, not simply that the Interpreter has a license: If the need is for an ASL Interpreter who will work with an individual who is deaf-blind, a licensed ASL Interpreter is not necessarily qualified to meet that need, nor is the ASL Interpreter necessarily going to be willing to make the adjustments and do the added tasks needed by the Deaf-Blind consumer.

ISSUE 4: Licensing every type of Interpreter is not feasible, yet every type of Interpreter should be treated with equal respect.

The Registry of Interpreters for the Deaf is the national organization representing the interests of interpreters. Their Code of Professional Conduct is widely used and respected, and is frequently referenced as the interpreter's "Bible" on professional conduct. While this Code states - once - that it applies to working with deaf, hard of hearing and deaf-blind consumers, not a single tenet covers anything other than "Deaf" interpreting. An Interpreter working with a Deaf-Blind consumer will have many additional duties and responsibilities, but these are simply ignored in the RID document. I have a grave concern that licensing for "Deaf only" is going to ignore the needs of consumers and their providers whose needs are different from the "Deaf" stereotype.

Here in Hawaii the Legislature has funded the Comprehensive Service Center for Deaf, Hard of Hearing and Deaf-Blind persons. As part of this program a pilot project is currently in operation to provide "Support Service Provider" (SSP) services for individuals who are deaf-blind. Currently, eight Deaf-Blind consumers are receiving these services that usually includes the activity we know as "interpreting". Several of the consumers in this project are ASL-dependent. However, they follow their SSP (Interpreter) either tactually or via very close observation - non-standard methodologies for an ASL interpreter. We have developed our own "Code of Professional Conduct" for SSPs, and have no wish whatever to have an unrelated licensure program dictate what can or should be done, or under what circumstances, or whether SSPs can in fact be hired if they will conduct the activity of interpreting using American Sign Language.

ISSUE 5: No licensing authority in Hawaii has the capacity or expertise to license the practice of Interpreting that includes all types of Interpreting as used by the four communities of (D)eaf, (d)eaf, Hard-of-Hearing and Deaf-Blind consumers.

The vast majority of consumers were not aware of the effort to license "their" Interpreters until HB1106 and HB1107 were scheduled for hearing by the House on February 3, 2017. Insofar as I am aware, NO EFFORT was made to explain or discuss this licensing effort with consumers prior to the hearing announcement. It is my understanding that a meeting of the Deaf community took place the evening before the hearing to learn about these bills. It is further my understanding that a group of Deaf consumers showed up at the hearing prepared to express their opposition to the bills, but no Interpreter had been requested and the hearing was put off.

ISSUE 6: It appears that this effort at licensure was carried out by DCAB and a small group of Deaf consumers without any effort to seek support from the general consumer communities or those with specialized needs. Certainly, no Deaf-Blind consumer was in any way involved with this effort until I submitted testimony opposing it: This is NOT a community-supported initiative because the four communities have not been briefed or asked to be involved.

Interpreter Referral Agencies serve as a bridge between entities needing to provide interpreting support for their constituents (e.g., State agencies, etc) and the actual Interpreters who provide these services. The funding agency typically lacks the resources of time and expertise to do this themselves, so they contract with the Interpreter Referral Agencies for this work. This contracting opportunity is how Interpreter Referral Agencies manage to exist. I point this out because their obligations are specified in the contracts they have with funding sources. Licensure will only force them to have two bosses - the funding agency with which they are contracted and the licensing entity and their requirements. I strongly believe that the proper place for regulating Interpreter Referral Agencies is to be found in the contracts they are awarded. I submit that State contracting procedures provide ample opportunity for oversight; we don't need another bureaucratic mechanism when the capacity is already present.

ISSUE 7: Why is a new form of oversight needed when strengthening the existing one is far more practical?

In Hawaii there are two Interpreter certification systems in practical use - the Registry of Interpreters for the Deaf's national certification program, and DCAB's Hawaii Quality Assurance System. It is my understanding that the RID system is more rigorous. Interpreters in Hawaii generally pursue one or the other of these systems, but generally not both.

Interpreter Referral Agencies are, essentially, procurement vendors who save the hiring entity time and effort by locating the direct service providers - the Interpreters - to meet the requirements of specific interpreting needs, and charge a fee (or have a bulk contract) for these services.

Interpreters are generally independent contractors. With all due respect to the skills and professionalism of Interpreters, they are not on a par with doctors or lawyers. While there are Interpreters with Ph.D. degrees, I believe Interpreters can achieve fully certified professional status with an AA degree; doctors and lawyers certainly cannot.

The Concurrent Resolution makes it very clear that uncertainty exists as to what the impact of licensure will be, or whether or not licensure is necessary. Possessing a professional "Interpreter License" would certainly increase the individual's status, but at the same time it would restrict the employment of working Interpreters, at a time when their availability is already limited. The current RID certification system and the DCAB HQAS system currently compete with each other. With no intent to imply anything, it seems fair to at least ask if a mandatory licensing scheme championed by one of these competitors would have vestiges of a conflict of interest.

ISSUE 8: WHY is this Concurrent Resolution, and its included effort to license interpreting, necessary, beneficial or advisable?

In closing I believe that this effort to require licensure of Interpreters is ill-advised and subject to mis-interpretation, misunderstanding and mis-use; it is an effort to make (D)eaf apply far beyond what is strictly (d)eaf; and it is unnecessary over-regulation. I strongly urge that you reject this legislation.

Thank you.
Rod Macdonald

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 4:56 PM
To: CPH Testimony
Cc: Musicmind75@yahoo.com
Subject: *Submitted testimony for SCR32 on Mar 15, 2017 09:00AM*

SCR32

Submitted on: 3/13/2017

Testimony for CPH on Mar 15, 2017 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Laura Safranski	Individual	Support	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.

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