



LATE

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

FROM: Tamar H. Lani, MBA, CI, CT, NIC, SC:L, President
Susan Kroe-Unabia, CI, CT, Vice President

HEARING: March 15, 2017, 9:00 a.m., Rm. 229

RE: **OPPOSE, SCR32**, Relating to Requesting the Auditor to Conduct a Study Regarding Professional Licensure of America Sign Language Interpreters and Regulations of Interpreter Referral Agencies

The need for an auditor's study in an unregulated industry typically comes as a response to consumer complaints or a response to professionals in the field wanting licensing to assist with reimbursement for services. Disability and Communication Access Board (DCAB) is requesting the study, yet they have not provided any evidence of complaints. Interpreting professionals are not requesting a study to help with payment issues but rather as a mechanism for ensuring as nationally certified interpreters, they will be offered work first even if they may not be the most qualified.

If a study is conducted, we ask for an objective assessment as to whether increased sign language interpreter regulation will positively impact consumers and provide different or additional protections that are not currently afforded under law and current systems. Please consider the following input in a statewide (all island) study.

Various Consumers with various needs

- Consumers include: deaf, hard of hearing, deaf blind, and deaf person's with limited language proficiency
- Services include: Onsite sign language interpreting, remote sign language interpreting (medical facilities that use video remote interpreting (VRI) when onsite interpreters are not available, transliteration, oral transliteration, cued speech, tactile interpreting, deaf interpreting, Communication Access Real-time Translation (CART), and Computer Assisted Notetaking (CAN) services
- Different Islands have different needs.

Consumer protections are already in place. Licensure does not add additional protection

- A review of the existing and potential laws, rules, contracts, codes of ethics, and systems already in place to protect consumers sign language interpreter services.
- Hawaii laws already protect deaf consumers' rights (HRS Title 11, Chapter 218)



- The ADA specifies the use of a qualified interpreter. Interpreter licensure will limit the use of only certified and/or credentialed interpreters rather than qualified interpreters who may not be certified or credentialed. For example, the use of Hawaii Sign Language, a Deaf Interpreter (DI) or a Deaf Blind tactile interpreter who is qualified but not certified would be a “prohibited act” punishable to the interpreter and the referral agency that vetted them.

The added cost of doing business could hurt consumer services

- Survey the positive and negative impacts of sign language interpreter licensing or other forms of heightened regulation in other states with similar cost of living, similar cost of doing business, similar interpreter pay rates, similar state fee schedules that cap interpreter income, similar size interpreter pools, and a state credentialing system, including the fees that would be paid by the interpreter for regulation.
- Survey of interpreters who have left Hawaii may show evidence that the cost of doing business as an independent contractor is a barrier to staying in the field and/or to staying in Hawaii
- Statewide there are about 50 interpreters.
- Some islands have less than five interpreters.
- Some specialty interpreters are highly qualified but not credentialed. A licensure program could eliminate these services and harm deaf consumers in need of such services.

Monitoring Systems in place in Hawaii

- State Credential: Credentialing body, Disability and Communication Access Board (DCAB), credentials American Sign Language interpreters, overseeing and monitoring their Continuing Education Units (CEU). DCAB’s credentialed interpreters do not have a grievance process.
- National Credential: Certifying body, Registry of Interpreters for the Deaf (RID), certifies American Sign Language interpreters, overseeing and monitors their Continuing Education Units (CEU) and Grievance processes.
- State of Hawaii DHS/DVR Interpreter Referral Contract: The awardee has contract reporting requirements. There is a Quality Control and Grievance Plan that monitors quality of services and adherence to best practices.

Alternative Solutions to Licensure

- Survey potential improvements to the current DCAB administered testing, credentialing, and listing process for sign language interpreters, including the need for the adoption of clear service provider standards of quality and a system that follows national industry best practices for addressing consumer concerns, complaints, and grievances for DCAB HQAS state credentialed interpreters
- Survey the positive and negative impacts of DCAB’s partial listing, advertising, and distribution of sign language interpreter providers to persons unfamiliar with interpreting, sign language, and consumers’ language needs in ensuring and protecting consumer’s right to effective communication.



- Create a bill to change the Disability and Communication Access Board's (DCAB) mandate to include regulation of DCAB State HQAS interpreters so they can develop a grievance process for the interpreters they credential.
- Disability and Communication Access Board (DCAB) undertakes capacity building by meeting with deaf and interpreting communities to work on solutions.

Inclusion of important community resources and stakeholders

A requested to consult with critical stakeholders in conducting the review and submitting its findings and recommendations, including DCAB, Division of Vocational Rehabilitation (DVR) Contract Administrator, Division of Vocational Rehabilitation (DVR) Contract Manager, DOE sign language interpreter contract administrator, State and County ADA coordinators, the Office of Equality and Access to the Courts, and current sign language interpreters and sign language interpreter referral agencies, major hospital facilities who have VRI contracts, Kapiolani Community College Interpreter Education Program Director, Aloha State Association of the Deaf, including consumers who are deaf, hard of hearing, deaf blind, and deaf person's with limited language proficiency.

Mahalo,

Tamar Lani, MBA, CI, CT, NIC, SC:L, President

Susan Kroe-Unabia, CI, CT, Vice President

LATE

Marcella Alohalani Boido, M. A.

Hawaii State Judiciary Certified Spanish Court Interpreter

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TO: Sen. Rosalyn H. Baker, Chair; Sen. Clarence K. Nishihara, Vice-chair
Members, Senate Committee on Commerce, Consumer Protection, and Health

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

HEARING: March 15, 2017, 9:00 a.m., Rm. 229

RE: **COMMENTS, SCR 32**, Requesting the Auditor to conduct a study regarding professional licensure of ASL interpreters and regulation of 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.

The text of this resolution on p. 2, line 14, says “interpreter referral agencies.” It does not specify only ASL agencies. I do not want to hijack this Resolution for my own purposes. However, in practice, 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.

Hawaii and Mainland agencies. The Legislature should investigate what can be done to regulate agencies physically located outside of Hawaii, but employing, contracting, or sub-contracting interpreters in Hawaii. *Some* have severe ethics problems, such as conditioning payment to interpreters on revealing confidential medical information. *Some* of these agencies are among the worst offenders in terms of paying late.ⁱ Some agencies have a nice web portal, but make unlikely claims for themselves.ⁱⁱ

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 a regulatory program on their own. The additional hassle may not be well received, either. The government sector is a major user of these services. If the cost of doing business is increased for the agencies, then they will pass their costs on to government.

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. We also need to protect ethical interpreters and agencies from competition from unethical "interpreters" and agencies.

If there is to be regulation of agencies, then regulate them all, or regulate none. Regulate all agencies providing interpreter or translator services within Hawaii. Regulate the ASL and spoken language agencies. Protect the confidentiality of medical and legal information. Put an end to payments which are ridiculously late, or missing entirely. Put an end to the kind of preposterous, dishonest claims that some agencies make. Do not pick on our local ASL-specialized agencies. There are only two (2).

ⁱ **Ethics and late payment can be extremely problematic with Mainland agencies.** My experience is that ethics problems, such as conditioning pay on interpreters revealing confidential medical information including diagnosis, date(s) of next appointment(s), and even medications prescribed, are most severe with Mainland-based agencies. Some of them also deliberately run up the bills, by doing things such as requiring an interpreter to show up for an appointment an hour in advance.

ⁱⁱ <http://interpretersunlimited.com/hawaii-interpreter-translator/>. Accessed 3/16/17. Claims "Our Hawaiian translators and interpreters are carefully selected and **certified** in their language specialty. All of our language services are available in 200+ languages including American Sign Language (ASL)." There is no nationally recognized certification for interpretation or translation in the Hawaiian language. There is nothing unusual about these exaggerated claims. Many agencies make them.

baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 6:03 PM
To: CPH Testimony
Cc: divedeep5444@gmail.com
Subject: Submitted testimony for SCR32 on Mar 15, 2017 09:00AM

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SCR32

Submitted on: 3/14/2017

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

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

Comments: I oppose the study for licensure. As a member of the deaf community, I do not think licensure is good for our community. It will result in Deaf interpreters who do not have certification or the ability to get certification to not be able to be use. This will harm consumers who are already struggling with the poor quality of certified interpreters who are available that we don't understand because they don't know our language and culture in Hawaii.

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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baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 9:47 PM
To: CPH Testimony
Cc: krispagano@mac.com
Subject: Submitted testimony for SCR32 on Mar 15, 2017 09:00AM

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SCR32

Submitted on: 3/14/2017

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

Submitted By	Organization	Testifier Position	Present at Hearing
Kristine Pagano	Individual	Support	No

Comments: As a deaf consumer who utilizes sign language interpreters for effective communication, I support the SCR32.

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baker4 - Mary Kate

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 10:20 PM
To: CPH Testimony
Cc: echiwa@gmail.com
Subject: *Submitted testimony for SCR32 on Mar 15, 2017 09:00AM*

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SCR32

Submitted on: 3/14/2017

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

Submitted By	Organization	Testifier Position	Present at Hearing
Eileen Chiwa	Individual	Oppose	No

Comments:

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